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## THE GRADUATION OF BANGLADESH FROM THE LDC CATEGORY: AN ANALYSIS FROM THE WTO PERSPECTIVE

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## ABSTRACT

Bangladesh is scheduled to graduate from the United Nations Least Developed Country category on 24 November 2026. While this transition marks a milestone, it raises complex challenges in the context of the WTO.

This thesis examines the implications of Bangladesh's graduation under WTO law, given the lack of specific WTO guidelines for a smooth transition.

Subsequently, it overhauls the roles of WTO S&DT provisions in building the competitiveness of graduating LDCs in international trade.

It analyzes substantial preferential erosion and graduation-related risks for Bangladesh, including loss of duty-free and quota-free market access and increased risk of exposure to dispute settlement procedures against its trade measures.

It concludes with a way forward, recommending that Bangladesh negotiate FTAs with major importers of its goods as a strategic means to secure preferential market access and maintain trade competitiveness in international markets after graduation. Additionally, it recommends that Bangladesh reshape its policy framework via robust reform measures to unlock the full potential of its key export sectors by building backward linkages, adopting import substitution policies, and circular economy principles. It also devises a 'comprehensive ocean governance framework', 'a roadmap to build WTO dispute settlement expertise', and a 'framework for cotton service hub'.

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## LIST OF ABBREVIATIONS AND ACRONYMS

ACTIF	African Cotton and Textiles Industries Federation
ACWL	Advisory Centre on WTO Law
ADB	Asian Development Bank
API	Active Pharmaceutical Ingredients
AoA	Agreement on Agriculture
ASEAN	Association of Southeast Asian Nations
BAPI	Bangladesh Association of Pharmaceutical Industries
BEI	Bangladesh Enterprise Institute
BFSA	Bangladesh Food Safety Authority
BFTI	Bangladesh Foreign Trade Institute
BIDA	Bangladesh Investment Development Authority
BIISS	Bangladesh Institute of International and Strategic Studies
BLI	Backward Linkage Industries
BPA	Bangladesh Patent Act
CAD	Computer-Aided Design
CETP	Central Effluent Treatment Plant
CNC	Computerized and Numerically Controlled
COVID 19	Coronavirus Disease of 2019
CPD	Centre for Policy Dialogue
DFQF	Duty-Free and Quota-Free
Doc	Document
DPoA	Doha Programme of Action
DPDT	Department of Patents, Designs, and Trademarks
DSU	Dispute Settlement Understanding
EC	European Commission
ECOSOC	United Nations Economic and Social Council
EEZ	Exclusive Economic Zone
EIF	Enhanced Integrated Framework
EU	European Union
EVI	Economic Vulnerability Index

FDI	Foreign Direct Investment
FTAs	Free Trade Agreements
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GHG	Greenhouse Gas
GNI	Gross National Income
GSPs	General System of Preferences
HAI	Human Asset Index
IISD	International Institute for Sustainable Development
ILO	International Labor Organization
IMF	International Monetary Fund
IMO	International Maritime Organization
IP	Intellectual Property
IPR	Intellectual Property Protection
ISMs	International Support Measures
ITC	International Trade Centre
LDCs	Least Developed Countries
LE	Light Engineering
LEC	Leather Export Council
LEISC	Light Engineering Industry Skills Council
LWG	Leather Working Group
MFN	Most-Favoured Nation
MoU	Memorandum of Understanding
NFIDCs	Net Food-Importing Developing Countries
OACPS	Organisation of African, Caribbean and Pacific States
OECD	Organization of Economic Cooperation and Development
Para.	Paragraph
PPP	Public-Private Partnership
RCEP	Regional Comprehensive Economic Partnership
R&D	Research and Development
Res.	Resolution
RMG	Ready-Made Garments
RoO	Rules of Origin

RAPID	Research and Policy Integration for Development
S&DT	Special and Differential Treatment
SCM	Subsidies and Countervailing Measures
SDG	Sustainable Development Goal
SMEs	Small and Medium-sized Enterprises
TA	Technical Assistance
TBT	Technical Barriers to Trade
TFA	Trade Facilitation Agreement
TRIMS	Trade-Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TVET	Technical and Vocational Education and Training
U.A.E.	United Arab Emirates
U.K.	United Kingdom
U.S.A.	United States of America
UN	United Nations
UNCDP	United Nations Committee for Development Policy
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNDESA	United Nations Department for Economic and Social Affairs
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UNGA	United Nations General Assembly
WTO	World Trade Organization
WBG	World Bank Group
WPR	World Population Review

## DEFINITIONS

### **Least-developed Country**

“The United Nations defines LDCs as countries that have low levels of income and face severe structural impediments to sustainable development.”<sup>1</sup>

### **Least-Developed Countries Category**

“The LDC category was established by the UN General Assembly in 1971 as an acknowledgment by the international community that special support measures were needed to assist the least developed among the developing countries.”<sup>2</sup>

### **Eligibility Criteria for Graduation:**

“A country is deemed eligible for graduation from the least developed country category if it meets two of the three graduation criteria at two consecutive triennial reviews by the Committee for Development Policy. The three criteria are: (a) the per capita gross national income (GNI); (b) the human assets index; and (c) the economic and environmental vulnerability<sup>3</sup> index.”<sup>4</sup>

### **The Committee of Development Policy**

“The CDP is a subsidiary body of the United Nations' Economic and Social Council (ECOSOC). It is composed of 24 experts nominated in their personal capacity by the Secretary-General and appointed by ECOSOC for a period of three years. Among other functions, it periodically reviews the LDC category, recommends countries for inclusion or graduation, and monitors graduating and graduated countries, among other LDC-related tasks”.<sup>5</sup>

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<sup>1</sup> UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, ‘*Least Developed Countries Category*’ <<https://www.un.org/ohrlls/content/ldc-category>> accessed 5 August 2025.

<sup>2</sup> Mohammad Abdur Razzaque, ‘*Navigating New Waters: Unleashing Bangladesh's Export Potential for Smooth LDC Graduation*’ (2020) BEI <[https://www.rapidbd.org/wp-content/uploads/2021/02/Navigating-New-Waters\\_Full-Book.pdf](https://www.rapidbd.org/wp-content/uploads/2021/02/Navigating-New-Waters_Full-Book.pdf)>.

<sup>3</sup> John Madeley, ‘United Nations Conference on the Least Developed Countries’ (1982) 7 Food Policy 91 <<https://ideas.repec.org/a/eee/jfpoli/v7y1982i1p91-93.html>>.

<sup>4</sup> UNGA, Report of the Secretary-General on the Implementation of Agenda 21 and the Programme for the Further Implementation of Agenda 21 (27 October 2024) UN Doc A/79/504, 2.

<sup>5</sup> UN, ‘*Committee for Development Policy*’ <<https://www.un.org/ldcportal/content/committee-development-policy-cdp->> accessed 5 August 2025.

## **Supply-side constraints**

“It refers to the factors that limit the ability of producers to increase the supply of goods and services in an economy. These constraints can impact the overall production capacity and the responsiveness of supply to changes in demand or prices.”<sup>6</sup>

## **Origin of a Good**

“The origin of a good is either a) the country where it is wholly obtained, b) where more than one country is involved, the country that undertook a substantial transformation, or c) acquired origin based on cumulation rules.”<sup>7</sup>

## **Rules of Origin**

“Rules of origin are the criteria used to determine where a product was made”.<sup>8</sup>

## **Preferential Rules of Origin**

“Preferential rules of origin shall be defined as those laws, regulations, and administrative determinations of general application applied by any Member to determine whether goods qualify for preferential treatment under contractual or autonomous trade regimes leading to the granting of tariff preferences going beyond the application of paragraph 1 of Article I of GATT 1994.”<sup>9</sup> “Preferential RoO determines whether a good has the national origin of a preference country, in which case it gets preferential market access.”<sup>10</sup>

## **Cumulation**

“Treating product components from within the preferential region as locally produced”.<sup>11</sup>

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<sup>6</sup> Fiveable Inc., ‘*Principles of Economic Review*’ <<https://fiveable.me/key-terms/principles-econ/supply-side-constraints>> accessed on 16 September 2025.

<sup>7</sup> Agreement on Rules of Origin (15 April 1994) 1868 UNTS 397, Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization, 1867 UNTS 3, Article 9:1(b) [Agreement on Rules of Origin].

<sup>8</sup> 9<sup>th</sup> WTO Ministerial Conference, ‘*Briefing note: Decisions for Least-Developed Countries*’ (2013) <[https://www.wto.org/english/thewto\\_e/minist\\_e/mc9\\_e/brief\\_ldc\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc9_e/brief_ldc_e.htm)> accessed on 13 September 2025.

<sup>9</sup> Agreement on Rules of Origin (n 7) Annex II-*Common Declaration with Regard to Preferential Rules of Origin*, para. 2.

<sup>10</sup> John James Barcelo, ‘*Harmonizing Preferential Rules of Origin in the WTO System*’ (2006) 72 Cornell Law Faculty Publications, 3 <[https://scholarship.law.cornell.edu/lrsp\\_papers/72](https://scholarship.law.cornell.edu/lrsp_papers/72)> accessed on 13 September 2025.

<sup>11</sup> *ibid* 2.

## **Modality**

“A particular way of doing or experiencing something”<sup>12</sup>

## **Smooth transition**

“The concept of smooth transition embodies the principle that LDC-specific support should be phased out in a gradual and predictable manner following graduation, so as not to disrupt the development progress of the graduating country, pursuant to General Assembly resolutions 59/209, 66/213, and 67/221”.<sup>13</sup>

## **Compulsory licensing**

Compulsory licensing occurs when a government permits someone to produce a patented product or process without the patent owner's consent or intends to use the patent-protected invention itself.<sup>14</sup>

## **TRIPS<sup>15</sup>-plus provisions**

Provisions with “higher standards of intellectual property protection than required in TRIPS”<sup>16</sup>.

## **Technology Transfer**

“Technology transfer concerns the efficient and equitable allocation of existing technology in the world. Such a transfer differs from the creation of new technology, even though it may enable further technological developments.”<sup>17</sup>

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<sup>12</sup> Cambridge Dictionary <<https://dictionary.cambridge.org/dictionary/english/modality>> accessed on 16 September 2025.

<sup>13</sup> UNCTAD, ‘The Least Developed Countries Report 2016: The Path to Graduation and Beyond: Making the Most of the Process’ (2016) UNCTAD/LDC/2016/Corr.1, 126 <[https://unctad.org/system/files/official-document/ldc2016\\_en.pdf](https://unctad.org/system/files/official-document/ldc2016_en.pdf)> accessed on 16 September 2025.

<sup>14</sup> WTO ‘*Compulsory Licensing of Pharmaceuticals and TRIPS*’ <[https://www.wto.org/english/tratop\\_e/trips\\_e/public\\_health\\_faq\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/public_health_faq_e.htm)> accessed on 21 September 2025.

<sup>15</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights (adopted 15 April 1994, entered into force 1 January 1995) 1869 UNTS 299.

<sup>16</sup> See Bryan Mercurio, ‘*TRIPS-Plus Provisions in FTAs: Recent Trends*’ (ResearchGate) 5 November 2006 <[https://www.researchgate.net/publication/228154939\\_TRIPS-Plus\\_Provisions\\_in\\_FTAs\\_Recent\\_Trends](https://www.researchgate.net/publication/228154939_TRIPS-Plus_Provisions_in_FTAs_Recent_Trends)> accessed 21 September 2025.

<sup>17</sup> See Michael Waibel and William Alford, ‘*Technology Transfer*’ Max Planck Encyclopedia of Public International Law (June 2014) <<https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1548>>.

## **Race to the Bottom**

“The Race to the Bottom describes a competitive decline in standards, often in regulation, labor, or environment, as entities compete for economic advantage.”<sup>18</sup>

## **Augmented reality**

“Augmented reality is a modified version of the real world, achieved through the use of technology. AR uses apps, consoles, screens, and projections to overlay or combine digital information with real-world environments.”<sup>19</sup>

## **Industry 4.0**

“Industry 4.0—also called the Fourth Industrial Revolution or 4IR—is the next phase in the digitization of the manufacturing sector, driven by disruptive trends including the rise of data and connectivity, analytics, human-machine interaction, and improvements in robotics.”<sup>20</sup>

## **Ergonomics**

“Ergonomics is the study of the interaction between people and machines and the factors that affect the interaction. Its purpose is to improve the performance of systems by improving human-machine interaction. This can be done by “designing-in” a better interface, or by “designing-out” factors in the work environment, the task, or in the organization of work that degrade human-machine performance.”<sup>21</sup>

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<sup>18</sup> Sustainability Director, ‘*Race to the Bottom*’ (2024) <<https://pollution.sustainability-directory.com/term/race-to-the-bottom/>> accessed on 18 November 2025.

<sup>19</sup> Adam Hayes, ‘*Augmented Reality (AR): Definition, Examples, and Uses*’ (2025) <<https://www.investopedia.com/terms/a/augmented-reality.asp>> accessed on 28 October 2025.

<sup>20</sup> McKinsey and Company, ‘*What are Industry 4.0, the Fourth Industrial Revolution, and 4IR?*’ (17 August 2022) <<https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-are-industry-4-0-the-fourth-industrial-revolution-and-4ir>> accessed on 28 October 2025.

<sup>21</sup> Robert Bridger, ‘*Introduction to Ergonomics*’ (2008) 3rd Edition, 808 <<https://doi.org/10.1201/9781439894927>> accessed on 4 November 2025.

## CHAPTER 1: INTRODUCTION

The People's Republic of Bangladesh (Bangladesh) is a riverine country located in South Asia, with a population of 173.5 million.<sup>22</sup> It has emerged as one of the fastest-growing economies in South Asia, with trade playing a pivotal role in its economic and developmental trajectory. Its Ready-made Garments (RMG) sector, which is the cornerstone of its apparel industry, makes Bangladesh the second-largest exporter of textiles in the world,<sup>23</sup> placing it as an important player in the global supply chain. In the region, Bangladesh leads in export diversification,<sup>24</sup> with high value-added growth in the RMG sector<sup>25</sup> and massive poverty eradication<sup>26</sup> lifting above 25 million people in less than 2 decades<sup>27</sup>.

The Country met the eligibility criteria for graduation from the UN Least Developed Country (LDC) Category for the first time in 2018<sup>28</sup> and for the second time in 2021 during the triennial reviews. Although the standard preparatory period<sup>29</sup> for LDC graduation is three years (which was 2024 for Bangladesh), it was granted a five-year preparatory period, on an exceptional

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<sup>22</sup> WBG, 'Population, Total-Bangladesh' <<https://data.worldbank.org/indicator/SP.POP.TOTL?locations=BD>> accessed on 5 July 2025.

<sup>23</sup> CPD, 'Bangladesh Clothing Exporters Target Asia as Western Demand Fades' (7 September 2022) <<https://cpd.org.bd/falling-rmg-export-orders-will-exacerbate-existing-problems-in-the-external-balance/>> accessed on 5 July 2025.

<sup>24</sup> UNCTAD, 'Technical and Statistical Report: Trade Preferences Outlook 2024' (2024) 17 <[https://unctad.org/system/files/official-document/ditctsc2024d3\\_en\\_0.pdf](https://unctad.org/system/files/official-document/ditctsc2024d3_en_0.pdf)> accessed on 5 July 2025.

<sup>25</sup> ILO, 'Employment, Wages and Productivity Trends in the Asian Garment Sector: Data and Policy Insights for the Future of Work' (2022) 25 <[https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40asia/%40ro-bangkok/documents/publication/wcms\\_848624.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40asia/%40ro-bangkok/documents/publication/wcms_848624.pdf)> accessed 1 August 2025.

<sup>26</sup> Md. Safiqul Islam and Mezbah-Ul-Alam-Sowdagar, 'Poverty Reduction in Bangladesh: Policy, Achievements and Setbacks' (2023) 11 Jagannath Journal of Social Sciences, 47.

<sup>27</sup> WBG, 'Bangladesh Poverty Assessment: Facing Old and New Frontiers in Poverty Reduction' (2019) 11 <<https://documents1.worldbank.org/curated/en/793121572582830383/pdf/Bangladesh-Poverty-Assessment-Facing-Old-and-New-Frontiers-in-Poverty-Reduction.pdf>> accessed 1 August 2025.

<sup>28</sup> UNCDP, Report on the Twentieth Session (12–16 March 2018) Supplement No. 13 Economic and Social Council Official Records, 4 <<https://docs.un.org/en/E/2018/33>> accessed 3 August 2025.

<sup>29</sup> As per General Assembly resolution 59/209 (2004), the usual procedure allows for a 3-year gap between a country satisfying the graduation criteria for the second time and a scheduled date for graduation. However, the General Assembly, from time to time, approved extended transition periods, especially when countries encounter serious external shocks that impede their development. See United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, 'LDC Graduation' <<https://www.un.org/ohrlls/content/ldc-graduation-0>> accessed 5 August 2025.

basis, to recover from COVID-19 setbacks.<sup>30</sup> As a result, it received endorsement from the Economic and Social Council for graduation scheduled on 24 November 2026.<sup>31</sup> To date, Bangladesh is the only LDC to meet all three UN eligibility criteria for graduation, namely Gross National Income (GNI), Economic Vulnerability Index (EVI), and Human Asset Index (HAI). It is also the first LDC to score well-above<sup>32</sup> the thresholds set across these criteria.

Nonetheless, graduation is simply a stepping stone to development. The 2016 UNCTAD Report clarified this, stating that:

*“Graduation does not represent a solution to all the graduating country’s development challenges; neither does a new set of challenges emerge out of nothing at this point. Rather, the challenges of the post-graduation period are a continuation of those that characterized the pre-graduation period”*<sup>33</sup> (emphasis added)

Accordingly, while graduation marks a significant milestone of sustained economic progress and development for Bangladesh, it could be undermined by political instability stemming from the recent shift in the political regime. Furthermore, the eligibility criteria do not take into account the country’s high reliance on imports,<sup>34</sup> structural vulnerabilities, and international loans. There are other aggravating factors,<sup>35</sup> such as trade deficit, inflation, and the absence of strong institutions, in addition to the myriad global challenges, including climate change, particularly its rising sea level, and the rapidly evolving trade measures (tariffs) by Members.

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<sup>30</sup> ECOSOC, ‘Report of the Committee for Development Policy on its Twenty-third Session’ (8 June 2021) UN Doc E/RES/2021/11, para. 7.

<sup>31</sup> *ibid.*

<sup>32</sup> The Permanent Mission of Bangladesh to the United Nations, ‘Preparation for Sustainable Graduation from LDC Status’ (2024) Bangladesh Annual Country Report to UNCTAD, 7.

<sup>33</sup> UNCTAD/LDC/2016/Corr.1 (n 13) 126.

<sup>34</sup> Md. Alauddin Sarker, ‘Challenges to Import Trade Practices in Bangladesh’ 7(3) Canadian Journal of Business and Information Studies, 402-416 <<https://www.universepg.com/cjbis/challenges-to-import-trade-practices-in-bangladesh>> accessed 11 August 2025.

<sup>35</sup> See Mohammad Sheikh Shahinur Rahman, ‘Bangladesh’s Current Situation: Problems and Solutions’ (2025) <[https://www.researchgate.net/publication/392082159\\_Bangladesh's\\_Current\\_Situation\\_Problems\\_and\\_Solutions](https://www.researchgate.net/publication/392082159_Bangladesh's_Current_Situation_Problems_and_Solutions)> accessed 11 August 2025.

Bangladesh has an inflation rate of 8.48 %<sup>36</sup> and a trade deficit of \$20.4 million<sup>37</sup>. Moreover, as 70% of its exports utilize LDC-specific preferences, the country is estimated to face the greatest impact on exports with a 14% decline amongst the graduating LDCs.<sup>38</sup>

To note, Bangladesh is a founding Member of the World Trade Organization (WTO). As an LDC, it currently enjoys a broad array of special and differential treatment (S&DT) provisions, *inter alia*, duty-free and quota-free (DFQF) market access, extended compliance periods under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), and technical assistance (TA) and capacity-building programmes. However, the WTO Agreements do not contain specific rules for the transition of the LDCs from the ‘LDC’ to the ‘developing country’ status, nor do they automatically preserve trade benefits thereafter. On the other hand, the Enhanced Integrated Framework (EIF), a standalone multilateral institution dedicated to supporting the integration of the LDCs into global trade, provides a Transition Support Window after graduation for the first 5 years.<sup>39</sup> And EIF support is general in essence. The absence of any intermediary legal provisions relating to the LDC transition phase under the WTO Agreements creates a legal vacuum and consequent uncharted post-graduation landscape for Bangladesh.

Against this backdrop, our research objective is to examine how Bangladesh can navigate the challenges surrounding its preparedness to operate under standard WTO obligations and its future trade competitiveness without the protective framework of the LDC-specific flexibilities under WTO Law.

The subject of this research holds great significance as Bangladesh is home to millions of people, including the Rohingya refugees. Its large market size, growing business climate, and cheap labor attract foreign direct investment (FDI), creating jobs in trade and services and thereby raising living standards. As trade is the driving force of its economy, how the country will advance in line with the multilateral trade rules while leveraging opportunities and

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<sup>36</sup> Bangladesh Bank, ‘*Current Inflation*’ (June 2025) <<https://www.bb.org.bd/en/index.php/econdata/inflation>> accessed on 31 August 2025.

<sup>37</sup> Bangladesh Bank, ‘*Balance of Payments*’ <<https://www.bb.org.bd/en/index.php/econdata/bop>> accessed on 31 August 2025.

<sup>38</sup> WTO and EIF, ‘*Trade Impacts of LDC Graduation*’ (2020) 8 <[https://www.wto.org/english/res\\_e/booksp\\_e/trade\\_impacts\\_of\\_ldc\\_graduation.pdf](https://www.wto.org/english/res_e/booksp_e/trade_impacts_of_ldc_graduation.pdf)>.

<sup>39</sup> UN, ‘*Enhanced Integrated Framework*’ <<https://www.un.org/ldcportal/content/enhanced-integrated-framework-eif-0>> accessed 31 August 2025.

responding to hurdles after graduation, will have an overarching effect on its economy and growth. As such, this study can serve as a guide, *mutatis mutandis*, to the LDCs in the graduation pipeline.

### 1.1. Literature Review

The graduation of Bangladesh was not a subject of scholarly discourse before the country became eligible for graduation in its first triennial review in 2018. Accordingly, there is a paucity of academic literature on this subject, particularly on the legal implications of Bangladesh's graduation under the WTO law. The existing research works<sup>40</sup> primarily focus on the most common aspects of graduation challenges and opportunities, portraying a preliminary appraisal of the topic. As a result, much ink has been spilled in exploring the fundamental concepts relating to Bangladesh's graduation, including the UN Graduation Criteria<sup>41</sup> and the need for continued international support measures<sup>42</sup> (ISMs). Some authors went a step further, building on a single or more key issues, including 'S&DT provisions',<sup>43</sup> and/or 'Export Competitiveness',<sup>44</sup> without diving into the core legal implications under the WTO legal framework. Other scholars have adopted a distinct approach examining the interplay between the graduation of Bangladesh and socio-economic factors such as 'poverty'<sup>45</sup>. Another book on

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<sup>40</sup> Debapriya Bhattacharya and Lisa Borgatti, 'An Atypical Approach to Graduation from the LDC Category: The Case of Bangladesh' (2012) 13 (1) South Asia Economic Journal, 1-25 <<https://doi.org/10.1177/139156141101300101>> accessed 1 September 2025; Md. Bakhtiar Uddin, 'Graduation of Bangladesh from the LDC Group: Challenges and Opportunities' (June 2020) 36 (1) Bangladesh Journal of Political Economy, 61-76 <[https://bea-bd.org/assets/articlesPhoto/Page\\_20230201165523.pdf](https://bea-bd.org/assets/articlesPhoto/Page_20230201165523.pdf)>; MD. Joynal Abdin, 'Post-LDC Challenges for Bangladesh Economy' (2018) Social Science Research Network <<https://ssrn.com/abstract=3118737>>; Mohammad Abdur Razzaque, 'Navigating New Waters' (n 2).

<sup>41</sup> Badiuzzaman and others, 'Development Transition from Least Developed Country (LDC) to Developing Country: Current Progress and Challenges of Bangladesh' (2018) International Journal of Development Research.

<sup>42</sup> See Md Mustafizur Rahman, '*Bangladesh's Graduation: Challenges and Imperatives to Continued International Support Measures*' (2021) Institute of South Asian Studies and National University of Singapore <<https://www.isas.nus.edu.sg/wp-content/uploads/2021/07/WP-347-1.pdf>>.

<sup>43</sup> MZ. Rahman and others, '*Steps Toward Smooth Graduation of Bangladesh from Least Development Countries*' (2020) ResearchGate, 57-67 <<https://www.researchgate.net/publication/344897644>>.

<sup>44</sup> See Mohammad Abdur Razzaque, Rakin Zaman, and Ashfaqu Chowdhury, '*Preparing for LDC Graduation: Urgent Reform Imperatives to Safeguard Export Competitiveness*' (2025) International Growth Centre <<https://www.theigc.org/publications/preparing-ldc-graduation-urgent-reform-imperatives-safeguard-export-competitiveness>>; Harunur Rashid, 'Bangladesh's Transition from the Least Developed Country: Navigating Export Challenges in a New Era' (2025) 25 Asian Journal of Economics Business and Accounting, 74-91 <[https://scholar.google.com/citations?view\\_op=view\\_citation&hl=en&user=0G4kQIIAAAJ&citation\\_for\\_view=0G4kQIIAAAJ:ufrVoPGSRksC](https://scholar.google.com/citations?view_op=view_citation&hl=en&user=0G4kQIIAAAJ&citation_for_view=0G4kQIIAAAJ:ufrVoPGSRksC)>.

<sup>45</sup> Hossain Zillur Rahman, 'Poverty: The Challenges of Graduation Source' (2002) 28 (4) Bangladesh Institute of Development Studies <<https://www.jstor.org/stable/40795665>>.

the topic looked at Bangladesh's graduation through the lens of development policy, linking it to sustainable development and structural transformation.<sup>46</sup> The literature review also shows that recent write-ups conducted specialized assessments, each connecting the country's graduation with a disparate topic, namely the graduation implications on Small and Medium-sized Enterprises (SMEs)<sup>47</sup>, FDI<sup>48</sup>, tariffs<sup>49</sup>, RMG,<sup>50</sup> and pharmaceutical<sup>51</sup> sectors, as well as microeconomic analysis of graduation cost on market access using a computable general equilibrium modelling framework<sup>52</sup>. An attempt has also been made to revisit the existing literature on graduation issues.<sup>53</sup>

For the foregoing reasons, our research will employ an analysis based on WTO law, examining the implications of Bangladesh's graduation in core trade areas, and thereby will attempt to fill

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<sup>46</sup> Debapriya Bhattacharya (ed), *Bangladesh's Graduation from the Least Developed Countries Group: Pitfalls and Promises* (Routledge 2018) <<https://www.routledge.com/Bangladeshs-Graduation-from-the-Least-Developed-Countries-Group-Pitfalls-and-Promises/Bhattacharya/p/book/9780367665326>>.

<sup>47</sup> Abu Hena Reza Hasan, Mansura Akter, and Shobod Deba Nath, *LDC Graduation of Bangladesh: Challenges and Opportunities for SMEs*, *LDC Graduation of Bangladesh: Challenges and Opportunities for SMEs*' (2024) Small & Medium Enterprise Foundation and Friedrich-Ebert-Stiftung, Bangladesh <<https://bangladesh.fes.de/publications.html>>.

<sup>48</sup> Muhammad Akhtaruzzaman, *Potential Impact of LDC Graduation and the Role of Foreign Direct Investment (FDI) in Bangladesh*' (2023) Social Science Research Network <<http://dx.doi.org/10.2139/ssrn.4341917>>.

<sup>49</sup> See Mohammad Abdur Razzaque, Deen Islam, and Jillur Rahman, *Can Bangladesh Absorb LDC Graduation-Induced Tariff Hikes? Evidence Using Product-Specific Price Elasticities of Demand and Markups for Apparel Exports to Europe*' (2023) Final report BGD-23078 <<https://www.theigc.org/sites/default/files/2025-04/Razzaque-et-al-Final%20Report-September-2023.pdf>>.

<sup>50</sup> Zaeem-Al Ehsan, *LDC Graduation of Bangladesh- In Search of Coping Strategies for the Bangladeshi RMG Industry*' (2021) Paper No. 110402 Munich Personal RePEc Archive <[https://mpra.ub.uni-muenchen.de/110402/1/MPRA\\_paper\\_110402.pdf](https://mpra.ub.uni-muenchen.de/110402/1/MPRA_paper_110402.pdf)>.

<sup>51</sup> Mitsumori, Yaeko, *An Analysis of the Bangladeshi Pharmaceutical Industry after LDC Graduation: Prospects and Challenges*' (2023) (IIAI Letters on Business and Decision Science <[https://www.researchgate.net/publication/373890733\\_An\\_Analysis\\_of\\_the\\_Bangladeshi\\_Pharmaceutical\\_Industry\\_after\\_LDC\\_Graduation\\_Prospects\\_and\\_Challenges](https://www.researchgate.net/publication/373890733_An_Analysis_of_the_Bangladeshi_Pharmaceutical_Industry_after_LDC_Graduation_Prospects_and_Challenges)>; Harunur Rashid, *Problem and Prospect of Pharmaceuticals Industry of Bangladesh amid LDC Graduation*' (2023) South Asian Journal of Social Studies and Economics, 173–188 <<https://ssrn.com/abstract=4677093>>.

<sup>52</sup> Mohammad Masudur Rahman and Anna Strutt, *Costs of LDC Graduation on Market Access: Evidence from Emerging Bangladesh*' (November 2022) Economic Systems Research, 24–45 <<https://doi.org/10.1080/09535314.2022.2138271>>.

<sup>53</sup> Shanto Deb Roy, *Bangladesh's Graduation from LDC: Navigating Challenges and Seizing Opportunities*' (2023) 6 International Journal of Advanced Legal Research <[https://www.researchgate.net/publication/373555067\\_BANGLADESH'S\\_GRADUATION\\_FROM\\_LDC\\_NAVIGATING\\_CHALLENGES\\_AND\\_SEIZING\\_OPPORTUNITIES](https://www.researchgate.net/publication/373555067_BANGLADESH'S_GRADUATION_FROM_LDC_NAVIGATING_CHALLENGES_AND_SEIZING_OPPORTUNITIES)>.

the gap in the existing body of literature on the subject. Thus, this research work will be the first comprehensive study on the graduation of Bangladesh from a WTO law perspective.

## **1.2. Scope of the Study**

**Chapter 2** introduces the research question, i.e., whether the WTO provides rules on transition arrangements or guidelines for graduating LDCs to help shape their post-graduation landscape in accordance with WTO law, and thereby sets the stage for Chapter 3.

**Chapter 3** analyzes the implications of Bangladesh's graduation from the LDC Category under the major WTO Agreements and LDC-specific WTO decisions.

**Chapter 4** sets out WTO-compliant strategies to mitigate post-graduation risks for Bangladesh.

**Chapter 5** conducts a thorough assessment of the existing policies of high-value export sectors and suggests reform measures to untap their full export potential. It also devises sector-specific policy frameworks where regulatory structure is either underdeveloped or not fully functional.

**Chapter 6** concludes with a summary of key findings and a way forward for Bangladesh.

## **1.3. Research Methodology**

To address the research questions and achieve the objectives, this study employs a doctrinal analysis of WTO provisions and draws on data from international organizations and institutions, including the WTO, the United Nations, and the World Bank—alongside insights from relevant academic literature.

## CHAPTER 2: THE GRADUATION OF WTO MEMBERS FROM THE LDC CATEGORY

### 2.1. International Framework for LDC Graduation and Smooth Transition

This **sub-chapter** examines the existing international framework for the LDC graduation process and initiatives taken to ensure a smooth transition of graduating LDCs.

The UN is responsible for determining the graduation eligibility of the LDCs. For this purpose, the organization introduced the LDC Category, which was established by the UN General Assembly in 1971<sup>54</sup>, for inclusion of countries (with their consent) gauging against a) income per capita, b) human assets, and c) economic and environmental vulnerability.<sup>55</sup> In 1998, the Committee for Development Planning (1965), a subcommittee of the UN Economic and Social Council (ECOSOC), was transformed into the Committee for Development Policy (CDP). As a result, the CDP with 24 Members<sup>56</sup>, received a new mandate from the UN General Assembly (UNGA) Resolution<sup>57</sup> to conduct reviews every three years to identify countries eligible for graduation and submit their recommendations to the ECOSOC.<sup>58</sup> Once the ECOSOC endorses CDP's recommendation, a 3-year preparation period<sup>59</sup> is granted to ascertain that an LDC has the time to prepare for graduation without reverting to the LDC category.

To recommend for graduation, the CDP applies a '2 out of 3' rule. It means that to graduate, a country must satisfy at least two eligibility criteria in two consecutive triennial reviews.<sup>60</sup> As

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<sup>54</sup> UNGA Res. 2768 (XXVI) (8 November 1971) 52.

<sup>55</sup> Although the same three criteria are assessed for graduating from the Category, leaving it requires a higher threshold than inclusion to ensure sustainable graduation.

<sup>56</sup> José Antonio Alonso, Giovanni Andrea Cornia and Rob Vos, *Alternative Development Strategies for the Post-2015 Era* (2014) Bloomsbury, 7 <<https://doi.org/10.18356/302624d3-en>>.

<sup>57</sup> UNGA Res. 46/206, Report of the Committee for Development Planning: Criteria for Identifying the Least Developed Countries (20 December 1991) 142.

<sup>58</sup> José Antonio Alonso, Giovanni Andrea Cornia and Rob Vos (n 56) 7.

<sup>59</sup> UNGA Res 59/209 (20 December 2004); UN, Handbook on the Least Developed Country Category (December 2015) 77-78 <<https://doi.org/10.18356/7ba8a87e-en>>.

<sup>60</sup> UNCDP, *Outcome of the Comprehensive Review of the LDC Criteria* (31 March 2020) 5 <<https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/CDP-2020-Criteria-review-outcome.pdf>>.

an alternative rule, the ‘income-only exception’ may also be approved upon an assessment of an LDC’s ‘sustainable income’, which must be twice the graduation threshold in two consecutive triennial reviews.<sup>61</sup>

To facilitate the transition process, the UNGA Resolution adopted the ‘Smooth Transition Strategy’<sup>62</sup>, which allows the graduating LDCs to maintain advantages deriving from their membership of the LDC category during their 3-year preparatory period before graduation. The Resolution, further, confirms that the UN system will be at the disposal of graduating LDCs to help design a transition strategy so they can adjust to the ultimate phasing out of ISMs.<sup>63</sup> This depicts that the UN graduation framework also extends to ISMs.<sup>64</sup> For example, it provides an online information-sharing tool, known as the ‘Support Measures Portal for Least Developed Countries’<sup>65</sup> that shows the availability of ISMs.

As the next step, at the 4<sup>th</sup> UN Conference on the LDCs (Istanbul, 9-13 May 2011),<sup>66</sup> Members reached an agreement to create an *ad hoc* working group to support the smooth transition processes. Subsequently, the 5<sup>th</sup> UN Conference on LDCs produced the Doha Programme of Action (DPoA), encompassing a broader scope. The Programme established the Sustainable Graduation Support Facility (iGRAD)<sup>67</sup> to strengthen the smooth transition process of the LDCs. In response to the call of the DPoA and request from the LDCs, the World Intellectual Property Organization (WIPO) initiated the Graduation Support Package<sup>68</sup> to provide the graduating LDCs with IP-related TA. From a technology and innovation aspect, the General

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<sup>61</sup> *ibid.*

<sup>62</sup> See UNGA Res 59/209 (n 59) 2.

<sup>63</sup> *ibid.* 2.

<sup>64</sup> See ECOSOC, ‘Handbook on the LDC Category: Inclusion, Graduation and Special Support Measures’ (May 2024) 5<sup>th</sup> ed., CDP and UN DESA <<https://policy.desa.un.org/publications/category/LDC%20Handbook>>.

<sup>65</sup> UNGA Res. 67/221 (21 December 2012) 2.

<sup>66</sup> UNGA Res. 66/213 (22 December 2011) 3-4.

<sup>67</sup> UNCDP, ‘Additional Matters Related to the Least Developed Countries’ (2022) <<https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/CDP-excerpt-2022-6.pdf>>; Official Records of the Economic and Social Council, 2022, Supplement No. 13 (E/2022/33); UN, ‘LDC Portal - International Support Measures for Least Developed Countries’ <<https://www.un.org/ldcportal/content/sustainable-graduation-support-facility>> accessed on 5 September 2025.

<sup>68</sup> WIPO, ‘WIPO’s Graduation Support Package for Least Developed Countries’ (July 2022) <<https://www.un.org/ldcportal/content/wipos-graduation-support-package-ldcs>>.

Assembly<sup>69</sup> created the Technology Bank under the DPoA<sup>70</sup> as its subsidiary body in 2016. It provides transitional support for 5 years after graduation.

The UNGA has also invited the WTO Members to take into cognizance an extension of the existing S&DT measures and waivers to graduating LDCs for an adequate period in light of the development situation of each country.<sup>71</sup> The UNGA also urged all graduating countries and bilateral and multilateral institutions, and trading partners to reinforce their efforts in accordance with the WTO rules to ensure a smooth transition.<sup>72</sup> Alongside, the CDP<sup>73</sup> has been advocating for ‘just transition’<sup>74</sup> so that trade measures taken by countries do not adversely affect their endeavors to address climate change.

In short, while the UN system provides explicit rules and guiding principles for the LDC graduation process, more impactful support measures often depend on the Members offering trade preferences.

The WTO, on the other hand, does not have a separate system for the LDC graduation process. It follows a) the UN list of LDCs to operationalize LDC-specific provisions under the Marrakesh Agreement<sup>75</sup> and b) the UNGA’s approval of CDP’s recommendations for LDC graduation. Thus, when a WTO Member graduates, the benefits are withdrawn unless the Members decide otherwise. The Marrakesh Agreement, however, recognizes the special needs and circumstances of the LDCs reflected in its Preamble to ensure that the LDCs “*secure a share in the growth in international trade commensurate with the needs of their economic*

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<sup>69</sup> UNGA Res. 71/251 (23 December 2016) 2.

<sup>70</sup> UN, ‘*Technology Bank for the Least Developed Countries*’ <<https://www.un.org/technologybank/>> accessed on 5 September 2025.

<sup>71</sup> UNGA Res. 67/221 (n 65) 3.

<sup>72</sup> *ibid* 2.

<sup>73</sup> Adriana Abdenur and others, ‘*A Globally Just Transition: Perspectives from the Committee for Development Policy*’ (December 2023) 1-5 <<https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/2023-cdp-policy-dec.pdf>>.

<sup>74</sup> The International Labor Organization defined ‘just transition’ as “*greening the economy in a way that is as fair and inclusive as possible to everyone concerned, creating decent work opportunities and leaving no one behind*”. See Adriana Abdenur and others (n 73) 32.

<sup>75</sup> Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144 (1994).

*development*”<sup>76</sup>. Technically, this recognition sets the foundation for graduation-related transitional arrangements under the covered agreements (Annexes 1–4 of the Marrakesh Agreement).

## 2.2. WTO Provisions and Negotiated Outcomes on Smooth Transition

This **sub-chapter** will address the research question, i.e., whether the WTO framework provides guiding principles or rules concerning the smooth transition of the LDCs.

Before diving into this section, it is important to clarify that the UN measures discussed above relate to the pre-graduation transition process, and those we will assess now under WTO are for the post-graduation. This is because the WTO, unlike the UN, governs multilateral trade rules and makes trade-related decisions in the Ministerial Conferences. The UN can only encourage WTO Members to adopt provisions related to the smooth transition. The extension of WTO S&DT for LDCs is particularly crucial in the post-graduation transition phase in the context of the multilateral trading system. This is why the WTO LDC Group intensified its efforts to push for the continuation of these benefits after they graduate from the LDC Category.

To begin with, the WTO does not have a specific Agreement on ‘smooth transition’ as such. In fact, ‘transition’ as referred in the WTO covered Agreements implies ‘flexibility’ or ‘waiver’ tied to ‘legal obligations’ and not to ‘graduation.’ For example, the term ‘transition’ has been used under the agreements, *inter alia*, to mean ‘longer implementation time’<sup>77</sup>, ‘staged

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<sup>76</sup> *ibid*, Preamble, 2<sup>nd</sup> Recital.

<sup>77</sup> For example, under Article 5.3 of the TRIMS Agreement, on request, the Council for Trade in Goods may extend the transition period for the elimination of TRIMs notified under paragraph 1 for a developing country Member, including an LDC Member, who demonstrates difficulties in implementing the provisions of this Agreement. In considering such a request, the Council for Trade in Goods shall take into account the individual development, financial, and trade needs of the Member in question. Additionally, the delay granted to the LDCs by the TRIPS Council in the application of the TRIPS Agreement, except Articles 3, 4, and 5, is defined as ‘transition period’ by scholars.

See Arno Hold and Bryan Christopher Mercurio, ‘*After the Second Extension of the Transition Period for LDCs: How Can the WTO Gradually Integrate the Poorest Countries into TRIPS?*’ (July 2013) Working Paper No 2013/42, 7; Gnanon and Sèna Kimm, ‘*The Least developed countries’ TRIPS Waiver and the Strength of Intellectual Property Protection*’ (2023) ZBW - Leibniz Information Centre for Economics, Kiel, Hamburg; Paul Vandoren, ‘The Implementation of the TRIPS Agreement’ (January 1999) 2 *Journal of World Intellectual Property*, 28 <<https://heinonline.org/HOL/LandingPage?handle=hein.journals/jwip2&div=4&id=&page=>>.

implementation<sup>78</sup>, ‘exemption from a binding obligation’<sup>79</sup>, and ‘policy flexibility’<sup>80</sup>. This is why transitional arrangements under different WTO Agreements address specific non-graduation circumstances in a Member country, such as ‘structural reform of its IP system’<sup>81</sup>. Thus, in principle, the S&DT rules and decisions, such as waivers from implementing certain WTO rules and an extended compliance period, do not count towards ‘smooth transition’ provisions.

