

Part Five

Developing countries in the WTO system

The long-term impact of the Uruguay Round on developing countries will be greater than anything achieved in previous multilateral trade negotiations. This outcome will result, above all, from the higher level of involvement of these countries than in earlier rounds. This advance is in part due to the expansion of the negotiating agenda to include sectors of interest to most developing countries, notably agriculture and textiles. It is also linked to the increasing liberalization taking place in many of these countries, a trend which should help bring into their economies significant new income generated by the Round. Exactly how much they gain will partly depend, of course, on how they choose to take advantage of new opportunities presented. At the same time, the Marrakesh Agreement explicitly recognizes that positive efforts by all members are necessary to encourage and cement this integration of developing country economies into the global trading system.⁵¹⁶ Readers of earlier parts of this book will have already noted the many special provisions in favour of developing countries that have been incorporated into the individual agreements and decisions of the Uruguay Round. As a whole, these represent an effort by the signatories to take into account the special needs of these countries, supplementing a number of previously existing measures carried over unchanged from the GATT 1947.⁵¹⁷

The existence of a certain amount of flexibility, for developing countries, in some of the trading rules takes on added importance under the Marrakesh

⁵¹⁶ *WTO Agreement*, Preamble, para. 2.

⁵¹⁷ In particular, Article XVIII, Part IV and the "Enabling Clause" introduced in 1979. The first allows flexibility in the use of trade measures to protect infant industries and in the use of quantitative import restrictions to alleviate balance-of-payments difficulties. The second is a section covering the principles and objectives of the GATT with regards to developing countries. It encourages developed countries to improve access to their markets and states that developing countries are not expected to reciprocate trade barrier reduction commitments made by developed countries. The Enabling Clause (*Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries*, 28 November 1979 (L/4903)) permits preferential treatment to be given to, and exchanged among, developing countries, subject to stated conditions. It also authorizes specially favourable treatment for least-developed countries.

Agreement because WTO members cannot opt out of any of the wide-ranging individual agreements or decisions contained within it, with the exception of the very limited Plurilateral Trade Agreements in Annex 4. This is particularly the case of the **least-developed countries**⁵¹⁸ (LDCs)⁵¹⁹ which have been specifically targeted as beneficiaries of many special treatment clauses included in the Round. Most significantly, the difficult circumstances faced by these countries are recognized in the **Ministerial Decision on Measures in Favour of Least-Developed Countries**, which gives them special treatment with regard to all aspects of all the agreements and requires regular reviews of their needs. As described in Part One, this decision permits LDC members to apply only those commitments which are consistent with their development needs and individual capabilities, and it sets a framework for other countries to follow when formulating and implementing their national trade policies so that these are helpful to the LDCs.

Beyond this Ministerial Decision, specific provisions within the individual agreements allow LDCs more flexibility in implementing certain WTO rules and encourage other members to cooperate when LDC interests are involved. An effort has been made to ease, where possible, the administrative burden these countries must bear and to help them to have access to technical co-operation from other members and from the WTO Secretariat. Many special provisions are not automatic, however, and must be requested by the member concerned, whether it be an LDC or another developing country. In some cases, reviews of special treatment given are also required (although often simplified for LDCs) in order to encourage the gradual integration of all developing countries into the regular WTO legal framework.

The following pages provide an overview of the contents of all the new special provisions made in the agreements, Legal Instruments and Ministerial Decisions that were part of the Uruguay Round package and which *refer specifically* to developing countries. The sequence follows the one used in the main part of this book.

While the contents of certain provisions may seem to repeat what has been said in others, it should be remembered that each was written in the context of an individual agreement or decision. The Ministerial Decision on LDCs is listed first, and reproduced almost in full, as it affects the whole Marrakesh Agreement. The relevant provisions contained in other areas of the complete

⁵¹⁸ As mentioned in an earlier chapter, member countries are officially classed as least-developed according to the United Nations classification system. This is unlike the term “developing country” which has thus far been a subject of self-classification as far as international trade rules are concerned.

⁵¹⁹ In the WTO, as in many other international organisations, the abbreviation LDC is used for a “least-developed country”, and not for developing countries as a whole.

agreement are then summarized and arranged in the same overall order as is followed in this book. Within each section, the special measures have also been grouped under four headings which reflect their general nature:

- 1 those recognizing the interests of least-developed/developing countries in a general manner;
- 2 those easing the rules or number of obligations to be met;
- 3 those providing longer time-frames for the implementation of certain obligations;
- 4 those providing for technical assistance.

In addition, for easier identification, a vertical line in the right-hand margin (as at right here) marks provisions that include specific reference to LDCs.

The exact wording used in the following pages is not necessarily that of legal texts, as this chapter is meant to summarize the provisions in a more reader-friendly manner. For all questions of legal significance, please refer to the actual texts as reproduced in *The Results of the Uruguay Round Multilateral Trade Negotiation: The Legal Texts*.

