

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

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COMMUNICATION FROM BANGLADESH

The following communication, dated 14 January 1993 and addressed to the Chairman of the Trade Negotiations Committee, has been received from the Permanent Mission of Bangladesh on behalf of the least-developed countries with the request that it be brought to the attention of the Uruguay Round participants.

In continuation of our communication number IO/GATT/UR/TNC dated 7 January 1992, and on behalf of the least-developed countries, I draw your attention, in your capacity as the Chairman of the TNC, to the following:

1. An unambiguous political commitment was made in Section B(vii) of Part I of the Punta del Este Declaration to the effect that:

"Special attention shall be given to the particular situation and problems of the least-developed countries and to the need to encourage positive measures to facilitate expansion of their trading opportunities. Expeditious implementation of the relevant provisions of the 1982 Ministerial Declaration concerning the least-developed countries shall also be given appropriate attention."

2. The least-developed countries (LDCs) are disappointed that this clear political commitment of all the participants of the Uruguay Round is yet to be fairly translated into concrete results of the Draft Final Act, in terms of special and differential treatment for the LDCs. It should not be assumed that their situation has improved since the launching of the Uruguay Round. When other major participants are seeking special concessions in areas of their particular interest it becomes incumbent on other participants to give very special consideration to the least-developed countries. Hence the importance and fairness of a further specifying, enhancing and strengthening of the limited measures of special and differential treatment offered to LDCs cannot be over-emphasized. As the negotiations in the Round are reaching the final stage, the LDCs represented in Geneva and those not represented want to find out what is in the Round for them.
3. The Draft Final Act, at Section B.I, contains a Decision which seems to constitute the illusion of an overall enabling instrument for

special and differential treatment for LDCs in all the negotiated instruments of the Draft Final Act, although it remains ambiguous as regards their compliance with the "general rules in various instruments" which are not clearly defined and thus leaves unclear the kind of discipline these instruments would impose on the LDCs. These contradictions in principles and commitments need to be reconciled, in a way that the legitimate and major concerns of LDCs are specifically provided for in the final outcome.

4. The special treatment, purported to have been accorded to the LDCs, has not been reflected in a consistent manner in the various instruments. As an example, it can be pointed out that while the LDCs have been exempted from all reduction commitments in Agriculture reforms as well as from prohibited subsidies as long as they remain LDCs, short and arbitrary transitional periods have been stipulated in areas such as TRIMs and TRIPs while in other areas, such as in textiles and clothing and safeguards, the measures take the form of best endeavour provisions and thus fall short of concrete commitments. It would be unfair that the LDCs will be subjected to the same obligations that apply to both developed and developing countries after the transitional period. Hence, this type of transitional provision cannot be described as special treatment to LDCs. These contradictions and gaps between declaration of solemn intent and concrete commitments in specific areas need to be reconciled in a way that the well-recognized concerns of LDCs are fully addressed with a view to integrating them in the global system of trade and exchange.

5. Market Access

The package for LDCs in the Draft Final Act does not include market access results in the area of trade in goods and trade in services. Long-term development prospects of LDCs are contingent on their being given improved and differential market-access opportunities. Similarly, obligations contained in areas like TRIPs, TRIMs and services should not circumscribe the opportunities sought by LDCs in different areas. The principal concerns of LDCs in the area of market access are:

- (a) The nature and degree of market-access opportunities stipulated for LDCs in the DFA are not consistent with the political commitment of the participants. Concessional opportunities for market access in tropical products, natural resource-based products and textiles and clothing, are of particular concern to the LDCs.
- (b) The DFA does not specify the compensation for the LDCs for serious losses and threats their exports will suffer due to the changes in market-access conditions.
- (c) Full clarity is needed regarding the flexibility provided in the Draft Final Act for protection and support to agriculture in the LDC economies.

- (d) The welfare and development concerns of the LDCs are not fairly addressed. The welfare loss for LDCs would come from the erosion of their existing preferences (like STABEX, Lomé Convention and GSP) over other developing countries compounded by their low supply elasticities.
- (e) Particularly, the net-food importing LDCs need clear commitments of additional and new resources to overcome serious difficulties they would encounter as world food prices go up consequent upon changed world market parameters in trade in Agriculture. More concessional access to existing facilities of International Financial institutions may be provided. Furthermore, new facilities and windows may be created. The overall level of assistance to the LDCs must be increased substantially.
- (f) All MFN concessions on tariffs and non-tariff measures agreed in the Uruguay Round on products originating from the LDCs shall be implemented in favour of these countries in advance and without staging, on a non-reciprocal basis.