Consequently, the immediate erosion of WTO preferences and protections without any binding smooth transition principles put the graduated LDCs in a predicament. In recent years, this has become a matter of heightened interest to the LDCs. In 2020, Chad, on behalf of the LDC Group, submitted a statement with a draft Ministerial Decision for a 12-year extension of LDC-specific preferential treatment and benefits post-graduation.<sup>82</sup> It highlighted that there are no formal WTO procedures for a smooth transition except for general assistance from the EIF. As such, the LDC Group requested WTO Members to “*introduce a comprehensive and effective smooth transition mechanism for graduating LDCs under the WTO system*”<sup>83</sup>. Due to time constraints before the MC12 and the urgency of LDC-specific smooth transition rules, in 2021, the Group proposed a compromised 6–9-year phase-out period for preferences unilaterally granted by Members.<sup>84</sup> Nonetheless, as Members could not reach a consensus on a smooth transition package, there was no outcome at the MC12.<sup>85</sup>

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<sup>78</sup> Under Article 14 of the Agreement of Trade Facilitation, LDCs may self-designate their obligations into Category A (immediate), B (delayed), C (conditional upon receiving technical assistance).

<sup>79</sup> For instance, while export subsidies are generally prohibited, the LDCs, however, are exempted from this obligation as per Article 27.2(b) of the SCM Agreement.

<sup>80</sup> Under GATS Article XII and GATT Article XVIII: B, an LDC undergoing economic or development transition, which falls within the meaning of graduation-led transition, may introduce restrictions on trade in services and goods to safeguard ‘balance of payments’.

<sup>81</sup> TRIPS Agreement (n 15) Article 65:3.

<sup>82</sup> WTO, *Smooth Transition in Favor of Countries Graduating from the LDC Category: Trade Related Challenges of the Least Developed Countries and Way Forward: A Draft For MC Decision* (16 November 2020) Communication from the Mission of Chad on behalf of the LDC Group, WT/GC/W/807.

<sup>83</sup> *ibid.*

<sup>84</sup> WTO, *A Smooth Transition Package in Favour of Members Graduating from the LDC Category* (17 October 2021) Communication from Chad on behalf of the LDC Group, WT/GC/W/829.

<sup>85</sup> WTO, *MC12 Outcome Document* (17 June 2022) WT/MIN (22)/24-WT/L/1135 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/24.pdf&Open=True>>.

In 2023, in the face of growing concerns over transition issues and the need for explicit rules among the LDCs, the General Council adopted a decision, encouraging the WTO Members to extend DFQF preferences to the graduated LDCs.<sup>86</sup> The LDC Group applauded this decision, describing it as “*a step in the right direction*”<sup>87</sup>. While recognizing their obligation to comply with the WTO commitments applicable to developing Members, the LDC Group proposed a ‘peace clause’ (as part of the smooth transition measures) for consideration of the Members.<sup>88</sup> The peace clause would provide a reasonable transition period to the graduated LDCs, within which no dispute settlement mechanisms will be pursued against them in cases they fail in their best efforts to comply with the WTO obligations.<sup>89</sup> In total, the LDC Group proposed<sup>90</sup> an extension of 17 LDC-related WTO provisions and decisions as outlined in **Table 2.1** below:

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<sup>86</sup> WTO, *General Council Decision on Extension of Unilateral Duty Free and Quota Free Preferences in Favour of Countries Graduated from the LDC Category* (23 October 2023) WT/L/1172 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/L/1172.pdf&Open=True>>.

<sup>87</sup> WTO, *WTO Smooth and Sustainable Transition Measures in Favour of Countries Graduated from the LDC Category* (12 December 2023) Communication from Djibouti on Behalf of the LDC Group, WT/GC/W/919 <<https://web.wto.org.tw/downloadFiles/138/392578/00VS5idJaL8Q9IKbTBPn5zXkKELEkkM86hvyCA01PPZQCuxdGt4xl0konkQYwQgdQ6JdP3VO54knkTsPuOczbDGQ==>>>.

<sup>88</sup> To quote: “[. . .] *in other words, while graduated countries would make their best effort to comply with those new obligations, they should not be subject to the dispute settlement mechanism during a reasonable period of time, in case they face difficulties.*”, See *ibid*.

<sup>89</sup> An early example of ‘peace clause’ is Article 13 of the Agreement on Agriculture.

<sup>90</sup> WTO, *Trade Related Challenges of the Least Developed Countries and Way Forward: Proposal for WTO Smooth Transition Measures in Favour of Countries Graduated from the LDC Category* (6 December 2022) Communication from Djibouti on Behalf of the LDC Group, WT/GC/W/807/Rev.2 <directdoc.aspx>.

**Table 2.1: The Proposal from the LDC Group for Extension of 17 LDC-related Provisions**

**A. LDC-SPECIFIC PROVISIONS IN WTO AGREEMENTS**

<b>Provision</b>	<b>Description</b>	<b>Treatment under WTO smooth transition</b>
<b>Agreement on Subsidies and Countervailing Measures (SCM)</b>		
<b>Article 27.2(a)</b>	LDCs exemption from prohibition of export subsidies.	As requested in the LDC Group's submission WT/GC/W/742 – G/C/W/752
<b>Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS)</b>		
<b>Article 66.1</b> <b>Extension of the Transition Period for LDC Members (IP/C/88)</b>	Implementation of the TRIPS other than Articles 3, 4 and 5, extended until 1 July 2034, or until the date when they cease to be an LDC, whichever date is earlier.	Transition period shall be extended for a period of [X years] after graduation from the LDC category or until the end of the final extension period granted to LDCs, whichever date is earlier.
<b>Article 66.2</b>	Developed countries to provide Transfer of Technologies (ToT) incentives in favour of LDCs.	Provision of ToT incentives shall be extended for a period of [X years] after graduation from the LDC category.
<b>Trade Facilitation Agreement</b>		
<b>Article 17</b>	Early warning Mechanism – Extension of implementation dates for provisions in categories B and C	Flexibilities provided for LDCs shall be extended for a period of [X years] after graduation from the LDC category.
<b>Article 19.2</b>	Shifting between categories B and C	Flexibilities provided for LDCs shall be extended for a period of [X years] after graduation from the LDC category.
<b>Article 20.2 – 3</b>	Grace Period for Application of the Understanding on Rules and Procedures Governing the Settlement of Disputes	Flexibilities provided for LDCs shall be extended for a period of [X years] after graduation from the LDC category.
<b>Dispute Settlement Understanding</b>		
<b>Article 24</b>	Special Procedures Involving Least-Developed Country Members	Special procedure provided for LDCs shall continue to apply for a period of [X years] after graduation from the LDC category.
<b>Agreement on Fisheries Subsidies</b>		
<b>Article 8, footnote 13</b>	Notification of additional information under Articles 8.1 every four years	Notification schedule shall continue to apply for a period of [X years] after graduation from the LDC category.

**B. SPECIFIC DECISIONS TAKEN IN FAVOUR OF LDCs**

LDC-Specific Decision	Description	Treatment under WTO smooth transition
<b>LDC waivers including transition periods and trade preferences</b>		
<b>Enabling Clause L/4903 of 28 November 1979, para. 2(d), 6 and 8</b>	Allows WTO Members to grant LDC specific treatment	The right to grant specific treatment under the enabling clause shall be extended to countries after graduation from the LDC category.
<b>Preferential Tariff Treatment for Least-Developed Countries – Decision on Waiver (WT/L/304, WT/L/759, and G/C/W/764)</b>	Allows developing countries to grant trade preferences to LDCs until 30 June 2029	Provisions of the waiver shall continue to apply for a period of [X years] after graduation from the LDC category or until the end of the waiver validity, whichever date is earlier.
<b>Decision in Favour of LDC. Annex F Hong Kong Ministerial Decision, Duty-Free and Quota-Free Market Access for LDCs, Bali and Nairobi Ministerial Decisions on Rules of Origin for LDCs (WT/L/919, WT/MIN(15)/47 and WT/L/917)</b>	Provision of DFQF market access for LDCs and more flexible rules of origin	DFQF market access and more flexible rules of origin shall continue to apply for a period of [X years] after graduation from the LDC category.
<b>LDC modalities &amp; services waiver (TN/S/13, WT/L/847, WT/MIN(15)/48 - WT/L/982, WT/MIN(13)/43 - WT/L/918)</b>	The decision extends the LDC Services Waiver until 2030	Provisions of the waiver shall continue to apply for a period of [X years] after graduation from the LDC category or until the end of the waiver validity, whichever date is earlier.
<b>Cotton Ministerial Decision WT/MIN(15)/46 - WT/L/981</b>	DFQF for cotton and related products produced and exported by LDCs	DFQF for cotton and related products shall be extended for a period of [X years] after graduation from the LDC category.
<b>LDC obligations under Article 70.8 and Article 70.9 of the TRIPS Agreement with respect to Pharmaceutical Products (WT/L/971) of 2 December 2015</b>	Exempts LDC members from the application of mailbox requirements and exclusive marketing rights until 1 January 2033 or until such a date on which they cease to be a LDC member, whichever is earlier	Exemption shall be extended for a period of [X years] after graduation from the LDC category or until the end of the final extension period granted to LDCs, whichever date is earlier.
<b>Extension of the LDC Transition Period under Article 66.1 of the TRIPS Agreement for certain obligations with respect to Pharmaceutical Products (IP/C/73)</b>	Exempts LDC members from the implementation or application of Sections 5 and 7 of Part II of the TRIPS Agreement or enforcements of rights provided under these sections, with respect to Pharmaceutical Products, extended until 1 January 2033, or until the date when they cease to be an LDC, whichever date is earlier	Transition period shall be extended for a period of [X years] after graduation from the LDC category or until the end of the final extension period granted to LDCs, whichever date is earlier.
<b>Export Competition Ministerial Decision WT/MIN/(15)/45 - WT/L/980</b>	Flexibilities under Article 9.4 of the Agreement on Agriculture dealing with export subsidies extended until 2030	Flexibilities shall be extended for a period of [X years] after graduation from the LDC category or until the final extension period granted to LDCs, whichever date is earlier.
<b>Notification obligations</b>		
<b>Domestic support notification (G/AG/2)</b>	LDCs to notify every two years	Notification schedule shall continue to apply for a period of [X years] after graduation from the LDC category.

**Source:** WTO, *Trade Related Challenges of the Least Developed Countries and Way Forward: Proposal for WTO Smooth Transition Measures in Favour of Countries Graduated from the LDC Category-Communication from Djibouti on Behalf of the LDC Group*, Appendix 1.

Out of these proposals, 2 were accepted in the 13<sup>th</sup> Ministerial Conference (MC13)<sup>91</sup> i.e., extension of a) WTO TA and capacity-building programs<sup>92</sup> and b) Article 24 of the Dispute Settlement Understanding (DSU) for 3 years. Article 24 of the DSU stipulates that:

*“1. At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving a least-developed country Member, particular consideration shall be given to the special situation of least-developed country Members. In this regard, Members shall exercise due restraint in raising matters under these procedures involving a least-developed country Member. If nullification or impairment is found to result from a measure taken by a least-developed country Member, complaining parties shall exercise due restraint in asking for compensation or seeking authorization to suspend the application of concessions or other obligations pursuant to these procedures.*

*2. In dispute settlement cases involving a least-developed country Member, where a satisfactory solution has not been found in the course of consultations the Director-General or the Chairman of the DSB shall, upon request by a least-developed country Member offer their good offices, conciliation and mediation with a view to assisting the parties to settle the dispute, before a request for a panel is made. The Director-General or the Chairman of the DSB, in providing the above assistance, may consult any source which either deems appropriate.”*

This Ministerial decision marked a significant milestone in adopting the first-ever binding negotiated outcome on smooth transition for the LDCs. It exhibits that WTO Members honored their commitment to address the special needs of the LDCs as enshrined in the Preamble of the Marrakesh Agreement<sup>93</sup>. The Members have instructed the Sub-Committee on LDCs to work on the outstanding proposals listed in Appendix 2<sup>94</sup> of the Group’s Revised Statement.

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<sup>91</sup> WTO, *WTO Smooth Transition Support Measures in Favour of Countries Graduated from the LDC Category* (2 March 2024) Ministerial Decision, WT/MIN(24)/34-WT/L/1189.

<sup>92</sup> This was an additional proposal from the LDC Group. See WT/GC/W/807/Rev.2 (n 90) para. 2.

<sup>93</sup> The Marrakesh Agreement (n 75) Preamble, 2<sup>nd</sup> Recital.

<sup>94</sup> WT/GC/W/807/Rev.2 (n 90) 4-7.

It is also important to note that many of the S&DT provisions also extend to developing country Members, and there is room to interpret some ‘policy space’ under the covered agreements as transition-supportive. Furthermore, the Marrakesh Agreement<sup>95</sup> allows Members to request a waiver regarding the Annexes 1A, 1B, or 1C Agreements to the respective Council. This provision opens the door for the LDCs to advocate for transition-specific rules.

In all, the MC13 extensions by the Members present hope, but it is too early to assume the creation of a fully developed framework of binding rules for the smooth and sustainable transition of the LDCs in the immediate future.

### **2.3. Special and Differential Treatment Provisions for LDCs: Temporary Relief or Pathway to Competitiveness?**

This section will examine whether WTO LDC-specific provisions and decisions operate as time-bound reliefs or contribute to the competitiveness of the LDCs in global trade after graduation.

#### **2.3.1. Duty-Free and Quota-Free Market Access**

The codification of S&DT rules in the trade regime is spurred by the creation of the UN LDC Category, which set the norm for special treatment of the LDCs.<sup>96</sup> The Tokyo Round (1979)<sup>97</sup>, one of the 8 multilateral trade rounds that led to the establishment of the WTO, adopted the ‘Decision on Differential and More Favourable Treatment, Reciprocity, and Fuller Participation of Developing Countries’<sup>98</sup> (known as the ‘Enabling Clause’). Later, the Enabling Clause was incorporated into the WTO legal system as part of the General Agreement on Tariffs

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<sup>95</sup> Marrakesh Agreement (n 75) Article IX:3 (b).

<sup>96</sup> Helen Hawthorne, *Least Developed Countries and the WTO: Special Treatment in Trade* (Palgrave Macmillan 2013) <<https://link.springer.com/book/10.1057/9781137269775>>.

<sup>97</sup> The Marrakesh Agreement clarified via an editorial note that this “*Decision [was] adopted by the Contracting Parties to GATT 1947 on 28 November 1979*”. See Marrakesh Agreement (n 75).

<sup>98</sup> WTO, *Decision on Differential and More Favourable Treatment, Reciprocity, and Fuller Participation of Developing Countries* (28 November 1979) GATT Doc L/4903 <[https://www.wto.org/english/tratop\\_e/dispu\\_e/repertory\\_e/e1\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/repertory_e/e1_e.htm)> accessed on 9 September 2025.

and Trade 1994<sup>99</sup> (GATT).<sup>100</sup> It allows WTO Members to grant preferential treatment to the developing countries and the LDCs without any expectation of reciprocity.<sup>101</sup> As such, it is an exception to the Most-Favored Nation (MFN) Principle<sup>102</sup> because the privilege granted to the developing countries and LDCs does not ‘immediately and unconditionally’ extend to all WTO Members.

In the *EC-Tariff Preferences* dispute, the Appellate Body observed that the adoption of the Enabling Clause reflected Members’ recognition that the MFN obligation was not sufficient to secure necessary market access for developing countries to catalyze their economic development.<sup>103</sup> If we go deeper into the provisions of the Enabling Clause, Article 2(d), by allowing the WTO Members to grant more favorable treatment to LDCs than to other developing Members, laid the groundwork for introducing what we call the ‘General System of Preferences’ (GSPs). The GSPs are schemes that promote the economic development of the LDCs by offering them non-reciprocal tariff preferences, such as ‘no’ or ‘zero tariffs’ on their exports. This, however, did not ensure that market access by the preference-granting Member would be both ‘duty and quota free’. Logically, DFQF market access is consistent with Members’ commitment to facilitate LDCs towards undertaking obligations to the extent they are commensurate with their needs<sup>104</sup> in finance, trade, and development. For this reason, the LDCs proposed DFQF market access in the very first Ministerial Conference of the WTO at Singapore in 1996.<sup>105</sup> In December 2005, about a decade later, the proposition was finally

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<sup>99</sup> General Agreement on Tariffs and Trade 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 UNTS 187.

<sup>100</sup> Clément Marquet, ‘Decision on Differential and More Favourable Treatment, Reciprocity, and Fuller Participation of Developing Countries’ (28th November 1979) L/4903, BISD 26S/203 <[https://www.researchgate.net/publication/323218592\\_Decision\\_on\\_Differential\\_and\\_More\\_Favourable\\_Treatment\\_Reciprocity\\_and\\_Fuller\\_Participation\\_of\\_Developing\\_Countries\\_28th\\_November\\_1979\\_L4903\\_BISD\\_26S203](https://www.researchgate.net/publication/323218592_Decision_on_Differential_and_More_Favourable_Treatment_Reciprocity_and_Fuller_Participation_of_Developing_Countries_28th_November_1979_L4903_BISD_26S203)>.

<sup>101</sup> Charlotte Sieber-Gasser, ‘Special and Differential Treatment in the WTO’ in *Developing Countries and Preferential Services Trade* (Cambridge University Press 2016) 3–26 <<https://www.cambridge.org/core/books/abs/developing-countries-and-preferential-services-trade/special-and-differential-treatment-in-the-wto/6B09FC7F1FD86F24617D2636F011A650>>.

<sup>102</sup> GATT (n 99) Article I:1.

<sup>103</sup> WTO, *European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries- Report of the Appellate Body* (7-15 April 2004) WT/DS246/AB/R, para. 110.

<sup>104</sup> Marrakesh Agreement (n 75) Article XI:2.

<sup>105</sup> CUTS International, ‘South Asian Positions in the WTO Doha Round- in Search of a True Development Agenda’ (2007) Vol. 2 , 31 <<https://www.cuts-citee.org/pdf/BOOK01-07.pdf>>.

accepted in the Hong Kong Ministerial Conference.<sup>106</sup> Later, in the Nairobi Ministerial Conference, DFQF market access was extended to cotton producers of the LDCs.<sup>107</sup> Owing to the instrumental role that DFQF market access can play in integrating the LDCs into the multilateral trading system, it is now a target<sup>108</sup> under Sustainable Development Goal (SDG) 17.

Nevertheless, the S&DT provisions, in practice, are not effective enablers for building trade competitiveness of an LDC for disparate reasons. Firstly, the WTO system does not provide formal criteria to differentiate between ‘developing’ and ‘LDCs’, allowing Members to self-designate their status.<sup>109</sup> As such, the plain understanding that S&DT provisions are entirely ‘LDC-specific’ will not be legally correct. Rather, the Enabling Clause is an inclusive framework accommodating the development needs of both ‘developing countries’ and the ‘LDCs’, with some provisions specifically targeting the latter<sup>110</sup>. A critic argues that the lack of ‘differentiation’ allows Members with high and those with the lowest income per capita to benefit from the same provisions without specifically addressing the LDCs’ needs and interests.<sup>111</sup> This concern, along with the non-binding nature of some of the S&DT provisions, received mounting scrutiny from scholars.<sup>112</sup>

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<sup>106</sup> WTO, *Hong Kong Ministerial Declaration*, Annex F (22 December 2005) WT/MIN(05)/DEC, 9 <[https://www.wto.org/english/thewto\\_e/minist\\_e/min05\\_e/final\\_text\\_e.pdf](https://www.wto.org/english/thewto_e/minist_e/min05_e/final_text_e.pdf)>; Ichiro Araki, and Surendra Bhandari, ‘*Hong Kong Ministerial Conference of the WTO: A Leap Forward to the DDA*’ (2006) 13 <<http://dx.doi.org/10.2139/ssrn.1137167>>; UNCTAD, ‘*The Generalized System of Preferences: How Much Does it Matter for Developing Countries?*’ (2023) 1-2 <[https://unctad.org/system/files/official-document/ditctsce2023d1\\_en.pdf](https://unctad.org/system/files/official-document/ditctsce2023d1_en.pdf)>.

<sup>107</sup> WTO, *Ministerial Decision of 19 December 2015* (2015) WT/MIN(15)/46 — WT/L/981, para. 2 <[https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/l981\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/l981_e.htm)>.

<sup>108</sup> UN, SDG 17: Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development, Target: 17.12- “*Realize timely implementation of duty-free and quota-free market access on a lasting basis for all least developed countries, consistent with World Trade Organization decisions, including by ensuring that preferential rules of origin applicable to imports from least developed countries are transparent and simple, and contribute to facilitating market access*”. See UN, ‘*Sustainable Development Goals*’ <<http://metadata.un.org/sdg/17.12>> accessed on 11 September 2025.

<sup>109</sup> WTO, ‘*Who are the Developing Countries in the WTO?*’ (2025) <[https://www.wto.org/english/tratop\\_e/devel\\_e/d1who\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/d1who_e.htm)> accessed on 11 September 2025.

<sup>110</sup> For example, under Article 27.9 of the SCM Agreement, the LDCs are not obligated to phase out export subsidies, but developing country Members are.

<sup>111</sup> Constantine Michalopoulos, ‘*The Role of Special and Differential Treatment for Developing Countries in GATT and the World Trade Organization*’ (July 2000) <<https://ssrn.com/abstract=630760>>.

<sup>112</sup> See Omphemetse Sibanda, ‘*Towards a Revised GATT/WTO Special and Differential Treatment Regime for Least Developed and Developing Countries*’ (2015) *Foreign Trade Review*, 31-40 <<https://doi.org/10.1177/0015732514558140>>; Pallavi Kishore, ‘*Special and Differential Treatment in the*

The non-binding<sup>113</sup> S&DT provisions lack enforceability and depend on the grace of the individual Member. For example, it is for each Member to unilaterally decide which products will be covered under their respective GSP scheme.<sup>114</sup> What is more concerning is that there are rising tensions surrounding the ‘weaponization of trade’<sup>115</sup> by WTO Members.<sup>116</sup> This implies that preference-granting Members are at liberty to weaponize trade<sup>117</sup> as a bargaining chip<sup>118</sup> in trade negotiations or for other political gains.

WTO Agreements<sup>119</sup> allow Members to take trade-restrictive measures to protect legitimate ‘essential security interests’ under exceptional circumstances. A critique argued that this creates a legal loophole because of the self-judging nature of the rule. A shift in political relations can cause Members to adopt protectionist measures restricting market access under the guise of safeguarding national security interests.<sup>120</sup>

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Multilateral Trading System’ (June 2014) 13 (2) Chinese Journal of International Law, 363–394 <<https://doi.org/10.1093/chinesejil/jmu004>>; Natasha Hart, ‘Special and Differential Treatment at the World Trade Organisation: A Case of Limited Results and Misconstrued Arguments?’ <<https://www.austlii.edu.au/au/journals/WAStuLawRw/2018/1.pdf>>; Vineet Hegde and Jan Wouters, ‘Special and Differential Treatment under the World Trade Organization: A Legal Typology’ (November 2020) Working Paper No. 227 <<https://ghum.kuleuven.be/ggs/vineet.pdf>>.

<sup>113</sup> For example, DFQF market access (Hong Kong Ministerial Decision 2005, para 36 and 38), simplified rules of origin (Bali para. 1.5 and Nairobi Ministerial para. 1.4), and the LDC Service Waiver (2011).

<sup>114</sup> WTO, ‘Special and Differential Treatment Provisions’ <[https://www.wto.org/english/tratop\\_e/devel\\_e/dev\\_special\\_differential\\_provisions\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/dev_special_differential_provisions_e.htm)> accessed on 10 September 2025.

<sup>115</sup> It is defined as a “means using trade as a tool of foreign policy rather than as an economic goal in and of itself”. See Commentary by William Alan Reinsch, ‘Weaponizing Trade’ (7 December 2021) Center for Strategic and International Studies <<https://www.csis.org/analysis/weaponizing-trade>>.

<sup>116</sup> J. Evenett Simon and Muendler Marc-Andreas, ‘The Notion of Weaponizing Trade and the Example of Moscow’s Threat to Food Security in 2023’, in Vinod K. Aggarwal, and Tai Ming Cheung (eds), *The Oxford Handbook of Geoeconomics and Economic Statecraft*, Oxford Handbooks (Oxford Academic, 22 February 2024) <<https://doi.org/10.1093/oxfordhb/9780197673546.013.6>> accessed 9 September 2025.

<sup>117</sup> See Wu, Hong, ‘Weaponization of Trade Measures and Countermeasures’ (9 May 2025) *Journal of World Trade*, 5-15 <<http://dx.doi.org/10.2139/ssrn.5247631>>.

<sup>118</sup> Melchior opined, “GSP is unilateral and non-reciprocal and the donors therefore have greater leeway as to what may be done”. See Arne Melchior, ‘Trade Policy Differentiation between Developing Countries under GSP Schemes’ (NUPI, 2005) 3 <<https://nupi.brage.unit.no/nupi-xmlui/handle/11250/2391176>>.

<sup>119</sup> GATT (n 99) Article XXI; GATS (n 152) Article XIV bis; TRIPS Agreement (n 15) Article 73: Agreement on Government Procurement, Article III (revised).

<sup>120</sup> Benn Steil and Elisabeth Harding, ‘Soaring Abuse of “National Security” Exceptions Has Wrecked the Multilateral Trading System’ (2024) Council on Foreign Relations <<https://www.cfr.org/blog/soaring-abuse-national-security-exceptions-has-wrecked-multilateral-trading-system>>.

While these remarks are reasonable and address critical gaps, what has escaped scholarly notice is that the binding S&DT provisions are mainly ‘transitional’, allowing time-bound deviation from the WTO obligations. They do not provide ‘capacity development’ or ‘structural transformation’ tools that will help prepare the LDCs for future compliance with WTO law. If ‘graduation’ is now put in this picture, it would result in a paradox since it will not only take away ‘flexibilities’ but will entail ‘immediate compliance’ with WTO obligations that apply to developing countries without any safety net recourse. Against this backdrop, the proposition of the ‘peace clause’ from the LDC Group appears as an ‘effective response mechanism’ to mitigate ‘compliance shock’.

On the other hand, countries such as the U.S.A. and the EU<sup>121</sup> require compliance with their high labor standards, failure to which suspends an exporting country from their respective GSP scheme.<sup>122</sup> For example, Cambodia’s market access to the EU and the U.S.A. is contingent upon meeting their human rights and environmental standards.<sup>123</sup> A question has been raised whether the labor standards under the Members’ GSP schemes exceeded the compliance threshold required under International Labor Law.<sup>124</sup> India stated that putting conditionality is contradictory to the Enabling Clause, which requires GSPs to be “non-reciprocal, non-discriminatory and generalized”<sup>125</sup>. When assessed against these three criteria, a GSP scheme that includes a condition related to labour standards would not amount to a prohibited ‘condition of reciprocity’ (as it remains non-reciprocal), nor would it be discriminatory—

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<sup>121</sup> EU, Regulation No 978/2012 of the European Parliament and of the Council of 25 October 2012: Applying a Scheme of Generalised Tariff Preferences and Repealing Council Regulation (EC) No 732/2008, Article 19 <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02012R0978-20250101>> accessed on 11 September 2025.

<sup>122</sup> Jennifer L Tobin and Marc L Busch, ‘Developing Countries’ Utilization of GSP: Labor Standards, the Margin of Preference, and the Demand for Zero Tariffs’ in Susan Rose-Ackerman (ed) *Public Sector Performance, Corruption and State Capture in a Globalized World* (1st ed., Routledge 2024) 3-9 <<https://doi.org/10.4324/9781003416234>> accessed on 10 September 2025.

<sup>123</sup> UNDP, ‘Cambodia’s Graduation from Least Developed Country (LDC) Status: Preparedness and Potential Economic and Social Impacts’ (Policy Brief, 2024) 1 [UNDP 2024] <[https://www.undp.org/sites/g/files/zskgke326/files/2024-11/final\\_ldc-policy\\_brief.pdf](https://www.undp.org/sites/g/files/zskgke326/files/2024-11/final_ldc-policy_brief.pdf)>.

<sup>124</sup> Lisa Tortell, ‘The New GSP+ Beneficiaries: Ticking the Box or Truly Consistent with ILO Findings?’ (2009) 14 (5) *European Foreign Affairs Review*, 663-681 <<https://doi.org/10.54648/eerr2009047>> accessed on 10 September 2025.

<sup>125</sup> The Enabling Clause (n 98) Article 2(a).

provided that it applies equally to all Members and is therefore ‘generalized’ in nature<sup>126</sup>. Therefore, such conditionality cannot, *prima facie*, be defined as inconsistent with Article 2 (a) of the Enabling Clause. The *EC-Tariff Preferences* dispute offered an opportunity for the Appellate Body to address the consistency of preferences granted under GSPs, conditional upon the labor rights standards of the beneficiaries. However, in its determination, the Appellate Body dismissed this matter because it fell outside the ambit of the issues raised by the Complainant (India).<sup>127</sup>

### 2.3.2. Preferential Rules of Origin

‘Origin’ tells where a product is manufactured. Often, an LDC, due to its productive capacity constraints, cannot wholly produce a product without purchasing foreign inputs first. This is one of the reasons why the LDCs’ share in global trade is less than 1%.<sup>128</sup> To integrate them in the multilateral trading system, over the years, WTO Members have adopted measures and decisions to enable them to overcome these hurdles by virtue of Preferential Rules of Origin (RoO) (permitted under Article 2(d) of the Enabling Clause). Preferential RoO is a set of laws and regulations that form a litmus test for the developed Country Members to identify whether imports originating in the LDCs are eligible for tariff preferences<sup>129</sup> under their respective GSP scheme. The preferential tariff rate will not apply to a product if the origin criterion is not satisfied.<sup>130</sup> In such circumstances, non-preferential RoO comes into play for the application of other trade policy measures on a product.

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<sup>126</sup> In regard to the term ‘generalized’, the Appellate body opined: “*We observe that the term "generalized" requires that the GSP schemes of preference-granting countries remain generally applicable.*” See WTO, *EC-Tariff Preferences* (n 103) para. 156.

<sup>127</sup> The Appellate Body opined: “*In particular, India's challenge to the Drug Arrangements is based on its submission that the term 'non-discriminatory' prevents preference-granting countries from according preferential tariff treatment to any beneficiary of their GSP schemes without granting identical preferential tariff treatment to all other beneficiaries. Therefore, in this Report, we do not rule on whether the Enabling Clause permits ab initio exclusions from GSP schemes of countries claiming developing country status, or the partial or total withdrawal of GSP benefits from certain developing countries under certain conditions.*”. See WTO, *EC—Preferences* (n 103) para. 129.

<sup>128</sup> WTO, ‘*Trends in LDC trade*’ (2025) <[https://www.wto.org/english/tratop\\_e/devel\\_e/trendsinldctrade\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/trendsinldctrade_e.htm)> accessed on 12 September 2025.

<sup>129</sup> Agreement on Rules of Origin (n 7) Article 1:1.

<sup>130</sup> Stefano Inama, *Rules of Origin in International Trade* (Cambridge University Press, 2022) 1-2 <[https://books.google.com.bd/books?id=yhhdEAAAQBAJ&dq=preferential+rule+of+origin+&lr=&source=gbs\\_navlinks\\_s](https://books.google.com.bd/books?id=yhhdEAAAQBAJ&dq=preferential+rule+of+origin+&lr=&source=gbs_navlinks_s)>.

The underlying rationale behind the whole preferential RoO is integration of LDCs into the global trading system. The question is: have the WTO Members achieved this goal? And if it is a yes, is the integration sustainable, especially *vis-à-vis* LDC graduation?

In the Hong Kong Ministerial Conference, the Members agreed to provide DFQF market access for 97% of products coming from the LDCs<sup>131</sup> in addition to a simplified and transparent RoO to facilitate their market access.<sup>132</sup> In the next Ministerial Conference in Bali, Members did not add anything new to the Hong Kong Decision concerning the LDCs, except for building upon the Hong Kong guidelines to ensure complex RoO do not impede market access granted to the LDCs under preferential schemes.<sup>133</sup> These guidelines constituted the first concrete WTO instrument on preferential RoO for the LDCs and thereby offered them some degree of protection against rigid conditionalities under the GSP schemes.<sup>134</sup>

Before these guidelines were in place, preference-giving Members would unilaterally design RoO in accordance with their own terms and policies, which resulted in stringent and complex RoO.<sup>135</sup> Consequently, it became difficult for the LDCs to understand if their products qualified under these rules and were unable to secure DFQF market access. This demonstrates that complex RoO operate as a bottleneck to utilize non-reciprocal preferential trade arrangements.<sup>136</sup>

However, persistent follow-ups on this issue throughout three consecutive Ministerial Conferences in Hong Kong, Bali, and Nairobi have secured clear instructions for preference-giving Members. To specify, the Nairobi Ministerial Decision required Members to consider a) allowing the LDCs to use up to 75% of foreign inputs (non-originating materials), b) providing a change of tariff classification as an alternative rule, and c) offering possibilities to cumulate

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<sup>131</sup> WTO, 'Hong Kong Ministerial Declaration, Annex F' (n 106) para. 36.

<sup>132</sup> *ibid* para. 47.

<sup>133</sup> WTO, *Bali Ministerial Decision of 7 December 2013* (11 December 2013) WT/MIN(13)/42-WT/L/917 <[https://www.wto.org/english/thewto\\_e/minist\\_e/mc9\\_e/desci42\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc9_e/desci42_e.htm)> accessed on 24 September 2025.

<sup>134</sup> Amrita Narlikar and Shishir Priyadarshi, '*Empowering the Poor? The Successes and Limitations of the Bali Package for the LDCs*' (2014) 35 *Third World Quarterly*, 1051-1065 <<https://doi.org/10.1080/01436597.2014.907727>>.

<sup>135</sup> Amrita Narlikar and Shishir Priyadarshi (n 134) 1056-1057.

<sup>136</sup> Tobias Sytsma, '*Rules of Origin and Trade Preference Utilization among Least Developed Countries*' (2021) 39 *Contemporary Economic Policy*, 77-105 <<https://onlinelibrary.wiley.com/doi/epdf/10.1111/coep.12529>>.

origin for exports of the LDCs.<sup>137</sup> These elements offer low eligibility criteria, so goods from the LDCs can easily enter the market of the developed Countries without facing import quotas and high tariff rates.

In accordance with the Enabling Clause, the LDCs enjoy ‘better’ preferential treatment than the developing countries. This implies that upon graduation, an LDC might be, *mutatis mutandis*, eligible under a GSP scheme as a ‘developing country’ but would face stricter RoO. Even so, the existing (pre-graduation) preferential RoO is already so stringent that the LDC Group has requested the WTO Members to clarify specific aspects of their RoO in October 2025.<sup>138</sup>

This request is just another example of the ‘best endeavor nature’<sup>139</sup> of the S&DT concerning RoO, which further demonstrates that there is no binding WTO mechanism to systemize and regulate preferential RoO in accordance with the WTO rules and regulations. There is a consensus amongst scholars<sup>140</sup> that RoO should be harmonized in light of the rules and principles of the WTO. In the absence of a single set of administrative procedures under the WTO System, securing DFQF market access with preferential RoO cannot guarantee true

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<sup>137</sup> WTO, *Preferential Rules of Origin for Least Developed Countries* (19 December 2015) WT/MIN(15)/47-WT/L/917 <[https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/l917\\_e.htm#fnt-2](https://www.wto.org/english/thewto_e/minist_e/mc10_e/l917_e.htm#fnt-2)> accessed on 13 September 2025.

<sup>138</sup> WTO, *WTO LDCS Group Expectations Arising from the Discussions Held under Agenda Item (B) of November 2024 and April 2025 CRO and Subsequent Informal Consultations* (14 October 2025) G/RO/W/240 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/G/RO/W240.pdf&Open=True>>.

<sup>139</sup> UNESCAP, *Least Developed Countries and Trade: Challenges of Implementing the Bali Package*’ Debapriya Bhattacharya and Mia Mikić (eds) (2015) 83 *Studies in Trade and Investment*, 24 <[https://books.google.com.bd/books/about/Least\\_Developed\\_Countries\\_and\\_Trade.html?id=9CSozwEACAAJ&redir\\_esc=y](https://books.google.com.bd/books/about/Least_Developed_Countries_and_Trade.html?id=9CSozwEACAAJ&redir_esc=y)>; Ravi. Kanth, ‘*What Happened at the Bali WTO Meet and Why*’ (2014) 49 (2) *Economic and Political Weekly*, 16 <<http://www.jstor.org/stable/24479005>> accessed 15 Sept. 2025; Shishir Priyadarshi and Taufiqur Rahman, ‘*The Bali LDC Package: How to Take it Forward*’ (2014) *Commonwealth Trade Hot Topics*, 1 <<https://www.thecommonwealth-ilibrary.org/index.php/comsec/catalog/download/38/35/251?inline=1>>.

<sup>140</sup> Hatem Mabrouk, ‘*The Urgent Call for Harmonizing Preferential Rules of Origin*’ <[https://www.researchgate.net/publication/381266875\\_The\\_Urgent\\_Call\\_for\\_Harmonizing\\_Preferential\\_Rules\\_of\\_Origin](https://www.researchgate.net/publication/381266875_The_Urgent_Call_for_Harmonizing_Preferential_Rules_of_Origin)> accessed 15 September 2025; A. Estevadeordal, J. Harris, and K. Suominen, ‘Harmonizing Preferential Rules of Origin Regimes Around the World’, in R. Baldwin and P. Low (eds.) *Multilateralizing Regionalism: Challenges for the Global Trading System* (Cambridge University Press, 2009) 262–363 <<https://www.cambridge.org/core/books/abs/multilateralizing-regionalism/harmonizing-preferential-rules-of-origin-regimes-around-the-world/F0E6C6C97571E9E47D753572178210ED>>; Bernard Hoekman and Stefano Inama, ‘Harmonization of Rules of Origin: An Agenda for Plurilateral Cooperation?’ (2018) 22 *East Asian Economic Review*, 3-28 <<https://dx.doi.org/10.11644/KIEP.EAER.2018.22.1.336>>; Mette Werdelin Azzam, ‘Harmonization of Non-Preferential Rules of Origin’ (2019) 14 (10) *Global Trade and Customs Journal*, 467-469 <<https://doi.org/10.54648/gtcj2019056>>; Jong Bum Kim (n 148); John James Barcelo (n 10).

utilization of preferences<sup>141</sup>, since each preference-giving Member maintains and alone decides the rules and policies concerning its system of RoO. This results in a miscellany of overlapping and inconsistent rules, which reduces<sup>142</sup> the overall welfare objective. A study by UNCTAD highlighted that “*rules of origin and related administrative procedures are one of the main reasons for under-utilization of existing preferences. Some of the current features of rules of origin go against the very concept of trade facilitation*”<sup>143</sup>. As the LDCs export their products to several markets, the cost associated with compliance with multiple diverse RoO mushrooms.<sup>144</sup> Some preferential trade schemes are so costly that importers choose to pay the MFN tariff to avoid certification costs for the origin of goods.<sup>145</sup>

Olivier Cadot and Jaime de Melo suggested that Members use their RoO as a tool to compel LDCs to purchase mediocre intermediary goods from the developed countries to secure market access for the final product.<sup>146</sup> They claim that these far-fetched rules cannot be justified as preventative measures against trade deflection, suggesting the share of benefit from the preferential system enjoyed by a specific interest group.<sup>147</sup> RoO that restricts the sourcing of inputs can reduce possibilities for export diversification of the LDCs. There are concerns that restrictive RoO under preferential/regional trade agreements (PTAs/RTAs) violate GATT Article XXIV, which requires Parties entering into PTAs to eliminate restrictions from “substantially all trade”<sup>148</sup>. In the *Turkey-Textiles* dispute, the Appellate Body confirmed that

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<sup>141</sup> South Asian Positions in the WTO Doha Round (n 105) 38.

<sup>142</sup> Patricia Augier, Michael Gasiorok and Charles Lai Tong, ‘The Impact of Rules of Origin on Trade Flows, Economic Policy’ (1 July 2005) 20 (43) Oxford University Press, 568–624 <<https://doi.org/10.1111/j.1468-0327.2005.00146.x>>.

<sup>143</sup> UNCTAD, ‘*Trade Preferences for LDCs: An Early Assessment of Benefits and Possible Improvements*’ (2003) UNCTAD/ITCD/TSB/2003/8, XI <[https://unctad.org/system/files/official-document/itcdtsb20038\\_en.pdf?>](https://unctad.org/system/files/official-document/itcdtsb20038_en.pdf?>)

<sup>144</sup> Product-specific rules, in particular, adds to compliance cost restricting market access. See Olivier Cadot and others, ‘Product Specific Rules of Origin in EU and US Preferential Trading Arrangements: An Assessment’ (2005) Working Papers <<https://ideas.repec.org/p/cdi/wpaper/678.html>> accessed 14 September 2025.

<sup>145</sup> Debapriya Bhattacharya and Mia Mikić (n 139) 2.

<sup>146</sup> Olivier Cadot and Jaime de Melo, ‘*Why OECD Countries Should Reform Rules of Origin*’ (2008) 23 The World Bank Research Observer, 77–105 <<https://doi.org/10.1093/wbro/lkm010>>.

<sup>147</sup> *ibid.*

<sup>148</sup> John James Barcelo (n 10) 20; Jong Bum Kim, ‘The Evolution of Preferential Rules of Origin in ASEAN’s RTAs: A Guide to Multilateral Harmonization’ (2012) 46 (6) Journal of World Trade, 1343-1364 <<https://doi.org/10.54648/trad2012042>>.

the purpose of FTAs/RTAs is to facilitate trade and not to raise barriers to the trade of the Contracting Parties.<sup>149</sup>

To answer the first question, yes, WTO Members have, indeed, achieved the goal of integrating the LDCs into the global trading system to a considerable extent, as Developed Countries have made efforts to revise<sup>150</sup> their RoO to honor their commitment to liberalizing trade for LDCs through DFQF market access. It is only fair to state that the under-utilization of preferential RoO is not solely attributable to their complexity and fragmentation. Limited productive capacity, insufficient technical expertise to comply with complex origin criteria, and weak infrastructure—among other factors—also contribute to the underutilization of preferential RoO.

However, concerning the second question, whether this integration is sustainable is uncertain. There is a need to understand that the trade and economic resilience of a WTO Member that is an LDC is not the same as that of a developing country, and upon graduation, these inherent constraints of an LDC do not disappear. On top of that, stricter RoO applies to their goods, requiring higher value-addition (more domestic processing as opposed to relying on foreign inputs) to be eligible for preferential trade schemes, failure to which results in a high MFN tariff rate.<sup>151</sup> This could reverse the hard-earned LDC participation in the global value chain.

### **2.3.3. Preferential Treatment under the GATS<sup>152</sup>**

The service sector is experiencing a 10% year-on-year growth as the fastest-rising segment in global trade.<sup>153</sup> However, the LDCs have a considerably low share in global services exports,

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<sup>149</sup> WTO, *Turkey – Restrictions on Imports of Textile and Clothing Products- Report of the Appellate Body* (22 October 1999) WT/DS34/AB/R.