Synopsis of Provisions of the Uruguay Round Concerning Developing Country Members

Marrakesh Agreement Establishing the World Trade Organization

1. Recognition of general interests

- It is a WTO objective to ensure that **developing country** members, and especially **least-developed countries (LDCs)**,⁵²⁰ secure a share in the growth of international trade that is commensurate with their economic development needs. This will require a number of positive efforts from all members. [Preamble]

2. Fewer obligations or differing rules

- The Committee on Trade and Development will periodically review the special provisions in favour of developing country members and, in

⁵²⁰ A reminder: in the WTO, as in many other international organisations, the abbreviation LDC is used for a “least-developed country”, and not for developing countries as a whole.

particular the LDCs which are included in the Multilateral Trade Agreements, reporting results to the General Council for appropriate action. [Article IV:7]

- Even to become original members, LDCs (as recognized by the UN) are only required to undertake commitments and concessions to an extent consistent with their individual development, financial and trade needs, or their administrative and institutional capabilities. [Article XI:2]

Decision on Measures in Favour of Least-Developed Countries

1. Recognition of general interests

- WTO members recognize that the effective participation of LDCs in world trade requires improved trading opportunities for products of interest to them. Their participation in the multilateral trading system should, therefore, be seen in the light of their special financial, development and trade needs as recognized in a number of prior GATT decisions on special and differential treatment. [Preamble]
- Among other things, regular reviews of the implementation of all special and differential measures taken in favour of LDCs help ensure their actual execution. [Para. 2(i)]
- For products of export interest to LDCs, members are encouraged to apply Uruguay Round concessions on tariffs and non-tariff measures in advance and without staging. Consideration should also be given to the general improvement of preferential treatment of such products. [Para. 2(ii)]
- If a member applies import relief measures or other restrictions permitted under the General Agreement, it should first give special consideration to the relevant export interests of LDCs. [Para. 2(iv)]
- Difficulties faced by LDCs will be kept under review and efforts will be made to adopt positive measures to help expand their trading opportunities. [Para. 3]

2. Fewer obligations or differing rules

- While complying with the general rules set out in the Uruguay Round agreements and related accords, LDCs will only be required to apply individual commitments, obligations and concessions which are consistent with their individual development, financial and trade needs, or their administrative and institutional capabilities. [Para. 1]
- The rules and transitional provisions resulting from the Round should be applied in a flexible and supportive manner with regards to the LDC

members. This includes any determinations and authorizations that might be made by WTO Councils and Committees in different situations involving LDCs (such as extensions of transition periods, time-limited exemptions, etc.). [Para. 2(iii)]

4. Technical assistance

- LDCs are to be given substantially increased technical assistance to develop, strengthen and diversify their production and export bases (including services), as well as their trade promotion efforts. [Para. 2(v)]

Decision on Notification Procedures

4. Technical assistance

- When the Council for Trade in Goods undertakes a review of notification obligations and procedures, it will bear in mind that some **developing country** members may need assistance in meeting these administrative obligations. [Part III]

Understanding on Rules and Procedures Governing the Settlement of Disputes

1. Recognition of general interest

- If a dispute involves an LDC, particular consideration will be given to its special situation. In such cases, members are to exercise restraint in raising matters under the dispute settlement procedures and in asking for compensation, authorization to retaliate, or other obligations on the part of the LDC. [Article 24.1]

2. Fewer obligations or differing rules

- If a **developing country** member has a complaint, it may, as a partial alternative to this understanding, choose to apply the provisions of the GATT Contracting Parties' Decision of 5 April 1966. This entitles **developing countries** to the good offices of the Director-General and a shorter panel procedure. [Article 3.12]
- During dispute consultations, members should give special attention to the particular problems and interests of **developing countries**. [Article 4.10]

- When a dispute arises between a **developing country** and a developed country, the panel will include at least one person from another **developing country** member, if the **developing country** party to the dispute so requests. [Article 8.10]
- Consultations involving a measure taken by a **developing country** may be extended beyond the usual time period, if both parties agree. If the consulting parties still cannot agree after the extension period has elapsed, then the chairman of the Dispute Settlement Body (DSB) shall decide whether or not to extend the consultation further. [Article 12.10]
- If consultations involving an LDC fail, the LDC may ask the Director-General or the DSB chairman to offer his good offices before a formal request for a panel is made. [Article 24.2]

Trade Policy Review Mechanism

2. Fewer obligations or differing rules

- The frequency of trade policy reviews depends on the relative weight of each member's volume of trade. Most developed country members are subject to review either every two or four years, whereas most **developing countries** will be reviewed only once every six years, because they are smaller players. Even longer intervals may be fixed for LDCs. [Section C(ii)]

4. Technical assistance

- In order to achieve as much transparency as possible, all members must provide the Trade Policy Review Body with annual statistical information, special briefs when there are significant policy changes and, when the country is up for review, full reports describing the country's trade policies and practices. Given the administrative burden that this can represent, technical assistance will be available from the WTO Secretariat for **developing countries**, especially LDCs. [Section D]