6. Rules of origin

As the participants to the Round decided to limit their negotiations on rules of origin used to non-preferential commercial policy instruments, most of the LDCs concerns have not been addressed in the DFA.

It needs to be appreciated that in view of their very limited economic and technological capacity in meeting the local-content requirements, the LDCs cannot match countries which have at their disposal higher skills and technologies.

LDCs, therefore, propose that local-content requirements be substantially lowered for them under the rules of origin, as a special consideration, since this would also result in strengthening the incentives for foreign investments in LDCs. A general relaxation of the discipline of Rules of Origin would considerably help the LDCs.

The outward processing done in a LDC should be deemed to have conferred automatically origin of the least-developed countries to the product to meet the content requirement of a national/regional system of tariff preference.

7. Anti-dumping

Some of the stipulations of the DFA on anti-dumping are too broad and vague; as such, the legitimate trading interests of LDCs may come under the misuse of these measures. Over and above, there is no special dispensation, at all, for the LDCs. The concrete proposals of the LDCs are still on the table. These concerns of LDCs need to be taken on board. Article 16 on page F.26 of the DFA needs to be suitably redrafted.

8. Technical Barriers to Trade

The DFA with no special provision for LDCs is not balanced. The LDCs seek a specific provision in this area.

9. Safeguards

The DFA does not provide for any special treatment for the LDCs.

The LDCs should be allowed, on a non-reciprocal basis, to resort to safeguard measures as long as they remain LDCs. The LDCs should be exempted forthwith from the use of safeguards against them by importing countries.

10. Sanitary and phytosanitary measures

The provisions made in Articles 33 and 46, on pages L.41 and L.43 respectively, are too inadequate to ameliorate the severe institutional, economic and technological problems besetting the LDCs. The participants need to consider the question of extending the period of delay in application of the Decisions in this area to 10 years for LDCs.

11. Textiles and clothing

This is one area in which the LDCs have been rather unfairly treated. The DFA does not provide any special measures to enhance, with immediate effect, access for the LDCs' exports. On the contrary, Article 1.2, on page 0.2 of the DFA, makes special dispensation for certain categories of exporters. But these measures permitting meaningful increases in access do not appear to cover LDCs. Most importantly, the phasing out of the MFA will put the LDCs at par with other developed and developing countries. This would be a crippling blow to the economy of the LDCs.

Hence, the LDCs reiterate that their concerns in this area, including the following, may be taken on board:

- (a) Immediate elimination of all tariff and non-tariff restrictions, including quantitative restrictions on the textiles and clothing exported by LDCs.
- (b) LDCs should be exempted from the application of the transitional safeguard régime.
- (c) LDCs should be exempted from any safeguard measures agreed in the area of Textiles and Clothing. Article 6 on pages 0.12-13 of the DFA, does not specify the commitment made in favour of LDCs.

12. TRIMs

The LDCs have been given seven years, as against five years for developing countries, to comply with the notification obligations.

The LDCs have always maintained that they should be totally exempted from all obligations, on a non-reciprocal basis, agreed under the TRIMs agreement. The LDCs should be allowed to use TRIMs for development of a domestic export base, balance-of-payments reasons and protection of their infant industries as long as they remain LDCs. Article 5 on page N.2 of the DFA should be redrafted to take the special concerns of LDCs on board.

13. TRIPs

No special opportunities have been offered to the LDCs although their special needs are recognized in the preambular part of the text on TRIPs in page 58 of the DFA. Since the participants recognize the special needs of the LDCs, there should be concrete results in favour of the LDCs. The time advantage of 10 years offered to LDCs is not adequate. As long as a particular country does not cease to be least developed, it should be exempted from undertaking commitments in TRIPs.

14. Services

The Preamble of the text on Services in page 5 of the DFA takes into account the serious difficulties of the LDCs, but once again this declaratory intent of the participants does not find itself translated into any concrete commitment in favour of LDCs. The provisions of Article IV.3 on page 9 are too vague and imprecise.

"Least Developed Countries are not expected to make any initial commitments," according to MTN.TNC/35/Rev.1 (Pg. 382). But this principle should be incorporated in the DFA article dealing with LDCs, bearing in mind their particular difficulties in respect of economic space, external handicaps and administrative problems.

Concluding remarks

15. LDC participants of the Uruguay Round wish to take this opportunity to place on record their deep appreciation for your continuing understanding for the serious problems, principal concerns and special needs of the LDCs, remembering that many of the LDCs are not participants.
16. The LDCs request that this communication be circulated among all the participants of the Uruguay Round.