<sup>150</sup> Pramila Crivelli and Stefano Inama, ‘Improving Market for LDCs: the Impact of the EU Reform of Rules of Origin on Utilization Rates and Trade Flows under the Everything But Arms Initiative (EBA)’ (August 2021) UN <[https://scholar.google.com/citations?view\\_op=view\\_citation&hl=en&user=xgqBPLIAAAAJ&citation\\_for\\_view=xgqBPLIAAAAJ:UebtZRa9Y70C](https://scholar.google.com/citations?view_op=view_citation&hl=en&user=xgqBPLIAAAAJ&citation_for_view=xgqBPLIAAAAJ:UebtZRa9Y70C)>; Rules of Origin in EU Trade Agreements (2021) <[https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_BRI\(2021\)698778](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2021)698778)> accessed on 20 September 2025.

<sup>151</sup> UNDP 2024 (n 123) 2.

<sup>152</sup> ‘General Agreement on Trade in Services’ (15 April 1994) 1869 UNTS 183, Annex 1B to the Marrakesh Agreement Establishing the World Trade Organization, 1867 UNTS 3.

<sup>153</sup> International Trade Statistics, ‘Services Trade Growth Hits New Highs in Third Quarter of 2024’ <[https://www.wto.org/english/news\\_e/news25\\_e/stat\\_03feb25\\_e.htm](https://www.wto.org/english/news_e/news25_e/stat_03feb25_e.htm)> accessed on 17 September 2025.

which was only 0.49% in 2021.<sup>154</sup> To increase their participation, General Agreement on Trade in Services (GATS) Article IV:3<sup>155</sup> provides the legal basis for offering preferential treatment to the service suppliers and services of LDCs, *vis-à-vis*, market access. Surprisingly, it took a decade for the Members to decide on a waiver<sup>156</sup> in favor of the LDCs in the 8<sup>th</sup> Ministerial Conference in 2011 (known as the “LDC Service Waiver”). The waiver permitted WTO Members “to depart from the MFN obligation”<sup>157</sup> to provide non-reciprocal preferential treatment to the LDCs to foster their participation in global trade in services in the face of their “serious difficulty”<sup>158</sup>. In essence, the LDC Service Waiver is the ‘Enabling Clause’ of the GATS.<sup>159</sup>

The service waiver was not operationalized until 2014<sup>160</sup> via the Bali Ministerial Decision<sup>161</sup> in late 2013. It noted that “*no WTO Member has yet made use of the waiver since its adoption in 2011*”<sup>162</sup>. In 2001, the Special Session of the GATS Council set out negotiating ‘guidelines

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<sup>154</sup> WTO, ‘Trends in LDC Trade’ <[https://www.wto.org/english/tratop\\_e/devel\\_e/trendsindcstrade\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/trendsindcstrade_e.htm)> accessed on 17 September 2025.

<sup>155</sup> GATS Article IV:3 states that: “*Special priority shall be given to the least-developed country Members in the implementation of paragraphs 1 and 2. Particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs*”. See GATS (n 152).

<sup>156</sup> WTO, *Preferential Treatment to Services and Service Suppliers of Least-Developed Countries* (17 December 2011) Ministerial Decision from the 8<sup>th</sup> Ministerial Conference, WT/L/847 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/L/847.pdf&Open=True>>.

<sup>157</sup> GATS (n 152) Article II:1.

<sup>158</sup> Members underlined LDCs’ i) special economic situation and ii) their development, iii) trade and financial needs as ‘serious difficulty’ that prevents them from securing a necessary share in trade in services. See WTO, WT/L/847 (n 156).

<sup>159</sup> Miguel Rodriguez Mendoza and others, ‘*The LDC Services Waiver – Operationalized? A First Look at Preferences Granted, Constraints Persisting, and Early Conclusions to be Drawn*’ (27 May 2016) 4 <<http://unctad.org/meetings/en/SessionalDocuments/ditc-05072016-LDCWaiver-AssessmentPaper.pdf>>.

<sup>160</sup> As the decision was adopted in December 2013, it is rational to consider ‘2014’ as the commencement year of the waiver. See Gnanon, Sèna Kimm, ‘*The Least Developed Countries’ Services Waiver and the Stability of Least Developed Countries’ Services Exports*’ (2022) ZBW - Leibniz Information Centre for Economics, Kiel, Hamburg, 6 <<https://www.econstor.eu/handle/10419/260587>>.

<sup>161</sup> WTO, *Bali Ministerial Decision of 7 December 2013* (2013) Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries’, WT/MIN (13)/43-WT/L/918 <[https://www.wto.org/english/thewto\\_e/minist\\_e/mc9\\_e/desci43\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc9_e/desci43_e.htm)>.

<sup>162</sup> *ibid.*

and procedures’,<sup>163</sup> which were enhanced<sup>164</sup> by the ‘2003 Modalities<sup>165</sup> for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services’<sup>166</sup>.

Although it emphasizes prioritizing LDCs’ export interests, it does not provide a dedicated work programme to identify sectors and sub-sectors where their services are competitive. The absence of a transparent method to identify LDCs’ export interests renders the service waiver ineffective, as it leaves a leeway for preference-giving Members to prioritize their economic interests. For example, Mode 4 trade in services (defined as the “*presence of natural persons of a Member in the territory of any other Member*”<sup>167</sup>) is a key service area for the LDCs because LDCs have a huge pool of workers at all levels: skilled, semi-skilled, and unskilled.<sup>168</sup> The LDC Group underlined Mode 4 preferences as their top priority, but they receive limited flexibility in it.<sup>169</sup> A small number of Members have responded to their request for visas and work permits, which are preconditions for eligibility to supply services under Mode 4.<sup>170</sup> Mustafizur Rahman and Kazi Mahmudur Rahman, while referring to an assessment<sup>171</sup>, stated that “*if only three percent of the OECD labour market is opened for temporary migrant workers*

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<sup>163</sup> WTO, *Guidelines and Procedures for the Negotiations on Trade in Services* (28 March 2001) S/L/93 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/S/L/93.pdf&Open=True>>; The guidelines were reaffirmed by the WTO Members in the Doha Ministerial Conference.

<sup>164</sup> Also complemented by WTO, *Modalities for the Treatment of Autonomous Liberalization*’ (10 March 2003) TN/S/6.

<sup>165</sup> The mandate to introduce these modalities is enshrined in GATS Article XIX:3. See GATS (n 152).

<sup>166</sup> WTO, *Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services- Adopted by the Special Session of the Council for Trade in Services* (3 September 2003) TN/S/13 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/TN/S/13.pdf&Open=True>>.

<sup>167</sup> GATS (n 152) Article I:2 (d).

<sup>168</sup> Mustafizur Rahman and Kazi Mahmudur Rahman, ‘Proposed Changed to WTO Special and Differential Treatment Provisions: An Analysis from the Perspective of Asian LDCs’ (2006) Working Paper Series, No. 13, Asia-Pacific Research and Training Network on Trade,<sup>15</sup> <<https://hdl.handle.net/10419/178371>>.

<sup>169</sup> WTO, *Submission by the Delegation of Uganda on behalf of the LDC Group* (23 July 2014) S/C/W/356; See Yasmin Ismail and Joyce Mwangi, ‘*Enabling LDC Suppliers to Benefit from the WTO Services Waiver: The case of modern services in Cambodia*’ (June 2022) CUTS International, 2 <[https://www.cuts-geneva.org/wp-content/uploads/2023/09/KP2022RRNCambodia\\_Enabling\\_LDC\\_Suppliers\\_to\\_Benefit\\_From\\_The\\_WTO\\_Services\\_Waiver.pdf](https://www.cuts-geneva.org/wp-content/uploads/2023/09/KP2022RRNCambodia_Enabling_LDC_Suppliers_to_Benefit_From_The_WTO_Services_Waiver.pdf)>.

<sup>170</sup> UNCTAD, *Effective Market Access for Least Developed Countries’ Services Exports: An analysis of the World Trade Organization Services Waiver for Least Developed Countries- UNCTAD Analysis of Services Waiver for the LDCs* (2020) 5 <[https://unctad.org/system/files/official-document/ditctncd2019d1\\_en.pdf](https://unctad.org/system/files/official-document/ditctncd2019d1_en.pdf)>.

<sup>171</sup> See L.A. Winters and others, ‘*Liberalising Temporary Movement of Natural Persons: An Agenda for the Development Round*’ (2003) 26 (8) World Economy, 1137-61 <<https://doi.org/10.1111/1467-9701.00566>> accessed on 25 September 2025.

*from DCs and LDCs, this could provide an incremental income opportunity to the tune of USD 150 billion for these countries*<sup>172</sup> (emphasis added).

As such, WTO Members who liberalized Mode 4 services trade for the LDCs have greatly contributed to their economic growth. Bangladesh, for instance, earned a total remittance of \$30 billion in the fiscal year 2024-2025.<sup>173</sup> Remittance has also spurred financial innovation (development of financial goods, services, and methods)<sup>174</sup> in Haiti.<sup>175</sup>

In short, the lack of transparent sector identification methods creates a gap in the actual implementation of the waiver. In this connection, the Nairobi Decision encouraged Members to execute LDC-specific TA and capacity-building measures to enable their suppliers to use the granted preferences.<sup>176</sup>

As for national treatment commitments under Mode 4, a study by UNCTAD showed that of the submitted notifications concerning Members' waiver-related measures, a mere 15% cover national treatment with very little preferential treatment in export sectors crucial for LDCs, viz., tourism, health, education, and construction.<sup>177</sup> This is because the service waiver applies within the purview of the existing GATS schedule of commitments and not beyond. It revealed the narrow scope of the service waiver, meaning that, as the Members are not required to grant market access in Mode 4, if a Member has not made any commitments in that Mode, National treatment will not apply.

Moreover, the service waiver does not offer a binding mechanism to enforce and measure its implementation by preference grantors. The WTO Secretariat's analysis uncovered that the 24

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<sup>172</sup> Mustafizur Rahman and Kazi Mahmudur Rahman (n 168) 15.

<sup>173</sup> Daily Star, 'Remittance Flows over \$30 Billion in FY25' <<https://www.thedailystar.net/business/news/remittance-flows-over-30-billion-fy25-3928491>> accessed on 22 September 2025.

<sup>174</sup> See Agnieszka Wójcik-Czerniawska, 'Financial Innovations and New Tools in Finance' (2023) 46 *Journal of Management and Financial Sciences*, 105-16 <<https://doi.org/10.33119/JMFS.2022.46.8>>.

<sup>175</sup> See Nurse, Keith, 'Migration, Diasporas, Remittances and the Sustainable Development Goals in Least Developed Countries' (2018) 9 (2) *Journal of Globalization and Development* <<https://doi.org/10.1515/jgd-2019-0006>>.

<sup>176</sup> Nairobi Ministerial Decision of 19 December 2015 (n 180) para 1.4.

<sup>177</sup> UNCTAD, 'Effective Market Access for Least Developed Countries' Services Exports: Case Study on Utilizing the World Trade Organization Services Waiver in Cambodia' (2020) 4 <[https://unctad.org/system/files/non-official-document/ditctnadmisc2020d5\\_en.pdf](https://unctad.org/system/files/non-official-document/ditctnadmisc2020d5_en.pdf)>.

WTO Members notifying the grant of preferences (as required under the waiver) are, in fact, referring to the existing MFN treatment that applies to all Members.<sup>178</sup> This is also true for some of the notified preferences under preferential trade agreements.<sup>179</sup> Consequently, the service waiver does not grant differentiated preferences to the LDCs (also referred to as the ‘preference margin’), albeit extended until 2030<sup>180</sup>.

For the foregoing reasons, the service waiver, in practice, carries symbolic value rather than substantive value because the actual grant of preferences requires a true departure from the MFN obligation. In the words of the Members ‘actual preference’ means “*preferences which have commercial value and promote economic benefits to LDCs*”<sup>181</sup>. Even if such preferences were extended (whether in general or on an *ad hoc* basis), several of the LDCs<sup>182</sup> will graduate before 2030 without benefiting from preferences in the service sector. As a result, the waiver-led integration of LDCs in global trade in services is limited, albeit more beneficial to a few LDCs, such as Bangladesh. Given the absence of actual preferences<sup>183</sup> competitiveness in services trade post-graduation suggests mixed results.

#### 2.3.4. TRIPS Flexibilities for the LDCs

The TRIPS Agreement is defined as a “minimum standard”<sup>184</sup> agreement. It obliges Members to provide minimum protection for the intellectual property (IP) of their WTO counterparts,

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<sup>178</sup> WTO and EIF, ‘Trade Impacts of LDC Graduation’ (n 38) 8.

<sup>179</sup> UN, ‘*Preferential Treatment for Services and Service suppliers*’ <[https://www.un.org/ldcportal/content/preferential-treatment-services-and-service-suppliers#:~:text=Increasing%20LDCs%20participation%20in%20services,MIN\(15\)/48](https://www.un.org/ldcportal/content/preferential-treatment-services-and-service-suppliers#:~:text=Increasing%20LDCs%20participation%20in%20services,MIN(15)/48)> accessed on 20 September 2025.

<sup>180</sup> This is the second 15-year extension from 2015. See WTO, *Implementation of Preferential Treatment in Favour of Services and Service Suppliers of Least Developed Countries and Increasing LDC Participation in Services Trade*’ (2015) Nairobi Ministerial Decision of 19 December 2015, WT/MIN(15)/48 — WT/L/982 <[https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/1982\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/1982_e.htm)> accessed on 20 September 2025.

<sup>181</sup> Nairobi Ministerial Decision of 19 December 2015 (n 180) para. 1.2.

<sup>182</sup> This includes Bangladesh, Lao PDR, Nepal (2026), Solomon (2027), Cambodia, and Senegal (2029). See UN, ‘*LDC Portal - International Support Measures for Least Developed Countries*’ <[<sup>183</sup> UNCTAD Analysis of Services Waiver for the LDCs \(n 170\) 12.](https://www.un.org/ldcportal/content/frequently-asked-questions-graduation#:~:text=Q:%20Which%20countries%20will%20leave,scheduled%20to%20graduate%20in%202029.>https://www.un.org/ldcportal/content/frequently-asked-questions-graduation#:~:text=Q:%20Which%20countries%20will%20leave,scheduled%20to%20graduate%20in%202029.> accessed on 27 November 2025.</p></div><div data-bbox=)

<sup>184</sup> WTO, ‘*Overview: the TRIPS Agreement*’ (2024) <[https://www.wto.org/english/tratop\\_e/trips\\_e/intel2\\_e.htm#:~:text=The%20TRIPS%20Agreement%20is%20a,own%20legal%20system%20and%20practice](https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm#:~:text=The%20TRIPS%20Agreement%20is%20a,own%20legal%20system%20and%20practice)> accessed on 21 September 2025.

thereby ensuring baseline IPR standards across the IP regimes of protection-giving Members. It offers policy space via a wide array of flexibilities in the form of a) longer implementation period<sup>185</sup>, b) flexible enforcement measures,<sup>186</sup> and c) waiver from obligations<sup>187</sup>. The TRIPS Agreement, like the GATT and GATS, provides these flexibilities to respond to the special needs of the LDCs with an additional objective to allow them to build “*a sound and viable technological base*”<sup>188</sup>.

Our analysis<sup>189</sup> suggests 2 primary categories of LDC-specific flexibilities under the TRIPS Agreement. Category A includes waivers from obligations for a certain period, which in TRIPS parlance is called “*extended transition periods*”<sup>190</sup>. These transition periods can further be divided into two types: 1) general and 2) sector-specific (pharmaceuticals).<sup>191</sup> On the other hand, Category B covers the obligation<sup>192</sup> of the developed countries to incentivize the transfer of technology to the LDCs.

The overall objective of both categories is to enable LDCs to create a sound and viable technological base, which the LDC Group has underlined as “*a crucial driver of productivity*

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<sup>185</sup> WTO, *Decision of the Council for TRIPS: Extension of the Transition Period under Article 66.1 for Least-Developed Country Members* (30 November 2005) IP/C/40 [TRIPS Extension 2005] <[https://www.wto.org/english/tratop\\_e/trips\\_e/ta\\_docs\\_e/7\\_1\\_ipc40\\_e.pdf](https://www.wto.org/english/tratop_e/trips_e/ta_docs_e/7_1_ipc40_e.pdf)>; WTO, *Decision of the Council for TRIPS: Extension of the Transition Period under Article 66.1 for Least-Developed Country Members* (June 2013) IP/C/64 [TRIPS Extension 2013] <[https://www.wto.org/english/tratop\\_e/trips\\_e/ta\\_docs\\_e/7\\_1\\_ipc64\\_e.pdf](https://www.wto.org/english/tratop_e/trips_e/ta_docs_e/7_1_ipc64_e.pdf)>; WTO, *Decision of the Council for TRIPS: Extension of the Transition Period Under Article 66.1 for Least Developed Country Members* (June 2021) IP/C/88 [TRIPS Extension 2021] <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/88.pdf&Open=True>> accessed on 21 September 2025.

<sup>186</sup> For example, enforcement of IPRs is not mandatory at the border for certain goods without brand names. See Articles 51-60 of the TRIPS Agreement.

<sup>187</sup> See Sivaramjani, Thambisetty and others, ‘*The TRIPS Intellectual Property Waiver Proposal: Creating the Right Incentives in Patent Law and Politics to End the COVID-19 Pandemic*’ (2021) LSE Legal Studies Working Papers <<https://eprints.lse.ac.uk/112227/>>.

<sup>188</sup> TRIPS Agreement (n 15) Preamble, 5<sup>th</sup> recital.

<sup>189</sup> It will be far-fetched to categorize ‘technical and financial cooperation’ as enshrined under Article 67 since it is an ongoing obligation and extends to graduated LDCs, i.e., developing countries as well. The same is true for the TRIPS Review mechanism, an in-built feature of the Agreement under Article 71.2, which mandated the TRIPS Council to periodically assess the needs of the LDCs.

<sup>190</sup> WTO, ‘*WTO Members Agree to Extend TRIPS Transition Period for LDCs until 1 July 2034*’ (2021) <[https://www.wto.org/english/news\\_e/news21\\_e/trip\\_30jun21\\_e.htm](https://www.wto.org/english/news_e/news21_e/trip_30jun21_e.htm)> accessed on 21 September 2025.

<sup>191</sup> Granted under Article 66.1 of the TRIPS Agreement.

<sup>192</sup> TRIPS Agreement (n 15) Article 66:2.

*growth especially in the present era of digital economy*<sup>193</sup>. To realize this objective under Category A, especially in light of their constraints in economy, finance, and administration, Article 66.1 granted a 10-year exemption period from implementation of the TRIPS provisions (since the Agreement's entry into force), except for the non-discrimination principles<sup>194</sup>. This exemption period, which can be extended anew upon a request by an LDC<sup>195</sup>, has been renewed three times, i.e., in 2005<sup>196</sup>, 2013<sup>197</sup>, and 2021<sup>198</sup> by the Council of TRIPS.

The first extension reaffirmed Article 67 (technical and financial cooperation) obligations of Members while requiring the LDCs to ensure that their laws and regulations are commensurate with the degree of compliance required under the TRIPS Agreement.<sup>199</sup> The 2013 extension reiterated the LDCs' right to make the *“full use of the flexibilities provided by the Agreement to address their needs”*<sup>200</sup>. The last extension of 2021 until 1 July 2034, of 13 years, is the longest transition period granted so far.

Regarding the sector-specific transition period, which is limited to the pharmaceutical sector, it is grounded in the 2001 Doha Declaration on TRIPS and Public Health<sup>201</sup>. It established the mandate to grant waivers related to pharmaceuticals, thereby providing major flexibility by exempting LDCs from implementing the provisions under Section 5 on Patents and Section 7 on Protection of Undisclosed Information of Part II of the TRIPS Agreement, as well as from enforcing the rights thereunder.<sup>202</sup> In 2002, the TRIPS Council adopted the Doha decision,

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<sup>193</sup> WTO, *Extension of the Transition Period under TRIPS Article 66.1 for Least Developed Country Members* (2020) Communication from Chad on behalf of the LDC Group, IP/C/W/668, para. 6 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q%3A/IP/C/W/668.pdf&Open=True>>.

<sup>194</sup> TRIPS Agreement (n 15) Article 3 (National Treatment), Article 4 (MFN), and Article 5 (non-application of Article 3 and 4 to multilateral agreements on acquisition or maintenance of protection).

<sup>195</sup> *ibid.*

<sup>196</sup> See TRIPS Extension 2005 (n 185).

<sup>197</sup> See TRIPS Extension 2013 (n 185).

<sup>198</sup> See TRIPS Extension 2021 (n 185).

<sup>199</sup> See TRIPS Extension 2005 (n 185) para. 5.

<sup>200</sup> See TRIPS Extension 2013 (n 185) para. 2.

<sup>201</sup> WTO, *Declaration on the TRIPS Agreement and Public Health* (20 November 2001) WT/MIN (01)/DEC/2 <[https://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_trips\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm)> accessed on 22 September 2025.

<sup>202</sup> *ibid* para. 7.

waiving the TRIPS obligations for the LDCs towards pharmaceutical products until 1 January 2016.<sup>203</sup> It is the first sector-specific extension in addition to the general ones under Article 66.1. This extension was further renewed until 1 January 2033.<sup>204</sup>

In Doha, Members were aware that without adequate local production capacity, these initiatives hold little meaning for the LDCs. To fill this gap, the Members agreed in the General Council<sup>205</sup> to waive the obligation under Article 31 (f), which requires a Member, who approves the use of an invention that is protected by a patent without the authorization of the patent holder (called “*compulsory license*”<sup>206</sup>), to use it for the supply of that Member’s domestic market only. It effectively addressed the LDCs’ capacity constraints by granting access to essential pharmaceutical products<sup>207</sup>. The significance of this necessity has been so well-acknowledged that Members amended<sup>208</sup> the TRIPS Agreement to incorporate the waiver as what is today known as ‘Article 31bis’ in 2017.<sup>209</sup>

Furthermore, a subsequent General Council decision<sup>210</sup> waived the LDCs’ obligations under Article 70.8 (to accept mailbox applications) and Article 70.9 (to grant exclusive marketing rights) and extended the pharmaceutical transition period to 2033.

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<sup>203</sup> WTO, *Decision of the Council for TRIPS of 27 June 2002* (June 2002) IP/C/25, para. 1 [TRIPS Decision of 2002] <[https://www.wto.org/english/tratop\\_e/trips\\_e/art66\\_1\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/art66_1_e.htm)>.

<sup>204</sup> WTO, *Decision of the Council for TRIPS of 6 November 2015* (2015) IP/C/73, para. 1. <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/73.pdf&Open=True>>.

<sup>205</sup> WTO, *The General Council Decision of 30 August 2003* (2003) Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, WT/L/540, para. 2 <[https://www.wto.org/english/tratop\\_e/trips\\_e/ta\\_docs\\_e/wtl540.pdf](https://www.wto.org/english/tratop_e/trips_e/ta_docs_e/wtl540.pdf)>.

<sup>206</sup> See Manisha A Desai, ‘*Compulsory licensing: Procedural requirements under the TRIPS Agreement*’ (October 2016) 18 (1-4) *Pharmaceuticals Policy and Law*, 31-44 <<https://doi.org/10.3233/PPL-160430>>.

<sup>207</sup> Implementation of Paragraph 6 (n 205) para. 6 (i).

<sup>208</sup> WTO, *General Council Decision of 6 December 2005* (2005) Amendment of the TRIPS Agreement, WT/L/641, 3 <[https://www.wto.org/english/tratop\\_e/trips\\_e/ta\\_docs\\_e/wtl641.pdf](https://www.wto.org/english/tratop_e/trips_e/ta_docs_e/wtl641.pdf)>.

<sup>209</sup> See Wardi Zaman, Yogesh Pai, and Jessyca Van Weelde (ed), ‘*WIPO and WTO, ‘WIPO-WTO Colloquium Papers Volume 11 (2020) Special Edition*’ (2022) Research Papers from the Alumni of WIPO-WTO Colloquia for Teachers of Intellectual Property Law (2004 – 2019) 34-35 <[https://www.wto.org/english/tratop\\_e/trips\\_e/colloquium\\_papers\\_e/2020/wipo\\_wto\\_colloquium\\_2020\\_e.pdf](https://www.wto.org/english/tratop_e/trips_e/colloquium_papers_e/2020/wipo_wto_colloquium_2020_e.pdf)>.

<sup>210</sup> WTO, *General Council Decision of 30 November 2015* (2015) Least Developed Country Members – Obligations under Article 70.8 and Article 70.9 of the TRIPS Agreement with respect to Pharmaceutical Products, WT/L/971.

As for Category B, Article 7 of the TRIPS Agreement set the tone for “*transfer and dissemination of technology*”<sup>211</sup>, while Article 66.2 lays down the legal obligation, which is as follows:

*"Developed country Members shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base."* (emphasis added)

It is clear that only developed country Members are obligated, and the sole beneficiaries are the LDCs.<sup>212</sup> The Members are not required to transfer technology to the LDCs. The obligation is limited to providing incentives to ‘promote and encourage’ such transfer<sup>213</sup>. Giving of incentives is restricted within territorial ‘enterprises and institutions’<sup>214</sup>.

Nonetheless, critics have identified several aspects of Article 66.2 that hinder its effective implementation, and one of which is the vagueness of its language.<sup>215</sup> The use of the word ‘shall’ ascertains its binding nature, which is, however, weakened by the phrase “*for the purpose of promoting and encouraging*”, creating a serious ambiguity. The African Group<sup>216</sup>

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<sup>211</sup> TRIPS Agreement (n 15) Article 7.

<sup>212</sup> Jayashree Watal and Leticia Caminero, ‘Least-developed Countries, Transfer of Technology and the TRIPS Agreement’ (22 February 2018) ERSD-2018-01, 5-6 <[https://www.wto.org/english/res\\_e/reser\\_e/ersd201801\\_e.htm](https://www.wto.org/english/res_e/reser_e/ersd201801_e.htm)>.

<sup>213</sup> *ibid.*

<sup>214</sup> See Sourav Paul and Tridib Mandal, ‘Transfer of Environmentally Sound Technologies: Analysing the Challenges under the TRIPS Patent Regime’ (2024) <<https://jindalforinteconlaws.in/2024/02/29/transfer-of-environmentally-sound-technologies-analysing-the-challenges-under-the-trips-patent-regime/>>.

<sup>215</sup> Fernando, Dos Santos, ‘Maximizing the Use of the TRIPS Agreement to Promote Technology Transfer and Innovation in Africa’, from ‘Innovation in Africa: Levelling the Playing Field to Promote Technology Transfer’ (Oxford, 21 March 2024) <<https://doi.org/10.1093/oso/9780192857309.003.0005>> accessed 22 September 2025; Jayashree Watal and Leticia Caminero, ‘Least-Developed Countries, Transfer of Technology and the TRIPS Agreement’ in Correa, C., Seuba, X. (eds) *Intellectual Property and Development: Understanding the Interfaces* (2019) Springer <[https://doi.org/10.1007/978-981-13-2856-5\\_10](https://doi.org/10.1007/978-981-13-2856-5_10)>; Opeyemi Kolawole, ‘Rethinking the Incentive-based Approach to Technology Transfer in Article 66.2 of the TRIPS Agreement’ (2024) <[https://www.researchgate.net/publication/381594068\\_Rethinking\\_the\\_Incentivebased\\_Approach\\_to\\_Technology\\_Transfer\\_in\\_Article\\_662\\_of\\_the\\_TRIPS\\_Agreement](https://www.researchgate.net/publication/381594068_Rethinking_the_Incentivebased_Approach_to_Technology_Transfer_in_Article_662_of_the_TRIPS_Agreement)>; Lila Dhar Adhikari, Deeksya Thapa, and Khatri, Ashish, ‘Examining the Provision of Technology Transfer to LDCs under TRIPS Article 66.2’ (20 May 2025) <[https://www.researchgate.net/publication/391848230\\_Examining\\_the\\_Provision\\_of\\_Technology\\_Transfer\\_to\\_LDCs\\_under\\_TRIPS\\_Article\\_662](https://www.researchgate.net/publication/391848230_Examining_the_Provision_of_Technology_Transfer_to_LDCs_under_TRIPS_Article_662)> accessed 24 September 2025.

<sup>216</sup> Cuba, Dominican Republic, Egypt, El Salvador, Honduras, India, Indonesia, Malaysia, Nigeria, Pakistan, Sri Lanka, and Uganda have stressed that Article 66.2 shall be treated as obligatory in document WT/GC/W/354. See UNCTAD, ‘Current Developments on Issues of Interest to African Countries in the Context of Post-Seattle WTO Trade Negotiations: Issues Pertaining to the Implementation of WTO Agreements from the Perspective of

has called attention to the wrong use of the mandatory provision as a “best endeavour clause”<sup>217</sup>. It does not define what technology transfer means, particularly in the absence of an internationally accepted meaning, and the same is true for the term ‘incentives’. Consequently, developed country Members have adopted their own definitions of ‘technology transfer’, which vary highly from one Member to another.<sup>218</sup> Strictly noting that it is unclear whether these definitions reflect the original negotiating intent of the parties, and cannot be regarded as legally authoritative.

Also, there is no guideline to identify and measure specific incentives that will meet the degree of promotion and encouragement to be given to enterprises/institutions, or what the required degree should be. It is crucial to formulate a tool to measure outcomes, which will help assess compliance with Article 66.2. For these reasons, the LDC Group presented the following 2 propositions in the TRIPS Council in 2022:<sup>219</sup>

*“The first purpose requires the TRIPS Council to identify the type and nature of measurable actions that developed country Members need to take so as to comply with the obligation under Article 66.2. The second deals with the question of how to measure the steps taken against the stated objectives of Article 66.2 read together with the Preamble and Articles 7 and 8 of the TRIPS Agreement”.*

In 2003, in response to the LDCs’ request<sup>220</sup>, the TRIPS Council introduced a monitoring mechanism requiring Developed Country Members to submit an annual report on actions concerning Article 66.2.<sup>221</sup> The Secretariat has been organizing annual Workshops and

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*Developing Countries’* (5 December 2001) UNCTAD/DITC/TNCD/2/add.1, 31  
<<https://unctad.org/system/files/official-document/poditctncd2a1.en.pdf>>.

<sup>217</sup> UNCTAD Commercial Diplomacy Programme, ‘*Training Tools on the TRIPS Agreement: the Developing Countries’ Perspective*’ (January 2002) 48 <<https://unctad.org/system/files/official-document/poditctncdm17.en.pdf>>.

<sup>218</sup> Jayashree Watal and Leticia Caminero (n 215) 23-24.

<sup>219</sup> WTO, *Mechanism for Ensuring the Monitoring and Full Implementation of the Obligations under Article 66.2 of the TRIPS Agreement in Accordance with Paragraph 11.2 of the Doha Decision on Implementation-Related Issues and Concerns* (5 July 2002) Communication from Least-Developed Countries, IP/C/W/357, para. 2 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/IP/C/W357.pdf&Open=True>>.

<sup>220</sup> *ibid* 2-3.

<sup>221</sup> WTO, *Decision of the Council for TRIPS of 19 February 2003* (2003) IP/C/28, para. 1 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/28.pdf&Open=True>>.

conducting voluntary surveys on the LDCs' needs and priorities in technology to facilitate dialogue between incentive providers and beneficiaries, and thereby effectuating the implementation of Article 66.2.<sup>222</sup> Also, to stimulate the flow of technology to the LDCs, the Working Group on Trade and Technology Transfer<sup>223</sup> was created. Unfortunately, these attempts do not, *ipso facto*, provide a panacea to all the legal vacua and ambiguities that persist.

One crucial aspect of Article 66.2 is to distinguish between LDCs and developing countries for preferential treatment allowing them to build technological bases.<sup>224</sup> For example, Angola and Nepal are endowed with ample natural resources but lack the technology to process and refine them. In contrast, Bangladesh and Cambodia need technology in automation, while Bhutan requires technology in renewable energy.<sup>225</sup> However, these specific needs remain largely unaddressed because programmes reported by Members are primarily general. Egypt, India, and the African Group have remarked that “*there have been no concrete steps by developed countries with regard to the fulfilment of their obligations*”<sup>226</sup>. Moreover, as the Members self-report their technology transfer activities, it leaves the possibility that some may categorize ‘general incentives’ as ‘LDC-specific’.<sup>227</sup> A study uncovered that out of 292 reported programmes/policies analyzed between 1999-2002, merely 31% were designed for the LDCs, highlighting that “*many of the policies and programmes [were] either poorly targeted, or did not at all target LDCs*”<sup>228</sup>.

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<sup>222</sup> Jessyca, Van Weelde and others, ‘Reflection on the Implementation of Decision on Implementation of Article 66.2 of the TRIPS Agreement: Incentive for Technology Transfer to Least-developed countries’(Policy ERSD-2023-12, 13 December 2023) 5 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4623380](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4623380)> accessed on 24 September 2025.

<sup>223</sup> WTO, ‘Working Group on Trade and Technology Transfer’ <[https://www.wto.org/english/tratop\\_e/devel\\_e/dev\\_wkgrp\\_trade\\_transfer\\_technology\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/dev_wkgrp_trade_transfer_technology_e.htm)> accessed on 24 September 2025.

<sup>224</sup> Suerie Moon, ‘Does TRIPS Art. 66.2 Encourage Technology Transfer to LDCs? An Analysis of Country Submissions to the TRIPS Council (1999-2007)’ (UNCTAD - ICTSD Project on IPRs and Sustainable Development Policy Brief Number 2, December 2008) 3 <[https://unctad.org/system/files/official-document/iprs\\_pb20092\\_en.pdf](https://unctad.org/system/files/official-document/iprs_pb20092_en.pdf)> accessed on 24 September 2025; See UNCTAD Commercial Diplomacy Programme (n 217) 36.

<sup>225</sup> Lila Dhar Adhikari, Deeksya Thapa, and Khatri, Ashish (n 215) 11-12.

<sup>226</sup> UNCTAD Commercial Diplomacy Programme (n 217) 46; See Carlos M. Correa, ‘Review of the TRIPS Agreement: Fostering the Transfer of Technology to Developing Countries’ (2001) Third World Network, 5-6 <<https://twn.my/title2/t&d/tnd13.pdf>>.

<sup>227</sup> Suerie Moon (n 224) 3.

<sup>228</sup> *ibid.*

In answer to our research question, whether these preferential provisions and decisions contribute to LDCs' trade competitiveness, they indeed offer the policy space to acquire a notable degree of competitiveness. The extensions are significant for the LDCs because extended timelines allow them to gradually shape and build a stronger legal system to enforce IPR standards and become TRIPS-compliant as they graduate. Additionally, the pharmaceutical waivers constitute remarkable achievements in relaxing IP obligations and addressing the needs of the LDCs in the health sector. To add, the 2001 Doha Declaration on TRIPS and Public Health sets an example of mandate creation that serves as a pivotal tool to ensure that the multilateral trading system can be increasingly relevant and accommodating to the needs of the LDCs.

On the technology transfer issue, in the words of Ambassador Ahmad Makaila of Chad, *"modest progress has been made but much remains to be done"*<sup>229</sup>.

### **2.3.5. Permissible Subsidies and Flexibilities under the SCM Agreement**

Strikingly, the preferential treatment under the Agreement on Subsidies and Countervailing Measures<sup>230</sup> (SCM Agreement) is unique compared to those provided under the covered agreements discussed thus far, because it is not subject to the discretion of preference-granting Members, such as in the case of GSP schemes. From an economic perspective, it creates external policy space for Governments of the LDCs to intervene in their markets to stimulate desired outcomes commensurate with their development needs.<sup>231</sup> The SCM Agreement made this possible by exempting the use of export subsidies, which are otherwise prohibited in WTO law<sup>232</sup>. To prevent the misuse of the exemption and to ensure that it does not result in unfair

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<sup>229</sup> WTO, *Workshop Looks at Incentives for Technology Transfer to LDCs under TRIPS Agreement* <[https://www.wto.org/english/news\\_e/news21\\_e/tech\\_18mar21\\_e.htm](https://www.wto.org/english/news_e/news21_e/tech_18mar21_e.htm)> accessed on 24 September 2025.

<sup>230</sup> Agreement on Subsidies and Countervailing Measures, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1869 UNTS 14 (entered into force 1 January 1995).

<sup>231</sup> See A. Desai Mihir and R. Hines Jr James, 'Market Reactions to Export Subsidies' (March 2008) 74 *Journal of International Economics*, 459-474 <<https://doi.org/10.1016/j.jinteco.2007.04.006>>; Zesheng Sun and Shuyun Wang, 'Revisiting the Economic Effect of Export Subsidy: An Expansion of the Traditional Analysis' (2013) 6 (1) *Journal of Chinese Economic and Foreign Trade Studies*, 35-45 <<https://ideas.repec.org/a/eme/jcefts/v6y2013i1p35-45.html>> accessed 26 September 2025.

<sup>232</sup> SCM Agreement (n 230) Article 3.1(a).

competition, the Agreement goes a step further in categorizing<sup>233</sup> beneficiaries into a) LDCs<sup>234</sup> and b) developing countries<sup>235</sup> with \$1,000 GNP per capita (annually) and sets an expiration (phase-out) period, which starts once their product becomes export-competitive.

Unlike the TRIPS Agreement, the SCM Agreement provides a measuring tool, in this case, to assess when a product becomes export-competitive with explicit rules outlined in Article 27.5 and Article 27.6. The phase-out period of 8 years<sup>236</sup> granted to the LDCs starts when their products reach “*a share of 3.25% in the global trade for two consecutive calendar years*”<sup>237</sup> as confirmed in the Doha MC.

Export subsidies make the goods of the LDC Members cheaper than the market price and reduce the production costs of their firms. Naturally, subsidized exports are more competitive in the international market than non-subsidized goods. Logically, export subsidies are, in general, considered to bear positive results,<sup>238</sup> albeit concerns<sup>239</sup> remain. An econometric analysis disclosed that the LDCs’ firms with poor technology fail to compete in the international market against foreign firms with advanced technologies, resulting in unproductive outcomes.<sup>240</sup> The study concluded that “*when there is a big technological*

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<sup>233</sup> SCM Agreement (n 230) Article 27.2(a).

<sup>234</sup> SCM Agreement (n 230) Annex VII: a.

<sup>235</sup> SCM Agreement (n 230) Article 27. 2(b) and Annex VII: b.

<sup>236</sup> SCM Agreement (n 230) Article 27.5.

<sup>237</sup> WTO, *Implementation-Related Issues and Concerns-Decision of 14 November 2001* (20 November 2001) Doha Ministerial Conference, WT/MIN(01)/17, para. 10.5.

<sup>238</sup> See Francisco Aguayo Ayala and Kevin P. Gallagher, ‘*Preserving Policy Space for Sustainable Development: The Subsidies Agreement at the WTO*’ (2005) IISD <<https://www.iisd.org/publications/report/preserving-policy-space-sustainable-development-subsidies-agreement-wto-full>>.

<sup>239</sup> See Dominic Coppens, ‘How Much Credit for Export Credit Support Under the SCM Agreement?’ (March 2009) 12 (1) *Journal of International Economic Law*, 63–113 <<https://doi.org/10.1093/jiel/jgn041>>; Andrew Green and others, ‘The Enduring Problem of World Trade Organization Export Subsidies Rules’ in Kyle W. Bagwell, George A. Bermann and Petros C. Mavroidis (eds) *Law and Economics of Contingent Protection in International Trade* (Cambridge University Press, 2009) 116 <<https://doi.org/10.1017/CBO9780511691577.005>> accessed on 28 September 2025; Ralf Peters, ‘*Roadblock to Reform: the Persistence of Agricultural Export Subsidies*’ (2006) 32 UNCTAD Policy Issues in International Trade and Commodities Study Series, 32 <[https://unctad.org/system/files/official-document/itcdtab33\\_en.pdf](https://unctad.org/system/files/official-document/itcdtab33_en.pdf)> accessed on 28 September 2025.

<sup>240</sup> Kyoungwon Rhee and Moonsung Kang, ‘Export Subsidies and Least-Developed Countries: Entry-Deterrence Model under Complete and Incomplete Information’ (2012) 28 ARI Working Paper Series, 20 <[http://www.asiacresearch.org/eng/sub03/sub03\\_3\\_4\\_view.html?no=2447&page=1](http://www.asiacresearch.org/eng/sub03/sub03_3_4_view.html?no=2447&page=1)>.

*difference between the two countries, the export subsidy policy is harmful and ineffective*”<sup>241</sup>. Except for Brazil, export subsidies mostly failed to improve export performance in Latin American countries (Argentina, Venezuela, Colombia, and Costa Rica), where the exchange rate is unstable and/or suffers from severe corruption.<sup>242</sup> India’s experience has been no different, while Brazil and Mexico found export subsidies way too costly a means to diversify exports.<sup>243</sup> Moreover, the increase of subsidies in major economies such as the EU, the USA, and China indicates the risk of triggering a ‘race to the bottom’.<sup>244</sup>

Furthermore, the SCM Agreement<sup>245</sup> does not provide discipline on green subsidies, and hence, no policy space to introduce subsidies for the transition to green industries,<sup>246</sup> although in *Canada- Renewable Energy*<sup>247</sup>, the Appellate Body did not prohibit green subsidies as such. They are more significant for the LDCs than other WTO Members, as developed country Members often require high environmental standards for beneficiaries to qualify under their GSP schemes.<sup>248</sup>

What happens when an LDC graduates? The Panel in *India – Export Related Measures* dispute stated that “[...] the prohibition in Article 3.1(a) shall not apply as long as the Members in

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<sup>241</sup> *ibid.*

<sup>242</sup> Nogues, Julio, ‘Latin America’s Experience with Export Subsidies’ (1989) World Bank Policy Research Working Paper Series 182 <<http://documents.worldbank.org/curated/en/574271468758762222>>.

<sup>243</sup> Arvind Panagariya, ‘Evaluating the Case for Export Subsidies’ (2000) World Bank Policy Research Working Paper No. 2276 <<http://hdl.handle.net/10986/22282>>.

<sup>244</sup> IMF, OECD, WTO, and World Bank, ‘Subsidies, Trade, and International Cooperation’ (2022) 5 <[https://www.oecd.org/en/publications/2022/04/subsidies-trade-and-international-cooperation\\_1fd672ee.html](https://www.oecd.org/en/publications/2022/04/subsidies-trade-and-international-cooperation_1fd672ee.html)> accessed on 28 September 2025; Elizabeth Van Heuvelen, ‘Subsidy Wars’ (June 2023) IMF <<https://www.imf.org/en/Publications/fandd/issues/2023/06/B2B-subsidy-wars-elizabeth-van-heuvelen>> accessed on 28 September 2025.