Understanding on the Balance-of-Payments Provisions of GATT 1994

1. Recognition of general interests

- In balance-of-payments (BOP) consultations concerning **developing country** members, Secretariat documentation will include background and

analytical material on the impact of the external trading environment on the consulting member's financial situation and prospects. [Para. 12]

2. Fewer obligations or differing rules

- As agreed in 1972, simplified balance-of-payments consultation procedures may be used by **LDCs** and other **developing country** members that are already pursuing liberalization efforts in conformity with a BOP Committee time-schedule. Exceptionally, **developing country** members scheduled for a trade policy review in the same year may also be allowed to use under the simplified procedure. However, the use of more than two successive consultations under simplified procedures is only allowed for **LDCs**. [Para. 8]

4. Technical assistance

- Technical assistance is available to any **developing country** member from the WTO Secretariat to help prepare documentation for BOP consultations. [Para. 12]

Agreement on Agriculture

1. Recognition of general interests

- The special and differential treatment of **developing country** members is considered to be an integral part of this agreement and have been taken into account in the negotiations for reform in agricultural trade. [Preamble]
- In addition, the possible negative effects of the implementation of the reform programme on **LDC** and net food-importing **developing country** members should be considered. Developed country members are to take actions as outlined in the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries*. [Preamble and Article 16.1]
- Developed country members will provide greater market access for agricultural products of particular interest to **developing countries**, including the fullest liberalization of trade in tropical agricultural products and products which might advance diversification away from the

production of illicit narcotic crops. [Preamble, and Modalities for the Establishment of Specific Binding Commitments, para. 17⁵²¹]

2. Fewer obligations or easing of rules

- **Developing countries** do not have the commitment to reduce certain domestic support measures which are an integral part of their development programmes (investment subsidies which are generally available to agriculture and agricultural input subsidies generally available to low-income or resource-poor producers). [Article 6.2]
- **Developing countries** have a higher *de minimus* level with respect to trade-distorting domestic support (10 per cent of the relevant value of production as opposed to 5 per cent for developed countries). [Article 6.4]
- During the implementation period, **developing countries** are not required to undertake commitments on subsidies to reduce the costs of marketing exports of agricultural products or internal transport subsidies for export products, provided these are not applied in a manner that would circumvent reduction commitments. [Article 9.4]
- **Developing countries** are not required to consider the food security concerns of other members when applying an export prohibition or restriction on foodstuffs, unless they are net exporters of the foodstuff concerned. [Article 12.2]
- For **developing countries**, the required cuts for tariffs and trade-distorting support are lower, by one third, than the rates applicable for developed countries. [Article 15.1 and *Modalities for the Establishment of Specific Binding Commitments*, para. 15]
- **LDCs** are not required to undertake reduction commitments in agricultural market access, domestic support or export subsidies. [Article 15.2]
- Developed countries are to take appropriate action as provided for within the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food-Importing Developing Countries*. The Committee on Agriculture is to monitor the follow-up to this decision. [Article 16]
- The agricultural continuation negotiations will take into account, amongst other things, special and differential treatment for **developing countries**. [Article 20]

⁵²¹ As noted earlier, in the section on the *Agreement on Agriculture*, the *Modalities* document is not a binding agreement. It was used to prepare countries' commitments in agriculture.

- Special and differential treatment includes specific provisions in favour of **developing countries** concerning public stockholding for food security purposes and domestic food aid. [Annex 2, paras. 3 and 4]
- The “special treatment” clause, allowing (under certain strict conditions) four specified members to maintain agriculture-specific non-tariff measures during the period of tariff reductions, provides for more favourable treatment for developing countries. [Annex 5]

3. Longer time-frame for implementation

- **Developing countries** can implement their specific commitments to reduce protection and trade-distorting support in 10 rather than six years.

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

1. Recognition of general interests

- To ensure that the implementation of the Uruguay Round agreements on agricultural trade matters does not adversely affect the availability of sufficient levels of food aid, the Ministers of WTO members will periodically review the level of food aid established by the Committee on Food Aid under the Food Aid Convention. Negotiations are also to be initiated in the appropriate forum to establish food aid commitment levels sufficient to meet the needs of **developing country** members during the reform programme. [Para. 3(i)]
- Guidelines are to be adopted to ensure that an increasing proportion of basic foodstuffs is provided to **LDCs** and **net food-importing developing country** members in grant form, or on concessional terms in line with Article IV of the Food Aid Convention. [Para. 3(ii)]
- The Ministers will ensure that any agreement on agricultural export credits makes appropriate provision for differential treatment in favour of **LDCs** and **net food-importing developing country** members. [Para. 4]
- Members experiencing short-term difficulties financing normal levels of commercial imports may be eligible to draw on the resources from existing facilities at the IMF or World Bank, or other facilities as may be created in the context of adjustment programmes. [Para. 5]

4. Technical assistance

- Requests by LDCs and net food-importing **developing country** members for technical and financial assistance, for the improvement of their agricultural productivity and infrastructure, will be given full consideration in the context of member's aid programmes. [Para. 3(iii)]

Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)

1. Recognition of general interests

- **Developing country** members may have difficulty in complying with the SPS measures of importing countries (thereby limiting their access to external markets) and they should, therefore, receive assistance. Further, **developing countries** may need help to formulate and apply SPS measures within their own territories. [Preamble]
- When members prepare and apply their own SPS measures, they are to consider the special needs of **developing countries**, particularly LDCs. [Article 10.1]
- If there is scope for a phased introduction of new SPS measures, members should accord longer time-frames for compliance on products of interest to **developing country** members. [Article 10.2]
- Except in urgent circumstances, members must allow a reasonable time period between the publication and entry into force of an SPS regulation, so that producers in exporting countries, and particularly in **developing countries** may adapt their products and production methods. [Annex B, para. 2]

3. Longer time-frame for implementation

- Specific, time-limited exceptions from some or all obligations of this agreement may be granted to **developing country** members by the Committee on SPS Measures, taking into account the financial, development and trade needs of that country. [Article 10.3]
- LDCs may delay until 2000 the application of all provisions of this agreement related to measures affecting imports. Other **developing countries** may also delay application, until 1997, if this is justified by a lack of technical expertise, technical infrastructure or resources. However, upon request, all members must explain why particular SPS measures exist and must notify and provide information on all such measures. [Article 14]

4. Technical assistance

- In order to help **developing country** members adjust to, or comply with their trading partner's SPS requirements, members will facilitate the provision of bilateral or multilateral technical assistance in areas such as processing technologies, research, infrastructure and training. Assistance may be in the form of advice, credits, donations and grants. [Article 9.1]
- If substantial investments are required in order for an exporting **developing country** member to fulfil the SPS requirements of an importing member, the latter should consider providing the necessary technical assistance. [Article 9.2]
- Members should encourage and facilitate the active participation of **developing countries** in international organizations related to SPS regulations. [Article 10.4]
- The WTO Secretariat will draw the attention of **developing country** members to any notification relating to products of particular interest to them. [Annex B, para. 9]

Agreement on Textiles and Clothing

1. Recognition of general interests

- LDCs should be accorded special treatment. [Preamble]
- Cotton-producing exporting members are to be consulted on the implementation of the agreement and their interests should be reflected therein. [Article 1, para. 4]
- Transitional safeguard actions are to be used as sparingly as possible. Also differential and more favourable treatment in the application of quota base-levels, growth rates and flexibility is to be given to small suppliers, wool-producing **developing country** members and countries having a significant proportion of their trade in outward processing. At the same time, LDCs are to be given significantly more favourable treatment than any other members. [Article 6.6]
- Transitional safeguards cannot be taken against: exports of hand-loom fabrics from **developing country** members, hand-made cottage industry products or folklore handicrafts when properly certified; historically traded products such as bags, sacks, etc., from jute and some other fibres; and pure silk products. [Annex, para. 3]

2. Fewer obligations or differing rules

- Exports from **LDCs** may also benefit from special provisions designed to improve the access possibilities of small suppliers and new entrants to trade in this sector. This includes exporters who were subject to Multi-Fibre Arrangement (MFA) quotas and whose volume of import restrictions was 1.2%, or less, of total restrictions in an importing member on 31 December 1991. Such exporters may move ahead one stage in the relaxing of restrictions (growth process) or will receive an equivalent benefit by mutual agreement. [Article 1.2, footnote 1, Article 2.18]

3. Longer time-frame for implementation

- Longer time-frames for notifying which products have been integrated into the GATT 1994 were accorded to members that were signatories to the MFA but which did not maintain import restraints under that arrangement (mostly **developing countries**, including a few **LDCs**). Notification was due in early 1995 for these members, as opposed to October 1994 for members maintaining import restrictions. WTO members who were not party to the MFA had until the end of 1995 to notify. [Article 2.7]
- Member countries who were part of the MFA but did not maintain import restraints were nevertheless allowed to reserve the right to use the special transitional safeguard mechanism. This had to be done within 60 days after entry into force of the agreement. Non-MFA members (i.e. most **LDCs**) were allowed six months to reserve this right. [Article 6.1]

Agreement on Technical Barriers to Trade

1. Recognition of general interests

- **Developing country** members may encounter special difficulties in the formulation and application of technical regulations, standards and conformity-assessment procedures. Given these challenges and the recognition that international standardization can contribute to technology transfer, WTO members wish to assist **developing countries** in this matter. [Preamble]
- Except in cases of safety, health, environmental protection or national security emergencies, members should allow sufficient time between the publication and entry into force of new technical regulations – or of requirements concerning conformity assessment procedures – so that producers in exporting members, and particularly in **developing country**

members may adapt their products or production methods. [Articles 2.12 and 5.9]

- The special situation of **developing country** members will be taken into account by all members when implementing the agreement, both nationally and multilaterally. Members are to take care not to create unnecessary obstacles to exports from **developing country** members when preparing and applying their technical regulations, standards and conformity assessment procedures. [Article 12.2 and 12.3]
- Members shall try to ensure: (a) that the organization and operation of international standardizing bodies and international conformity-assessment systems take into account the special problems of **developing countries**; and (b) that upon request by **developing country** members, international standardizing bodies examine the possibility of preparing international standards for products of special interest to them. [Article 12.5 and 12.6]
- During consultations, developed country members will bear in mind that **developing countries** may experience special difficulties in formulating and implementing their own national standards, technical regulations and conformity assessment procedures. Developed country members will take into account the special development, financial and trade needs of **developing countries**. [Article 12.9]
- The Committee on Technical Barriers to Trade will periodically examine the special and differential treatment that is being accorded to **developing country** members on national and international levels. [Article 12.10]

2. Fewer obligations or easing of rules

- **Developing country** members are not expected to use international standards as the basis for their own technical regulations, standards or testing methods, if the international ones are not appropriate to the country's individual development situation. [Article 12.4]

3. Longer time-frame for implementation

- Upon request, the Committee on Technical Barriers to Trade may grant **developing country** members specific, time-limited exceptions from obligations under this agreement. The Committee will take into account the special problems of the LDCs. [Article 12.8]

4. Technical assistance

- The WTO Secretariat will draw the attention of **developing country** members to any notification relating to products of particular interest to them. [Article 10.6]
- For certain matters, members are obliged to provide advice and/or technical assistance to other countries, especially the **developing country** members (upon request by the country and on mutually agreed terms), with priority going to **LDCs**.

This includes assistance for: preparing technical regulations; establishing national standardizing bodies and participating in international ones; the methods by which the advising country's technical regulations can best be met; establishing bodies which can assess a product's conformity with standards and technical regulations; identifying steps that **developing country** producers should take in order to access conformity assessment systems within the territory of the importing member; and establishing institutions and legal frameworks to fulfil the obligations of participation in international and regional conformity assessment systems.

Members will also encourage organizations within their own territories to advise other countries, especially the **developing country** members on the establishment of conformity-assessment bodies, as well as the institutions and legal frameworks required for those bodies to participate in international or regional systems. [Article 11]

- The terms and conditions of any technical assistance given according to the above (Article 11) will be determined in light of the stage of development of the member, particularly in the case of **LDCs**. In order to avoid the creation of unnecessary obstacles to the expansion and diversification of **developing country** exports, members will also give assistance with regards to the application of technical regulations, standard and conformity-assessment procedures within the requesting countries. [Article 12.7]

Agreement on Trade-Related Investment Measures (TRIMs)

1. Recognition of general interests

- The expansion and progressive liberalization of trade and investment across international frontiers should take into account the particular trade, development and financial needs of **developing country** members, particularly those of the **LDCs**. [Preamble]

2. Fewer obligations or easing of rules

- Recognition is given to the right of **developing country** members to temporarily apply otherwise prohibited TRIMs, in accordance with the GATT rules on the protection of infant industries (Article XVIII:C) and balance-of-payments safeguard measures (GATT Article XVIII:B, the 1979 Declaration on Trade Measures Taken for Balance-of-Payments Purposes (BISD 26D/205-209) and the Understanding on Balance-of-Payments Provisions of the GATT 1994). [Article 4]

3. Longer time-frame for implementation

- LDC members have a seven-year transitional period to eliminate all GATT inconsistent TRIMs. Other **developing countries** have five years and developed country members have just two years. [Article 5.2]
- A **developing country** member demonstrating particular difficulties in implementing the provisions of this agreement may have its transitional period for the elimination of notified TRIMs extended by the Council for Trade in Goods. When considering an extension, the Council will take into account the individual development, financial and trade needs of the member concerned. [Article 5.3]

Agreement on Implementation of Article VI of the GATT (Anti-Dumping)

1. Recognition of general interests

- When considering the application of anti-dumping measures, developed country members must give special regard to the situation of **developing country** members. [Article 15]
- Possible constructive remedies provided by this agreement must be explored before anti-dumping duties are applied, if such duties would affect the essential interest of **developing country** members. [Article 15]

Agreement on Subsidies and Countervailing Measures

1. Recognition of general interests

- The members recognize that subsidies may play an important role in the economic development programmes of **developing country** members. [Article 27.13]

2. Fewer obligations or differing rules

- Countries listed in **Annex VII** of this agreement (**LDCs** and certain other **developing countries**) are not subject to the prohibition on export subsidies that is applicable to other WTO members. [Article 27.2(a)]

Other (non-Annex VII) developing countries have an eight-year transition period to phase out their export subsidies (i.e. the prohibition in Article 3.11(a) does not apply during this period).