<sup>245</sup> Article 8 of the SCM Agreement provided scope for environmental subsidies. It expired in 2000 and was not renewed. See Robert Howse, ‘Climate Mitigation Subsidies and the WTO Legal Framework: A Policy Analysis’ (May 2010) IISD, 4 <[https://www.iisd.org/system/files/publications/bali\\_2\\_copenhagen\\_subsidies\\_legal.pdf](https://www.iisd.org/system/files/publications/bali_2_copenhagen_subsidies_legal.pdf)>.

<sup>246</sup> Zaker Ahmad, ‘Conflicts of the SCM Agreement with LDCs Interests over Renewable Energy Incentives: Proposals for Reform’ (2015) 50 *Foreign Trade Review*, 118-134 <<https://doi.org/10.1177/0015732515572059>> accessed on 28 September 2025; Sherzod, Shadikhodjaev, ‘Renewable Energy and Government Support: Time to ‘Green’ the SCM Agreement?’ (2015) 14 (3) *World Trade Review*, 479–506 <<https://doi.org/10.1017/S1474745614000317>> accessed on 28 September 2025.

<sup>247</sup> WTO, *Canada – Measures Relating to the Feed-in Tariff Program- Report of the Appellate Body* (6 May 2013) WT/DS426/AB/.

<sup>248</sup> See ‘n 124’.

question are designated as least developed countries by the United Nations”<sup>249</sup> Therefore, upon graduation, an LDC loses the protection of Article 27.2, which allows it to maintain export subsidies under Annex VII (a). In principle, a graduated LDC may still qualify for this exemption as an ‘Annex VII:(b) developing country’ as long as its income level remains below US\$1000. Technically, once it exceeds this income threshold, Article 27.2 (b) could apply, granting an 8-year phase-out period for all other ‘non-Annex VII:(b) developing countries’ to withdraw export subsidies. However, since the SCM Agreement does not specify provisions for the treatment of graduated LDCs, the LDC Group has sought<sup>250</sup> an extension of Article 27.2 (see **Table 2.1**) because their income may also fall below or drop to US\$1000 per capita after graduation. The MC13 did not make any progress on this issue, but it was not entirely dismissed either, as the proposal remains under review.<sup>251</sup> Dominic Coppens opined that only a “*highly judicial active Panel or Appellate Body*”<sup>252</sup> could enable the inclusion of the LDCs beyond the strict list of Annex VII:(b) developing countries.

On the other hand, the WTO Members have provided<sup>253</sup> the scope for developing country Members who leave Annex VII:(b) to be re-included into the Category if their GNP drops below the \$1000 threshold. Additionally, they can request the SCM Committee for an extension of the phase-out period.<sup>254</sup> In 2012, 19 developing country Members received final extensions.<sup>255</sup> Counter-intuitively, the SCM Agreement grants developing country Members more ‘special and differentiated treatment’ over the LDCs because, in practice, the Annex

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<sup>249</sup> WTO, *India – Export Related Measures-Report of the Panel* (31 October 2019) WT/DS541/R, para. 7.50-7.51.

<sup>250</sup> WTO, *Communication from the Mission of the Central African Republic on behalf of the LDC Group with Regard to Measures to Allow Graduated LDCs, with GNP Below US\$1000, Benefits Pursuant to Annex VII (B) of the Agreement on Subsidies and Countervailing Measures* (19 April 2018) G/C/W/752-WT/GC/W/742, para. 1.4.

<sup>251</sup> See ‘n 91’.

<sup>252</sup> Coppens Dominic, ‘How Special Is the Special and Differential Treatment under the SCM Agreement? A Legal and Normative Analysis of WTO Subsidy Disciplines on Developing Countries’ (2013) 12 *World Trade Review*, 84 <<https://doi.org/10.1017/S1474745612000493>>.

<sup>253</sup> WT/MIN(01)/17 (n 237) para 10.4.

<sup>254</sup> WT/MIN(01)/17 (n 237) para. 10.6; SCM Agreement (n 230) Article 27.4. Also See Committee on Subsidies and Countervailing Measures, *Chairman's Report on the Implementation-Related Issues Referred to the Committee at the Request of the Chairman of the General Council on 2 August and 15 October 2001 and in the 15 December 2000 Decision of the General Council* (26 October 2001) G/SCM/38.

<sup>255</sup> See WTO, Analytical Index SCM Agreement – Article 27 (Practice) 4 <[https://www.wto.org/english/res\\_e/publications\\_e/ai17\\_e/subsidies\\_art27\\_oth.pdf](https://www.wto.org/english/res_e/publications_e/ai17_e/subsidies_art27_oth.pdf)>.

VII:(b) re-inclusion and extension-request under Article 27.4 are not available to the LDCs. As a result, the SCM Agreement does not offer a mechanism to sustain competitiveness after graduation. The cessation of Article 27.2 (a) protection exposes a graduated LDC to the risks of countervailing duties on its subsidized exports without any multilateral transition-related guidance.

### 2.3.6. Agricultural Export Subsidies under the Agriculture Agreement

The Agreement on Agriculture<sup>256</sup> (AoA) is more specific to the needs of the LDCs. It operates as a *lex specialis*<sup>257</sup> to the SCM Agreement so that the negotiated outcomes<sup>258</sup> on S&DT, particularly ‘agricultural export subsidies’ (AES) that enable food security and rural development, are not undermined by the general law. The AoA<sup>259</sup> exempts the LDCs from making commitments (also called “*reduction commitment*”<sup>260</sup>) to reduce subsidies over a specific transition period, like the developing countries. Historically, WTO Members ensured that LDCs have sufficient policy space in their tariff structure. In the Uruguay Round, the LDCs were required to bind their tariffs for agricultural products only, while developing country Members made commitments to reduce their tariff levels.<sup>261</sup>

The Nairobi decision on Export Competition struck a balance between the ultimate vision to eliminate all AES and the need for LDCs’ competitiveness in the agriculture sector by granting a transition period to phase out AES by 2030<sup>262</sup>. Additionally, they are given an exceptionally

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<sup>256</sup> Agreement on Agriculture (Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, adopted 15 April 1994, entered into force 1 January 1995) 1867 UNTS 410.

<sup>257</sup> Lorand Bartels, ‘The Relationship Between the WTO Agreement on Agriculture and the SCM Agreement: An Analysis of Hierarchy Rules in the WTO Legal System’ (2016) Commonwealth Secretariat, International Trade Working Paper 2016/15, 1.

<sup>258</sup> See WTO, ‘Hong Kong Ministerial Declaration, Annex F’ (n 106); WTO, *Ministerial Declaration* (4 November 2001) WT/MIN(01)/DEC/1, para. 13; WTO, *Ministerial Decision of April 1994 on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-developed and Net Food-importing Developing Countries* (April 1994) <[https://www.wto.org/english/docs\\_e/legal\\_e/35-dag\\_e.htm](https://www.wto.org/english/docs_e/legal_e/35-dag_e.htm)> accessed on 29 September 2025.

<sup>259</sup> AoA (n 256) Article 15.2; Preamble.

<sup>260</sup> See WTO, *US – FSC- Report of the Appellate Body* (24 February 2000) WT/DS108/AB/R, para. 144 and 147.

<sup>261</sup> WTO and EIF, ‘Trade Impacts of LDC Graduation’ (n 38) 19.

<sup>262</sup> WTO, *Ministerial Decision: Export Competition* (2015) WT/MIN(15)/45-WT/L/980, para. 8 <<https://www.tralac.org/documents/resources/external-relations/wto/1707-export-competition-ministerial-decision-of-19-december-2015-mc10-nairobi/file.html>>.

longer repayment term of 36 to 54 months as opposed to 18 months for developing countries to acquire general foodstuffs.<sup>263</sup> These S&DT provisions allow the LDCs, together with the ‘net food-importing developing countries’<sup>264</sup> (NFIDC) to maintain using AES in line with Article 9.4 of AoA, which extends to measures, *vis-à-vis*, marketing, transport, and freight costs.

Agriculture is a crucial sector for the LDCs. In 2011, 70% of the LDCs’ workforce was employed in the agriculture sector, which accounted for 30% of their GDP, while 44 out of 48 LDCs relied on imports to meet domestic needs.<sup>265</sup> There is no doubt that graduated LDCs can continue the enjoyment of these S&DT by requesting the Committee on Agriculture to consider their inclusion as NFIDCs. Maldives<sup>266</sup> and Tonga<sup>267</sup>, for example, have set the precedent.<sup>268</sup>

The question is - are these AES relevant to the needs of the LDCs? To examine the effectiveness of AES, we will analyze 4 indicators: 1) utilization of AES, 2) increment in tariffs, 3) decrease in export after graduation, and 4) economic growth. **Indicator 1:** Amongst all the LDCs, mainly Bangladesh and Nepal were observed to utilize AES, while the former uses it below the minimum level<sup>269</sup> of 10%<sup>270</sup> set in the AoA, revealing that LDCs do not fully utilize the AES. As part of WTO notification obligations under AoA, numerous LDCs, namely Guinea, Haiti,

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<sup>263</sup> *ibid* para. 17.

<sup>264</sup> See WTO, *WTO List of Net Food-Importing Developing Countries for the Purposes of the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries* (23 March 2012) G/AG/5/Rev.10.

<sup>265</sup> UN, ‘*Agriculture and Food Security*’ (April 2011) Briefing Paper 4, 1 <[https://www.un.org/en/conf/ldc/pdf/ldc\\_briefingpapersen\\_4.pdf](https://www.un.org/en/conf/ldc/pdf/ldc_briefingpapersen_4.pdf)>.

<sup>266</sup> UNDESA, ‘*Ex Ante Assessment of the Impacts of the Graduation of Bangladesh from the Category of Least Developed Countries (LDCs)*’ (3 March 2020) 19 <<https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/Bangladesh.pdf>> accessed on 30 September 2025.

<sup>267</sup> WTO, ‘*Members Maintain Focus on Food Security, Discuss Farm Policies, Transparency*’ <[https://www.wto.org/english/news\\_e/news23\\_e/agri\\_28mar23\\_e.htm](https://www.wto.org/english/news_e/news23_e/agri_28mar23_e.htm)> accessed on 1 October 2025.

<sup>268</sup> See UNDESA, ‘*Ex Ante Assessment of the Impacts of the Graduation of Bangladesh*’ (n 266) 19.

<sup>269</sup> Mohammad A. Razzaque, ‘*Implications of LDC Graduation for Agricultural Exports from Bangladesh: Issues and Policy Options*’ (May 2023) RAPID Policy Brief, 2 <<https://www.rapidbd.org/wp-content/uploads/2023/10/LDC-Policy-Brief.pdf>>.

<sup>270</sup> Bangladesh, ‘*Impact Assessment and Coping up Strategies of Graduation from LDC Status for Bangladesh*’ (March 2020) General Economics Division of Bangladesh Planning Commission, 38 <<https://gedkp.gov.bd/wp-content/uploads/2021/02/LDC-Study-Report.pdf>> accessed on 30 September 2025.

Mauritania, Niger, Sierra Leone, and Uganda, have notified that they are not using AES.<sup>271</sup> The irrelevance of the AES is reflected by its increasing non-use; for example, no subsidy programme was reported<sup>272</sup> in 2025. The non-use is understandable from the viewpoint that AES will become actionable upon graduation, and that could trigger a dispute settlement mechanism against the LDCs. To add, if the LDCs use their limited finance on subsidizing exports instead of importing food, this will create a price hike<sup>273</sup> in the domestic market, leading to food insecurity. **Indicator 2:** An increase in tariffs on LDC exports after graduation diminishes the price advantage as stricter RoO applies.<sup>274</sup> This implies limited market access, which leads to a decline in exports and thus proves our **third indicator** as well. **Indicator 4:** Regardless of the availability of AES, from 2011 to 2018, exports of agriculture grew less than 0.5%<sup>275</sup> indicating that the effectiveness of AES is infinitesimal. This is because the LDCs are, in general, ‘net-food importers’ as opposed to food exporters. Melaku Geboye Desta stated that “[...] *the inability of developing countries to compete with the subsidized agriculture of developed countries has turned them into net importers of food produced in developed countries*”<sup>276</sup>, which renders AES counterproductive.

In short, the benefit of AES is primarily limited to reducing export costs. They do not contribute to the creation of institutions, policies, or the exchange of best practices related to essential

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<sup>271</sup> WTO, ‘Members Maintain Focus on Food Security, Discuss Farm Policies, Transparency’ (n 267).

<sup>272</sup> See WTO, *Compliance with Notification Obligations* (March 2025) G/AG/GEN/86/Rev.55, 5 <<https://web.wto.org.tw/downloadFiles/13938/409297/00iID7gHF9ohBU75KvPpPUvGfKbs59tG5szLw711111N9ziOTqCmAPoXI7F4uTqxuCfSXGqreT3dXoFms5txcWQjOzSQ>> accessed on 30 September 2025.

<sup>273</sup> WTO, *World Trade Report 2006: Exploring the Links Between Subsidies, Trade and the WTO* (2006) 57-58 <[https://www.wto.org/english/res\\_e/booksp\\_e/anrep\\_e/world\\_trade\\_report06\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report06_e.pdf)> accessed on 1 October 2025.

<sup>274</sup> WTO and EIF, ‘Trade Impacts of LDC Graduation’ (n 38) 43-44.

<sup>275</sup> *ibid* 34.

<sup>276</sup> See Melaku Geboye Desta, ‘Trade in Agricultural Products: Should Developing Countries Give up on the WTO Promise for a Fair and Market-Oriented Agricultural Trading System? A Historical and Theoretical Analysis’ in Bungenberg, M., Herrmann, C., Krajewski, M., Terhechte, J. (eds) *European Yearbook of International Economic Law* (2016) 7 *European Yearbook of International Economic Law*, 22- 29 <[https://doi.org/10.1007/978-3-319-29215-1\\_4](https://doi.org/10.1007/978-3-319-29215-1_4)>; Christian Häberli, ‘Agricultural Trade: How Bad is the WTO for Development?’ (2016) 7 *European Yearbook of International Economic Law*, 103-117 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2817919](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2817919)>.

‘sustainable agriculture and rural development’<sup>277</sup>. The lack of their practical relevance to the LDCs makes them ineffective, creating uncertainty regarding AES-led trade competitiveness.

### 2.3.7. S&DT Provisions under the Fisheries Subsidies Agreement

As we write this paper, WTO Members have achieved a historic milestone in setting the first-ever WTO Agreement on Fisheries Subsidies<sup>278</sup> (Fisheries Subsidies Agreement). It prohibits harmful subsidies and prevents consequent ‘illegal, unreported and unregulated’ (IUU) fishing, solving decade-old concerns<sup>279</sup>. The Members have explicitly recognized ‘S&DT’ as an “*integral part of [their] negotiations*”<sup>280</sup>. It is interesting to note that the S&DT provisions of the Fisheries Subsidies Agreement will not be enjoyed by all the LDCs equally because many of them are landlocked (LLDCs) without any coastal areas or Exclusive Economic Zones (EEZ). The Fisheries Subsidies Agreement does not exclude the LLDCs, but in practice, it mostly does not apply to them; for example, the prohibition of providing subsidies regarding overfished stock within the coastal jurisdiction of an LDC.<sup>281</sup> Even if the LLDCs are engaged in inland farming of fish<sup>282</sup>, it will not count because the Agreement explicitly excludes “*aquaculture and inland fisheries*”<sup>283</sup> from its scope.

Altogether, the Agreement has 5 S&DT provisions for the LDCs. Like many other covered Agreements, all these Articles’ benefits extend to the developing country Members as well, except for Article 6 on “*Specific Provisions for LDC Members*”. It obligates Members to exercise due restraint when the issues concern non-compliance by the LDCs and to consider

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<sup>277</sup> See, UN ‘Report of the Fourth United Nations Conference on the Least Developed Countries’ (May 2011) A/CONF.219/7, para. 8: (e) <<https://docs.un.org/en/A/CONF.219/7>>.

<sup>278</sup> WTO, Agreement on Fisheries Subsidies, Draft Ministerial Decision of 17 June 2022 (entered into force on 15 September 2025) WT/MIN(22)/33-WT/L/1144 [Fisheries Subsidies Agreement].

<sup>279</sup> See Sumaila Rashid and others, ‘*The World Trade Organization and Global Fisheries Sustainability. Fisheries Research*’ (2007) 88 (1-3) Fisheries Research <<https://doi.org/10.1016/j.fishres.2007.08.017>>; Jiale Yuanyang Du, Sun, and Guoyun Zhang, ‘*The Impact of Overfishing on Environmental Resources and the Evaluation of Current Policies and Future Guideline*’ (2021) <<https://www.atlantis-press.com/proceedings/icprss-21/125961790>>; Ca-Van Pham and others, ‘*The Threshold Effect of Overfishing on Global Fishery Outputs: International Evidence from a Sustainable Fishery Perspective*’ (2023) 8 (2) Fishes, 71 <<https://doi.org/10.3390/fishes8020071>>.

<sup>280</sup> Fisheries Subsidies Agreement (n 278) para. 4.

<sup>281</sup> Fisheries Subsidies Agreement (n 278) Article 4.

<sup>282</sup> According to Article 2 of the Fisheries Subsidies Agreement, ‘fish’ means “*all species of living marine resources, whether processed or not*”.

<sup>283</sup> Fisheries Subsidies Agreement (n 278) Article 1.1, Footnote 1.

their respective specific situations, if any, when exploring solutions.<sup>284</sup> Furthermore, the LDCs are granted a transition period of 2 years (i.e., till September 2027) during which they are exempted from ‘DSU actions’<sup>285</sup>, and ‘prohibition from providing subsidies for IUU fishing’<sup>286,287</sup>. The same 2-year exemption is also given for subsidies that are being provided up to and within an LDC Member’s EEZ.<sup>288</sup>

In addition, Members have established a voluntary funding system<sup>289</sup> to provide the LDCs with TA and capacity building support together with relaxed notification obligation, i.e., every 4 years for those whose “*global volume of marine capture production*”<sup>290</sup> is equal to or less than 0.8%.

Upon graduation, an LDC will benefit from all these S&DT provisions except Article 6. While these benefits, undoubtedly, will be a relief to the LDC Group, they do not catalyze trade competitiveness whatsoever. However, the funding mechanism could play a crucial role depending on the response of the donor country Members since it is voluntary.

### **2.3.8. Flexibilities under the SPS and TBT Agreements**

Measures relating to sanitary and phytosanitary (SPS) and technical barriers to trade (TBT) are actions taken by the WTO Members under their laws and regulations that affect international trade. The SPS Agreement<sup>291</sup> ensures food safety and animal/plant health and life, while all

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<sup>284</sup> *ibid* Article 6.

<sup>285</sup> *ibid* Article 10.

<sup>286</sup> *ibid* Article 3.1.

<sup>287</sup> *ibid* Article 3.8.

<sup>288</sup> *ibid* Article 4.4.

<sup>289</sup> *ibid* Article 7.

<sup>290</sup> *ibid* Article 8.1 (b), Footnote 13.

<sup>291</sup> Agreement on the Application of Sanitary and Phytosanitary Measures (adopted 15 April 1994, entered into force 1 January 1995) 1867 UNTS 493.

other technical aspects are governed by the TBT Agreement<sup>292</sup>.<sup>293</sup> Thus, the two agreements are mutually exclusive.

The SPS Agreement permitted the LDCs to delay application of the Agreement for 5 years, but this one-time transition period has already expired in 2000.<sup>294</sup> A better S&DT is provided under Article 10.1, which requires Members, before preparing and applying any measures, to consider the special needs of the LDCs. Undoubtedly, the margin of discretion that measure-imposing Member will apply *vis-à-vis* Article 10.1 will hinge on the bilateral relationship between the countries. Additionally, Article 9 obliges importing WTO Members to provide TA to the LDCs to enable them to comply with their SPS measures, as well as allows the LDCs to secure market access for their goods. To execute Article 9 support, the ‘Standards and Trade Development Facility’ (STDF)<sup>295</sup> was created, which aims to give 40% of project financing to the LDCs to enhance their trade capacity.<sup>296</sup> In November 2016, to ensure transparency of newly introduced SPS measures, the International Trade Centre (ITC), WTO, and UN have jointly created the ‘ePing Notification Alert’<sup>297</sup> system, where both SPS and TBT measures can be accessed by exporting LDC Members.<sup>298</sup> This is an addition to the previously adopted transparency procedure regarding SPS-related S&DT provisions.<sup>299</sup>

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<sup>292</sup> Agreement on Technical Barriers to Trade (adopted 15 April 1994, entered into force 1 January 1995) 1868 UNTS 120.

<sup>293</sup> SPS measures, unlike TBT, are required to be based on scientific risk assessments and international standards such as those from Codex Alimentarius for food safety, World Organization for Animal Health (WOAH) for animal health, and International Plant Protection Convention (IPPC) for plant protection. See SPS Agreement (n 291) Article 3.1.

<sup>294</sup> *ibid* Article 14.

<sup>295</sup> UN, ‘Chief Executives Board for Coordination High Level Committee on Programmes Working Group on Market Efficiency and Integration’ Inter-agency Resource Guide, 100 <<https://unsdg.un.org/download/30/434>>.

<sup>296</sup> Standards and Trade Development Facility, ‘Driving Change: Pathways to Trading Safely’ Annual Report 2024 (2024) 13-14 <<https://www.standardsfacility.org/>>.

<sup>297</sup> ITC, WTO and UN, ‘ePing: SPS & TBT Platform’ <<https://www.epingalert.org/>> accessed on 17 October 2025.

<sup>298</sup> WTO, ‘Information on Notification Alert System ePing’ (2025) Technical Barriers to Trade <[https://www.wto.org/english/tratop\\_e/tbt\\_e/epingusers\\_map\\_e.htm#:~:text=The%20system%20was%20launched%20in%20November%202016.,from%20both%20the%20public%20and%20private%20sectors](https://www.wto.org/english/tratop_e/tbt_e/epingusers_map_e.htm#:~:text=The%20system%20was%20launched%20in%20November%202016.,from%20both%20the%20public%20and%20private%20sectors)> accessed on 17 October 2025.

<sup>299</sup> WTO, *Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Country Members* (2 November 2004) G/SPS/33; WTO, *Decision to Extend the Procedure to Enhance Transparency of Special and Differential Treatment in Favour of Developing Countries* (6 February 2006) G/SPS/33/Add.1.

Instead of introducing new measures all at once, Article 10.2 obliges measure-imposing Members to introduce them in phases over longer timeframes. To confirm that granted timeframes are practical, in the Doha Ministerial Conference, a ‘minimum period’ of 6 months was set.<sup>300</sup> Now, what if the phased introduction of SPS measures is not possible? In such cases, Members are advised to consult to reach a “mutually satisfactory solution” which balances the importing Member’s aim to achieve SPS-based protection with maintaining export opportunities of the exporting LDC Member.<sup>301</sup>

The preferential treatment for the LDCs under the TBT Agreement is rather limited. The S&DT provisions are mainly “special considerations”<sup>302</sup> which, in practice, function like ‘best endeavor clauses’. For example, Article 12 obligates Members to consider the “*special problems*”<sup>303</sup> and “*special interests*”<sup>304</sup> of the developing countries, while Article 11 is just another TA obligation. Without flexibility in policy space through longer timelines for compliance, the LDCs, with their capacity constraints, grapple with complex SPS and TBT regulations to access the markets of developed country Members. And TA is not always the best response to these issues either.<sup>305</sup> No wonder the LDC Group, together with other Members, has requested for longer period to implement SPS and TBT measures not as a permanent blanket waiver but for a certain period.<sup>306</sup> Moreover, these ‘one-size-fits-all’<sup>307</sup>

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<sup>300</sup> WT/MIN(01)/17 (n 237) para. 3.1.

<sup>301</sup> *ibid.*

<sup>302</sup> WTO and EIF, ‘Trade Impacts of LDC Graduation’ (n 38) 26.

<sup>303</sup> TBT Agreement (n 292) Article 12.5.

<sup>304</sup> TBT Agreement (n 292) Article 12.6.

<sup>305</sup> See UNCTAD, ‘*Training Module on the WTO Agreement on Sanitary and Phytosanitary Measures*’ (November 2005) 20 <[https://unctad.org/system/files/official-document/ditctncd20043\\_en.pdf](https://unctad.org/system/files/official-document/ditctncd20043_en.pdf)> accessed on 18 October 2025.

<sup>306</sup> See WTO, *G-90 Document for the Special Session of the Committee on Trade and Development (CTD-SS) on 10 Agreement-Specific Special and Differential Treatment Proposals* (28 February 2023) Submission by OACPS, the African Group and the LDC Group, JOB/TN/CTD/2-JOB/TNC/106, 1-12 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/Jobs/TNCTD/2.pdf&Open=True>> accessed on 17 October 2025.

<sup>307</sup> See D. Prevost, ‘*Balancing Trade and Health in the SPS Agreement: the Development Dimension*’ (2009) Nijmegen: Wolf Legal Publishers, 1234 <<https://doi.org/10.26481/dis.20090507dp>> accessed on 17 October 2025.

S&DT provisions in SPS and TBT are general and thereby fail to address the specific concerns and interests of the LDCs.

On an important note, the core objective of these 2 Agreements is to ensure measures imposed by Members are not used as a protectionist tool since Members' SPS and TBT frameworks are unilaterally designed by them.<sup>308</sup> Both the Agreements explicitly prohibit Members from using measures as a “*disguised restriction on international trade*”<sup>309</sup> or those that are “*more trade-restrictive than required to achieve a legitimate objective*”<sup>310</sup>. Nonetheless, big countries/regional blocs, including the U.S.A.<sup>311</sup> and the EU,<sup>312</sup> have been found by the WTO dispute settlement body to maintain measures that contradict this discipline. For example, in the *US – Tuna II* dispute, the Appellate Body found that the U.S.A.'s eco-labelling measures have contradicted Article 2.1 and Article 2.2 of the TBT Agreement, causing a drop in the export of Mexican Tuna.<sup>313</sup> Another interesting example is the *Australia–Apple* dispute. The SPS measures of Australia were found to be so stringent that they surpassed the international standards, breaching Articles 5.1–5.6 of the SPS Agreement. The Appellate Body found that the SPS measures were protecting its domestic orchard market.<sup>314</sup> These disputes explain why SPS and TBT measures are called “*non-tariff measures*”<sup>315</sup> (NTMs) as their regulatory and technical requirements, much like tariffs, could restrict market access. This is evident from the

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<sup>308</sup> WTO, *The WTO Agreements Series: Sanitary and Phytosanitary Measures*, 12 <[https://www.wto.org/english/res\\_e/booksp\\_e/agrmtseries4\\_sps\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/agrmtseries4_sps_e.pdf)> accessed on 17 October 2025; WTO, *The WTO Agreements Series: Technical Barriers to Trade*, Third Edition, 10 <[https://www.wto.org/english/res\\_e/booksp\\_e/tbt3rd\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/tbt3rd_e.pdf)> 17 October 2025.

<sup>309</sup> SPS Agreement (n 291) Article 2.3; Preamble, 1<sup>st</sup> Recital.

<sup>310</sup> TBT Agreement (n 292) Article 2.2; Preamble, 6<sup>th</sup> Recital.

<sup>311</sup> See WTO, *United States – Certain Measures Affecting Imports of Poultry from China- Report of the Panel* (US – Poultry China) (29 September 2010) WT/DS392/R; WTO, *United States – Measures Affecting the Production and Sale of Clove Cigarettes-Report of the Appellate Body* (4 April 2012) WT/DS406/AB/R.

<sup>312</sup> See WTO, *European Communities – Measures Concerning Meat and Meat Products (Hormones)-Report of the Appellate Body* (EC – Hormones) (16 January 1998) WT/DS26/AB/R, WT/DS48/AB/R; WTO, *European Communities – Measures Affecting the Approval and Marketing of Biotech Products-Report of the Panel* (EC – Biotech) (29 September 2006) WT/DS291/R, WT/DS292/R, WT/DS293/R.

<sup>313</sup> WTO, *United States – Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products-Report of the Appellate Body* (US – Tuna II (Mexico)) (16 May 2012) WT/DS381/AB/R.

<sup>314</sup> WTO, *Australia – Measures Affecting the Importation of Apples from New Zealand-Report of the Appellate Body* (Australia – Apples) (29 November 2010) WT/DS367/AB/R.

<sup>315</sup> Anne-Célia Disdier Marco Fugazza ‘*A Practical Guide to the Economic Analysis of Non-Tariff Measures*’ (2019) UN and WTO, UNCTAD/DITC/TAB/2019/4, 13 <[https://www.wto.org/english/res\\_e/booksp\\_e/non\\_tariff\\_measures\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/non_tariff_measures_e.pdf)>.

growing submission of trade concerns related to TBT measures by the WTO Members that rose to 318 between 1995 to 2011.<sup>316</sup>

What is more concerning, SPS measures might be used to bypass the violation of the MFN principle by using an import ban to shift trade to a favorite trading partner (trade diversion). A study by the WTO unfolded that 1) NTMs are more trade-restrictive than tariffs, 2) which adversely affects agricultural products, and 3) hinders market diversification for exports.<sup>317</sup> Econometric analysis showed that 55% of tariff lines are conditional on NTMs, suggesting that they are a more effective tool than tariffs to restrict market access.<sup>318</sup> In a study, UNCTAD stated that “*in practice, SPS measures and TBTs may erode the competitive advantage that developing countries have in terms of labour costs and preferential access*”<sup>319</sup>. This is particularly true for African LDCs whose exports of dried fruits and nuts have limited access to the EU market due to stringent SPS standards.<sup>320</sup>

Against the trade-restrictive nature of NTMs, the S&DT provisions of SPS and TBT Agreements become ineffectual. And reasonably, the LDCs did not mention any SPS or TBT-related provisions in their proposal for extension of S&DT for graduated LDCs (See **Table 2.1**).

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<sup>316</sup> See WTO, ‘*New Dataset on TBT Specific Trade Concerns*’ <[https://www.wto.org/english/res\\_e/publications\\_e/wtr12\\_dataset\\_e.htm](https://www.wto.org/english/res_e/publications_e/wtr12_dataset_e.htm)> accessed on 21 October 2025.

<sup>317</sup> WTO, *Trade and Public Policies: A Closer Look at Non-Tariff Measures in the 21st Century* (2012) World Trade Report 2012, 135 <[https://www.wto.org/english/res\\_e/publications\\_e/wtr12\\_e.htm](https://www.wto.org/english/res_e/publications_e/wtr12_e.htm)> accessed on 18 October 2025.

<sup>318</sup> See Hiau Looi Kee, Alessandro Nicita, and Marcelo Olarreaga, ‘Estimating Trade Restrictiveness Indices’ (1 January 2009) 119 (534) *The Economic Journal*, 183 <<https://doi.org/10.1111/j.1468-0297.2008.02209.x>>.

<sup>319</sup> UNCTAD, ‘*Non-Tariff Measures to Trade: Economic and Policy Issues for Developing Countries*’ (2013) *Developing Countries in International Trade Studies*, UNCTAD/DITC/TAB/2012/1, 5 <[https://unctad.org/system/files/official-document/ditctab20121\\_en.pdf](https://unctad.org/system/files/official-document/ditctab20121_en.pdf)>

<sup>320</sup> John C. Beghin and Jean-Christophe, ‘Quantification of Sanitary, Phytosanitary, and Technical Barriers to Trade for Trade Policy Analysis’ (December 2001) Bureau Working Paper 01-WP 291, Center for Agricultural and Rural Development, 16 <<https://www.card.iastate.edu/products/publications/pdf/01wp291.pdf>>.

## CHAPTER 3: GRADUATION IMPLICATIONS FOR BANGLADESH UNDER THE WTO FRAMEWORK

### 3.1. Preferential Market Access and Rules of Origin in Major Export Destinations

For Bangladesh, graduation signifies the end of all forms of preferential treatment (also known as “preference erosion”), which means that areas not covered by preferences will remain unaffected. Bangladeshi products currently enjoying DFQF market access will face significant challenges due to stricter RoO and tariff increases, as Bangladesh is the only LDC that has fully utilized the WTO Members’ preferential schemes.<sup>321</sup> Its export relies on 70%<sup>322</sup> of the LDC-specific preferences. Therefore, for Bangladesh, graduation represents a considerable loss of competitiveness in the international markets.

Currently, Bangladesh benefits from 38 GSPs of Members, including the EU and others.<sup>323</sup> Regionally, it receives preferences under the Asia-Pacific Trade Agreement<sup>324</sup> (APTA) and the South Asian Free Trade Agreement<sup>325</sup> (SAFTA). Therefore, around 97% of its products enjoy DFQF market access as per the Hong Kong Decision.<sup>326</sup> One such example is the LDC-specific GSP scheme of the EU known as ‘Everything But Arms’ (EBA) under which Bangladesh

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<sup>321</sup> UNDESA, ‘Ex Ante Assessment of the Impacts of the Graduation of Bangladesh’ (n 266) 4.

<sup>322</sup> WTO and EIF, ‘Trade Impacts of LDC Graduation’ (n 38) 8.

<sup>323</sup> Bangladesh, ‘*Export Promotion Bureau: Market Access Facilities*’ (2025) [Bangladesh Export Promotion Bureau] <<https://epb.gov.bd/site/page/7bd7d4d7-cdba-4da3-8b10-f40da01e49b6/MarketAccess#:~:text=GSP%20Scheme%20of%20Japan%20and%20Bangladesh:%20Japan%20originally%20established%20its&text=The%20preferential%20scheme%20GSP%2D50%20for%20LDCs%20offers%20duty%20free>> accessed on 10 October 2025.

<sup>324</sup> WTO, ‘*Regional Trade Agreements Database: Asia Pacific Trade Agreement*’ <<https://rtais.wto.org/UI/PublicShowRTAIDCard.aspx?rtaid=140>> accessed on 4 October 2025.

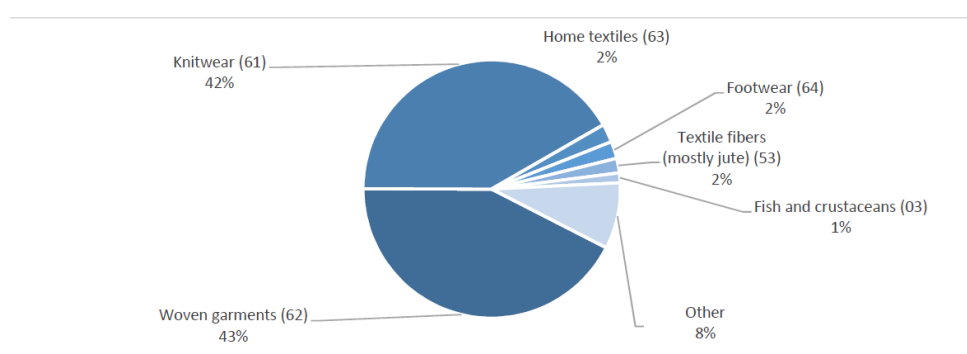
<sup>325</sup> WTO, ‘*Regional Trade Agreements Database: South Asian Free Trade Agreement*’ <<https://rtais.wto.org/UI/PublicShowRTAIDCard.aspx?rtaid=188>> accessed on 4 October 2025.

<sup>326</sup> See WTO, ‘Hong Kong Ministerial Declaration, Annex F’ (n 106) para 36.

secured the largest share of exports (61.8%)<sup>327</sup> in 2018 and has been the top beneficiary of EBA. For example, the GSP utilization rate was 91% in 2024.<sup>328</sup>

As Bangladesh specializes in manufacturing,<sup>329</sup> its export sector is dominated by RMG, with woven garments being the largest sub-sector, comprising 43% of RMG export, followed by knitwear (See **Figure 3.1** below).

**Figure 3.1: The Composition of Exports during July 2018-June 2019**



**Source:** UNDESA (3 March 2020) 5.

Its usual top export destinations for RMG export are the U.S.A. and the EU (Germany), followed by the U.K., Canada, Japan, and Australia, as illustrated in **Figure 3.2** below.

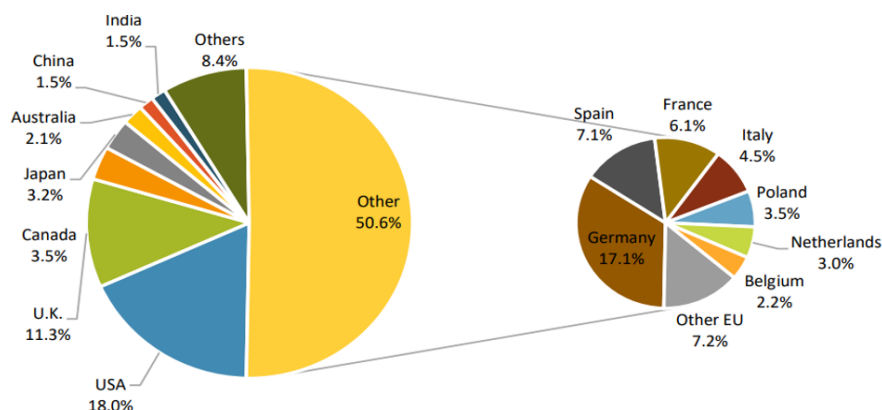
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<sup>327</sup> Textile Excellence, 'Bangladesh, India Largest Beneficiaries of EU's GSP' (March 2020) <<https://www.textileexcellence.com/single-news/4550/bangladesh-india-largest-beneficiaries-of-eu-s-gsp>> accessed on 3 October 2025.

<sup>328</sup> EC, 'Bangladesh' (2025) <[https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/bangladesh\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/bangladesh_en)> accessed on 3 October 2025.

<sup>329</sup> UNCTAD, 'The Least Developed Countries Report 2016' (n 13) xiii.

**Figure 3.2: Major Export Destinations of RMG**



**Source:** Mohammad A. Razzaque, *‘Bangladesh En Route to LDC Graduation: Firm-Level Preparedness in the Textile and Clothing Sector’* (August 2021).

The following **sub-chapters** will examine the post-graduation impacts for Bangladeshi products in key markets under the WTO framework, emphasizing preferential market access and RoO.

### 3.1.1. EU

After graduation, Bangladesh could qualify for the EU’s GSP+ scheme that grants “zero duty for 66% tariff lines”<sup>330</sup> which is conditional upon the fulfillment of 3 criteria.<sup>331</sup> Firstly, to meet the ‘vulnerability criterion’, Bangladesh’s export sector must be ‘non-diversified’, i.e., its export concentration must be limited to ‘7 product groups’ which have to account for over 75% exports to the EU. Secondly, to conform to the ‘sustainable development criterion’, the country must ratify and ensure the effective implementation of 27 fundamental international conventions (extended to 32 under the new proposal) on human and labour rights, environmental protection, climate change, and good governance. Thirdly and lastly, its import share must comprise less than 7.4% of exports under the GSP to the EU.

<sup>330</sup> See EU, *‘About the EU GSP’* (31 March 2025) <<https://gsphub.eu/about-gsp>> accessed on 4 October 2025.

<sup>331</sup> Mohammad Abdur Razzaque, Deen Islam, and Jillur Rahman (n 49) 3.

Bangladesh has ratified all 32 international conventions,<sup>332</sup> which depicts its position as being ‘almost compliant’ since partial implementation remains a concern regarding committed labor reforms.<sup>333</sup> Secondly, its export is mainly concentrated and limited to garments, agricultural products, pharmaceuticals, and fish/shrimps.<sup>334</sup> Bangladesh does not meet the third criterion as its export share is well above the 7.4% threshold.<sup>335</sup> On a positive note, the EU has removed this criterion under the proposed EU GSP Regulation 2024-2034<sup>336</sup>. So, Bangladesh is likely to qualify for the GSP+ scheme after graduation.

To emphasize, while the primary aim of the GSP reform is to ensure that products from vulnerable economies receive preferential market access, if not DFQF, it leaves products of graduated LDCs susceptible to specific safeguard measures.<sup>337</sup> Consequently, Bangladesh’s apparel products will be subject to MFN tariff (expected to jump from 0 to 12%<sup>338</sup>) as opposed to a preferential tariff rate due to the EU’s safeguard measures.<sup>339</sup> It is triggered under GSP+

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<sup>332</sup> EU, ‘*A New GSP Framework*’ <<https://gsphub.eu/news/gsp-proposal>> accessed on 5 October 2025.

<sup>333</sup> EU, ‘*EU Statement - ILO 353rd GB - Report by the Government of Bangladesh on Progress Made on the Implementation of the Road Map Taken to Address All Outstanding Issues Mentioned in the Article 26 Complaint*’ (March 2025) <[https://www.eeas.europa.eu/delegations/un-geneva/eu-statement-ilo-353rd-gb-report-government-bangladesh-progress-made-implementation-road-map-taken\\_en](https://www.eeas.europa.eu/delegations/un-geneva/eu-statement-ilo-353rd-gb-report-government-bangladesh-progress-made-implementation-road-map-taken_en)> accessed on 5 October 2025.

<sup>334</sup> Export Promotion Bureau Bangladesh, ‘*Pocket Export Statistics FY 2023-2024*’ (14 October 2024) <[https://epb.portal.gov.bd/sites/default/files/files/epb.portal.gov.bd/miscellaneous\\_info/8405d990\\_9311\\_41c8\\_88df\\_19b340500b6c/2025-01-23-10-23-578dd7519e362c17af98614919255e7f.pdf](https://epb.portal.gov.bd/sites/default/files/files/epb.portal.gov.bd/miscellaneous_info/8405d990_9311_41c8_88df_19b340500b6c/2025-01-23-10-23-578dd7519e362c17af98614919255e7f.pdf)> accessed on 5 October 2025.

<sup>335</sup> For example, Bangladesh’s export share in 2021 was 27%. See The Financial Express, ‘*Dhaka Now Can Apply for EU GSP-Plus*’ (3 October 2021) <<https://today.thefinancialexpress.com.bd/first-page/dhaka-now-can-apply-for-eu-gsp-plus-1633201418>> accessed on 5 October 2025.

<sup>336</sup> See EU, ‘*Proposal for a Regulation of the European Parliament and of the Council on Applying a Generalised Scheme of Tariff Preferences and Repealing Regulation (EU) No 978/2012 of the European Parliament and of the Council*’ (2021) COM/2021/579, Final Document 52021PC0579 <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52021PC0579>> accessed on 5 October 2025.