- **LDCs** have an eight-year transition period and other **developing countries** have a five-year transition period to phase out their “local content” subsidies (i.e. the prohibition of Article 3.1(b) does not apply during this period). [Article 27.3]
- During these transition periods for **developing countries** and **LDCs**, the relevant provisions for dispute resolution are those relating to actionable subsidies (Article 7), and not those relating to prohibited subsidies. [Article 27.7]
- Subsidies that are normally presumed to cause serious prejudice to the interests of other members will not be presumed to do so in the case of **developing country** members. These subsidies include: total *ad valorem* subsidization of a product which exceeds 5%; subsidies to cover losses sustained by an industry or, with certain exceptions, by an enterprise; and direct forgiveness of debt and grants to cover debt repayment. If a complaint of serious prejudice caused by such subsidies is brought against a **developing country**, the burden of proof of serious prejudice is shifted to the complaining member. [Article 27.8]
- Actionable subsidies maintained by **developing country** members (except those referred to above) are only actionable multilaterally if they cause injury to an industry in the complainant’s market, or if they nullify or impair another member’s benefits under the GATT 1994, by displacing or impeding that member’s imports of like products into the **developing country**’s market. [Article 27.9]

A countervail investigation on an export from a **developing country** member must be terminated if: the volume of subsidized imports from that member is negligible, i.e. less than 4% of the total imports of like products into the importer’s market, unless collectively, the total share of all **developing country** members having less than a 4% import accounts for more than 9% of the complainant’s imports of that product. [Article 27.10]

- This agreement also requires the termination of countervail investigations against **developing country** members if the level of subsidization is no more than 2% of the per unit value of the product, as opposed to the 1% allowed for developed country members. For **Annex VII** countries (i.e. **LDCs** and listed **developing countries**), the *de minimis* level is set at 3%. It

is also 3% for those **developing countries** that eliminate their export subsidies before the end of the eight-year transition period (*see below*). [Article 27.10 and 27.11]

- The Committee on Subsidies will, upon request by a **developing country** member, review the consistency of another member's countervailing measure with special and differential treatment provisions of Articles 27.10 and 27.11. [Article 27.15]
- The direct forgiveness of debt and certain other subsidies are not actionable under multilateral rules when such subsidies are granted within, and directly linked to, a privatization programme of a **developing country** member. Any programme of this kind (and the subsidies involved) must, however, be notified to the Committee, must be in place only for a limited period of time, and must result in the eventual privatization of the enterprise concerned. [Article 27.13]

3. Longer time-frame for implementation

- **Developing country** members not included in Annex VII of this agreement are allowed to phase out their export subsidies over a period of eight years, as long as these are consistent with their development needs; during this period such members must not increase the level of their export subsidies, however. **Annex VII countries** are exempt from the prohibition on export subsidies. [See above, Article 27.2(a)]

Upon request from an interested member, the committee will determine whether or not a specific export subsidy practice of a **developing country** conforms with its development needs [Article 27.14]. The phasing-out period for **developing country** export subsidies may be extended year by year if necessary and agreed to by the committee. If an extension is not granted, however, then export subsidies must be phased out within two years. In practice, this means that any **developing country** applying for an extension before the original eight years are up will automatically gain two more years exemption, even if the application is turned down. [Article 27.2(b) and 27.4]

- The prohibition on local content subsidies does not apply to **developing country** members for a period of five years after entry into force of the Marrakesh Agreement, nor to **LDC** members for a period of eight years. [See above, Article 27.3]
- **Developing country** members other than Annex VII countries that attain "export competitiveness" for particular products have two years to phase out export subsidies on these items. Competitiveness exists if a **developing country's** exports of a product reach 3.25% of world trade in that product, for two consecutive years. **Annex VII** country members (i.e. **LDCs** and

listed developing countries have a period of eight years in which to phase out export subsidies on products for which they have attained export competitiveness. [Article 27.5 and 27.6]

Agreement on Safeguards

Application of safeguard measures to imports originating in developing country members

- Imports originating in a **developing country** member are exempt from safeguard measures if: (a) those imports' share of the importing member's imports of the product concerned does not exceed 3%; and (b) total imports from those **developing country** members having less than a 3% individual import share do not account collectively for more than 9% of the total imports of that product. [Article 9.1]

Application of safeguard measures by developing country members

- **Developing country** members, as all members, may apply safeguard measures for a maximum initial period of four years. Developing country members may then extend these measures for a maximum additional period of six years, rather than the four-year extension period allowed for developed country members. [Article 9.2]
- Generally, safeguard measures imposed since the entry into force of the WTO and lasting more than 180 days cannot be reimposed until after a period of time equal to the original duration of the safeguard – with a minimum allowable non-application period of two years. For **developing country** members, however, reimposition is allowed after the lapse of a period equal to half the time that the original measure was in place, although the two-year minimum still applies. (For example, a measure in place for five years in a **developing country** may be reimposed after two and a half years.) [Article 9.2]

Agreement on Implementation of Article VII of GATT 1994 (Customs Valuation), and related decision

1. Recognition of general interests

- Through this agreement, members wish to secure additional benefits for the trade of **developing country** members. [Preamble]