<sup>337</sup> See UNCTAD, ‘*Generalized System of Preferences Handbook on the Scheme of the European Union United Nations Conference on Trade and Development*’ (2022) 5<sup>th</sup> ed., UNCTAD/ITCD/TSB/Misc.25/Rev.5., 20-21 <[https://unctad.org/system/files/official-document/itcdtsbmisc25rev5\\_en.pdf](https://unctad.org/system/files/official-document/itcdtsbmisc25rev5_en.pdf)>.

<sup>338</sup> Abdur Razzaque, ‘*LDC Graduation and Economic Partnership with the EU*’ (2022) RAPID, 3 <<https://www.rapidbd.org/wp-content/uploads/2024/09/LDC-Graduation-1.pdf>>; The Financial Express, ‘*Coming to Terms with Proposed EU GSP Protocol*’ (28 April 2023) <<https://thefinancialexpress.com.bd/editorial/coming-to-terms-with-proposed-eu-gsp-protocol>> accessed on 5 October 2025.

<sup>339</sup> See Mohammad Abdur Razzaque, Rakin Zaman, and Ashfaqu Chowdhury (n 44) 5; Abdur Razzaque, ‘*Proposed EU GSP Scheme for 2024-34: What Bangladesh Must Do Now*’ (9 November 2021) The Business Standard <<https://www.tbsnews.net/analysis/proposed-eu-gsp-scheme-2024-34-what-bangladesh-must-do-now-327511>>.

when the import share exceeds 6% during 1 calendar year<sup>340</sup>. In 2024, the import share of apparel in the EU from Bangladesh was 44%<sup>341</sup>. Thus, except for apparel, other products below that threshold may still qualify for the GSP+ scheme. This holds little significance for Bangladesh, whose largest export product to the EU is apparel. Nevertheless, the 3-year transition period after graduation under EBA offers much-needed but brief respite during the 2026-2029 timeline.<sup>342</sup>

Why does Bangladesh not take recourse to the 3<sup>rd</sup> scheme called ‘Standard GSP’<sup>343</sup> of the EU after graduation? The impetus to move to Standard GSP is low. It offers reduced duty for 66% tariff lines entering the EU market, but safeguard measures will still apply when the import share of textiles exceeds the threshold of 37% for 3 years (47% for non-textile products).<sup>344</sup> The current share of Bangladesh is already over this threshold.<sup>345</sup> This means withdrawal of the preferential tariff rate. Therefore, the post-graduation treatment of textile products will be the same under the GSP+ scheme and Standard GSP. Consequently, without duty-free market access, the market share of Bangladeshi textiles would shrink in the EU market.<sup>346</sup>

As for RoO, stricter EU rules would apply to determine the origin of Bangladeshi products after graduation. Rigid RoO would require more ‘stages of processing’ (also called transformation). For Bangladesh, it means double transformation (fibre-to-fabric-to-apparel)

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<sup>340</sup> EU, Regulation No 978/2012 of the European Parliament and of the Council of 25 October 2012 Applying A Scheme of Generalised Tariff Preferences and Repealing Council Regulation (EC) No 732/2008, Article 29 <<http://data.europa.eu/eli/reg/2012/978/oj>> accessed on 4 October 2025.

<sup>341</sup> Daily Star, ‘*Bangladesh’s Exports Stuck in EU, US Orbit*’ (24 August 2025) <<https://www.thedailystar.net/business/news/exports-stuck-eu-us-orbit-3969201>>.

<sup>342</sup> Ann Elliot Kimberly, ‘*A Smoother Trade Transition for Graduating LDCs*’ (November 2019) Center for Global Development, 10 <<https://www.cgdev.org/sites/default/files/Elliot-LDC-Trade-Final.pdf>>.

<sup>343</sup> See EC, ‘*Generalised Scheme of Preferences*’ <[https://policy.trade.ec.europa.eu/development-and-sustainability/generalised-scheme-preferences\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/generalised-scheme-preferences_en)> accessed on 4 October 2025.

<sup>344</sup> EU, ‘No 978/2012 of the European Parliament and of the Council’ (n 340) Annex IV:3.

<sup>345</sup> Dhaka Tribune, ‘*EuroCommerce: Proposed GSP Regulation Jeopardizes Bangladesh Economy*’ (26 April 2023) <<https://www.dhakatribune.com/business/283694/eurocommerce-proposed-gsp-regulation-jeopardizes>> accessed on 5 October 2025.

<sup>346</sup> Mohammad Abdur Razzaque, Deen Islam, and Jillur Rahman (n 49) 23.

as opposed to single transformation (fabric-to-apparel) for apparel and 50% value addition for other products.<sup>347</sup>

### 3.1.2. U.S.A.

Bangladesh's second-largest apparel market is the U.S.A., which added \$5.4 billion to the economy in 2018.<sup>348</sup> Due to labor standard issues, Bangladesh is ineligible under the U.S.A. GSP Scheme.<sup>349</sup> As such, the MFN tariff will continue to apply to Bangladeshi goods post-graduation. The major concern<sup>350</sup> for Bangladesh (and broadly for all trading partners) is not zero preference in the U.S.A. market, but the uncertainty surrounding its reciprocal tariff (RT) regime introduced under Executive Order 14257<sup>351</sup>. Trade uncertainties harm the export performance of the LDCs. For instance, the export loss of the LDCs was US\$265 billion during the 2009-2013 period.<sup>352</sup> Just in a year, the U.S.A. RT was changed thrice. The initial RT on Bangladeshi goods was 37%<sup>353</sup>, which dropped to 2% in July 2025 after bilateral negotiation and now stands at 20%.

In all, Bangladesh will retain its present competitive edge in the U.S.A. market after graduation, as RT for its apparel competitors is around 20% as well.

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<sup>347</sup> Mohammad A. Razzaque, 'Bangladesh En Route to LDC Graduation: Firm-Level Preparedness in the Textile and Clothing Sector' (August 2021) 14 <<https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/Garment-Study-Bangladesh.pdf>>.

<sup>348</sup> Mohammad A. Razzaque and Jillur Rahman, 'LDC Graduation & Bangladesh's Apparel Exports to the EU' (1 January 2019) Policy Research Institute of Bangladesh <<https://policyinsightsonline.com/2019/01/lc-graduation-bangladeshs-apparel-exports-to-the-eu/>> accessed on 4 October 2025.

<sup>349</sup> UNDESA, 'Ex Ante Assessment of the Impacts of the Graduation of Bangladesh' (n 266) 9.

<sup>350</sup> See T. Daniel Griswold, 'Mirror, Mirror, on the Wall: The Danger of Imposing 'Reciprocal' Tariff Rates' (24 January 2019) Mercatus Research Paper <<http://dx.doi.org/10.2139/ssrn.3381921>> accessed on 4 October 2025.

<sup>351</sup> U.S.A., 'Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits' (2 April 2025) Executive Order 14257 <<https://www.federalregister.gov/documents/2025/04/07/2025-06063/regulating-imports-with-a-reciprocal-tariff-to-rectify-trade-practices-that-contribute-to-large-and>> accessed on 6 October 2025.

<sup>352</sup> See Evenett, SJ and J. Fritz, 'Throwing Sand in the Wheels: How Foreign Trade Distortions Slowed LDC Export-led Growth' (2015) Government of Sweden <<https://www.nottingham.ac.uk/gep/documents/seminars/2015/evenett.pdf>> accessed on 6 October 2025.

<sup>353</sup> See James Giesecke and Robert Waschik, 'Economic Analysis of U.S. Tariffs Announced in March-April 2025' (April 2025) Working Paper No. G-353, The Centre of Policy Studies, 47 <<https://www.copsmodels.com/ftp/workpapr/g-353.pdf>>.

### 3.1.3. U.K.

The U.K. is one of the top major importers of Bangladeshi apparel. In 2022, exports grew from \$500 million (2000) to \$5 billion, of which 90% consisted of apparel.<sup>354</sup> Bangladesh currently enjoys duty-free access to the U.K. market via a preferential LDC-track called “Comprehensive preferences”<sup>355</sup> under the Developing Countries Trading Scheme (introduced post-Brexit as an alternative to the EU GSP framework)<sup>356</sup>. Bangladesh will continue to enjoy duty-free market access for 98% of its exports, including RMG, under the U.K.’s ‘Enhanced Preferences’ scheme that applies to developing countries.<sup>357</sup> Quite naturally, as Bangladesh is one of the top 2 exporters to the U.K.,<sup>358</sup> it will reap the most benefit from this scheme, including during the 3-year transition period after graduation.

The U.K. RoO is more flexible than that under EU GSP. It reduced the value-addition requirement for non-apparel products to 25% while apparel enjoys a single transformation rule.<sup>359</sup> However, post-graduation RoO under Enhanced Preferences does not look promising. It reflects the EU GSP requiring 50% value addition in non-apparel products and the double transformation rule for apparel.<sup>360</sup> Remarkably, the U.K. has decided to improve its RoO to ensure that LDCs specialized in cloth manufacturing can increase their exports and enter with

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<sup>354</sup> Mohammad Abdur Razzaque and others, ‘*Expanding and Diversifying Exports to the UK under the Developing Countries Trading Scheme*’ (2023) RAPID, 1 <[https://www.researchgate.net/publication/384808808\\_Expanding\\_and\\_diversifying\\_exports\\_to\\_the\\_UK\\_under\\_the\\_Developing\\_Countries\\_Trading\\_Scheme](https://www.researchgate.net/publication/384808808_Expanding_and_diversifying_exports_to_the_UK_under_the_Developing_Countries_Trading_Scheme)>.

<sup>355</sup> Alison Pratt, Ilze Jozepa and Matthew Ward, ‘*Developing Countries Trading Scheme*’ (18 April 2024) Research Briefing <<https://commonslibrary.parliament.uk/research-briefings/cbp-9994/>>.

<sup>356</sup> See Mattia Di Ubaldo, Guillermo Larbalestier and Manuel Tong Koecklin, ‘*The UK’s New (and Improved?) Developing Countries Trading Scheme*’ (April 2023) Briefing Paper 74 <<https://blogs.sussex.ac.uk/uktpo/publications/the-new-and-improved-uks-developing-countries-trading-scheme/>> accessed on 8 October 2025.

<sup>357</sup> Mohammad Abdur Razzaque, ‘*What the United Kingdom’s New Developing Countries Trading Scheme Means for Least Developed Countries (LDCs), Including Countries in the Graduation Process*’ (March 2023) CDP Background Paper No. 55 ST/ESA/2023/CDP/55, 5 <<https://www.rapidbd.org/wp-content/uploads/2023/05/CDP-bp-2023-55.pdf>>.

<sup>358</sup> See WTO, ‘*Developing Countries Trading Scheme: Great Britain and Northern Ireland*’ <[https://www.wto.org/library/events/event\\_resources/devel\\_2002202315/71\\_298.pdf](https://www.wto.org/library/events/event_resources/devel_2002202315/71_298.pdf)> accessed on 6 October 2025.

<sup>359</sup> See Mohammad Abdur Razzaque and others, ‘*Expanding and Diversifying Exports*’ (n 354) 2.

<sup>360</sup> *ibid.*

0% tariff in the U.K. market.<sup>361</sup> The key improvements are: 1) the double transformation rule is removed, 2) it allows sourcing of 47.5% to 100% foreign inputs to process them into final products, and 3) provides more flexible cumulation rules.<sup>362</sup> This would be one of the most favorable post-graduation market access schemes for Bangladesh, critical not just to sustain its trade competitiveness but also to safeguard the livelihoods of millions of garment workers.

#### 3.1.4. Canada

The tariff preference scheme of Canada for the LDCs is known as the ‘Least Developed Country Tariff’<sup>363</sup> (LDCT). It offers DFQF market access to all the LDC imports,<sup>364</sup> covering 98% of tariff lines.<sup>365</sup> Similar to the LDC schemes of the EU and the U.K., it provides a transition period of 3 years to Bangladesh.<sup>366</sup> After graduation, Bangladesh will move to Canada’s standard scheme for developing countries called ‘General Preferential Tariff’ (GPT). Interestingly, there is a new addition to its tariff system called “GPT Plus” (effective from 1 January 2025).<sup>367</sup> It grants preferential tariff treatment to certain Bangladeshi products such as

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<sup>361</sup> U.K., ‘*The UK’s Trade Strategy*’ (June 2025) CP1339, 89 <<https://assets.publishing.service.gov.uk/media/68838f4ebe2291b14d11af2e/uk-trade-strategyprint.pdf>> accessed on 8 October 2025.

<sup>362</sup> U.K., ‘*Rules of origin under the Developing Countries Trading Scheme (DCTS) are improving: July 2025*’ (15 August 2025) <<https://www.gov.uk/government/publications/rules-of-origin-under-the-developing-countries-trading-scheme-dcts-are-improving/rules-of-origin-under-the-developing-countries-trading-scheme-dcts-are-improving-july-2025>> accessed on 8 October 2025.

<sup>363</sup> Przemyslaw Kowalski, ‘The Canadian Preferential Tariff Regime and Potential Economic Impacts of its Erosion’ in Bernard M. Hoekman, Will Martin, Carlos Alberto Primo Braga (eds) *Trade Preference Erosion: Measurement and Policy Response* (2009) World Bank, 131.

<sup>364</sup> Except for dairy, poultry and egg products when there is a surge in them.

<sup>365</sup> WTO, *The Trade Policy Review of Canada* (11 September 2024) WT/TPR/S/455/Rev.1, para. 3.52 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/TPR/S455R1.pdf&Open=True>> accessed on 8 October 2025.

<sup>366</sup> The 3-year transition period that we have seen been given to the graduating LDCs evinces the WTO Members active response to the call of the WTO General Council decision of October 2023 to provide tariff related support under their respective systems.

<sup>367</sup> Canada, ‘*Division 4 - Preferential Tariff Programs for Developing Countries*’ from Budget Implementation Act, 2023, No. 1 (S.C. 2023, c. 26) 229 <[https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2023\\_26/](https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2023_26/)> accessed on 8 October 2025.

footwear, apparel, and ship (currently facing up to 25% MFN tariff under LDCT)<sup>368</sup>, which are excluded<sup>369</sup> under GPT's preferences.

The question is- can Bangladesh avail itself of this scheme, given the need to improve its human/labor rights standards? To elaborate, the new GPT Plus RoO is of particular significance to Bangladesh since it confers origin even if fibre, yarn, and fabric are imported (only cutting and sewing domestically will suffice)<sup>370</sup>. Most recently, Bangladesh has ratified fundamental ILO Conventions, viz., Conventions 190, 155, and 187<sup>371</sup>, constituting a turning point. Therefore, Bangladesh has a greater likelihood of qualifying for this scheme.

Bangladesh's export earnings from Canada are noteworthy. For example, in July 2025, the country earned C\$244 million from apparel exports (showing a 26.2% increase in a year).<sup>372</sup> As such, the cost of compliance associated with human/labor rights standards could be compensated by Bangladesh's export profit springing from the use of simpler RoO in the long run. And it goes without saying that better human/labor rights standards would attract FDI.

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<sup>368</sup> Daily Star, 'Apparel's Duty Benefit in Canada to Remain Intact' (28 August 2023) <<https://www.thedailystar.net/business/global-economy/news/apparels-duty-benefit-canada-remain-intact-3404781>> accessed on 9 October 2025.

<sup>369</sup> UNCTAD, 'Generalized System of Preferences Handbook on the Scheme of Canada United Nations Conference on Trade and Development' (2021) Third Edition, UNCTAD/ITCD/TSB/Misc.66/Rev.2, 4 <[https://unctad.org/system/files/official-document/itcdtsbmisc66rev2\\_en.pdf](https://unctad.org/system/files/official-document/itcdtsbmisc66rev2_en.pdf)>.

<sup>370</sup> See Canada, 'Customs Notice 24-41: Canada's Unilateral Tariff Preference Programs for Imports from Developing Countries' (11 December 2024) para. 8 <<https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn24-41-eng.html>> accessed on 8 October 2025; Canada, 'Canada's Unilateral Tariff Preference Programs for Imports from Developing Countries' Footnote 1 <<https://www.canada.ca/en/department-finance/programs/international-trade-finance-policy/canadas-unilateral-tariff-preference-programs-for-imports-from-developing-countries.html>> accessed on 8 October 2025.

<sup>371</sup> ILO, 'Landmark Ratifications in Bangladesh Towards a Future of Work with Safe and Healthy Environments, Free from Violence and Harassment' (20 November 2025) <<https://www.ilo.org/resource/news/landmark-ratifications-bangladesh-towards-future-work-safe-andhealthy#:~:text=The%20Director%20General%20of%20the%20ILO%20welcomed%20the%20ratifications%20of,a%20comprehensive%20framework%20for%20action>> accessed on 28 November 2025.

<sup>372</sup> Observatory of Economic Complexity, 'Bangladesh/Canada' <<https://oec.world/en/profile/bilateral-country/bgd/partner/can#bespoke-title-476>> accessed on 8 October 2025.

### 3.1.5. Japan

At the regional level, Bangladesh's top export destination is Japan.<sup>373</sup> In 2022, Bangladesh exported goods worth \$1.69 billion to Japan.<sup>374</sup> It enjoys DFQF market access under Japan's LDC scheme called GSP-50, which covers 97.9% of products, offering simple RoO.<sup>375</sup> Presently, the countries are negotiating the 'Japan-Bangladesh Economic Partnership Agreement'<sup>376</sup>, which would ensure preferential market access benefits for Bangladesh. This will prevent confronting 8.5% to 9% MFN tariff (18% in RMG alone)<sup>377</sup> after graduation because Bangladesh is not a member of the ASEAN trade bloc, together with Japan and other ASEAN Countries.<sup>378</sup>

What is new on the table is that Japan has recently revised its industrial policy (effective from August 19, 2025),<sup>379</sup> which requires Bangladesh to comply with the labelling requirements for export items. This, however, should not be a big concern.

Now to have a broad look- Australia, New Zealand, Norway, and Switzerland offer Bangladesh 100% duty-free access to their respective markets, while the tariff reduction (with exceptions) is 99.5% in Chile, 94.1% in India, 90.4% in Korea, and Turkey 79.7%.<sup>380</sup> After graduation,

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<sup>373</sup> WTO, *The Trade Policy Review of Bangladesh* (6 February 2019) WT/TPR/S/385, para. 1.25 <[https://www.wto.org/english/tratop\\_e/tpr\\_e/s385\\_e.pdf](https://www.wto.org/english/tratop_e/tpr_e/s385_e.pdf)> accessed on 10 October 2025.

<sup>374</sup> The Observatory of Economic Complexity, *'Japan/Bangladesh'* <<https://oec.world/en/profile/bilateral-country/jpn/partner/bgd>> accessed on 10 October 2025.

<sup>375</sup> See Bangladesh Export Promotion Bureau (n 323).

<sup>376</sup> See Ministry of Foreign Affairs of Japan, *'Summary of the Seventh Round of Negotiations for the Japan-Bangladesh Economic Partnership Agreement'* (16 September 2025) <[https://www.mofa.go.jp/press/release/pressite\\_000001\\_01666.html](https://www.mofa.go.jp/press/release/pressite_000001_01666.html)> accessed on 10 October 2025.

<sup>377</sup> Nazmul Hossain, *'Bangladesh, Japan Set to Finalise Economic Partnership Deal by Year-end'* (2 October 2025) <<https://www.jagonews24.com/en/business/news/86058#:~:text=But%20once%20it%20transitions%20to,diversification%20and%20enhanced%20market%20access>> accessed on 10 October 2025.

<sup>378</sup> EIF, ITC, UNDESA, UNCTAD and WTO, *'Textiles and Clothing in Asian Graduating LDCs: Challenges and Options'* (31 Jan 2022)14 <<https://unctad.org/publication/textiles-and-clothing-asian-graduating-ldcs-challenges-and-options>> accessed on 10 October 2025.

<sup>379</sup> Bureau Veritas, *'Japan – Revision of JIS L 0001: 2024 (Textiles - Care Labelling Code Using Symbols)'* <<https://www.cps.bureauveritas.com/newsroom/japan-revision-jis-l-0001-2024-textiles-care-labelling-code-using-symbols>> accessed on 10 October 2025.

<sup>380</sup> Calculated using the *'WTO Tariff & Trade Data'* <<https://ttd.wto.org/en>> accessed on 10 October 2025; Bangladesh Export Promotion Bureau (n 323).

Bangladesh will retain preferential treatment in China, India, and Korea under APTA.<sup>381</sup> However, securing tariff preferences under SAFTA entails compliance with stricter RoO.<sup>382</sup> Ironically, Bangladesh imports way more from SAFTA countries than it exports to them,<sup>383</sup> so preference erosion will not be substantial.

Nonetheless, the impact on Bangladeshi goods in Australia's market would be dire. The loss of export earnings is expected to be \$29 million because of 5% rise in MFN tariff.<sup>384</sup> It is projected that the overall loss will be approximately US\$2.7 billion due to the consequent additional tariff.<sup>385</sup>

### 3.2. Tariff Bindings and Schedules of Concessions

As a Uruguay-Round Member, Bangladesh enjoys greater flexibility in its tariff policy. It means that the country can change duty on 81% tariff lines anytime, as it has a binding coverage of 19% only in its GATT schedule of concession.<sup>386</sup> Additionally, as the applied MFN tariff is quite below the bound rate (the highest rate that can be applied), it reserves the policy space to protect its domestic producers by imposing a higher tariff rate when necessary. Graduation does not affect the enjoyment of these flexibilities. The same is true regarding the country's GATS schedule of specific commitments.

Furthermore, as no data suggests any fruitful results from the LDC service waiver, the post-graduation implications for Bangladesh with respect to the waiver are likely to be insignificant.<sup>387</sup>

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<sup>381</sup> WTO and EIF, 'Trade Impacts of LDC Graduation' (n 38) 37.

<sup>382</sup> *ibid*, 44.

<sup>383</sup> Daily Star, '*Bangladesh Imports over Five Times its Exports to SAARC Nations*' <<https://www.thedailystar.net/business/news/bangladesh-imports-over-five-times-its-exports-saarc-nations-3846631>> accessed on 10 October 2025.

<sup>384</sup> Bangladesh, 'Impact Assessment and Coping up Strategies of Graduation' (n 270) 54.

<sup>385</sup> *ibid* 56.

<sup>386</sup> The Trade Policy Review of Bangladesh (n 373) para 3.28.

<sup>387</sup> See UNCDP and UNDESA, 'Handbook on the Least Developed Country Category: Inclusion, Graduation and Special Support Measures' (May 2024) 5<sup>th</sup> Edition, 38 <<https://policy.desa.un.org/sites/default/files/publications/2025-06/lcd-handbook-2024.pdf>>; Mustafizur Rahman and Debapriya Bhattacharya, 'Sustainable Graduation: International Support Measures for Graduating LDCs' (2020) International Trade Working Paper 2020/10, 19 <<https://www.thecommonwealth-library.org/index.php/comsec/catalog/download/428/428/3776?inline=1>>.

### 3.3. Pharmaceutical Industry of Bangladesh and TRIPS Flexibilities

It makes Bangladesh an exception amongst the LDCs to have such a strong pharmaceutical production base that it not only satisfies 98% of its domestic needs but also enables it to export medicines to 150 countries,<sup>388</sup> including strictly controlled markets like Australia, the EU, Canada, the U.S.A., and the U.K..<sup>389</sup> In fiscal year 2020-2021, the export earnings were \$169.02 million (equivalent to over BDT 14 billion) from pharmaceuticals.<sup>390</sup> The country's fast-growing production capacity and the largest sector of white-collar workers take the credit.<sup>391</sup> Additionally, the renewed Article 66.1 exemptions from implementation of the TRIPS Agreement have played an instrumental role in this regard.<sup>392</sup> The TRIPS waiver on pharmaceutical products enabled Bangladeshi firms to manufacture a generic<sup>393</sup> version of branded medicines protected by patent until 2033<sup>394</sup> for domestic consumption and export.

As the third largest exporter of medicine globally<sup>395</sup> and an emerging medicine hub in Asia, its graduation will have an overarching effect. As Bangladesh will graduate before 2033, it will not benefit from the policy space for the remaining 7 years under the TRIPS waiver.<sup>396</sup> Nonetheless, the transition period of 3 years (2026-2029) would offer some 'breathing space'. From 24 November 2029 onwards, the IP regime of Bangladesh must be fully TRIPS-

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<sup>388</sup> See OECD and UNCTAD, 'Production Transformation Policy Review of Bangladesh: Investing in the Future of a Trading Nation' (2023) OECD Publishing <<https://doi.org/10.1787/8b925b06-en>>; The Trade Policy Review of Bangladesh (n 373) Footnote 172.

<sup>389</sup> Fahmida Khatun and others, 'Technological Readiness of Bangladesh's Pharmaceuticals Industry: Preparing for LDC Graduation' (2024) CPD and FriedrichEbert-Stiftung (FES) Bangladesh, 15.

<sup>390</sup> BAPI, 'Global Footprint' <<http://www.bapi-bd.com/bangladesh-pharma-industry/global-footprint.html>> accessed on 13 October 2025.

<sup>391</sup> See BAPI, 'Overview' (2021) <<http://www.bapi-bd.com/bangladesh-pharma-industry/overview.html>> accessed on 13 October 2025.

<sup>392</sup> See Mustafizur Rahman and others, 'Policy Space for Building Production Capabilities in the Pharmaceuticals Sector in Low- and Middle-Income Countries: Evidence from Bangladesh' (2021) 12 (2) Journal of Globalization and Development, 221-261 <<https://doi.org/10.1515/jgd-2021-0009>>.

<sup>393</sup> Generic medicines are duplicates of branded medicines in terms of content, dosage, and intended use to serve the same clinical purpose. See 'Generic Drugs: Questions & Answers' (2021) <<https://www.fda.gov/drugs/frequently-asked-questions-popular-topics/generic-drugs-questions-answers#q1>> accessed on 13 October 2025.

<sup>394</sup> See 'n 204'.

<sup>395</sup> BIDA, 'Pharmaceuticals Industry and API' (June 2024) 1 <<https://www.investbangladesh.gov.bd/investment-sector/pharma-api>> accessed on 13 October 2025.

<sup>396</sup> The waiver ceases due to its expiration or LDC graduation, whichever comes first.

compliant, for example, by a) enforcing patent protection for pharmaceuticals and related processing, b) paying royalties to the inventors, c) phasing out export subsidies, and d) omitting exports of medicines to Members whose IP regimes do not protect patented inventions.<sup>397</sup> It also includes the obligation to protect undisclosed ‘clinical test data’.<sup>398</sup> As such, the country would experience a substantial reduction in policy space; for instance, it would have to withdraw all export subsidies for medicines.<sup>399</sup> The withdrawal of export subsidies will cause export earnings to drop by 6.9% worth \$10 to \$12 million.<sup>400</sup>

The main challenge will be the production of patented generic medicines, which will require paying royalties and hence a 2-3% price hike in medicines.<sup>401</sup> For example, the price of insulin is expected to rise by 12%.<sup>402</sup> However, as Bangladesh only manufactures 20%<sup>403</sup> of patented drugs, post-graduation trade disruptions will not be substantial.

Furthermore, a study suggested that the overall domestic access to medicines will not be affected by graduation.<sup>404</sup> The country’s production capacity would experience little effect. Stronger IPR and a relatively less protected market after graduation will increase the export of branded medicines in Bangladesh, exposing domestic producers to foreign competition.<sup>405</sup> The

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<sup>397</sup> See Mohammad Abdur Razzaque and others, ‘LDC Graduation and Bangladesh's Pharmaceutical Industry: Implications for Medicine Prices, Accessibility, and Affordability’ (November 2024) RAPID and UK International Development, 1 <[https://www.rapidbd.org/wp-content/uploads/2024/12/Final\\_Policy-Brief-LDC-Graduation-Impact-on-Pharmaceutical\\_30Nov2024.pdf](https://www.rapidbd.org/wp-content/uploads/2024/12/Final_Policy-Brief-LDC-Graduation-Impact-on-Pharmaceutical_30Nov2024.pdf)> accessed on 13 October 2025.

<sup>398</sup> TRIPS Agreement (n 15) Article 39.3.

<sup>399</sup> See Rachel Denae Thrasher, ‘Constraining Development: The Shrinking of Policy Space in the International Trade Regime’ (July 2021) Anthem Frontiers of Global Political Economy and Development, 194 <<https://anthempress.com/books/constraining-development-hb>> accessed on 15 October 2025.

<sup>400</sup> Mohammad Abdur Razzaque and others, ‘Graduation and Bangladesh's Pharmaceutical Industry’ (n 397) 11.

<sup>401</sup> *ibid* 8.

<sup>402</sup> See Mustafizur Rahman, ‘Graduating from the LDC Group: Challenges Facing Bangladesh’ (31 January 2023) South Centre, 3 <[https://www.southcentre.int/wp-content/uploads/2023/01/SV244\\_230131.pdf](https://www.southcentre.int/wp-content/uploads/2023/01/SV244_230131.pdf)>; Md. Deen Islam and others, ‘The Social Costs of Success: The Impact of World Trade Organization Rules on Insulin Prices in Bangladesh upon Graduation from Least Developed Country Status’ (2022) 39 (1) Asian Development Review, 239–279.

<sup>403</sup> BAPI, ‘Advantages of TRIPS’ <<http://www.bapi-bd.com/bangladesh-pharma-industry/advantages-of-trips.html>> accessed on 15 October 2025.

<sup>404</sup> Mohammad Abdur Razzaque and others, ‘Graduation and Bangladesh's Pharmaceutical Industry’ (n 397) 2.

<sup>405</sup> Harunur Rashid, ‘Problem and Prospect of Pharmaceuticals Industry of Bangladesh’ (n 51) 180.

country is expected to experience a 11.2-14.6%<sup>406</sup> decline in medicine export because the IP regimes of its major export destinations do not provide patent protection.<sup>407</sup>

Furthermore, developed Country Members will no longer be bound by the technology transfer obligation towards Bangladesh under Article 66.2. Since Article 66.2 supports were not of much significance for Bangladesh,<sup>408</sup> any post-graduation impacts will be trivial.

Graduation also means complying with the TRIPS notification obligation *vis-à-vis* new IP laws and regulations, including notifying which regulation will address the processing of pending mailbox applications (which is exempted by IP/C/73 for LDCs).<sup>409</sup> This obligation extends to notifying contact points in Bangladeshi administrations to share information on “*trade in infringing goods*”<sup>410</sup> with its counterparts in fellow WTO Members. Bangladesh has been active with respect to Article 63.2 notifications<sup>411</sup> so compliance with these obligations should not present any difficulty. As for pending mailbox applications, in 2022, the country’s Department of Patents, Designs, and Trademarks (DPDT) terminated this system, including the applications therein, enacting the Bangladesh Patent Act (BPA) 2022, which was later superseded by BPA 2023<sup>412</sup>.<sup>413</sup> The termination prevents the granting of patents, which safeguards the domestic market against monopolization by patentees, depicting the BPA’s forward-looking nature. This modernized version will enable Bangladesh to stay competitive in the post-graduation IP landscape. Quite naturally, higher IP standards will spur innovation and attract FDI.

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<sup>406</sup> Mohammad Abdur Razzaque and others, ‘Graduation and Bangladesh's Pharmaceutical Industry’ (n 397) 11.

<sup>407</sup> Harunur Rashid, ‘Problem and Prospect of Pharmaceuticals Industry of Bangladesh’ (n 51)182.

<sup>408</sup> UNDESA, ‘Ex Ante Assessment of the Impacts of the Graduation of Bangladesh’ (n 266) 19.

<sup>409</sup> TRIPS Agreement (n 15) Article 63.

<sup>410</sup> *ibid* Article 69.

<sup>411</sup> Bangladesh, *Notification of Laws and Regulations under Article 63.2 of the TRIPS Agreement- Bangladesh: The Trademarks Act, 2009* (6 October 2025) IP/N/1/BGD/4-IP/N/1/BGD/T/1; Bangladesh, *Notification of Laws and Regulations under Article 63.2 of the TRIPS Agreement Bangladesh: The Geographical Indications of Goods (Registration and Protection) Act, 2013* (19 September 2025) IP/N/1/BGD/3-IP/N/1/BGD/G/1; Bangladesh, *Notification Of Laws And Regulations under Article 63.2 Of The Agreement* (11 April 2008) IP/N/1/BGD/2; Bangladesh, *Notification of Laws and Regulations under Article 63.2 of the Agreement* (24 June 2002) IP/N/1/BGD/1.

<sup>412</sup> See Fardeen Bin Abdullah, ‘*Bangladesh Patent Act, 2023 (English Version)*’ (November 2023) Act No. 53 of 2023 <10.5281/zenodo.14162125>.

<sup>413</sup> Mohammad Abdur Razzaque and others, ‘Graduation and Bangladesh's Pharmaceutical Industry’ (n 397) 5.

Regarding non-compliance with any obligations, Article 24 of the DSU shields Bangladesh from any dispute settlement mechanism until the transition period. What is rather relieving for the country is that, as per Article 31bis, Bangladesh can, with the developing country status, import generics medicines to meet its domestic needs for medicines in which it has insufficient manufacturing capacity, for example, to treat advanced-level cancer<sup>414</sup>. It can also export them to its trading partners who confront similar challenges.

### 3.4. SPS and TBT Flexibilities

Bangladesh is obliged to fully comply with the SPS Agreement regardless of when it graduates, as the 5-year delay in implementation has expired<sup>415</sup> in 2000. As such, it will be obligated to comply with 3 categories of SPS obligations: 1) to harmonize the domestic SPS framework with international standards<sup>416</sup> to “*protect human, animal or plant life or health*”<sup>417</sup>, 2) to comply with the SPS measures of export destinations to secure market access, and 3) to comply with the notification obligation<sup>418</sup>.

After graduation, Bangladesh can comply with its obligation under category 1 with the support of the WTO Members, as the Agreement requires them to “*facilitate the active participation of developing country Members in the relevant international organizations*”<sup>419</sup>. The same provision is also reflected in Article 11.2 of the TBT Agreement. If necessary, Bangladesh can request the importing Member to “*ensure that international standardizing bodies [. . .] prepare international standards concerning products of special interest to [itself] developing country Members*”<sup>420</sup>.

To emphasize, if Bangladesh receives essential facilities commensurate with its needs, with improved technical capacity, it can naturally reach the compliance threshold that its WTO

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<sup>414</sup> See Priyam Karmakar and Abhijeet Roy, ‘*The Current Landscape of Cancer Treatment Scenario in Bangladesh*’ (18 July 2024) <<https://dx.doi.org/10.18203/2394-6040.ijcmph20242200>>.

<sup>415</sup> See ‘n 294’.

<sup>416</sup> SPS Agreement (n 291) Article 3.1.

<sup>417</sup> *ibid* Article 3.2.

<sup>418</sup> *ibid* Article 7.

<sup>419</sup> *ibid* Article 10.4.

<sup>420</sup> TBT Agreement (n 292) Article 12.6.

counterparts aim to achieve through SPS and TBT measures. This demonstrates that the ‘facility-providing obligation’ of WTO Members is directly connected to the ‘SPS and TBT compliance’ by the exporting LDC Members. (emphasis added)

As the STDF has adopted a transition period of 3 years for graduated LDCs, Bangladesh can benefit from Article 9 TA under STDF for 3 years, i.e., until 2029 after graduation.<sup>421</sup> The same period was also extended to graduated LDCs for LDC-specific TA and capacity-building programs under all covered Agreements in MC13.<sup>422</sup> This will include TA under the SPS and TBT Agreements as well.

Under the TBT Agreement, Bangladesh can benefit from the WTO Secretariat’s ‘timely notification’<sup>423</sup> concerning product-specific TBT measures (such as garments) by any importing Members, helping it align with their standards post-graduation. A similar provision is enshrined in the SPS Agreement.<sup>424</sup> However, concerns persist regarding the effective implementation of these provisions.<sup>425</sup>

### 3.5. Flexibilities under the WTO Dispute Settlement Understanding

Non-compliance with WTO obligations stemming from ‘capacity constraints’ is not the same as ‘willful violation’. Members have duly noted this issue, which is evident from the design of the Understanding on Rules and Procedures Governing the Settlement of Disputes<sup>426</sup> (DSU), particularly the S&DT provision in Article 24.<sup>427</sup> The LDC-specific “*special procedures*” in

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<sup>421</sup> UN ‘*Special Treatment Regarding Obligations and Flexibilities under WTO Rules*’ (August 2025) <<https://www.un.org/ldcportal/content/special-treatment-regarding-obligations-and-flexibilities-under-wto-rules>>.

<sup>422</sup> WT/MIN(24)/34-WT/L/1189 (n 91) para. 2.

<sup>423</sup> TBT Agreement (n 292) Article 10.6.

<sup>424</sup> SPS Agreement (n 291) Annex B, para. 9.

<sup>425</sup> See BFTI, ‘*Study: WTO Special and Differential Treatment (S&DT) and Graduation Challenges of Bangladesh*’ (March 2023) <<https://www.researchgate.net/publication/372558039>>.

<sup>426</sup> Understanding on Rules and Procedures Governing the Settlement of Disputes (adopted 15 April 1994, entered into force 1 January 1995) 1869 UNTS 401, Annex 2 to the Marrakesh Agreement Establishing the World Trade Organization.

<sup>427</sup> Leah Buencamino, ‘*Special and Differential Treatment Provisions in the DSU and Current Reform Discussions*’ (2025) 20 (4) *Global Trade and Customs Journal*, 278-284 <<https://kluwerlawonline.com/journalarticle/Global+Trade+and+Customs+Journal/20.4/GTCJ2025035>> accessed on 22 October 2025.

DSU obligate Members to consider the “*special situation*” of the LDCs and exercise “*due restraint*” not just in initiating a dispute but also in seeking redress such as ‘compensation or suspension of concessions’<sup>428</sup> against nullification or impairment of their rights.<sup>429</sup> Thus, it is unsurprising that the LDCs have never been subject to a dispute settlement mechanism. Despite such flexibilities, the actual impact of Article 24 remains limited,<sup>430</sup> as the LDCs have not made any notable use of the dispute settlement mechanism except for Bangladesh. The major reasons are the limited legal expertise of the LDCs and the lack of finance to bear litigation costs.<sup>431</sup> This led to the establishment of the Advisory Centre on WTO Law<sup>432</sup> (ACWL), a standalone intergovernmental organization<sup>433</sup>, which offers free legal counselling and discounted legal services, i.e., CHF40<sup>434</sup> per hour for WTO disputes to LDCs<sup>435</sup>.

Under the WTO system, the LDCs can also request the Director-General or the Chairman of the Dispute Settlement Body (DSB) for the use of their “*good offices, conciliation and mediation with a view to assisting the parties to settle [a] the dispute*”<sup>436</sup> for an LDC with another Member.

Even so, the LDCs hesitate to use the WTO Dispute Settlement System (DSS) because they depend on the preferences and investments of the larger economies. They fear that this will affect their bilateral relationships, which may cause these benefits to be withdrawn. And even if the LDCs institute a dispute and secure a favorable outcome, their low trade volume (import from and export to a non-complying country) fails to put economic pressure on the exporting

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<sup>428</sup> DSU (n 426) Article 22.

<sup>429</sup> DSU (n 426) Article 24.1.

<sup>430</sup> WTO and EIF, ‘Trade Impacts of LDC Graduation’ (n 38) 28.

<sup>431</sup> Mohammad Ali Taslim, ‘Barriers to Least-developed Country Participation in the WTO’s Dispute Settlement System’ (December 2005) <[https://www.researchgate.net/publication/284716113\\_Barriers\\_to\\_Least-developed\\_Country\\_Participation\\_in\\_the\\_WTO's\\_Dispute\\_Settlement\\_System](https://www.researchgate.net/publication/284716113_Barriers_to_Least-developed_Country_Participation_in_the_WTO's_Dispute_Settlement_System)>.

<sup>432</sup> See Pièrola-Castro, Fernando, Niall Meagher, and Leah Buencamino, ‘The Advisory Centre on WTO Law (ACWL): 20 Years of Service to Developing and Least Developed Countries’ (2021) 4 (10) Latin American Journal of Trade Policy, 100-114 <<https://doi.org/10.5354/0719-9368.2021.64746>> accessed on 22 October 2025.

<sup>433</sup> Agreement Establishing the Advisory Centre on WTO Law [WTO] 2299 UNTS 249, UNTS Reg No I-40998 [ACWL Agreement].

<sup>434</sup> ACWL, ‘Fees’ (2022) <<https://www.acwl.ch/fees/>> accessed on 22 October 2025.

<sup>435</sup> ACWL Agreement (n 433) Article 2.2.

<sup>436</sup> DSU (n 426) Article 24.2.

country Members, rendering enforcement rules ineffective for them.<sup>437</sup> The African LDCs have remarked that the trade retaliation rules “*are skewed against and disadvantage African Members*”.<sup>438</sup> As a result, the LDCs, as well as the developing country Members, have tabled proposals to reform the DSS.<sup>439</sup>

Bangladesh is the only LDC that initiated a dispute as the Complainant<sup>440</sup> a decade after the establishment of the WTO. Bangladesh observed that India’s anti-dumping measures on its batteries were inconsistent with WTO rules.<sup>441</sup> However, as India withdrew its measures and the parties reached a mutually agreed solution, the dispute did not reach the panel stage.<sup>442</sup>

After graduation, Bangladesh will benefit from Article 24 of DSU for another 3 years as per the MC13 decision.<sup>443</sup> This means after 2029, the country will be susceptible to disputes, which require strong legal expertise, because after graduation, it will lose free access to ACWL legal aid, and dispute settlement-related services will become costly. To enjoy these services as a developing country, it must become a member of the ACWL, but without its own legal capacity, it will remain vulnerable to complex trade disputes if full compliance with WTO rules is not achieved.<sup>444</sup>

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<sup>437</sup> Jumoke Oduwole, ‘*WTO Dispute Settlement Understanding Remedies Reforms: An African Perspective*’ (1 January 2012) <<https://ssrn.com/abstract=2119857>>.

<sup>438</sup> WTO, *Submission of the African Group to the Special Session of the Dispute Settlement Body* (25 September 2002) TN/DS/W/15, paras. 2 and 6.

<sup>439</sup> Nottage Hunter, ‘Developing countries in the WTO Dispute Settlement System’ (2009) GEG Working Paper, No. 2009/47, Global Economic Governance Programme (GEG) 7 <<https://hdl.handle.net/10419/196308>>.

<sup>440</sup> WTO, *India — Anti-Dumping Measure on Batteries from Bangladesh- Request for Consultations by Bangladesh* (2 February 2004) WT/DS306/1 G/L/669 G/ADP/D52/1.

<sup>441</sup> Md. Anwarul Azim, ‘*Bangladesh-India Lead Acid Battery Case: Importance of WTO’s Dispute Settlement Mechanism and Lesson for LDCs*’ (2021) *Global Journal of Politics and Law Research*, 52-58.

<sup>442</sup> WTO, *India – Anti-Dumping Measures on Batteries from Bangladesh Notification of Mutually Satisfactory Solution* (23 February 2006) WT/DS306/3 G/L/669/Add.1 G/ADP/D52/2.

<sup>443</sup> See ‘n 91’.

<sup>444</sup> UNDESA, ‘Ex Ante Assessment of the Impacts of the Graduation of Bangladesh’ (n 266) 20.

### 3.6. Exemptions and Extended Deadlines under the Trade Facilitation Agreement

The Agreement on Trade Facilitation<sup>445</sup> (TFA) facilitates international trade by “*expediting the movement, release and clearance of goods, including goods in transit*”<sup>446</sup>, and issues relating to customs compliance<sup>447</sup>. The TFA explicitly recognizes the needs of the LDCs,<sup>448</sup> categorizing TFA commitments into a 3-tier<sup>449</sup> implementation system, namely Category A, Category B, and Category C. Category A commitments must be implemented immediately or within 1 year<sup>450</sup> for the LDCs and those in Category B after a transition period, while Category C is conditional upon receiving TA from the WTO Members. This unique and forward-looking feature of the TFA allows LDCs to self-designate TFA provisions (Articles 1 to 12) into these 3 Categories according to their respective capacity, and self-determine timelines for their implementations.<sup>451</sup>

To elaborate, during the Doha Work Programme, the Members unanimously agreed that “*Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities*”<sup>452</sup>. Additionally, the LDCs are given longer deadlines for implementation of the TFA in case they face difficulties through the ‘early warning mechanism’<sup>453</sup>. They can also benefit from longer time frames by shifting their commitments from Category B to C<sup>454</sup>. The TFA provisions that provide the greatest flexibility are

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<sup>445</sup> Agreement on Trade Facilitation (adopted 27 November 2014, entered into force 22 February 2017) WTO Doc WT/L/940.

<sup>446</sup> TFA (n 445) Preamble, 3<sup>rd</sup> Recital.

<sup>447</sup> WTO and EIF, ‘Trade Impacts of LDC Graduation’ (n 38) 23.

<sup>448</sup> TFA (n 445) Preamble, 4<sup>th</sup> Recital.

<sup>449</sup> *ibid* Article 14.

<sup>450</sup> *ibid* Article 15.

<sup>451</sup> *ibid* Article 16.

<sup>452</sup> WTO, ‘Doha Work Programme Decision Adopted by the General Council’ (1 August 2004) WT/L/579, para. 3; TFA (n 445) Article 13.3.

<sup>453</sup> TFA (n 445) Article 17.

<sup>454</sup> *ibid* Article 19.

exemptions from DSU actions for 6 years<sup>455</sup>, *vis-à-vis* Category A commitments, and 8 years<sup>456</sup> for Category B commitments. These progressive in-built features of TFA make it highly LDC-supportive, eliminating the fear of initiation of disputes, which could be triggered as a result of non-compliance. Support for TA for Category C commitments, however, is limited to \$1 billion per annum (for developing countries and LDCs together), which is not commensurate with the needs of LDCs.<sup>457</sup>

The advantages of implementing TFA are manifold.<sup>458</sup> A study estimated that if TFA is successfully implemented, it can reduce trade costs concerning imports of LDCs<sup>459</sup>, and Landlocked LDCs by 2.5% and by 4.5% respectively.<sup>460</sup> The World Trade Report 2015 suggested a higher cost reduction ranging between 9.6% and 23.1%<sup>461</sup> stating that “*full implementation of the TFA has the potential to increase global exports by between US\$1.8 trillion and US\$3.6 trillion*”<sup>462</sup>. UNCTAD found that “*trade facilitation contributes to the compliance of several targets of SDG 16*”.<sup>463</sup>

Upon graduation, Bangladesh would not enjoy the S&DT provisions in TFA. Nevertheless, it would benefit from the preferential treatment via ‘extended deadlines’ and ‘longer time frames’ for implementing Category B and C provisions under Articles 17 and 19 of TFA, which extend to developing country Members. This would safeguard Bangladesh against compliance shocks.

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<sup>455</sup> *ibid* Article 20.2.

<sup>456</sup> *ibid* Article 20.3.

<sup>457</sup> Bangladesh, ‘Impact Assessment and Coping up Strategies of Graduation’ (n 270) 42.

<sup>458</sup> Antonia Eliason, ‘The Trade Facilitation Agreement: A New Hope for the World Trade Organization’ (2015) 14 (4) *World Trade Review*, 643–70 <<https://doi.org/10.1017/S1474745615000191>>.

<sup>459</sup> Jaime de Melo and Wagner, Laurent, ‘*How the Trade Facilitation Agreement can Help Reduce Trade Costs for LDCs*’ (2015) Policy Brief, No. B129, Fondation pour les études et recherches sur le développement international (FERDI) <<https://hdl.handle.net/10419/269731>>.

<sup>460</sup> Jaime de Melo and Laurent Wagner, ‘Aid for Trade and the Trade Facilitation Agreement: What They Can Do for LDCs’ (2016) 50 (6) *Journal of World Trade*, 935-969 <<https://doi.org/10.54648/trad2016038>>.

<sup>461</sup> WTO, ‘*World Trade Report 2015-Speeding up Trade: Benefits and Challenges of Implementing the WTO Trade Facilitation Agreement*’ (2015) 7 <[https://www.wto.org/english/res\\_e/publications\\_e/wtr15\\_e.htm](https://www.wto.org/english/res_e/publications_e/wtr15_e.htm)> accessed on 23 October 2025.

<sup>462</sup> *ibid* 8.

<sup>463</sup> UNCTAD, ‘*National Trade Facilitation Committees: Beyond Compliance with the WTO Trade Facilitation Agreement?*’ (2017) Transport and Trade Facilitation Series No 8, UNCTAD/DTL/TLB/2017/3, 13 <<http://creativecommons.org/licenses/by/3.0/igo/>> accessed on 22 October 2025.

As regards Category A commitments, ‘graduation’ does not affect them as they are already implemented or in force. The WTO TFA database evinces that the global rate of TFA implementation is 85.3% while it is 79.4% for Bangladesh, which is impressively close.<sup>464</sup>

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<sup>464</sup> WTO, *Trade Facilitation Agreement Database: Progress on Implementation Commitments Comparison Tool* (2025) <<https://tfadatabase.org/en/implementation/comparisons?country=13>> accessed on 22 October 2025.

## CHAPTER 4: MITIGATING GRADUATION RISKS THROUGH WTO-COMPLIANT STRATEGIES

### 4.1. Concluding FTAs to Secure Preferential Market Access

It would be a strategic step for Bangladesh to conclude FTAs with its major trading partners<sup>465</sup> because such trade arrangements would ensure greater market access, improved cross-border trade, and bolster competitiveness and innovation.<sup>466</sup> This, in turn, would help sustain economic growth and stability and attract increased FDI.

Bangladesh's largest export destination is the EU. In 2024, 94% of the EU's imports from Bangladesh were textiles, which currently enjoys DFQF market access with a utilization rate of 91% under the EBA scheme.<sup>467</sup> This DFQF market access will cease in 2029 after the 3-year transition period provided to the LDCs. Consequently, a 12% MFN tariff will apply on textiles as Bangladesh's RMG will not qualify for the GSP+ scheme, which triggers safeguard measures (i.e., withdrawal of preferential tariffs) for products exceeding 6% import share. With a 12% duty, RMG will be expensive, losing its competitiveness in the EU market. In this connection, Bangladesh should effectively use the transition period to finalize an FTA with the EU, given the time-consuming<sup>468</sup> aspect of FTA negotiations. While some experts suggested the GSP+ scheme is a good alternative,<sup>469</sup> however, it is merely a 'better-than-worse' option, whereas an FTA ensures deeper integration and long-term preferential market access for RMG.

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<sup>465</sup> Mohammad Abdur Razzaque, Rakin Uz Zaman, and Syful Islam, 'Strategic Approaches to FTAs in the Context of LDC Graduation: Policy Imperatives for Bangladesh' (July 2025) 22-23 <[https://www.rapidbd.org/wp-content/uploads/2025/09/Report-on-Strategic-approaches-to-FTA\\_BGD-LDC-Graduation.pdf](https://www.rapidbd.org/wp-content/uploads/2025/09/Report-on-Strategic-approaches-to-FTA_BGD-LDC-Graduation.pdf)>.

<sup>466</sup> Parineeta Goswami, 'Catalysts of Economic Growth: An In-Depth Analysis of Free Trade Agreements and Their Impact on Global Trade Dynamics' (January 2025) <<http://dx.doi.org/10.2139/ssrn.5083991>> accessed on 5 November 2025.

<sup>467</sup> See 'n 328'.

<sup>468</sup> See Lizzette Arroyo and Ramon A. Castillo-Ponce, 'The Duration of Trade Agreement Negotiations' (2019) 19 Applied Econometrics and International Development, Euro-American Association of Economic Development, 19 <<https://www.usc.gal/economet/reviews/aicid1922.pdf>> accessed on 6 November 2025.

<sup>469</sup> See Abul Kashem, 'Bangladesh Moves to Sign FTA with EU to Secure Post-LDC Trade Privileges' (19 October 2025) <<https://www.tbsnews.net/bangladesh/bangladesh-moves-sign-fta-eu-secure-post-ldc-trade-privileges-1263946>> accessed on 6 November 2025.

The U.S.A. is an important trading partner of Bangladesh, as it is the second largest export destination of Bangladeshi products. Owing to the strengthening of the bilateral relationship between the countries, the U.S.A. has significantly reduced tariffs on Bangladeshi products – an advantage that was not extended to the competitors of Bangladesh in the U.S.A. market. As a result, textile orders are shifting from India, China, and Myanmar to Bangladesh.<sup>470</sup> Given this set of circumstances, an FTA would be highly beneficial for Bangladesh as it would eliminate tariffs on exported goods and help reduce other NTMs. These FTA negotiations would also offer an avenue for Bangladesh to pursue the U.S.A. to relax its stringent RoO and high labor standards. In this regard, Bangladesh should highlight its growing number of green factories (now 233)<sup>471</sup> certified by ‘Leadership in Energy and Environmental Design’ (LEED- an internationally recognized certification center for green buildings) as evidence of its improved environmental standards. Thus, there is a quantum leap in green factories in Bangladesh. It is leading in green manufacturing as the home to the top 68 eco-friendly factories in the world.<sup>472</sup> By ensuring improved facilities and a safer workplace, green factories catalyze the advancement of labor rights. These steps, in addition to the recent ratification of the key ILO Conventions, demonstrate a paradigm shift in the labor standards of Bangladesh.<sup>473</sup>

In terms of regional diversification, Bangladesh lacks regional trade integration because its major export destinations are limited to the EU and the West. Now RTAs might appear as the obvious solution; however, existing Asian RTAs remain largely underutilized. Geopolitics and the cost associated with compliance with complex RoO are two major impediments.<sup>474</sup> For

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<sup>470</sup> Reyad Hossain, ‘More RMG Buyers Flock to Bangladesh After Trump Tariff on China, India’ (12 August, 2025) <<https://www.tbsnews.net/economy/rmg/more-rmg-buyers-flock-bangladesh-after-trump-tariff-china-india-1210096>> accessed on 5 November 2025.

<sup>471</sup> Scribd, ‘LEED-Certified Factories in Bangladesh’ (2025) <<https://www.scribd.com/document/814412505/Bangladesh-Green-Factories-List>> accessed on 5 November 2025.

<sup>472</sup> Abu Rayhan and S. Begum, ‘Bangladesh’s Leadership in Green Manufacturing: Analyzing the Dominance of Environment Friendly Factories in the Global Top 100’ (June 2024) <<https://www.researchgate.net/publication/381162080>> accessed on 5 November 2025.

<sup>473</sup> See THM Kaizer, ‘Green Garment Factories in Bangladesh: Motivation and Challenges’ (2020) <<https://jyx.jyu.fi/bitstreams/34cdb6b6-2239-40ce-b4f9-cee583f95b22/download>> accessed on 5 November 2025; Bangladesh Garment Manufacturers and Exporters Associations, ‘The Apparel Story: Paradigm Shift in Ensuring Worker’s Rights and Welfare’ (2023) <<https://bgmea.com.bd/uploads/newsletters/apparel-story-november-december-2023.pdf>>

<sup>474</sup> Jisoo Yi, ‘Rules of Origin and the Use of Free Trade Agreements: A Literature Review’ (April 2015) 9 (1) World Customs Journal, 43-57 <<https://www.worldcustomsjournal.org/article/93983-rules-of-origin-and-the-use-of-free-trade-agreements-a-literature-review>> accessed on 5 November 2025.

example, the SAFTA is currently dysfunctional, despite its potential to boost trade expansion,<sup>475</sup> due to tension between India and Pakistan.

The alternative route to enhanced regional trade integration for Bangladesh would be to sign individual FTAs with existing and new regional trading partners. Finalization of FTAs with Japan, Singapore, South Korea, Malaysia, and the United Arab Emirates (U.A.E.) is most likely, as negotiations are now at advanced stages.<sup>476</sup> The country should also aim for FTAs with trading partners with large markets like India and China. Furthermore, acceding to the Regional Comprehensive Economic Partnership<sup>477</sup> (RCEP- a bloc made of 10 ASEAN Countries<sup>478</sup>, China, Japan, South Korea, Australia, and New Zealand) should be a priority given its divergent market and substantial economic impact from its implementation<sup>479</sup>. The greatest advantage is that 1 single certificate of origin would allow access to all 15 RCEP countries.<sup>480</sup> Above all, amidst rising geopolitical tensions, this regional model could operate as a buffer against the adverse effects of trade wars.

#### **4.2. Building WTO Dispute Settlement Expertise and Utilizing Trade Remedies**

Bangladesh would enjoy S&DT related to dispute settlement during the 3-year transition period (2026-2029) after graduation. From 2029 onwards, Bangladesh will be exposed to a greater risk of trade disputes, for its trade measures and policies will be subject to stricter scrutiny. On

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<sup>475</sup> See Ushan Peiris and others, '*Is SAFTA Desirable? Evidence from Static Theory*' (June 2017) 8(1) Colombo Business Journal, 43 <<https://cbj.sljol.info/articles/10.4038/cbj.v8i1.12>> accessed on 6 November 2025.

<sup>476</sup> See Syful Islam, '*Bangladesh on FTA Hunt as its Graduation Nears*' (July 2025) <<https://thefinancialexpress.com.bd/trade/bangladesh-on-fta-hunt-as-its-graduation-nears>> accessed on 6 November 2025.

<sup>477</sup> See Kang, Jong Woo and others, '*Regional Comprehensive Economic Partnership: Overview and Economic Impact*' (December 2020) ADB <<https://dx.doi.org/10.22617/BRF200422-2>> accessed on 6 November 2025.

<sup>478</sup> Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam.

<sup>479</sup> See Yanmei Wang and Wenying Yan, '*Assessing the Economic Impact of the Regional Comprehensive Economic Partnership: A Dynamic GTAP Analysis Global and Regional Benefits of RCEP*' (2025) 23 Asia Europe Journal, 209–227 <<https://doi.org/10.1007/s10308-025-00728-1>> accessed on 6 November 2025.

<sup>480</sup> Asia House, '*RCEP: A Guide to the World's Largest Trade Agreement*' <<https://www.asiahouse.org/files/wp-uploads/2020/11/RCEP-briefing.pdf>> accessed on 6 November 2025.

top of that, the ACWL legal services are costlier for developing country Members than they are for the LDCs, ranging between CHF 162 to 324<sup>481</sup> per hour.

On the other hand, the WTO trade remedies remain underutilized by Bangladesh. A survey with local firms has revealed that many products are entering the market of Bangladesh at a price lower than their production cost<sup>482</sup> and thereby harming the local businesses.<sup>483</sup> Most recently, domestic producers have voiced concerns over sustained losses because of cheap imports.<sup>484</sup> Bangladesh has not been able to establish a case against these anti-competitive practices because dumping cases are more complex than general WTO issues and require coordinated efforts of several Ministries and agencies, economic impact analysts, and lawyers with strong trade remedies expertise.<sup>485</sup> Quite naturally, dumping cases are costly.

On the contrary, Bangladesh's trading partners comparatively make greater use of trade remedies. Bangladeshi export products have been subject to anti-dumping duties at different times and on varied products, such as jute products and Hydrogen Peroxide.<sup>486</sup> However, due to a lack of legal and technical expertise, the country has been unable to challenge these measures through WTO dispute settlement mechanisms, which leaves their legitimacy unchecked. The imposition of anti-dumping duty by Brazil on Bangladeshi jute is one such example. Bangladesh Mission aimed to challenge the measure at the WTO, but due to

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<sup>481</sup> ACWL, '*Billing Policy and Revised Time Budget*' (26 March 2004) Decision 2004/3 Adopted by the Management Board, ACWL/MB/D/2004/3, 2 <[https://www.acwl.ch/wp-content/uploads/time\\_budget\\_e.pdf](https://www.acwl.ch/wp-content/uploads/time_budget_e.pdf)> accessed on 7 November 2025.

<sup>482</sup> Sacchidanand Majumder and Soma Dey, '*Light Engineering Industry Sector in Bangladesh: Challenges and Prospects*' (February 2020) 52 <<https://www.researchgate.net/publication/349392497>> accessed on 3 November 2025.

<sup>483</sup> Daily Star, '*Anti-dumping Duty on Chinese Plastics if Proof Found: Secretary*' (August 2025) <<https://www.thedailystar.net/business/news/anti-dumping-duty-chinese-plastics-if-proof-found-secretary-3972296>> accessed on 8 November 2025.

<sup>484</sup> Industry Insider, '*Trade Deal Talks Advances Amid Weak Defences Against Dumping*' (11 November 2025) <<https://industryinsiderbd.com/trade-deal-talks-advances-amid-weak-defences-against-dumping/>> accessed on 14 November 2025.

<sup>485</sup> Ferdaus Ara Begum, '*Protecting Exports from Anti-Dumping Duty*' (29 December 2018) <<https://www.thefinancialexpress.com.bd/views/views/protecting-exports-from-anti-dumping-duty-1546098108>> accessed on 8 November 2025.

<sup>486</sup> Daily Star, '*Bangladesh's Participation in the WTO's Dispute Settlement System*' (2023) <<https://www.thedailystar.net/law-our-rights/news/bangladeshs-participation-the-wtos-dispute-settlement-system-3261921>>.

insufficient information from its Ministry of Jute, the matter was dropped.<sup>487</sup> The sole dispute by an LDC, i.e., by Bangladesh against India, was possible because of the availability of the necessary information, coupled with the required assistance from the ACWL. The ACWL Team found inconsistencies in anti-dumping investigations and the imposed duty.<sup>488</sup> The calculations of the Bangladeshi exporter *Rahimafrooz* (on whom the duty was levied) also reached the same conclusion, i.e., the duty was not legitimate.<sup>489</sup> And unsurprisingly, if Bangladesh had not challenged this anti-dumping duty, it would not have been withdrawn.

The anti-dumping duty imposed by Pakistan on Bangladeshi Hydrogen Peroxide suggests another story. Market analysis demonstrated that the market share of Pakistan's domestic industry increased while that of Bangladeshi imports decreased during the anti-dumping investigation period.<sup>490</sup> Furthermore, the dumping margin was unreasonably high, exceeding 50% while it remained below 10% from other countries like India.<sup>491</sup> These two factors, amongst others, cast doubt on the legitimacy of the anti-dumping measure.<sup>492</sup>

Thus, Bangladesh must enhance its dispute settlement expertise and thereby enable its Trade Remedies Wing to overhaul these measures against the relevant WTO law, and where the case has merit, address it through WTO DSS<sup>493</sup>. Strong procedural preparedness would enable the country not just to defend its trade measures as a potential respondent but to identify and investigate dumped, surged, and subsidized imports harming the domestic industries and

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<sup>487</sup> The Dhaka Chamber of Commerce and Industry and Center for International Private Enterprise, '*Economic Policy Paper on Anti-Dumping and Countervailing Duty Measures*' (2000) 9-10 <<https://dhakachamber.com/storage/economic-policies/June2019/yAEivFSO3mQbvIpWtx2w.pdf>>.

<sup>488</sup> See Mohammad Ali Taslim, '*Dispute Settlement in the WTO and the Least Developed Countries: the Case of India's Anti-Dumping Duties on Lead Acid Battery Import from Bangladesh The WTO Dispute Settlement System and Developing Countries*' (November 2005) ICTSD Asia Dialogue on WTO Dispute Settlement and Sustainable Development, 13-14.

<sup>489</sup> Syed Margub Elahi, '*Bilateral Trade between India and Bangladesh: The Dumping Issue Contents*' (2018) <[https://www.researchgate.net/publication/359712078\\_Bilateral\\_Trade\\_between\\_India\\_and\\_Bangladesh\\_The\\_Dumping\\_Issue\\_Contents](https://www.researchgate.net/publication/359712078_Bilateral_Trade_between_India_and_Bangladesh_The_Dumping_Issue_Contents)>.

<sup>490</sup> Saumik Islam, '*Dumped or Priced Right? - Comparative Analysis of Anti-Dumping Investigation in the Pakistan-Bangladesh HP Case*' (31 December 2023) 27-28 <[https://www.researchgate.net/publication/390535287\\_Dumped\\_or\\_Priced\\_Right\\_Comparative\\_Analysis\\_of\\_Anti-Dumping\\_Investigation\\_in\\_the\\_Pakistan-Bangladesh\\_HP\\_Case](https://www.researchgate.net/publication/390535287_Dumped_or_Priced_Right_Comparative_Analysis_of_Anti-Dumping_Investigation_in_the_Pakistan-Bangladesh_HP_Case)>.

<sup>491</sup> Saumik Islam (n 490) 29.

<sup>492</sup> *ibid* 28.

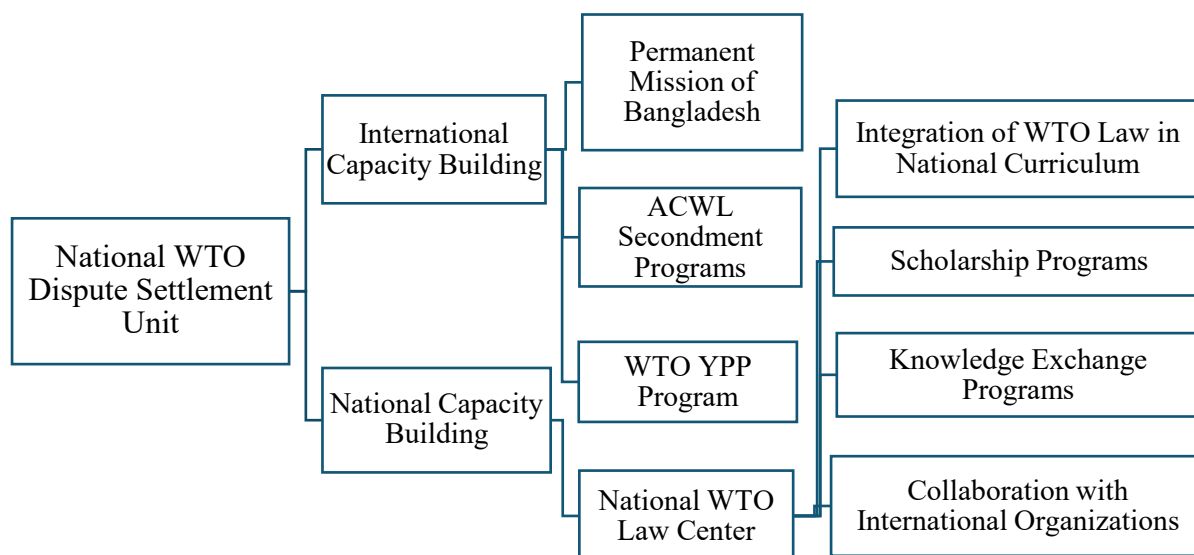
<sup>493</sup> See Md. Rizwanul Islam, '*Reviewing Trade Remedies and Bangladesh and Looking Beyond the LDC-Phase*' (2024) 6 Bangladesh Journal of Tariff and Trade, 25-38 <<https://dx.doi.org/10.2139/ssrn.5311586>>.

effectively utilize trade remedies to counter any anti-competitive trade measures in accordance with WTO Law.

In this regard, Bangladesh can learn from the best practices of its WTO fellows. Frequent users of the DSS, such as the EU, the U.S.A., China, and India, amongst others, have their own dedicated wing or in-house specialized lawyers to handle WTO disputes.

As such, Bangladesh requires a policy framework (See **Figure 4.1** below) beginning with a ‘National Dispute Settlement Unit’ staffed by Lawyers specialized in the specific trade disciplines, including GATT, GATS, SPS, TBT, TRIPS, AoA, and TRIMS.

**Figure 4.1: A Roadmap to Build WTO Dispute Settlement Expertise**



**Source:** Produced by the Researcher.

This objective could be achieved by creating capacity-building goals at the international and national levels. At the international level, the country should recruit emerging talents from amongst the top performers of its ‘National Civil Service Examination’ for the Permanent Mission to the UN, WTO, and other international organizations<sup>494</sup>. This would foster practical

<sup>494</sup> Bangladesh National Portal, ‘Permanent Mission of Bangladesh to the UN Office & other International Organizations in Geneva’ <<https://geneva.mofa.gov.bd/en/site/page/application-for-new-passport>>.

learning experiences through Council/Committee meetings, trade negotiations, and WTO Outreach activities. The WTO Young Professional Program and the ACWL Secondment Program could play a crucial role in acquiring hands-on experience on the WTO DSS. Bangladesh could also leverage the WTO e-learning platform, which provides online training programs on varied contemporary trade topics.<sup>495</sup>

At the national level, Bangladesh should establish a ‘National WTO Law Center’ to build domestic expertise through specialized training, to develop 50–100 trade law experts by 2029, and lay the foundation for a dedicated ‘Dispute Settlement Unit’. Additionally, it could mandate the integration of WTO Law in the national curriculum of LL.M. programs. The core academic modules should focus, *inter alia*, on the understanding of WTO Agreements, trade policy analysis, and WTO DSS. Case studies of prior litigation are keys to mastering legal intricacies and understanding interpretations of WTO Agreements. To stimulate knowledge exchange amongst researchers, policymakers, and trade experts, the proposed Center should facilitate academic workshops and conferences. In this connection, the Center could collaborate with international organizations and agencies like UNCTAD, UNITAR<sup>496</sup> and ITC<sup>497</sup> for tailor-made training programs. It should also adopt effective educational policies, such as scholarship programs, to ensure talent acquisition for advanced study programs in international trade law overseas. The use of extra-curricular activities such as Moot Court would be highly beneficial for a comprehensive understanding of WTO DS procedures and Law.

To execute this policy framework, Bangladesh could leverage the 5-year transition period of EIF as a source for financial support, complemented by the Aid-for-Trade and the WTO-Institute for Training and Technical Cooperation<sup>498</sup> to access funding opportunities.

These strategic steps would enable Bangladesh to ensure that trade measures are not used as a new alternative to tariffs to restrict market access in the post-GATT era<sup>499</sup>.

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<sup>495</sup> See WTO, ‘*e-learning*’ (2025) <<https://www.learning.wto.org/>> accessed on 7 November 2025.

<sup>496</sup> See UNITAR, ‘*Upcoming Online Courses on International Trade*’ <<https://unitar.org/about/news-stories/news/upcoming-online-courses-international-trade>> accessed on 7 November 2025.

<sup>497</sup> See ITC, ‘*SME Trade Academy*’ <<https://learning.intracen.org/?redirect=0>> accessed on 7 November 2025.

<sup>498</sup> See WTO, ‘*Institute for Training and Technical Cooperation (ITTC)*’ <[https://www.wto.org/english/tratop\\_e/devel\\_e/teccop\\_e/itcc\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/teccop_e/itcc_e.htm)> accessed on 7 November 2025.

<sup>499</sup> See Markus Wagner, ‘Interpreting the SPS Agreement: Navigating Risk, Scientific Evidence and Regulatory Autonomy’ in Lester, Simon and Mercurio, Bryan (eds.) *Research Handbook on WTO Dispute Settlement* (Edward Elgar Publishing, 2017) 2 <<https://wrap.warwick.ac.uk/id/eprint/85924/>>.

### 4.3. Strengthening National Competence in SPS and TBT Framework: A Strategic Approach to Improved Market Access

Bangladesh has great export potential in the agriculture and food sector. In 2021-2022, its agricultural export earnings from over 160 countries stood at \$1.7 billion.<sup>500</sup> However, many agricultural products fail<sup>501</sup> to access highly regulated markets like the U.S.A. and the EU due to Bangladesh's insufficient capacity to comply with the international standards of SPS and TBT regulations.<sup>502</sup> The existing national infrastructure is fragmented across multiple agencies responsible for certification, and a total of 9<sup>503</sup> Ministries and agencies are involved in SPS issues, suggesting a lack of a central national authority, which contributes to efficiency loss in coordination. A lack of technical expertise, testing facilities, and investment all add to the challenges. The domestic TBT landscape, more or less, faces similar challenges.

Therefore, Bangladesh should establish a comprehensive regulatory system with a 'Centralized SPS-TBT Authority' to implement the SPS and TBT Agreements and streamline coordination across the main actors. This authority should also be responsible for a) reforming the national SPS and TBT laws and regulations to ensure conformity with international standards, particularly in fisheries and aquaculture,<sup>504</sup> and b) formulating new regulations for sectors where necessary. For example, there is no practical guideline or regulation on Genetically Modified Organisms (GMOs).<sup>505</sup> Such regulations would enable Bangladesh to access the GMO markets of regional countries such as India, Nepal, and Sri Lanka. The Authority should

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<sup>500</sup> Mohammad A. Razzaque, 'Implications of LDC Graduation for Agricultural Exports from Bangladesh: Issues and Policy Options' (2023) Bangladesh Trade Facilitation Project, 4.

<sup>501</sup> Donna Roberts, David Orden and Tim Josling, 'Sanitary and Phytosanitary Barriers to Agricultural Trade: Progress, Prospects, and Implications for Developing Countries' in Merlinda D. Ingco and L. Alan Winters (eds), *Agriculture and the New Trade Agenda: Creating a Global Trading Environment for Development* (Cambridge University Press 2004) 329.

<sup>502</sup> BFTI, 'Challenges of Sanitary and Phytosanitary Measures (SPS) in Export Competitiveness of Bangladesh' (June 2024) <<https://www.bfti.org.bd/research-details/16>>.

<sup>503</sup> Mamunur Rashid and Md. Abu Hanif, 'World Trade Organization Rules on Sanitary and Phytosanitary Measures: Bangladesh Perspective' (May 2025) Proceedings of the 2nd International Conference on Industrial and Mechanical Engineering and Operations Management <<https://www.ieomsociety.org/imeom/27.pdf>>.

<sup>504</sup> Shawkat Alam and George F. Tomossy, 'Overcoming the SPS Concerns of the Bangladesh Fisheries and Aquaculture Sector: From Compliance to Engagement' (2017) 16 (2) *Journal of International Trade Law and Policy*, 70–91 <<https://doi.org/10.1108/JITLP-01-2017-0002>>.

<sup>505</sup> Bangladesh Ministry of Commerce, 'Study: Sanitary and Phyto-sanitary (SPS) and Technical Barrier to Trade (TBT), Coordination and Notification, Certification Process and Infrastructure for Promoting Trade' (March 2023) Bangladesh Regional Connectivity Project-1, 146 <[http://brcp-1.gov.bd/wp-content/uploads/2023/07/Study-4\\_Final-Report\\_21.06.2023.pdf](http://brcp-1.gov.bd/wp-content/uploads/2023/07/Study-4_Final-Report_21.06.2023.pdf)>.

c) incorporate the risk assessment provisions from the Agreements into domestic laws to confirm that trade remedies are supported by science-based reasoning and thereby adhere to non-discrimination principles.

This regulatory system should encompass an ‘Annual Review Mechanism’ to monitor operation and compliance with international standards, and strengthen the ‘Bangladesh Accreditation Board’ with modern testing equipment and skilled workforce to provide testing certificates/reports to exporters for their products. To expedite the testing procedure for perishable goods such as fish and potatoes, it should establish product-group-specific testing centers. Bangladesh is currently experiencing a surge in its potato exports<sup>506</sup> but there is a dire need for storage facilities with a modern cooling system<sup>507</sup> to maintain the freshness and white skin as often demanded by importers. Therefore, a portion of its national budget should be allocated to infrastructure development, including laboratories, testing and inspection, and storage facilities at ports, for R&D and training programs to produce technical experts at all levels of the system.

Bangladesh undertook numerous steps to upgrade its domestic SPS-TBT system in line with international standards and created varied mechanisms to facilitate trade<sup>508</sup>. Bangladesh Food Safety Authority (BFSA) built an online ‘Health Certification System’<sup>509</sup>, which marks a major improvement to expedite certification for exporters and increased transparency for importers, with the option to verify<sup>510</sup> certificates online. Furthermore, its ‘Trade Portal’<sup>511</sup> website functions as a single platform to connect exporters and importers in addition to the National

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<sup>506</sup> See Wasi Ahmed, ‘Unlocking the Potential of Potato Export’ (2025) The Financial Express <<https://thefinancialexpress.com.bd/views/columns/unlocking-the-potential-of-potato-export>> accessed on 9 November 2025.

<sup>507</sup> See Mohamed A. Eltawil, D.V.K. Samuel, and O P Singhal, ‘Potato Storage Technology and Store Design Aspects’ (2006) <[https://www.researchgate.net/publication/228617327\\_Potato\\_storage\\_technology\\_and\\_store\\_design\\_aspects](https://www.researchgate.net/publication/228617327_Potato_storage_technology_and_store_design_aspects)> accessed on 9 November 2025.

<sup>508</sup> TFA (n 445) Article 1.

<sup>509</sup> See BFSA, ‘e-Health Certification System’ <<https://ehealthcertificate.bfsa.gov.bd/>> accessed on 9 November 2025.

<sup>510</sup> See BFSA, ‘Online Verification’ <<https://ehealthcertificate.bfsa.gov.bd/online-verification>> accessed on 9 November 2025.

<sup>511</sup> See Bangladesh, ‘Bangladesh Trade Portal’ <<https://www.bangladeshtradeportal.gov.bd/>> accessed on 9 November 2025.

Trade Facilitation Committee<sup>512</sup>. To unlock business opportunities for women through collaboration, a distinct ‘Women Entrepreneurs Networking Platform’<sup>513</sup> has been created. It has further established a ‘National Enquiry Point for Trade’<sup>514</sup> as required under the SPS<sup>515</sup> and TBT<sup>516</sup> Agreements. Recent data indicated the notable efficiency of the system, as 1559 out of 1839 enquiries have received a response.<sup>517</sup>

To note, the SPS<sup>518</sup> and TBT<sup>519</sup> Agreements allow importing countries to accept the measures of exporting countries when they are equivalent to their own (equivalence). Thus, Bangladesh should devise short-term (5-year) and long-term (10-year) plans to improve its compliance standards and negotiate equivalence agreements with its major trading partners. The country should also prioritize quality management in 4 prime export sectors, i.e., garments, ceramics, fresh produce, and shrimp, as identified by ITC.<sup>520</sup> These steps would enable Bangladesh to substantially eliminate compliance costs related to duplicated measures and achieve increased market access after graduation.

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<sup>512</sup> See Bangladesh Trade Portal, ‘National Trade Facilitation Committee’ Ministry of Commerce <<https://www.bangladeshtradeportal.gov.bd/index.php?r=site/display&id=1213>> accessed on 9 November 2025.

<sup>513</sup> See Bangladesh Ministry of Commerce, ‘Women Entrepreneurs Networking Platform’ Bangladesh Regional Connectivity Project-1 <<https://wenzp.bangladeshtradeportal.gov.bd/>> accessed on 9 November 2025.

<sup>514</sup> See BFS, ‘National Enquiry Point For Trade’ <<https://enquiry.bangladeshtradeportal.gov.bd/>> accessed on 9 November 2025.

<sup>515</sup> SPS Agreement (n 291) Article 7; Annex B: Transparency of Sanitary and Phytosanitary Regulations, para. 3.

<sup>516</sup> TBT Agreement (n 292) Article 10.1.

<sup>517</sup> See BFS, ‘National Enquiry Point For Trade’ (n 514).

<sup>518</sup> SPS Agreement (n 291) Article 4.1.

<sup>519</sup> TBT Agreement (n 292) Article 2.7.

<sup>520</sup> WBG, ‘Strategies to Strengthen Bangladesh’s Competitiveness: Thematic Assessments’ (March 2014) 2 A Bangladesh Diagnostic Trade Integration Study <<https://hdl.handle.net/10986/24705>>.

## CHAPTER 5: POLICY REFORM MEASURES TO UNLOCK POST-GRADUATION EXPORT POTENTIAL

### 5.1. Export and Market Diversification

Bangladesh is heavily reliant on the earnings of the RMG sector, which accounts for approximately 85% of its exports.<sup>521</sup> Although export diversification has been mentioned as the top priority in its Industrial Policy 2016,<sup>522</sup> the weak implementation of the policy and the enjoyment of domestic supports and incentives mostly by RMG producers have left its export basket undiversified.<sup>523</sup> The 2021 World Trade Report stipulated that if exports of a country are limited to a few products, it would be risk-prone to a decline in demand for those products and thereby increasing the likelihood of ‘market volatility, such as price fluctuations’ (called aggregate volatility)<sup>524</sup>.<sup>525</sup> Market uncertainties and risks further discourage investors from making investments.<sup>526</sup> The overall effect is a drop in the country’s export revenue.

Heiko Hesse presented empirical evidence that trade diversification contributes to income growth, which explains why bigger economies with a diversified trade profile have better export performances than those with export specialization.<sup>527</sup> Thus, export diversification

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<sup>521</sup> See Mufti Ali and Ali Imran, ‘*Export Diversification Challenges and Opportunities for Bangladesh*’ (8 July 2024) <<https://ssrn.com/abstract=4888005>> accessed on 27 October 2025.

<sup>522</sup> See Bangladesh, ‘*National Industrial Policy- 2016*’ <<https://smef.gov.bd/site/files/4468ff29-731a-4555-8c9d-4d5a3fcbe2e/Industrial-Policy-2016>> accessed on 27 October 2025.

<sup>523</sup> See Bangladesh, ‘*Policy Review/Policy Study/Policy Paper Preparation on Industrial Policy 2016*’ (December 2021) Bangladesh Regional Connectivity Project-1, 9-10 <[http://brcp-1.gov.bd/wp-content/uploads/2022/03/Final-Report\\_Industrial-policy-review-draft\\_03.01.2022.pdf](http://brcp-1.gov.bd/wp-content/uploads/2022/03/Final-Report_Industrial-policy-review-draft_03.01.2022.pdf)> accessed on 27 October 2025.

<sup>524</sup> See Woongki Lee, L. Park James, and Sohn Bumjean, ‘*Aggregate Volatility Risk and Empirical Factors: An International Study*’ (2019) 57 (5) *Emerging Markets Finance and Trade*, 1489–1513 <<https://doi.org/10.1080/1540496X.2019.1633305>>.

<sup>525</sup> WTO, ‘*World Trade Report 2021: Economic Resilience and Trade*’ (2021) 10 <[https://www.wto.org/english/res\\_e/publications\\_e/wtr21\\_e.htm](https://www.wto.org/english/res_e/publications_e/wtr21_e.htm)> accessed on 26 October 2025.

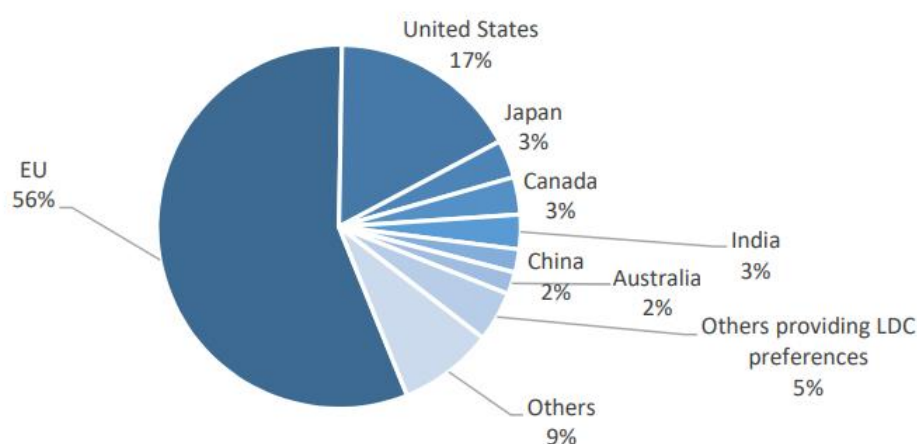
<sup>526</sup> See Efdal Misirli, ‘*Aggregate Volatility Risk and Momentum Returns*’ (2013) SSRN Electronic Journal <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2080638](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2080638)> accessed on 26 October 2025.

<sup>527</sup> Heiko Hesse, ‘*Export Diversification and Economic Growth. Commission on Growth and Development*’ (2008) Working Paper No. 21, WBG <<https://hdl.handle.net/10986/28040>> accessed on 26 October 2025.

prevents adverse impacts stemming from a single market's downturn and stimulates economic activities.

On the other hand, the export markets of Bangladesh are limited to a few countries, namely Japan, Canada, India, and China, with the EU and U.S.A. being the usual top destinations<sup>528</sup> as shown in **Figure 5.1** below:

**Figure 5.1: Major Export Destinations of Bangladesh during July 2018-June 2019**



**Source:** UNDESA (3 March 2020) 5.

While regional integration is expected through enhanced trade with East Asian countries, i.e., China, South Korea, and Japan, Bangladesh should expand its export market to African countries and the Middle East. Diversified export markets would lead to a larger consumer base, increased economic stability, and trade resilience (ability to counter and recover from trade disruptions)<sup>529</sup> which would further reinforce trade competitiveness and promote long-term growth.<sup>530</sup> Thus, Bangladesh needs to diversify its export profile, i.e., to include new

<sup>528</sup> WTO, 'Bangladesh' (January 2022) 2 <[https://www.wto.org/english/tratop\\_e/devel\\_e/bangladesh.pdf](https://www.wto.org/english/tratop_e/devel_e/bangladesh.pdf)>.