2. Fewer obligations or easing of rules

- **Developing countries** may make a reservation permitting them to refuse a request from an importer to reverse the order of the fourth and fifth methods of valuation listed in the agreement (the deductive and computed value methods, respectively). [Annex III:3]
- **Developing countries** may also reserve the right to value imported goods on the unit price at which the imported goods have been resold in the country of import, after undergoing further processing. This method of valuation may be applied whether or not the importer requests it (whereas developed country members can do this only upon request of the importer). [Annex III:4]

3. Longer time-frame for implementation

- A five-year grace period for the application of the provisions of this agreement is allowed for **developing countries** that have accepted the Marrakesh Agreement and which were not signatories to the Tokyo Round agreement. An extension of this transitional period may also be requested but is subject to approval by the committee. [Article 20.1 and Annex III:1]
- **Developing countries** members that were not signatories to the Tokyo Round agreement have the possibility of an extra three-year extension for the application of articles relating to the computed value methodology – over and above the five-year extension mentioned above. [Article 20.2]
- While a system of minimum customs value is prohibited under the agreement, **developing country** members may retain a system of officially established minimum values, on a limited and transitional basis, and according to terms agreed by the Committee on Customs Valuation. The committee will consider the development, financial and trade needs of the member concerned. [Annex III:2, and *Decision on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires*, Part I]

4. Technical assistance

- **Developing country** members may request technical assistance programmes from developed country members, to be furnished on mutually agreed terms. This may include personnel training, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology and advice on the application of the provisions of the agreement. [Article 20.3]
- If a **developing country** member encounters problems regarding the non-inclusion in the customs value of special discounts and commissions

obtained by sole agents, sole concessionaires and sole distributors, it can request that a study be undertaken. [Annex III:5]

- The Committee on Customs Valuation urges the Customs Cooperation Council to conduct research in domains of potential concern to **developing country** members, including those related to importations by sole agents, sole distributors and sole concessionaires. [*Decision on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires*, Part II]

Agreement on Preshipment Inspection

1. Recognition of general interests

- It is noted that a number of **developing country** members use PSI and that they may need to do so for as long as it is necessary to verify the quality, quantity or price of imported goods. [Preamble]

4. Technical assistance

- Upon request, exporter members will provide user members – i.e. **developing country** members – with technical assistance on a bilateral, plurilateral or multilateral basis, and on agreed terms. [Article 3.3]

Agreement on Import Licensing Procedures

Recognition of general interests

- When ensuring that the implementation of import-licensing regimes conforms to GATT provisions and does not have trade-distorting effects, members are to take into account the trade, development and financial needs of **developing country** members. [Preamble and Article 1.2]

In allocating licences among importers, members should give special consideration to those importers buying products from **developing country** members and, in particular, from LDCs. [Article 3.5(j)]

2. Fewer obligations or differing rules

- Like all members using non-automatic import-licensing regimes, **developing countries** must provide, upon request, all relevant information

concerning the administration of restrictions, the distribution of import licences among supplier countries, the import licences granted over a recent period and, where practicable, the import statistics of the products concerned. **Developing country** members are not expected, however, to undertake additional administrative or financial burdens to provide this last requirement. [Article 3.5(a)]

3. Longer time-frame for implementation

- **Developing country** members that are not signatories to the Tokyo Round agreement may, upon notification to the Committee on Import Licensing, delay the implementation of the following obligations for up to two years: (a) the acceptance of applications for automatic licences on any working day prior to the customs clearance of the goods; and (b) the granting of automatic licences immediately upon receipt, or within a maximum of 10 working days. [Article 2.2 and footnote 5]

General Agreement on Trade in Services (GATS) and related decisions and annexes

1. Recognition of general interests

- The members believe that the establishment of a multilateral framework for trade in services will promote the expansion of **developing country** exports by strengthening their domestic services capacity. Still, given the asymmetries in the degree of development of services regulations in different member countries, it is recognized that **developing country** members need to regulate the supply of services in their territories in order to meet national policy objectives. [Preamble]
- The serious difficulties faced by the service sectors of **LDCs** are recognized and should be taken into account in view of their special economic situation and their development, trade and financial needs. [Preamble]
- Members will negotiate specific commitments to facilitate the increasing participation of **developing countries** in world trade in services. Priority is to be given to **LDCs**, even if these countries have serious difficulties accepting specific commitments of their own. Negotiations will relate to: the strengthening of the domestic services industries of **developing country** members through, among other things, access to technology on a commercial basis; the improvement of their access to distribution channels and information networks; and the liberalization of market access in sectors and modes of supply of export interest to them (such as labour intensive services). Further, guidelines on the modalities for the special treatment of

LDCs will be established for future trade-liberalizing negotiations. [Article IV]