<sup>529</sup> Jose Carlos Montes Ninaquispe and others, 'Diversification of Export Markets: A Literature Review' (2024) 14 (5) Journal of Educational and Social Research, 260 <<https://doi.org/10.36941/jesr-2024-0137>>.

<sup>530</sup> Mike Xin Li, Ke Wang, and Hanlei Yun, 'Economic Benefits of Export Diversification in Small States' (11 April 2018) 2018 (86) IMF Working Papers, 23 <<https://doi.org/10.5089/9781484351017.001>>.

products for export as well as diversify its export markets. To note, Bangladesh has set export diversification as one of the 5 pillars of its Smooth Transition Strategy<sup>531</sup>.

Against this backdrop, the following **sub-chapters** will analyze the existing policies and institutional structures of some of Bangladesh's high-value sectors and recommend policy reform measures to unlock the full export potential.

### 5.1.1. Shipbuilding Industry

'Shipbuilding' is emerging as a high-potential export sector in Bangladesh.<sup>532</sup> It became an international player in shipbuilding with its first export to the EU in 2008.<sup>533</sup> It has expanded its export market to Asia, the Middle East, North America, and Africa<sup>534</sup> and currently earns over \$1 billion annually<sup>535</sup> from this sector.

Bangladesh has a competitive advantage over its shipbuilding counterparts due to its 20-30% cheaper labor cost and advantageous geographical location with 700 rivers, 24,000 km. inland waterways coupled with an area of 19,467 sq. km. in the Bay of Bengal.<sup>536</sup> An added advantage is that countries with advanced shipyards, viz. China, Singapore, and Japan take orders for colossal ships, which have created immense opportunities for Bangladesh to build small and

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<sup>531</sup> Bangladesh, 'Bangladesh Smooth Transition Strategy - Graduation from the Group of Least Developed Countries (2025)' <<https://www.un.org/ldcportal/content/bangladesh-smooth-transition-strategy-graduation-group-least-developed-countries-2025>>.

<sup>532</sup> M Muzibur Rahman, 'An Appraisal of Shipbuilding Prospects in Bangladesh' (2017) 194 *Procedia Engineering*, 224-231 <<https://doi.org/10.1016/j.proeng.2017.08.139>>; Marium Islam, 'Prospect of Shipbuilding in Bangladesh: A Case Study of Abdul Monem' (15 September 2013) <<https://ssrn.com/abstract=2326171>>.

<sup>533</sup> Nabihatul Afroz, 'Shipbuilding Industry in Bangladesh: Opportunities and Challenges' (September 2023) *Emerging Credit Rating Limited*, 4 <<https://emergingrating.com/wp-content/uploads/2023/11/Shipbuilding-Industry-in-Bangladesh-Opportunities-and-Challenges.pdf>>.

<sup>534</sup> See Ataus Samad Raju, 'Shipbuilding Industry of Bangladesh: The Chance to Become a Global Player and Economically Dependent' (January 2023) 13 (6) *Asian Journal of Research in Social Sciences and Humanities*, 1-11 <<https://indianjournals.com/article/ajrssh-13-6-001>>; *Shipbuilding: A Promising Industry of Bangladesh* <<https://newvision-bd.com/shipbuilding-a-promising-industry-of-bangladesh/>>.

<sup>535</sup> The Financial Express, 'Bangladesh Sets Ship Export Target at \$4.0B by 2025' (2021) <<https://thefinancialexpress.com.bd/economy/bangladesh/bangladesh-sets-ship-export-target-at-40b-by-2025-1611754944>>.

<sup>536</sup> See World Bank, 'Bangladesh - First Bangladesh Regional Waterway Transport Project: Improving Domestic and Regional Connectivity Through Inland Waterways' (2024) Bangladesh Project Profile <<http://documents.worldbank.org/curated/en/099554101032435615>>.

medium-sized ships and vessels,<sup>537</sup> including cargo and passenger vessels, water taxis, and tugboats.

However, some challenges impede the country from realizing the full export potential of its shipbuilding sector.<sup>538</sup> This sector heavily relies on the import of raw materials, primarily steel plates (used in the construction of the hull of the ship), as well as machinery and tools. Consequently, the ship production cost stands around 15% to 20% higher in comparison to China, Japan, Korea, and India.<sup>539</sup> The inability to design ships in line with global standards further affects the cost and delivery time. Additionally, incentives given in this sector are as little as 5% while its neighbor, India, grants almost 25%.<sup>540</sup> The situation is further exacerbated by high interest rates on bank loans, which are 12% to 13% for Bangladeshi shipbuilders, whereas they are merely 6% in China.<sup>541</sup>

To surmount these obstacles, Bangladesh needs to reform its policies *vis-à-vis* the shipbuilding sector. Firstly, modernizing the shipyards with Industry 4.0 technologies<sup>542</sup> would play a pivotal role in achieving this objective. To elaborate, the use of ‘Augmented Reality’<sup>543</sup> (AR) technology to help workers visualize how to assemble complex parts of a ship would increase

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<sup>537</sup> Gustav Brink, Tofayel Ahmmad and Jakia Sultana, ‘*The Shipbuilding Industry in Bangladesh: Problems and Prospects for Future Growth*’ (2008) BFTI Research Paper 1/2008, 13 <[https://bfti.org.bd/storage/media/612/The-Shipbuilding-Industry-in-Bangladesh\\_Problems-and-Prospects-For-Future-Growth.pdf](https://bfti.org.bd/storage/media/612/The-Shipbuilding-Industry-in-Bangladesh_Problems-and-Prospects-For-Future-Growth.pdf)>.

<sup>538</sup> Jannat Ara Parveen and Adnan Kabir, ‘*Prospects and Challenges of Shipbuilding Industry as a Growing Sector of Bangladesh Economy*’ (September 2021) 2 (2) MAT Journals, 22 <[https://www.researchgate.net/publication/358022139\\_Prospects\\_and\\_Challenges\\_of\\_Shipbuilding\\_Industry\\_as\\_a\\_Growing\\_Sector\\_of\\_Bangladesh\\_Economy](https://www.researchgate.net/publication/358022139_Prospects_and_Challenges_of_Shipbuilding_Industry_as_a_Growing_Sector_of_Bangladesh_Economy)> accessed on 28 October 2025.

<sup>539</sup> See Ahsan H. Mansur and Hasnat Alam, ‘*Harnessing the Tide: Unlocking the Potential of Bangladesh’s Shipbuilding Sector*’ (November 2023) Policy Research Institute of Bangladesh <<https://policyinsightsonline.com/2023/11/harnessing-the-tide-unlocking-the-potential-of-bangladeshs-shipbuilding-sector/>>.

<sup>540</sup> See P.M.K Hassan Siddique, Wahidul Sheikh, and Dewan Mazharul Islam, ‘*Shipbuilding: A Gateway for Bangladesh to Achieve Economic Solvency*’ (2020) 4 (1) Bangladesh Maritime Journal, 79 <[https://www.researchgate.net/publication/344374443\\_Shipbuilding\\_A\\_Gateway\\_for\\_Bangladesh\\_to\\_Achieve\\_Economic\\_Solvency](https://www.researchgate.net/publication/344374443_Shipbuilding_A_Gateway_for_Bangladesh_to_Achieve_Economic_Solvency)>.

<sup>541</sup> Jannat Ara Parveen and Adnan Kabir (n 538) 22-23.

<sup>542</sup> See Alejandro German Frank, Lucas Santos Dalenogare, Néstor Fabián Ayala, ‘Industry 4.0 Technologies: Implementation Patterns in Manufacturing Companies’ (April 2019) 210 International Journal of Production Economics, 15-26 <<https://doi.org/10.1016/j.ijpe.2019.01.004>>.

<sup>543</sup> See Eleonora Bottani and Giuseppe Vignali, ‘*Augmented Reality Technology in the Manufacturing Industry: A Review of the Last Decade*’ (2019) 53 (3) IISE Transactions, 284–310 <<https://doi.org/10.1080/24725854.2018.1493244>> accessed on 28 October 2025.

efficiency and cost-effectiveness in manufacturing<sup>544</sup>. The use of AR technology could also reduce dependence on skilled workers, making them available for human-dependent roles and accelerating production speed. Additive manufacturing<sup>545</sup> (also called “3D Printing”<sup>546</sup>) uses 3-dimensional printing, which would help produce customized ships in accordance with the needs of importers and reduce material waste, such as in fittings. To note, the analysis under **sub-chapter 2.3.5** indicates that the use of advanced technologies ensures the effectiveness of export subsidies. Combining human resource development with modern technologies would further foster innovation and productivity. Therefore, it is indispensable for Bangladesh to leverage its maritime institutions to launch training programmes to upskill semi-skilled workers into a skilled workforce<sup>547</sup> and catalyze R&D<sup>548</sup>.

To accomplish these targets, Bangladesh should develop 3 ‘Specialized Shipbuilding Zones’ in its coastal regions to form ‘a cluster of shipbuilders’ who could benefit from the modern technologies in addition to port facilities (such as deepwater access) and dry docks to repair and maintain structural conditions of ships (which is crucial for extending the lifespan of vessels<sup>549</sup>). These zones would allow them to benefit from a single management system. Scholars expressed that deep-sea ports would increase exports by allowing Bangladeshi exporters to supply large vessels to the buyers.<sup>550</sup> Establishing a ‘Facilitation Desk’ in each of

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<sup>544</sup> See Chandan K. Sahu, Crystal Young, and Rahul Ra, ‘Artificial Intelligence (AI) in Augmented Reality (AR)-Assisted Manufacturing Applications: A Review’ (2020) 59 (16) *International Journal of Production Research*, 4903–59 <<https://doi.org/10.1080/00207543.2020.1859636>> accessed on 28 October 2025.

<sup>545</sup> See H. Mansi Kumar, A.K.S. Singholi, and G. Moona, ‘Additive Manufacturing: A Brief Introduction’ in Aswal, D.K., Yadav, S., Takatsuji, T., Rachakonda, P., Kumar, H. (eds) *Handbook of Metrology and Applications* (Springer, 2023) 1141–1163 <[https://doi.org/10.1007/978-981-99-2074-7\\_59](https://doi.org/10.1007/978-981-99-2074-7_59)>.

<sup>546</sup> See E. I. Palinkas, Pekez Desnica, and A. Rackov J. Rajic, ‘3D Printing Technology: Materials, Application and Current Trends in Process Improvement’ in Keser, T., Ademović, N., Desnica, E., Grgić, I. (eds) *32nd International Conference on Organization and Technology of Maintenance* (866 Springer, 2024) 259–268 <[https://doi.org/10.1007/978-3-031-51494-4\\_22](https://doi.org/10.1007/978-3-031-51494-4_22)>.

<sup>547</sup> P.M.K Hassan Siddique, Wahidul Sheikh, and Dewan Mazharul Islam (n 540) 81.

<sup>548</sup> N. M. Golam Zakaria, M.M. Rahaman and Kh. Akhter Hossain, ‘Study on Some Competitive Parameters for Shipbuilding Industry in Bangladesh’ (2010) *International Conference on Marine Technology*, 11-12 December 2010, 416 <<https://icmartec.net/martec2010/2010/File62MARTEC204.pdf>>.

<sup>549</sup> See Aninda Kumar Chowdhury, Md. Muhiul Islam Muhit, and Md Moinul Islam, ‘A Practical Review to the Marine Maintenance Practice in Bangladesh and a Proposed Way Forward to an Efficient, Long-Term and Cost-Effective Solution’ (May 2023) <<http://dx.doi.org/10.2139/ssrn.4445071>>.

<sup>550</sup> Sharlin Afrin Nishat and Pallabi Biswas, ‘Export Related Problems and Opportunities for the Shipbuilders: A Case Study in Bangladesh’ (May 2020) 22 (5) *IOSR Journal of Business and Management*, 25 <[https://www.researchgate.net/publication/344235062\\_Export\\_Related\\_Problems\\_and\\_Opportunities\\_for\\_the\\_Shipbuilders\\_A\\_Case\\_Study\\_in\\_Bangladesh](https://www.researchgate.net/publication/344235062_Export_Related_Problems_and_Opportunities_for_the_Shipbuilders_A_Case_Study_in_Bangladesh)>.

the proposed ‘Specialized Shipbuilding Zones’ would help shipbuilders overcome bureaucratic complexities to secure approval for new projects, facilitate the import of raw materials, and help access investors, amongst others.

In terms of financial support, the country should ensure that SMEs and startups can access loans with a low interest rate and are provided a grace period of 5-10 years for repayment in order to support their growth and stimulate overall backward linkage development.<sup>551</sup>

To highlight, Bangladesh has undertaken significant steps to transition to green shipbuilding, including formulating a National Action Plan to mitigate greenhouse gas<sup>552</sup> (GHG) emitted from ships with the support programme of the International Maritime Organization (IMO) called “*GreenVoyage2050*”<sup>553</sup>.<sup>554</sup> In this regard, giving export subsidies to green shipyards could enable the production of eco-friendly vessels, which have a potential market in European countries. This could further attract FDI<sup>555</sup> and thereby help execute the policies mentioned above -leading to job creation, massive economic growth, and a sustainable green shipbuilding industry.

### 5.1.2. Jute Industry

As a natural fibre, jute is biodegradable and has a lower carbon footprint, thereby contributing to SDG-13: Climate Action<sup>556</sup>. Logically, the global demand for jute products has increased,

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<sup>551</sup> See Tatjana Guznajeva, ‘*Stimulate Growth of Innovative SMES and Start-ups*’ (2020) 2 <<https://www.h2020-pillars.eu/sites/default/files/toolkit/Stimulate%20growth%20of%20innovative%20SMEs%20and%20start-ups.pdf>> accessed on 31 October 2025.

<sup>552</sup> IMO, ‘*2023 IMO Strategy on Reduction of GHG Emissions from Ships*’ Resolution MEPC.377(80) (7 July 2023) MEPC 80/17/Add.1 Annex 15, 1 <<https://www.wcdn.imo.org/localresources/en/OurWork/Environment/Documents/annex/MEPC%2080/Annex%2015.pdf>> accessed on 28 October 2025.

<sup>553</sup> IMO, ‘*About IMO GreenVoyage2050*’ <<https://greenvoyage2050.imo.org/about-the-project/>> accessed on 28 October 2025.

<sup>554</sup> See IMO, ‘*Bangladesh Accelerates Efforts to Tackle GHG Emissions from Shipping with National Action Plan*’ (25 April 2025) <<https://greenvoyage2050.imo.org/bangladesh-accelerates-efforts-to-tackle-ghg-emissions-from-shipping-with-national-action-plan/>> accessed on 28 October 2025.

<sup>555</sup> See Khandaker Rasel Hasan and others, ‘*Foreign Direct Investment and the Shipbuilding Industry: A Bangladesh Perspective*’ (2017) 194 *Procedia Engineering*, 218-223 <<https://doi.org/10.1016/j.proeng.2017.08.138>>.

<sup>556</sup> It also contributes to SDG 1 (No Poverty), SDG 2 (Zero Hunger), SDG 8 (Decent Work and Economic Growth), SDG 9 (Industry, Innovation, and Infrastructure), and SDG 12 (Responsible Consumption and Production). See Bangladesh Jute Spinners Association <<https://bjsa-bd.com/>> accessed on 26 October 2025.

amidst climate change concerns. In 2024, the market size for jute bags alone was \$3.0 billion, which is estimated to exceed \$6 billion by 2033.<sup>557</sup> The rise in demand leads to an increase in the price of jute products- meaning greater export earnings.

As the 2<sup>nd</sup> largest producer of jute in the world,<sup>558</sup> Bangladesh exported 90% of raw jute and earned \$912.2 million from its total jute export during the 2022-23 period.<sup>559</sup> Thus, the country plays an instrumental role in the production of these eco-friendly products. In 2010, Bangladeshi scientist Mubarak Ahmad Khan invented bags made from jute cellulose as an alternative to plastic bags called “সোনালী ব্যাগ/Shonali Bag”<sup>560</sup>, which means Golden bag in English.<sup>561</sup> Consequently, the country is now leading in the jute bag sector, which has been further improved by innovative designs and variety in its types.<sup>562</sup>

Regardless, its exportable jute products remain undiversified,<sup>563</sup> including jute handicrafts<sup>564</sup>. This is because Bangladeshi farmers are losing interest in jute cultivation due to high production costs and resource constraints, which is evident from the shutdown of 25 jute mills in 2020 by the Government.<sup>565</sup> A set of robust policy reform measures could help the jute

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<sup>557</sup> ‘Jute Bag Market Report by Product Type (Jute Sack Bags, Jute Shopping Bags), End Use (Retail, Institutional), Price (Premium, Mass), and Region 2025-2033’ (2025) <[https://www.researchandmarkets.com/report/jute-bags?srsltid=AfmBOopQrYmKUvmEW5yeuKjfp8ZzbpAZZ\\_ySjKA7nYzt61-LiUb7uoY](https://www.researchandmarkets.com/report/jute-bags?srsltid=AfmBOopQrYmKUvmEW5yeuKjfp8ZzbpAZZ_ySjKA7nYzt61-LiUb7uoY)> accessed on 27 October 2025.

<sup>558</sup> WPR, ‘Jute Production by Country 2025’ <<https://worldpopulationreview.com/country-rankings/jute-production-by-country>> accessed on 26 October 2025.

<sup>559</sup> Arif Uz Zaman, ‘Is it Possible to Earn \$5BN from Jute and Jute Products’ (2024) <<https://www.textiletoday.com.bd/is-it-possible-to-earn-5bn-from-jute-and-jute-products>> accessed on 26 October 2025.

<sup>560</sup> See Daily Sun, ‘Sonali Bags: An Eco-Friendly Alternative’ (2018) <<https://www.daily-sun.com/printversion/details/284524/2018/01/26/Sonali-Bags:-An-EcoFriendly-Alternative>> accessed on 26 October 2025.

<sup>561</sup> See AP Exim, ‘The History and Evolution of Jute Bags’ (14 February 2023) <<https://apcommercials.com/the-history-and-evolution-of-jute-bags/>> accessed on 26 October 2025.

<sup>562</sup> See BDJute.com <<https://bdjute.com/>> accessed on 26 October 2025.

<sup>563</sup> Mustafizur Rahman and Nafisa Khaled, ‘Global Market Opportunities in Export of Jute’ (April 2011) Occasional Paper 93, Bangladesh CPD, 4 <[https://www.cpd.org.bd/pub\\_attach/op93.pdf](https://www.cpd.org.bd/pub_attach/op93.pdf)>.

<sup>564</sup> See Bangladesh, ‘Export Potential of Handicraft Sector: Challenges and Way Forward’ (June 2024) BFTI <<https://www.bfti.org.bd/research-details/15>> accessed on 27 October 2025.

<sup>565</sup> Md. Asaduzzaman, ‘Jute Industry of Bangladesh: An Overview of Production and Export’ (October 2022) 1 Emerging Credit Rating Limited, 6 <[https://emergingrating.com/wp-content/uploads/2022/10/Jute-Industry-of-Bangladesh\\_An-Overview-of-Production-and-Export.pdf](https://emergingrating.com/wp-content/uploads/2022/10/Jute-Industry-of-Bangladesh_An-Overview-of-Production-and-Export.pdf)> accessed on 26 October 2025.

industry overcome these challenges. To begin with, Bangladesh should support its jute farmers by providing Green Box support in line with WTO Law. For example, farmers in flood-stricken regions<sup>566</sup> could be given insurance against income loss<sup>567</sup> in addition to providing them with training services on sustainable jute farming and conducting R&D for better yield<sup>568</sup>. The use of Blockchain<sup>569</sup> could help track the participation of farmers in training programmes to ensure their effective utilization. Furthermore, the country could multiply its export earnings by supporting the manufacture of final jute products instead of cheaper raw jute. In this regard, Bangladesh could target the growing eco-conscious consumer base in the EU to intensify jute exports and expand its market share in that region.

To offset resource constraints, farmers should be guided to form their own organizations to pool and share resources (called “cooperative farming”<sup>570</sup>), for example, by jointly purchasing farming machinery and supplies, which could reduce costs by the use of shared resources and thereby increase profit. Furthermore, micro-financing in women-led cooperatives could also empower female farmers in rural regions. In this regard, partnership with the ITC, particularly through the “SheTrades Initiative”<sup>571</sup> and the Food and Agriculture Organization of the UN would yield meaningful results.

### 5.1.3. Leather Industry

In terms of export significance, leather comes second to RMG. In 2024, Bangladesh’s export earnings from leather/leather products stood at \$1.5 billion, satisfying 10% of the leather demand worldwide.<sup>572</sup> With effective policy measures, the country expects to earn \$5 billion

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<sup>566</sup> AoA (n 256) Annex 2, para. 8.

<sup>567</sup> *ibid* Annex 2-Domestic Support: The Basis for Exemption from the Reduction Commitments, para 7.

<sup>568</sup> *ibid* Annex 2, para. 2.

<sup>569</sup> See S. K. Geetha and others, ‘Implementation of a Blockchain Based Attendance Tracking System’ 2023 International Conference on Computer Communication and Informatics (ICCCI) (2023) 1-5 <<https://ieeexplore.ieee.org/document/10128438/authors#authors>>.

<sup>570</sup> See Katerina Kareska, ‘Economic and Social Benefits of Cooperative Farming: A Case Study Approach’ (19 February 2025) <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5127929](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5127929)>.

<sup>571</sup> See ITC, ‘SheTrades Initiative’ <<https://www.shetrades.com/>> accessed on 26 October 2025.

<sup>572</sup> See BIDA, ‘Leather & Footwear’ <<https://www.investbangladesh.gov.bd/investment-sector/leather-footwear>> accessed on 1 November 2025.

by 2030.<sup>573</sup> This sector has modest infrastructure and manufacturing capacities. Research shows that the leather industry has “220 tanneries, 3,500 MSMEs, 2500 footwear manufacturing facilities, and 90 major enterprises”<sup>574</sup>. As the country has a Tannery Industrial Estate (in Savar) and is the largest producer of raw hides, it has the full potential to offer 100% value addition to leather.

Nonetheless, the leather industry confronts varied challenges.<sup>575</sup> An inadequate number of backward linkages for raw materials, including for dyeing and tanning (conversion of animal skin into leather), leads to high import reliance<sup>576</sup>. On top of that, 40% of the producers reported that the rising global demand for eco-friendly chemicals has increased the transition cost for the industry that produces leather-related chemicals.<sup>577</sup> Consequently, an increase in chemical production cost has inevitably led to a price hike in leather chemicals, which eventually affects the leather industry.

Furthermore, the ‘Central Effluent Treatment Plant’<sup>578</sup> (CETP), a centralized facility for treating water-waste of Bangladesh, needs substantial reconstruction and robust waste management capacity.<sup>579</sup> CETP is a precondition for acquiring the globally recognized Leather

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<sup>573</sup> See Ummay Salma, ‘Potential of Bangladesh’s Leather Industry-Trapped in a Billion-Dollar Cage’ (July 2025) <<https://www.textiletoday.com.bd/potential-of-bangladeshs-leather-industry-trapped-in-a-billion-dollar-cage>> accessed on 1 November 2025.

<sup>574</sup> Borkot Ali Mollik, ‘Bangladesh’s Leather Industry’ (March 2022) 3 <[https://www.researchgate.net/publication/358977888\\_Bangladesh's\\_leather\\_industry](https://www.researchgate.net/publication/358977888_Bangladesh's_leather_industry)> accessed on 1 November 2025.

<sup>575</sup> Md. Habibur Rahman, ‘An Analysis on the Leather Industry of Bangladesh: Identification of Barriers, Challenges, and Way Outs’ (March 2022) 4 International Journal of Management and Entrepreneurship, 154-169 <<https://pdfs.semanticscholar.org/0528/66acb2963ed2f011128a14cb21a8fa07750b.pdf>>.

<sup>576</sup> Wahiduzzaman Khan, ‘Leather Industry in Bangladesh: Opportunities and Challenges’ (December 2014) 1 (3) American Journal of Trade and Policy, 119-126 <<https://doi.org/10.18034/ajtp.v1i3.373>> accessed on 1 November 2025.

<sup>577</sup> See Mongsathowai Marma and others, ‘Leather Chemical Industry of Bangladesh: Current Market Scenario and Future Prospects’ (2024) Industrial Engineering and Operations Management Society International <<https://index.icomsociety.org/index.cfm/article/view/ID/28433>> accessed on 1 November 2025.

<sup>578</sup> Rakesh Singh Asiwal and others, ‘Wastewater Treatment by Effluent Treatment Plants’ (2016) SSRG International, 3 Journal of Civil Engineering, 29-35, <<https://doi.org/10.14445/23488352/IJCE-V3I12P105>> accessed on 1 November 2025.

<sup>579</sup> Sonia Akhter, ‘Leather Industry is Lagging behind Due to Non-Compliance: A Systematic Review of the Leather Industries in Bangladesh’ (February 2023) <[https://wastesafe.info/wp-content/uploads/2024/03/FP\\_079\\_Sajib-Ahmed.pdf](https://wastesafe.info/wp-content/uploads/2024/03/FP_079_Sajib-Ahmed.pdf)> accessed on 1 November 2025.

Working Group<sup>580</sup> (LWG) certification. Moazzem and Tamim defined a tannery certified with LWG as “[. . .] an entity that manufactures leather while minimally harming the environment, using minimal resources, and obliging to global labour rights standards”<sup>581</sup>. With this certificate, Bangladeshi leather and leather products can access key international markets like the EU, the U.S.A., and Japan. Consequently, the same leathers which could have earned relatively higher prices in Western markets are now being sold at 50-60% lower prices to India and China.<sup>582</sup> Thus, it is clear that operationalizing the CETP should be a priority for the country, marking a major step towards sustainable development<sup>583</sup>.

To further unlock the export potential of its leather industry, Bangladesh should establish its first-ever *Leather Export Council* (LEC) (keeping the Ministry of Commerce as the Chair) to govern the leather sector in collaboration with the Ministry of Industries<sup>584</sup>. This would help reinforce and reshape its policy framework, which could also cover supply chain management<sup>585</sup>. More importantly, the LEC could execute its Leather and Leather Goods Development Policy 2019<sup>586</sup>, which aims to improve environmental compliance, waste management, and provide export subsidies. If critically assessed, this Policy itself requires reform as it does not provide robust monitoring and enforcement mechanisms, such as waste

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<sup>580</sup> See LWG, ‘*Certification*’ <<https://www.leatherworkinggroup.com/certification/>> accessed on 1 November 2025.

<sup>581</sup> Khondaker Golam Moazzem and Tamim Ahmed, ‘*Investment in Compliance for LWG Certification: An Analysis of Costs, Benefits and Way Forwards for Tannery Industries in Bangladesh*’ 5 (October 2023) <<https://cpd.org.bd/publication/investment-in-esq-compliance-to-be-lwg-certified-costs-benefits-and-way-forwards-for-bangladeshi-tannery-industry/>> accessed on 1 November 2025.

<sup>582</sup> See T.I.M. Nurul Kabir, ‘*Bangladesh Needs to Accelerate Green Transformation of the Leather Industry*’ <<https://thefinancialexpress.com.bd/views/bangladesh-needs-to-accelerate-green-transformation-of-the-leather-industry>> accessed on 1 November 2025.

<sup>583</sup> See Girish Pophali and Rita Sandip Dhodapkar, ‘*An Overview of Sustainability of Common Effluent Treatment Plant for Clusters of Tanneries*’ (June 2011) 13 (3) *Environment Development and Sustainability*, 493-506 <[https://www.researchgate.net/publication/227178353\\_An\\_overview\\_of\\_sustainability\\_of\\_common\\_effluent\\_treatment\\_plant\\_for\\_clusters\\_of\\_tanneries](https://www.researchgate.net/publication/227178353_An_overview_of_sustainability_of_common_effluent_treatment_plant_for_clusters_of_tanneries)> accessed on 1 November 2025.

<sup>584</sup> See Bangladesh, ‘*Ministry of Industries*’ <<https://moind.gov.bd/>> accessed on 1 November 2025.

<sup>585</sup> M. Hedaitul Islam and others, ‘Towards Sustainable Supply Chain Management (SSCM): A Case of Leather Industry’ (2020) 3 (1) *Journal of Operations and Strategic Planning*, 81-98 <<https://doi.org/10.1177/2516600X20924313>> accessed on 1 November 2025.

<sup>586</sup> Bangladesh, ‘*Leather and Leather Goods Development Policy 2019*’ (2019) Ministry of Industries <[https://moind.portal.gov.bd/sites/default/files/files/moind.portal.gov.bd/page/66b4934c\\_1ad2\\_4ab3\\_a9f8\\_329331d9b054/8.%20Leather%20and%20leather%20goods%20development%20Policy%202019.pdf](https://moind.portal.gov.bd/sites/default/files/files/moind.portal.gov.bd/page/66b4934c_1ad2_4ab3_a9f8_329331d9b054/8.%20Leather%20and%20leather%20goods%20development%20Policy%202019.pdf)> accessed on 1 November 2025.

management, or action plans to stimulate training through the Centre of Excellence for Leather Skill Bangladesh Limited<sup>587</sup>.

Reform measures should focus on advancing technological innovation and financial incentives for SMEs, which are two key catalysts for the leather sector.<sup>588</sup> The leather industry should adopt creative ideas to implement a circular economy approach towards tannery waste.<sup>589</sup> For example, discarded solid waste could be used to generate biogas.<sup>590</sup>

To highlight the robust policy framework and best practices of Bangladesh's leading green manufacturing industry, particularly in the RMG sector<sup>591</sup> provides a blueprint for the leather industry to surmount its bottlenecks and ultimately integrate into the global value chain.

#### 5.1.4. Tourism Industry

Bangladesh is the home to the world's longest natural sea beach, 'Cox's Bazar', and the largest mangrove forest, 'Sundarban', along with 3 UNESCO World Heritage sites, viz. the '60 Dome Mosque' and ancient ruins of 'Buddhist Monastery' in Paharpur as well as Sundarban.<sup>592</sup> The Saint Martin's Island (also known as "Coconut or Cinnamon Island") and Kuakata (also called "Daughter of the Sea") are top tourist destinations for their pristine beauty and observance of sunrise and sunset.

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<sup>587</sup> See Bangladesh, 'Centre of Excellence for Leather Skill Bangladesh Limited' (2025) <<http://www.coelbd.com/>> accessed on 1 November 2025.

<sup>588</sup> Yeasmin Chowdhury Farjana and Md. Rasel Hawlader, 'Sustainable Growth Strategies for Bangladesh's Leather Industry: Policy Recommendations and Future Perspectives' (February 2024) 19 (2) International Journal of Business and Management, 120-120 <<https://ccsenet.org/journal/index.php/ijbm/article/view/0/49880>> accessed on 1 November 2025.

<sup>589</sup> Aleksandra Lubańska and Jan K. Kazak, 'The Role of Biogas Production in Circular Economy Approach from the Perspective of Locality' 16 (9) Energies, 3801 <<https://doi.org/10.3390/en16093801>> accessed on 1 November 2025.

<sup>590</sup> See Shilpy Rani Basak, Ayesha Ferdous Mita, and Md. Jahir Bin Alam, 'Solid Waste Management in the Leather Sector of Bangladesh' (March 2020) 7 (2) The Journal of Scientific and Engineering Research, 124-130 <[https://www.researchgate.net/publication/351285362\\_Solid\\_Waste\\_Management\\_in\\_the\\_Leather\\_Sector\\_of\\_Bangladesh](https://www.researchgate.net/publication/351285362_Solid_Waste_Management_in_the_Leather_Sector_of_Bangladesh)> accessed on 1 November 2025.

<sup>591</sup> See Abu Rayhan and S. Begum (n 472).

<sup>592</sup> See Abu Naser Ahmed Ishtiaque, 'Tourism Vision 2020: A Case of Bangladesh Tourism with Special Emphasis on International Tourist Arrivals and Tourism Receipts' (August 2013) XXXIV (2) Journal of Business Studies, 25.

As tourism is a highly labor-intensive sector and Bangladesh has a huge labor force, it has a significant comparative advantage in it.<sup>593</sup> Logically, Bangladesh Export Policy 2024-2027 marked tourism as a promising service sector.<sup>594</sup> A study by the World Bank disclosed that Bangladesh could reach the top 25 countries in global tourism, estimating \$10 billion in revenue from the tourism and recreation sector alone.<sup>595</sup> However, as tourism remains an underdeveloped sector, the earnings for 2023 were merely \$1.4 billion.<sup>596</sup>

The major concerns include a lack of adequate infrastructure including a transportation system, and underdeveloped tourist spots, accommodation-related services, safety issues, and political volatility.<sup>597</sup> Consequently, these challenges have resulted in a poor global image. Researchers have also highlighted insufficient budget allocation and a lack of awareness among investors regarding the high potential of the tourism sector.<sup>598</sup>

Thus, reform measures should be of utmost importance for Bangladesh as it graduates. The country should overhaul its tourism policies. To begin with, it is essential to conduct a financial impact assessment to ensure budget and resource allocation commensurate with the tourism development needs. As for infrastructure development, building Public-Private Partnerships (PPPs) could be the way forward as PPPs accelerate construction, reduce costs,<sup>599</sup> and help

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<sup>593</sup> WTO, 'Tourism Services- Background Note by the Secretariat' (23 September 1998) S/C/W/51, para. 4 <[https://www.wto.org/english/tratop\\_e/serv\\_e/w51.doc](https://www.wto.org/english/tratop_e/serv_e/w51.doc)> accessed on 30 October 2025.

<sup>594</sup> Bangladesh, 'Export Policy 2024-2027' Ministry of Commerce, 3 <<https://epb.gov.bd/site/files/2e06c28e-9bf8-4bb1-8aff-b144934b7081/Policy-and-Policy-Order>> accessed on 29 October 2025.

<sup>595</sup> Charles S. Colgan and others, 'Toward a Blue Economy: A Pathway for Sustainable Growth in Bangladesh' (2018) WBG, 51 <<http://documents.worldbank.org/curated/en/857451527590649905>>.

<sup>596</sup> See Report Linker, 'Bangladesh Tourism Industry Outlook 2024 – 2028' <<https://www.reportlinker.com/clp/country/6226/726290>> accessed on 30 October 2025.

<sup>597</sup> See K.M.R. Karim, 'Opportunities and the Challenges of Tourism Industry in Bangladesh' in Jana, N.C., Singh, A., Singh, R.B. (eds) *Livelihood Enhancement Through Agriculture, Tourism and Health*, (Springer, 18 January 2022) 223–236 <[https://doi.org/10.1007/978-981-16-7310-8\\_11](https://doi.org/10.1007/978-981-16-7310-8_11)>.

<sup>598</sup> See Mst. Khadijatul Kobra, Kamrul Hasan Bhuiyan, and Nurul Mohammad Zayed, 'Well and Woes of Tourism Promotion in Bangladesh: Investment Perspective' (2018) 22 (3) *Academy of Accounting and Financial Studies Journal* <<https://www.abacademies.org/articles/well-and-woes-of-tourism-promotion-in-bangladesh-investment-perspective-7256.html>> accessed on 30 October 2025.

<sup>599</sup> See Florina Popa, 'About the Advantages of Public-Private Partnerships and its Organizational Forms' (2018) *Studies and Scientific Researches Economics Edition* <[https://www.researchgate.net/publication/333573890\\_ABOUT\\_THE\\_ADVANTAGES\\_OF\\_PUBLIC-PRIVATE\\_PARTNERSHIPS\\_AND\\_ITS\\_ORGANIZATIONAL\\_FORMS](https://www.researchgate.net/publication/333573890_ABOUT_THE_ADVANTAGES_OF_PUBLIC-PRIVATE_PARTNERSHIPS_AND_ITS_ORGANIZATIONAL_FORMS)> accessed on 30 October 2025.

surmount bureaucratic hurdles,<sup>600</sup> leading to overall efficiency.<sup>601</sup> It cannot be emphasized enough that PPPs are particularly effective in countries like Bangladesh, where corruption often leads to weak management of development projects. Bangladesh should also assign policymakers to devise sound PPP frameworks (PPP laws, regulations, and guidelines) for transparent and effective partnerships, which would further attract investment in infrastructure.

Infrastructure development plans should include spatial planning in tourist regions to establish shops for the sale of local artifacts, paintings, jewelry, potteries, porcelain ceramics, and restaurants with Bengali cuisine and seafood. To further improve tourists' experiences, the country should advance marine tourism<sup>602</sup> and related recreational activities (cruise, scuba diving, surfing, paragliding). SMEs could achieve these objectives if a proper business environment is ensured. Alaghbari established that "*SME's plays an essential role in economic development through capacity development, technological innovation, employment creation*"<sup>603</sup>.

As regards security issues, Bangladesh has a dedicated security force<sup>604</sup> in tourist areas that have further launched a 24/7 helpline system<sup>605</sup>, which could be further strengthened by the creation of a 'Digital Safety App' to provide real-time safety alerts of regions where political situations are stable. This would enhance transparency and gain the trust of tourists.

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<sup>600</sup> See Kalpana Gopalan, 'Public Private Partnerships - A Study in Organizational Design' (January 2014) <<http://dx.doi.org/10.2139/ssrn.2382648>> accessed on 30 October 2025.

<sup>601</sup> See Gassner, Katharina, Alexander Popov, and Nataliya Pushak, 'Does Private Sector Participation Improve Performance in Electricity and Water Distribution?' (2009) Trends and Policy Options No. 6, World Bank <<https://ppp.worldbank.org/library/does-private-sector-participation-improve-performance-electricity-and-water-distribution>>.

<sup>602</sup> See Md. Ashikur Rahman Avi, 'Exploring Marine Tourism Potentials in Bangladesh' (October 2021) <[https://www.researchgate.net/publication/355586047\\_Exploring\\_Marine\\_Tourism\\_Potentials\\_in\\_Bangladesh](https://www.researchgate.net/publication/355586047_Exploring_Marine_Tourism_Potentials_in_Bangladesh)>.

<sup>603</sup> See Mohammed Alaghbari, 'Impact of SMEs on Economic Development: A Systematic Review of Literature' (June 2022) 2 (2) International Journal of Green Management and Business Studies <<https://www.doi.org/10.56830/SLGT4118>> accessed on 30 October 2025.

<sup>604</sup> Mohammad Anisur Rahaman, 'Security Concerns, Public Perceptions and Safety Initiatives at Tourist Destinations in Bangladesh: Effective Tourist Police Interventions for Sustainable Tourism' (2025) 10 Sustainable Futures <<https://doi.org/10.1016/j.sfr.2025.101004>> accessed on 30 October 2025.

<sup>605</sup> The Bangladesh Monitor, 'Bangladesh Tourist Police Launches 24/7 Helpline for Travelers' (September 2023) <<https://www.bangladeshmonitor.com.bd/news-details/bangladesh-tourist-police-launches-247-helpline-for-travellers>> accessed on 30 October 2025.

Other crucial actions include easing tourist visa-processing, leveraging its eco-tourism<sup>606</sup>, developing tourist guides and skilled management. It is also important to promote tourism through themed local festivals and cultural sports (Nouka Baich/Boat Race) and building infrastructure for adventurous activities (hiking, paragliding, and mountain climbing). And lastly, Bangladesh should prioritize niche marketing to attract tourists.<sup>607</sup>

## 5.2. Leveraging Blue Economy

It is of paramount interest for Bangladesh to fully leverage its high potential in the blue economy, as it has 118,813 km of EEZ in the Bay of Bengal as a result of its legal victory<sup>608</sup> in maritime delimitation disputes against India and Myanmar. According to experts, Bangladesh could earn approximately \$40 billion<sup>609</sup> from its untapped marine resources. However, the country is at a preliminary stage of maximizing the use of this domain. It has adopted considerable policy measures,<sup>610</sup> however, ineffective implementation, lack of technology, skilled manpower, and robust ocean administration are some of the major issues.<sup>611</sup>

To highlight, the ocean governance framework is not fully developed. For example, Bangladesh does not have a dedicated “*Blue Economy Authority*”<sup>612</sup> and has not yet developed

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<sup>606</sup> Md. Nasif Ahsan, ‘*Ecotourism in Bangladesh: A New Tool for Economic Development*’ (July 2008) <[https://www.researchgate.net/publication/264275850\\_Ecotourism\\_in\\_Bangladesh\\_a\\_new\\_tool\\_for\\_economic\\_development](https://www.researchgate.net/publication/264275850_Ecotourism_in_Bangladesh_a_new_tool_for_economic_development)> accessed on 30 October 2025.

<sup>607</sup> See Azizul Hassan, *Tourism Marketing in Bangladesh: An Introduction* (March 2020) Routledge (1st ed.)11-27 <<https://doi.org/10.4324/9781003007241>> accessed on 30 October 2025.

<sup>608</sup> See Abul Kalam ‘Maritime Destiny of Bangladesh: Legacies and Prospects’ (October 2015) 36 (4) BISS Journal, 275-292 <<https://biiss.trustitbdLtd.com/storage/uploads/pdfs/6c08fa36f0e941473f8762e2c9c34b2e.pdf>> accessed on 30 October 2025.

<sup>609</sup> See Wasi Ahmed, ‘*Unlocking Potential of Blue Economy*’ (January 2025) <<https://thefinancialexpress.com.bd/views/columns/unlocking-potential-of-blue-economy>> accessed on 29 October 2025.

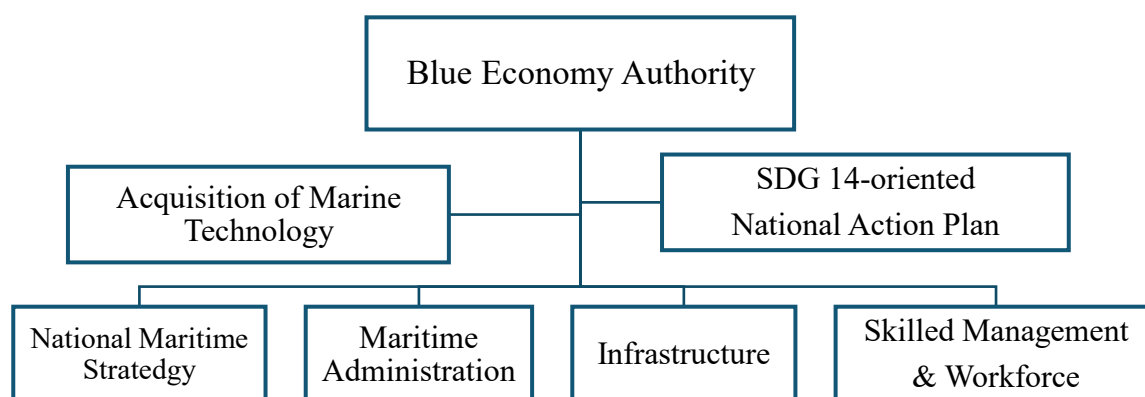
<sup>610</sup> Abul Kalam, ‘Bangladesh’s Maritime Policy: Entwining Challenges’ (1st ed., Routledge, 2018) 252 <<https://doi.org/10.4324/9780429467073>> accessed on 29 October 2025.

<sup>611</sup> See Shah Tasdika Auyon and others, ‘Blue Economic Growth from the Southern Coast of Bangladesh: Barriers, Opportunities, and Policy Instruments’ in Gautam, S., Joshi, S.K., Ambade, B. (eds) *Blue Sky, Blue Water* (Springer, 05 April 2025) 219–236 <[https://doi.org/10.1007/978-3-031-82559-0\\_11](https://doi.org/10.1007/978-3-031-82559-0_11)> accessed on 29 October 2025.

<sup>612</sup> Richard Bawden and others, ‘The Blue Economy Governance in Bangladesh: A Systemic Development Perspective’ in Walter Leal Filho, Amanda Lange Salvia, J Henrique Paulino Pires Eustachio and Maria Alzira Pimenta Dinis (eds) *Handbook of the Sustainable Blue Economy* (Springer, Cham 2025) 1-18 <[https://link.springer.com/rwe/10.1007/978-3-031-32671-4\\_91-1#citeas](https://link.springer.com/rwe/10.1007/978-3-031-32671-4_91-1#citeas)>.

Maritime Spatial Planning,<sup>613</sup> which depicts the underutilization of its EEZ. As such, Bangladesh should devise a ‘Comprehensive Ocean Governance Framework’ in accordance with international norms as demonstrated in **Figure 5.2** (below). This should include a ‘National Maritime Strategy’ with measurable outcomes, a ‘Maritime Administrative Body’ to execute strategic goals and action plans in line with SDG 14: Life Below Water. Some authors have advised establishing a separate Ministry of Ocean Affairs<sup>614</sup>, which definitely would catalyze the growth and development of its blue economy. Specialized educational programmes and training would be pivotal in creating a pool of maritime experts and a skilled workforce to advance the said objectives.<sup>615</sup>

**Figure 5.2: A Comprehensive Ocean Governance Framework**



**Source:** Designed by the Researcher.

<sup>613</sup> Samsul Mannan, and others, ‘Enabling Stakeholder Participation in Marine Spatial Planning: The Bangladesh Experience’ (2020) 16 (3) *Journal of the Indian Ocean Region*, 268–91 <<https://doi.org/10.1080/19480881.2020.1825200>>.

<sup>614</sup> Md. Wahidul Alam and others, ‘Ocean Governance in Bangladesh: Necessities to Implement Structure, Policy Guidelines, and Actions for Ocean and Coastal Management’ (June 2021) 45 (10) *Regional Studies in Marine Science* <<https://doi.org/10.1016/j.rsma.2021.101822>>.

<sup>615</sup> Kh. Atikur Rahman, ‘Maritime Education and Sustainable Development: Prospects of Bangladesh’ (March 2022) 6 (1) *Bangladesh Maritime Journal*, 171-190 <[https://bsmrmu.edu.bd/public/files/econtents/621c74614882c9-Maritime%20Education%20and%20Sustainable%20Development\\_compressed.pdf](https://bsmrmu.edu.bd/public/files/econtents/621c74614882c9-Maritime%20Education%20and%20Sustainable%20Development_compressed.pdf)>.

Ensuring maritime security should be a priority to prevent intrusion in its waters or unlawful activities (having entered lawfully) amidst rising threats<sup>616</sup>, including illegal exploitation of its marine resources. In this regard, Bangladesh could deploy a patrol fleet and make use of modern technologies for surveillance of its EEZ,<sup>617</sup> and establish security mechanisms in cooperation with its maritime neighbors, India and Myanmar, to implement international maritime law and standards.<sup>618</sup> This is particularly important, as the 2020 Marine Fisheries Act does not adopt a collaborative approach to sustainable use of marine resources, which are largely transboundary in nature.<sup>619</sup>

Bangladesh has not yet engaged in deep-sea mining for rare earth materials, including oil and gas, which are depleting<sup>620</sup> at a fast rate. This could reduce excessive dependence on imports<sup>621</sup> of oil and gas for domestic energy consumption as well as for manufacturing purposes. Its growing ceramics export sector, for example, suffers from domestic gas shortages.<sup>622</sup> This indicates that self-sufficiency in the energy sector could help realize export diversification goals.

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<sup>616</sup> Md. Mofazzal Hossain and KMS Tareq, 'Non-Conventional Threats to Maritime Security: Challenges for Bangladeshi Legal Regime' (2023) 5 Jagannath University Journal of Law, 109 <[https://www.jnu.ac.bd/journal/assets/pdf/5\\_0\\_564.pdf](https://www.jnu.ac.bd/journal/assets/pdf/5_0_564.pdf)>.

<sup>617</sup> M. Golam Sharwar, M. Ziauddin Alamgir, and Arif Mahmud, 'Emerging Blue Economy for Bangladesh: Opportunities, Challenges and Way Forward' (January 2023) 7 (1) Bangladesh Maritime Journal, 45 <[https://www.researchgate.net/publication/367332206\\_Emerging\\_Blue\\_Economy\\_for\\_Bangladesh\\_Challenges\\_and\\_Way\\_Forward](https://www.researchgate.net/publication/367332206_Emerging_Blue_Economy_for_Bangladesh_Challenges_and_Way_Forward)> accessed on 29 October 2025.

<sup>618</sup> See Delwar Hossain, '*Bangladesh's Maritime Security: Emerging Threats and Responses*' (July 2025) East-West Center Occasional Papers <<https://www.eastwestcenter.org/publications/bangladeshs-maritime-security-emerging-threats-and-responses>> accessed on 29 October 2025.

<sup>619</sup> See Al Arif, Abdullah, and Md Saiful Karim, 'Marine Fisheries Act 2020 of Bangladesh: A Missed Opportunity for Sustainability and Collaborative Governance' (2022) 37 The International Journal of Marine and Coastal Law, 337-349 <<https://doi.org/10.1163/15718085-bja10075>> accessed on 29 October 2025.

<sup>620</sup> See R.W. Bentley, '*Global Oil & Gas Depletion: An Overview*' (2002) 30 (3) Energy Policy, 189-205 <[https://doi.org/10.1016/S0301-4215\(01\)00144-6](https://doi.org/10.1016/S0301-4215(01)00144-6)> accessed on 29 October 2025.

<sup>621</sup> See Shafiqul Alam, '*Heavy Import Reliance Fuels Bangladesh's Power Sector Woes*' (1 October 2025) <<https://ieefa.org/resources/heavy-import-reliance-fuels-bangladeshs-power-sector-woes>>; Shafiqul Alam, '*Navigating Bangladesh's Energy Trilemma*' (October 2025) <<https://ieefa.org/resources/navigating-bangladeshs-energy-trilemma>> accessed on 29 October 2025.

<sup>622</sup> See Musa, M, 'Profitability Determinants in the Ceramic Sector: A Study of Listed Firms in Bangladesh' (2025) 46 (1) International Journal of Science and Business, 29-39; Jagaran Chakma, '*Gas Crisis Choking Ceramics Makers*' (2024) <<https://www.thedailystar.net/business/economy/news/gas-crisis-choking-ceramics-makers-3535766>> accessed on 29 October 2025.

### 5.3. Strategic Import Substitution as an Export Facilitator: The Case of Light Engineering Industry

Light engineering<sup>623</sup> (LE), which was once a subsector of the manufacturing sector, is now a rising industry in Bangladesh. It makes a wide array of parts, machines, and equipment for larger sectors, including agriculture, construction, and automobile. This depicts that the LE sector is the backward linkage for several export sectors of the country. With strong industrial infrastructure, 1 million skilled workforce, 80,000 micro, small, and medium-sized enterprises, and high production capacity (produces 3815 varieties of goods), this sector is emerging as a powerhouse of exports in Bangladesh.<sup>624</sup> It is also supported by effective policy measures.<sup>625</sup>

Presently, LE satisfies 50%<sup>626</sup> of domestic demand worth \$8.2 billion, which implies that if domestic production capacity increases, it could substantially substitute imports and, at the same time, enable export of LE products. Nonetheless, there are challenges confronting this sector, viz. 1) low import duty on LE products, 2) shortage of quality raw materials, 3) scarcity of manpower, 4) lack of advanced technology, and 5) non-application of ergonomics.<sup>627</sup>

To begin with, the tariff policy of Bangladesh is counter-productive because the import duty on finished LE products is lower than the raw materials needed to manufacture such products locally, which undermines domestic production and eventually the import substitution goal (for this sector). For example, it is costly to assemble a fan out of imported components than to purchase a finished fan from China. This encourages SMEs to import finished LE goods as opposed to becoming a manufacturing hub. A survey demonstrated that 50% LE industries have

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<sup>623</sup> See Y.B. Aizenberg and Vladimir P. Budak, 'The Science of Light Engineering, Fields of Application and Theoretical Foundations' (July 2018) 26 (3) *Light and Engineering*, 4-6 <<https://l-e-journal.com/en/journals/light-engineering-26-3/the-science-of-light-engineering-fields-of-application-and-theoretical-foundations/>>.

<sup>624</sup> BFTI, '*Potentials of the Light Engineering Industry/Sector in Bangladesh*' (2024) <<https://www.bfti.org.bd/research-details/14>> accessed on 3 November 2025.

<sup>625</sup> BIDA, '*Light Engineering Industry*' (June 2024) <<https://www.investbangladesh.gov.bd/investment-sector/light-engineering>> accessed on 3 November 2025.

<sup>626</sup> Meet Bangladesh, '*Bangladesh Light Engineering Sector: Opportunities in Local and International Market*' (2025) <<https://meet-bangladesh.com/post-details/bangladesh-light-engineering-sector-opportunities-in-local-and-international-market>> accessed on 3 November 2025.

<sup>627</sup> Tamim Vhuiyan and others, '*Addressing Bottlenecks in Bangladesh's Light Engineering Industry: A Comprehensive Analysis*' (September 2025) 17 (1) *Supply Chain Insider*, 65-92 <<https://zenodo.org/records/17285008>> accessed on 3 November 2025.

closed as a result.<sup>628</sup> As such, Bangladesh must utilize effective trade policy tools.<sup>629</sup> In this regard, GATT allows WTO Members to adjust their tariff policy structure “*to grant the tariff protection required for the establishment of a particular industry*”<sup>630</sup> in compliance with the provisions set out in GATT Article XVIII: C.

What is concerning- in a survey, SMEs have reported that Chinese products, which are being sold at a price supposedly lower than their ‘normal value’ in the market of Bangladesh, are threatening the local LE industry<sup>631</sup> because these lower prices negatively affect the demand dynamics<sup>632</sup>. This necessitates urgent investigation into the matter to identify the need to use trade remedies and thereby protect domestic firms and ensure fair competition.

Furthermore, domestic firms rely on shipbreaking scraps for raw materials, which lack the desired quality.<sup>633</sup> To counter this, Bangladesh needs a modern ‘domestic processing zone’ to set up separation lines and install ‘magnetic separation technology’<sup>634</sup> to separate varied components to ensure greater re-utilization of resources. This promotes the principle of the circular economy.<sup>635</sup> The use of advanced technologies such as Heat Treatment<sup>636</sup> and Testing

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<sup>628</sup> Sacchidanand Majumder and Soma Dey (n 482) 52.

<sup>629</sup> See Marc J. Melitz, ‘When and How Should Infant Industries be Protected?’ (May 2005) 66 (1) *Journal of International Economics*, 177-196 <<https://doi.org/10.1016/j.jinteco.2004.07.001>>.

<sup>630</sup> GATT (n 99) Article XVIII.

<sup>631</sup> Khadija Akter and Hazera Akter, ‘Analyzing Export Potentiality of Light Engineering Sector in Bangladesh: Problems and Prospects’ (August 2023) BUFT 4 (1) *Journal of Business and Economics*, 183-184 <<https://buft.edu.bd/BJBE/131>> accessed on 4 November 2025.

<sup>632</sup> See Fayez Ahmad and Sheikh Morshed Jahan, ‘Demand Dynamics of Light Engineering Sector of Bangladesh and Recommendations for Local Enterprises’ (February 2017) IOSR 19 (01) *Journal of Business and Management*, 1-7 <<https://www.iosrjournals.org/iosr-jbm/papers/Vol19-issue1/Version-6/A1901060107.pdf>> accessed on 4 November 2025.

<sup>633</sup> See Tapas Chandra Banik and Nahrin Rahman Swarna, ‘A Study on Sector-Based Need Assessment of Light Engineering Sector of Bangladesh’ (2018) 8 (6) *American Journal of Economics*, 244-253 <[https://scholar.google.com/citations?view\\_op=view\\_citation&hl=en&user=a3ByNakAAAAJ&citation\\_for\\_view=a3ByNakAAAAJ:d1gkVwhDpl0C](https://scholar.google.com/citations?view_op=view_citation&hl=en&user=a3ByNakAAAAJ&citation_for_view=a3ByNakAAAAJ:d1gkVwhDpl0C)> accessed on 4 November 2025.

<sup>634</sup> See J. Oberteuffer, ‘Magnetic Separation: A Review of Principles, Devices, and Applications’ (June 1974) 10 (2) *Institute of Electrical and Electronic Engineering Transactions on Magnetics*, 223-238 <<https://ieeexplore.ieee.org/abstract/document/1058315/citations#citations>> accessed on 3 November 2025.

<sup>635</sup> See Jiangang Ku and others, ‘*Application of Magnetic Separation Technology in Resource Utilization and Environmental Treatment*’ (2024) 11 (5) *Separations*, 130 <<https://doi.org/10.3390/separations11050130>> accessed on 3 November 2025.

<sup>636</sup> See Noor Zaman Khan and others, ‘Steel Heat Treatment: Equipment and Process Design’ (2024) in *Comprehensive Materials Processing* (Second Edition) 11, 7-24 <<https://doi.org/10.1016/B978-0-323-96020-5.00249-1>> accessed on 4 November 2025.

Machines is crucial to produce quality products with increased precision and productivity.<sup>637</sup> Scholars have also recommended the use of ‘Computerized and Numerically Controlled’<sup>638</sup> (CNC) machines and ‘Computer Aided Design’<sup>639</sup> (CAD) technology for the shipbuilding industry in general.<sup>640</sup> A study by the World Bank suggested that firms using advanced technologies have a greater likelihood of exporting products and connecting to international markets.<sup>641</sup>

Researchers suggest that the government plays a role in technology adoption by the SMEs.<sup>642</sup> In this regard, it is vital to provide exemption from import duty on green technologies to SMEs for the adoption of these technologies.<sup>643</sup> Bangladesh should also set an example by introducing certification for ‘eco-friendly recycling’ for factories that maintain higher environmental standards, which could form a basis for granting priority access to finances. Tax exemption on imported raw materials would also help the SMEs surmount financial hurdles and achieve sustainable growth.

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<sup>637</sup> Md. Akhtaruzzaman Talukder and Sheikh Morshed Jahan, ‘Light Engineering Business Ecosystem in Bangladesh: A Study on Institutional Preparedness’ (December. 2016) 18 (2) IOSR Journal of Business and Management, 16-26 <<https://www.iosrjournals.org/iosr-jbm/papers/Vol18-issue12/Version-3/C1812031626.pdf>> accessed on 3 November 2025.

<sup>638</sup> See Louie Oyoum, ‘Computer Numerical Control (CNC)’ (October 2020) <[https://www.researchgate.net/publication/344462723\\_COMPUTER\\_NUMERICAL\\_CONTROLCNC](https://www.researchgate.net/publication/344462723_COMPUTER_NUMERICAL_CONTROLCNC)> accessed on 3 November 2025.

<sup>639</sup> See Jeremy Li, ‘Applications of Computer-aided Design Technology in Research, Engineering and Industry’ (December 2012) in *Computer Aided Design: Technology, Types and Practical Applications*, 87-102 <[https://www.researchgate.net/publication/267925418\\_Applications\\_of\\_Computeraided\\_Design\\_Technology\\_in\\_Research\\_Engineering\\_and\\_Industry](https://www.researchgate.net/publication/267925418_Applications_of_Computeraided_Design_Technology_in_Research_Engineering_and_Industry)> accessed on 3 November 2025.

<sup>640</sup> See V.V. Gavrilov and Y.A. Sinitskaya, ‘Development of Computer-Aided Design Systems for the Shipbuilding Industry’ (December 2021) Transactions of the Krylov State Research Centre, 48-49 <[https://www.researchgate.net/publication/358024192\\_Development\\_of\\_computeraided\\_design\\_systems\\_for\\_the\\_shipbuilding\\_industry](https://www.researchgate.net/publication/358024192_Development_of_computeraided_design_systems_for_the_shipbuilding_industry)>; H. Rokibul, ‘Advancements in Automation & Parametric Modeling in Ship Design: Review of Current Technologies’ 2 (5) Engineering Open Access, 1-6 <<https://www.opastpublishers.com/open-access-articles/advancements-in-automation--parametric-modeling-in-ship-design-review-of-current-technologies.pdf>>.

<sup>641</sup> See Yunfan Gu, Gaurav Nayyar and Siddharth Sharma, ‘Gearing Up for the Future of Manufacturing in Bangladesh’ (2021) WBG, 39-50 <<http://documents.worldbank.org/curated/en/702731624306432211>> accessed on 4 November 2025.

<sup>642</sup> See Jaime Díaz-Arancibia, ‘Navigating Digital Transformation and Technology Adoption: A Literature Review from Small and Medium-Sized Enterprises in Developing Countries’ 16 (14) Sustainability, 5946 <<https://doi.org/10.3390/su16145946>> accessed on 3 November 2025.

<sup>643</sup> See M. M. Hussain Shahadat and others, ‘Digital Technology Adoption in SMEs: What Technological, Environmental and Organizational Factors Influence in Emerging Countries?’ (2023) Global Business Review <<https://doi.org/10.1177/09721509221137199>> accessed on 3 November 2025.

To ensure proper utilization of these technologies and to boost overall productivity, the country should establish an LE-specific ‘Skill Development Council’ in all 8 divisions under the guidance of the national ‘Light Engineering Industry Skills Council<sup>644</sup> (LEISC) to reduce the 70%<sup>645</sup> skill gap in the LE workforce and generate 80% certified manpower by 2035. To further stimulate skill development, it should mandate a Memorandum of Understanding (MoU) amongst Technical and Vocational Education and Training<sup>646</sup> (TVET) Institutions to align their academic curricula with skills related to the LE industry, with a focus of 60-70% on practical lessons and 30-40% on theory-based lessons. The curricula should incorporate knowledge and benefits associated with ergonomics, such as workers’ safety and a better working environment.<sup>647</sup> The National Skills Development Authority<sup>648</sup> Bangladesh should also devise a policy framework to achieve these objectives and secure at least 2% national budget to cover the implementation cost. A study by the World Bank revealed that TVET systems can invigorate structural transformation and economic development and thereby increase aggregate productivity.<sup>649</sup>

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<sup>644</sup> See Bangladesh, ‘*Light Engineering Industry Skills Council (LEISC)*’ <[https://www.bd-directory.com/Light\\_Engineering\\_Industry\\_Skills\\_Council\\_\(LEISC\)\\_Bangladesh.html](https://www.bd-directory.com/Light_Engineering_Industry_Skills_Council_(LEISC)_Bangladesh.html)> accessed on 4 November 2025.

<sup>645</sup> Kazi Iqbal, Md. Nahid Ferdous Pabon and Tanveer Mahm, ‘Labor Market Study under Skills for Employment Investment Program (SEIP): Light Engineering Sector’ SEIP, 19 <<https://seip-fd.gov.bd/wp-content/uploads/2023/06/10.-Labor-Market-and-Skills-Gap-Analyses-on-Light-Engineering-Sector-in-Bangladesh.pdf>> accessed on 4 November 2025.

<sup>646</sup> See Radhika Kapur, ‘*Significance of Technical and Vocational Education and Training*’ (February 2021) <[https://www.researchgate.net/publication/349108477\\_Significance\\_of\\_Technical\\_and\\_Vocational\\_Education\\_and\\_Training](https://www.researchgate.net/publication/349108477_Significance_of_Technical_and_Vocational_Education_and_Training)> accessed on 4 November 2025.

<sup>647</sup> See Professional Evaluation and Certification Board, ‘*Top Five Benefits of Ergonomics*’ (2025) <<https://pecb.com/en/article/top-five-benefits-of-ergonomics>> accessed on 4 November 2025.

<sup>648</sup> See Bangladesh, ‘*National Skills Development Authority*’ <<https://nsda.gov.bd/>> accessed on 4 November 2025.

<sup>649</sup> See Ashwani Aggarwal and others, ‘*Building Better Formal TVET Systems: Principles and Practice in Low- and Middle-Income Countries*’ (2024) World Bank, 19-20 <<http://documents.worldbank.org/curated/en/099071123130516870>> accessed on 4 November 2025.

Above all, the country plans to build 6 industrial parks to form an LE cluster<sup>650</sup> and to enter new markets, namely Africa and the Middle East, which marks two significant steps towards untapping its export potential and contributing to the achievement of several SDGs<sup>651</sup>.

#### 5.4. Building Backward Linkages for Domestic Value Addition

A backward linkage is defined as “*the use by one firm or industry of produced inputs from another firm or industry*”<sup>652</sup>. For example, where ‘yarn’ is used to make ‘fabric’, the ‘yarn-making firm’ is the backward linkage for the one producing fabric. We have identified RMG, shipbuilding, and pharmaceuticals industries as 3 major export sectors for which Bangladesh should build ‘Backward Linkage Industries’ (BLIs) to reduce the import of foreign inputs. This would increase domestic value addition, which would be critical to adhere to the stringent RoO and thereby would help secure preferential market access after graduation.

#### RMG

Cotton is the prime raw material for the RMG and textile sector. Due to inadequately low production, which satisfies merely 1% of domestic need, the garment industry highly counts on imports from African countries in addition to India, the U.S.A., and Brazil.<sup>653</sup> In 2023, Bangladesh ranked second in global cotton imports, worth \$6.55 billion.<sup>654</sup>

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<sup>650</sup> See Md. Joynal Abdin, ‘*Tapping Potential of Light Engineering Clusters*’ (August 2015) <[https://www.researchgate.net/publication/281337041\\_Tapping\\_potential\\_of\\_light\\_engineering\\_clusters](https://www.researchgate.net/publication/281337041_Tapping_potential_of_light_engineering_clusters)> accessed on 4 November 2025.

<sup>651</sup> Sacchidanand Majumder, ‘*The Role of the Light Engineering Industry Sector in Achieving Sustainable Development Goals (SDGs) of Bangladesh*’ (2022) 50 (3) *The Cost and Management* <<https://icmab.gov.bd/wp-content/uploads/2022/04/The-Role-of-the-Light-Engineering-Industry-Sector-in-Achieving-Sustainable-Development-Goals-SDGs-of-Bangladesh.pdf>>.

<sup>652</sup> Shubham Anil Jain, ‘*Backward and Forward Linkages in Textile and Fashion Industry*’ (2022) <<https://textilelearner.net/backward-and-forward-linkages-in-textile-and-fashion-industry/>> accessed on 1 November 2025.

<sup>653</sup> Md. Asaduzzaman, ‘*Cotton Industry of Bangladesh: An Overview of Supply & Demand*’ (November 2022) <[https://emergingrating.com/wpcontent/uploads/2022/11/Cotton\\_Industry\\_of\\_Bangladesh\\_Vol\\_01\\_Nov\\_2022.pdf](https://emergingrating.com/wpcontent/uploads/2022/11/Cotton_Industry_of_Bangladesh_Vol_01_Nov_2022.pdf)> accessed on 1 November 2025.

<sup>654</sup> OEC, ‘*Cotton in Bangladesh*’ <<https://oec.world/en/profile/bilateral-product/cotton/reporter/bgd>> accessed on 1 November 2025.

Although cotton production has uniformly improved between 2020 to 2025,<sup>655</sup> this sector requires robust national action plans. To elaborate, the Bangladesh Cotton Development Board should stimulate ‘contract farming’<sup>656</sup> between cotton farmers and textile mills to boost production because it increases farmers’ accessibility to technical resources and mitigates price uncertainties<sup>657</sup>. A study by the Asian Development Bank disclosed that “*a contract with advance agreement on output prices can provide price stability, and the established business relationship facilitates the provision to farmers of technical assistance, access to credit, new technologies, and ultimately new markets*”<sup>658</sup>. Bangladesh should also aim to integrate varied cotton value chains (cotton production, processing/ginning, and textile mills) in a specific zone to form cotton clusters, which would lead to vertical integration<sup>659</sup> (raw cotton production to high-value-added textiles). This cotton-textile cluster policy was adopted in Uzbekistan in 2020 and has proved successful.<sup>660</sup>

Additionally, Bangladesh could build 8 to 10 ‘Cotton Service Hubs’ in major agricultural regions to provide use of machinery, purchase of varied high-yield cotton seeds for farmers at a reduced price. To fill the gap in technical know-how and to ensure capacity-building, the Hub should possess an ‘operation team’ with agriculturalists and technical experts, and provide training programs to farmers, as illustrated in **Figure 5.3** below.

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<sup>655</sup> See Tahsin Sharmila Raisa, ‘Cotton Industry in Bangladesh- Recent’ (May 2025) 5 <[https://www.researchgate.net/publication/392283149\\_Cotton\\_industry\\_in\\_Bangladesh-\\_Recent](https://www.researchgate.net/publication/392283149_Cotton_industry_in_Bangladesh-_Recent)> accessed on 2 November 2025.

<sup>656</sup> See Jos Bijman, ‘Contract Farming in Developing Countries: An Overview’ (May 2008) Working Paper <<https://edepot.wur.nl/1763>> accessed on 2 November 2025.

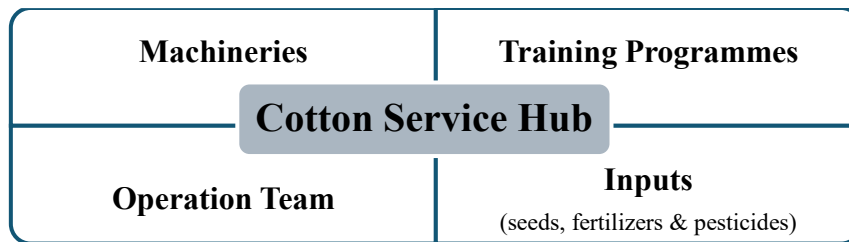
<sup>657</sup> See Nicholas Minot and Loraine Ronchi, ‘Risks and Benefits of Partnership between Farmers and Firms’ WBG <<https://documents1.worldbank.org/curated/en/340251467998214789/pdf/102736-BRI-VP-344-Contract-Farming-Box394838B-PUBLIC.pdf>> accessed on 1 November 2025.

<sup>658</sup> ADB, ‘Asian Development Outlook 2021: Transforming Agriculture in Asia Update’ (September 2021) 102 <<https://dx.doi.org/10.22617/FLS210352-3>> accessed on 2 November 2025.

<sup>659</sup> ITC and ACTIF, ‘Regional Strategy for Cotton-to-Clothing Value Chain’ (June 2009) 20 <[https://unctad.org/system/files/official-document/suc2017\\_Regional\\_COMESA\\_Strategy.pdf](https://unctad.org/system/files/official-document/suc2017_Regional_COMESA_Strategy.pdf)> accessed on 2 November 2025.

<sup>660</sup> See WBG, ‘Cotton-Textile Clusters in Uzbekistan: Status and Outlook 1’ (2 May 2020) Policy Dialogue on Agriculture Modernization <<https://documents1.worldbank.org/curated/en/305731601271791257/pdf/Policy-Dialogue-on-Agriculture-Modernization-in-Uzbekistan-Cotton-Textile-Clusters-in-Uzbekistan-Status-and-Outlook.pdf>> accessed on 2 November 2025.

**Figure 5.3: A Framework for Cotton Service Hub**



**Source:** Produced by the Researcher.

These policy measures could help build strong backward linkages to achieve an overall reduction in production costs<sup>661</sup>, and increase productivity<sup>662</sup> for RMG and textiles. Cotton industries, in turn, would play a pivotal role in poverty reduction<sup>663</sup>.

### **Shipbuilding Industry**

To reduce its high dependence on the import of steel plates, Bangladesh should build a BLI that could significantly reduce the production cost of ships, improve the efficiency of the supply chain, and catalyze job creation. A study revealed that the establishment of BLI could increase domestic value addition by 45-50% and enhance competitiveness in markets worldwide.<sup>664</sup> Thus, it is crucial to build devoted steel-producing firms and ensure the use of modern machinery, such as automated<sup>665</sup> cutting and welding, for increased precision and greater

<sup>661</sup> Rakib Ibne Habib, 'Backward Linkages In Readymade Garment Industry of Bangladesh: Appraisal and Policy Implications' (2009) 6 *Journal of Textile and Apparel, Technology and Management* <<https://jtatm.textiles.ncsu.edu/index.php/JTATM/article/view/380>>.

<sup>662</sup> Uttam Kumar Datta, 'Impact of Backward-Linkage Industry on Productivity of Export - Oriented RMG Industry in Bangladesh' (2008) 2 *Prime University Journal* <[https://www.primeuniversity.ac.bd/file/crhp\\_details/1668078941.pdf#page=37](https://www.primeuniversity.ac.bd/file/crhp_details/1668078941.pdf#page=37)>.

<sup>663</sup> See Jesmin Akter, 'Role of Cottage Industry for Poverty Alleviation in Bangladesh: A Study' (2025) 13 (7) *International Journal of Research* 184–197 <<https://doi.org/10.29121/granthaalayah.v13.i7.2025.6373>> accessed on 2 November 2025.

<sup>664</sup> P.M.K Hassan Siddique, Wahidul Sheikh, and Dewan Mazharul Islam (n 540) 78.

<sup>665</sup> S. Kralj, 'The Advantages of Automatic Welding in the Construction of Pipelines' (July 2007) <[https://www.researchgate.net/publication/293724865\\_The\\_advantages\\_of\\_automatic\\_welding\\_in\\_the\\_construction\\_of\\_pipelines](https://www.researchgate.net/publication/293724865_The_advantages_of_automatic_welding_in_the_construction_of_pipelines)> accessed on 31 October 2025.

productivity<sup>666</sup>. This would, further, allow use of manpower in tasks which need human involvement, such as operating and monitoring machines, which is in line with Industry 5.0 policy (striking “*a balance between technological efficiency and the richness of human intelligence*”<sup>667</sup>).

Furthermore, as a global leader in shipbreaking, Bangladesh breaks 47.2% of the international ships, and as such, it could integrate its shipbreaking industry with the shipbuilding sector.<sup>668</sup> As a result, ships could be built with reusable components from dismantled ships, including steel, which aligns with the circular economy principle<sup>669</sup> and thereby reducing reliance on foreign inputs and overall production cost.

## Pharmaceuticals

Another major challenge for Bangladesh is its high reliance on imported ‘Active Pharmaceutical Ingredients’<sup>670</sup> (API), which are raw ingredients that give medicine its therapeutic effect. Over 85% API are imported for \$1.3 billion every year<sup>671</sup> to manufacture final pharmaceutical products domestically. After graduation, Bangladesh must pay consequent royalties for patented API, which means an overall higher cost of production for medicines than before graduation. To offset post-graduation shock in API, Bangladesh is now building the first-

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<sup>666</sup> See Xie Guoying, ‘Automated Welding Equipment in Construction Machinery Manufacturing’ (2025) 10 (1) Journal of Engineering Mechanics and Machinery, (2025) 182-189 <[https://www.clausiuspress.com/assets/default/article/2025/08/03/article\\_1754223121.pdf](https://www.clausiuspress.com/assets/default/article/2025/08/03/article_1754223121.pdf)> accessed on 31 October 2025.

<sup>667</sup> See Adeline de Oliveira, ‘Industry 5.0 in Manufacturing: Bringing Back Humans in the Factory’ (January 2024) <<https://blog.proactioninternational.com/en/industry-50-manufacturing-bringing-back-humans-in-the-factory>> accessed on 31 October 2025.

<sup>668</sup> See Sohanul Ahasan, Fariha Zaman, and Toukir Ahmed, ‘Perspective of Circular Economy in Bangladesh: A Comprehensive Review Towards Ship Demolition Industry’ (2021) Conference Paper <[https://www.researchgate.net/publication/354995911\\_Perspective\\_of\\_Circular\\_Economy\\_in\\_Bangladesh\\_A\\_Comprensive\\_Review\\_Towards\\_Ship\\_Demolition\\_Industry](https://www.researchgate.net/publication/354995911_Perspective_of_Circular_Economy_in_Bangladesh_A_Comprensive_Review_Towards_Ship_Demolition_Industry)> accessed on 28 October 2025.

<sup>669</sup> See Nitin Agarwala, ‘Promoting Circular Economy in the Shipping Industry’ (2023) 7 (4) Journal of International Maritime Safety, Environmental Affairs, and Shipping <<https://doi.org/10.1080/25725084.2023.2276984>>.

<sup>670</sup> See Max Lazar, Active Pharmaceutical Ingredients in ‘Validation of Active Pharmaceutical Ingredients’ Second Edition, 377-392 <10.1201/9780203997048.ch11> accessed on 14 October 2025.

<sup>671</sup> See BIDA, ‘Pharmaceuticals & API: Delivering Affordable, High-Quality Medicines to Global Markets’ (2025) <<https://www.investbangladesh.gov.bd/investment-sector/pharma-api>> accessed on 14 October 2025.

ever API Industrial Park<sup>672</sup> to improve domestic API production capacity and integrate itself in the rising global API supply chain. API production is estimated to increase by 12 to 14.5%.<sup>673</sup>

However, the API Park is incomplete due to a deficit in gas and electricity supplies, specialized experts, cutting-edge technologies, and funding. Only 3 companies have started producing APIs at a limited scale.<sup>674</sup> As the API Park operates as the backward linkage for pharmaceutical production, Bangladesh should address these bottlenecks and accelerate its construction without delay.

Furthermore, to establish a strong backward linkage through the API Park, it is essential to undertake policy reform measures so that the park can offer robust support to the pharmaceutical industry. Experts have underlined ‘strategic planning’ as one of the key factors in the business model of the pharmaceutical firms.<sup>675</sup> Thus, it is crucial to adopt a policy to annually diagnose the ‘Key Performance Indicators’ (KPIs) of the pharmaceutical industry and use them as a benchmark to identify areas for improvement against its major global competitors, as well as to discern best practices. This would enable the concerned national authority to make effective decisions, particularly in resource allocation, risk assessment, and enhancement of quality and cost-reduction by addressing inefficiencies with respect to the API Park.

Creating ‘Digital Dashboards’ would allow consolidation of information relating to performance metrics and KPIs in one interface, which would lead to informed decision-making and help streamline the mechanism for monitoring the progress of this backward linkage. The infrastructure of the API Park could be well-equipped with modern medicine testing laboratories, warehouses for raw materials, and management facilities for hazardous waste. In

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<sup>672</sup> See Bangladesh, ‘Policy Review on National API (Active Pharmaceutical Ingredients) and Reagents Production and Export Policy 2018’ (2022) <[http://brcp-1.gov.bd/wp-content/uploads/2022/06/Fourth\\_Draft\\_Review-on-National-API-Policy-2018\\_19.05.2022.pdf](http://brcp-1.gov.bd/wp-content/uploads/2022/06/Fourth_Draft_Review-on-National-API-Policy-2018_19.05.2022.pdf)> accessed on 14 October 2025.

<sup>673</sup> Mohammad Abdur Razzaque and others, ‘Graduation and Bangladesh's Pharmaceutical Industry’ (n 397) 12.

<sup>674</sup> Daily Star, ‘Factories at API Park Still Unable to Start Production’ (2023) <<https://www.thedailystar.net/business/economy/news/factories-api-park-still-unable-start-production-3389011>> accessed on 31 October 2025.

<sup>675</sup> See Mohammad Masud Siddique, Rafikul Islam, and Wan Rohaida Wan Husain, ‘Performance Enhancement Criteria in the Pharmaceutical Industry of Bangladesh: A Qualitative Study’ (March 2025) 8 (29) *International Journal of Entrepreneurship and Management Practices*, 117-138 <[https://www.researchgate.net/publication/391447784\\_PERFORMANCE\\_ENHANCEMENT\\_CRITERIA\\_IN\\_THE\\_PHARMACEUTICAL\\_INDUSTRY\\_OF\\_BANGLADESH\\_A\\_QUALITATIVE\\_STUDY](https://www.researchgate.net/publication/391447784_PERFORMANCE_ENHANCEMENT_CRITERIA_IN_THE_PHARMACEUTICAL_INDUSTRY_OF_BANGLADESH_A_QUALITATIVE_STUDY)>.

this regard, the country could use ‘technology transfer clauses’ in agreements with FDI entrants. A study further established that a bonus for exceeding production targets motivates workers to improve manufacturing quality.<sup>676</sup> Therefore, recognizing high-level performance would promote and improve value chain management.

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<sup>676</sup> Marianne Torkko and others, ‘The Utilization of Quality KPIs in the Pharmaceutical Industry’ (2014) 9(3) *Journal of Pharmaceutical Innovation*, 175–182 <<https://doi.org/10.1007/s12247-014-9184-3>>.

## CHAPTER 6: CONCLUSION

### **Summary of the Key Findings:**

Graduation from the LDC category has multifaceted implications for a WTO Member, and it is no different for Bangladesh. The research questions concerning the graduation implications of Bangladesh from a WTO perspective have produced the following findings:

**First**, the WTO system does not provide any guiding principles or mechanisms to facilitate the smooth transition of a graduated LDC into the post-graduation landscape, particularly to comply with standard WTO obligations in the absence of the S&DT provisions. In MC13, as part of smooth transition measures, only 2 out of 17 proposed S&DT provisions were extended to the graduated LDCs, namely ‘TA and capacity-building programs’ and ‘Article 24 of the DSU’ for 3 years.

**Second**, to this connection, while some of the S&DT provisions enable LDCs to enhance their competitiveness in global trade and help sustain economic growth, several other provisions fail to extend similar benefits. For example, the TRIPS waiver on pharmaceutical products and compulsory licensing provisions ensured the policy space for the LDCs to access essential medicines and exempted them from compliance with certain IP obligations. Article 24 of the DSU, in particular, has guaranteed that they receive due consideration of their special situation by the WTO Members with respect to pursuing WTO dispute settlement mechanisms. The TFA Agreement offers high flexibility to the LDCs with extended timelines, reduced commitments, and the opportunity to self-designate TFA provisions.

On the contrary, the stringency of preferential RoO, associated compliance costs, and high labor/environmental standards of the preference schemes impede the securing of DFQF market access. Our study indicates that there is a need for a binding WTO mechanism to streamline and regulate preferential RoO in conformity with WTO law and spirit. Furthermore, the LDC Service Waiver has liberalized trade in services for selected LDCs like Bangladesh and Haiti, however, other LDCs have not benefited equally because service-related preferences are mostly given on an MFN basis (i.e., to all WTO Members), which fails to create a preference margin for the LDCs. This depicts that there is no ‘tool’ to enforce or measure the implementation of the Service Waiver. The permissibility of export subsidies enables the LDCs to support the

growth of their export sectors, but they are, in practice, effective in countries with advanced technologies, or which are free of corruption, and/or have low interest rates. Agricultural export subsidies are largely underutilized because the LDCs are net-food importers, and as such, many of the LDCs, viz. Mauritania, Niger, and Sierra Leone have notified the WTO of their non-use of AES. The SPS and TBT flexibilities adopt a ‘one-size-fits-all’ approach and thereby fall short of addressing the specific needs of each LDC Member. Conversely, fisheries subsidies are seemingly more promising with the S&DT on ‘exemption from DSU actions’ and a dedicated ‘funding mechanism’.

Thus, the non-binding nature of some of the S&DT provisions (e.g., 97% DFQF market access and simplified RoO) and where binding but their weak implementation (e.g., Article 66.2 of the TRIPS Agreement) render the post-graduation competitiveness of the LDCs uncertain.

**Third:** Against this backdrop, Bangladesh's graduation indicates significant ‘preference erosion’ and the resulting ‘loss of competitiveness’ in the global market. The country would face MFN tariffs and stricter RoO (higher domestic value addition) under the WTO preferential schemes of members like the EU and Japan. The joint study by the WTO and EIF estimated a 14% decline in exports, the highest among the graduating LDCs. Additionally, Bangladesh will need to ensure that its IP regime complies with TRIPS and withdraw export subsidies for pharmaceuticals, among other measures. The expected decline in exports would be approximately 6.9%, equivalent to \$10 to \$12 million. However, non-compliance with WTO obligations is protected by Article 24 of DSU, which discourages dispute settlement procedures against graduated LDCs. After the 3-year transition period ends, Bangladesh could face WTO litigation, as WTO members would no longer be bound by the ‘due restraint obligation’ regarding non-compliance. With limited WTO dispute settlement expertise, Bangladesh will have to depend on ACWL legal services, which can be costly with its developing country status.

Nonetheless, graduation does not affect its GATT schedule of concessions and GATS schedule of specific commitments. Bangladesh would enjoy all the preferential treatments that extend to developing country Members under the covered agreements (e.g., Articles 17 and 19 of TFA).

### **The Way Forward:**

To mitigate these post-graduation risks, it is recommended that Bangladesh conclude FTAs with its major trading Partners such as the EU, the U.S.A., China, and India to secure

preferential market access and thereby retain its competitiveness in the international markets. Additionally, integrating into regional trade blocs, particularly the RCEP, would grant access to the markets of 15 RCEP Members with a single RoO certificate. Secondly, the country must build its WTO dispute settlement expertise to defend its trade interests in the face of litigation by its WTO counterparts and, more importantly, to verify the legality and continuation of anti-dumping duties imposed by its regional trading partners for years. Enhancing national competence to meet international SPS and TBT standards would offer increased market access for agricultural products to highly regulated export markets like the U.S.A. and the EU.

It is also recommended that Bangladesh undertake significant policy reform measures to leverage its high-value export sectors, including shipbuilding, jute, leather, and tourism industries, in addition to setting goals for export and market diversification. Maximizing the utilization of its EEZ could further earn an annual revenue of \$30 billion from its blue economy. Robust export-led growth and development would strengthen its economic stability and trade resilience, which in turn would improve Bangladesh's capacity to comply with its WTO obligations, setting an example for the LDCs in the graduation pipeline.

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