- Within two years of the entry into force of the agreement, developed country members and, to the extent possible, all other members, are to establish enquiry points to help suppliers from **developing countries** get information on: the commercial and technical aspects of supplying different kinds of services; the registration of suppliers; the obtaining of professional qualifications; and the availability of services technology. Special priority should be given to help suppliers from LDCs. [Article IV:2]
- In view of the role played by subsidies in the development programmes of **developing country** members, other members will try to be flexible when negotiating new multilateral disciplines on certain trade-distorting subsidies within the services sector. [Article XV:1]

In future negotiations on the liberalization of the movement of natural persons, Ministers will keep in mind that it is an objective of the GATS to increase the participation of **developing countries** in trade in services and expand their service exports. [*Decision on Negotiations on Movement of Natural Persons*]

2. Fewer obligations or differing rules

- In general, WTO members are allowed to enter economic-integration agreements that liberalize trade in services, provided the agreement has substantial sectoral coverage and provides for the elimination of substantially all discrimination in the covered sectors. Flexibility will be exercised with respect to **developing country** members which are parties to any such agreement, particularly concerning the elimination of discrimination. Flexibility is allowed in accordance with the level of development of the members concerned, both overall and within individual sectors and sub-sectors. [Article V:3]
- The national policy objectives and the level of overall and sectoral development of individual members will be given due respect during liberalization negotiations. Individual **developing country** members will have some flexibility for opening fewer sectors, liberalizing fewer types of transactions, offering market access extension only so far as their development situations allow, and attaching market access conditions aimed at achieving their increasing participation in world trade (an objective of this agreement). [Article XIX:2]
- A **developing country** member may place reasonable conditions on access to, and use of, public telecommunications networks and services, according to the country's level of development. Use of such restraints must be

included in the member's schedule and must be required to both strengthen its domestic telecommunications infrastructure and service capacity, and to increase its participation in international trade in telecommunications services. [*Annex on Telecommunications*, para. 5(g)]

3. Longer time-frame for implementation

- The two-year deadline for setting up enquiry points to provide legal, regulatory and administrative advice sector will be applied with flexibility for **developing countries**. [Article III:4]

4. Technical assistance

- Technical assistance to **developing country** members is to be provided at the multilateral level by the WTO Secretariat and will be decided upon by the Council for Trade in Services. [Article XXV:2]
- Recognizing that an efficient, advanced telecommunications infrastructure is essential to the expansion of trade in services, particularly for **developing countries**, members encourage the fullest participation of all national governments, public suppliers of telecommunications services and other such entities, in the development of international and regional programmes through organs such as the International Telecommunications Union, the UN Development Programme and the World Bank. [*Annex on Telecommunications*, para. 6(a)]
- Members will encourage and support telecommunications cooperation among **developing country** members at the international, regional and sub-regional levels. [*Annex on Telecommunications*, para. 6(b)]
- Where practicable, members will make information available to **developing countries** on telecommunications services and developments in telecommunications and information technology. This should assist in strengthening domestic telecommunications services sector in cooperation with relevant international organizations. [*Annex on Telecommunications*, para. 6(c)]
- Special consideration will be given to opportunities for the LDCs to encourage foreign suppliers of telecommunications services to assist in the transfer of technology, training and other activities that support the development of their telecommunications infrastructure and trade. [*Annex on Telecommunications*, para. 6(d)]
- In matters affecting trade in services, the sectoral committees of the WTO will provide technical assistance to **developing country** members and **developing countries** negotiating accession to the WTO. [*Decision on Institutional Arrangements for the GATS*, para. 2(e)]

Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)

1. Recognition of general interests

- Members recognize that **LDCs'** need maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base. [Preamble]

3. Longer time-frame for implementation

- **Developing country** members have a five-year transitional period from the date of entry into force of the agreement, and **LDCs** an 11-year period, during which they do not have to apply the provisions of the TRIPs agreement (whereas developed country members have only a one-year transitional period). For **LDCs** this may be extended by the Council on TRIPs, upon request. All members of the WTO must, however, provide national treatment and most-favoured-nation treatment within one year, with respect to the protection of intellectual property. [Articles 65.1, 65.2 and 66.1]
- For **developing country** members which, after the five-year transitional period, do not yet offer patent protection within their own territories for certain areas of technology, a further delay of five years will be allowed before requiring the application of provisions on product patents in those areas. [Article 65.4]

4. Technical assistance

- Developed country members shall provide incentives to enterprises and institutions within their own territories to help promote the transfer of technology to **LDCs**. [Article 66.2]
- Developed country members are to provide, upon request and on mutually agreed terms and conditions, technical and financial cooperation in favour of **developing country** members, and **LDCs**. This might include assistance in the preparation of domestic legislation on the protection and enforcement of intellectual property rights, as well as the prevention of any abuse of those rights. Support measures may also focus on the establishment or reinforcement of relevant domestic offices and agencies, including the training of personnel. [Article 67]

Declaration on the Contribution of the WTO to Achieving Greater Coherence in Global Policy-Making

1. Recognition of general interests

- An adequate and timely flow of concessional and non-concessional financial and real investment resources to **developing country** members is needed. Further efforts to address debt problems are also necessary to help ensure economic growth and development. [Para. 2]