

**Training on
LDC GRADUATION IMPACTS ON TRADE, TARIFF, AND INTELLECTUAL PROPERTY RIGHTS
for ERD Officials**

Organized by the Support to Sustainable Graduation Project, Economic Relations Division
Date & Venue: 25 April 2023; NEC-II Conference Room, ERD

Background

A training program on ‘LDC Graduation Impacts on Trade, Tariff, and Intellectual Property Rights’ for ERD Officials was organized by the Support to Sustainable Graduation Project (SSGP) of ERD on 25 April 2023 at the NEC 2 Conference Room of ERD. Ms. Sharifa Khan, Secretary, ERD graced the event as Chief Guest while the Chairman of Bangladesh Trade and Tariff Commission Mr. Md. Faizul Islam attended the program as special guest. Additional Secretary of ERD and the Project Director of SSGP Mr. Farid Aziz Chaired the Workshop.

Former Director General of the WTO Cell of the Ministry of Commerce Mr. Md. Hafizur Rahman conducted a session on ‘Impacts of LDC Graduation on Trade and Intellectual Property Rights’ while former Member of Bangladesh Trade and Tariff Commission Dr. Mostafa Abid Khan conducted a session on ‘Tariff Rationalization and Subsidies in the Context of LDC Graduation’.

The major objectives of organizing the training programs were:

- i. Sensitizing the Government Officials about the process, challenges, and opportunities of graduation; and
- ii. Making them proficient in contributing policy formulation on the matter concerning graduation particularly on trade, IPR, tariff rationalization and export subsidies, etc.

Major discussions, observations and recommendations coming from the training program are highlighted below:

Welcome Remarks from Chair: Mr. Farid Aziz, Additional Secretary and Project Director, SSGP, ERD

Mr. Farid Aziz, in his welcome remarks, highlighted the background and objective of organizing the training program. He noted that the government officials would have to play a crucial role in LDC graduation related policy formulation in the coming years. In light of ERD’s vital role in maintaining effective cooperation with international development partners, he observed that ERD officials should have comprehensive idea about the opportunities and challenges to be created through LDC graduation. In this context, he termed the training as a timely initiative. He thanked the chief guest, special guest and the keynote speakers of the program for their kind presence.

Session-1: Impacts of LDC Graduation on Trade and Intellectual Property Rights

Keynote Presentation from Mr. Md. Hafizur Rahman, Director General (Rtd.), WTO Cell, Ministry of Commerce:

Mr. Md. Hafizur Rahman, in his keynote presentation, highlighted that Bangladesh is graduating at a time when the global economy is marred by the recent Covid-19 pandemic, geopolitical uncertainty, reverse trend of globalization, exchange rate volatility, fear of middle-income trap and rise of right-wing forces across the world. Focusing on the impact of trade due to LDC graduation, Mr. Rahman informed that Bangladesh, as an LDC, enjoys Duty Free Quota Free (DFQF) market access to 37 Developed Countries except USA. However, citing a WTO study, he said that the country would face on average 9 percent additional duties on its export after graduation—which may result in 14 percent drop in its export income.

Mr. Rahman explained that 95 percent of Bangladesh's current export to EU comes under HS Chapter 61, 62 and 63. He also pointed out that according to Article 29 of the new EU GSP scheme which would become effective from 01 January 2024, clothing products from a GSP+ beneficiary will not receive preferential access if the share of the relevant products of the beneficiary is above 6 per cent of total EU imports of the same products in a calendar year. He noted that Bangladesh's share in the total EU imports of clothing items is currently more than 13 per cent. Against this backdrop, Mr. Rahman explained that although Bangladesh would benefit from GSP+ preferential access following a three-year long transition period after graduation-- its apparel items might face most favoured nation (MFN) tariff rates of 12 percent in the EU.

Mr. Rahman also explained that Bangladesh, as an LDC, currently enjoys flexible Rules of Origin for its exports in various overseas markets which would not be applicable after graduation. He also briefly highlighted on the impact of LDC graduation on subsidies, technical assistance, technological transfer as well as other Special and Differential Treatment (S&DTs) under WTO.

In terms of Intellectual Property Rights, it was highlighted that Bangladesh's pharmaceutical industry, in particular, had witnessed impressive growth over the years due to the TRIPS waiver provided to LDCs under the WTO-TRIPS agreement. However, it was informed that such waiver would not be available after the country's graduation in 2026. In this context, he identified some specific measures that should be initiated to address issues related to compulsory licensing, parallel import etc.

Lastly, Mr. Rahman came up with following recommendations to tackle the impact of LDC graduation on trade and Intellectual Property Rights.

Trade:

At the global level:

- Pursuing for continuation of the trade-related International Support Measures (ISMs) for a certain period after graduation (Through WTO decision and bilateral agreements).
- Putting efforts for creating new market access through Free Trade Agreement (FTA), Preferential Trade Agreement (PTA), EU GSP+, etc.
- Negotiating bilaterally with the potential trading partners for additional transition periods, like EU, UK, Japan, Canada Australia etc in their preferential/GSP schemes.
- Strengthening collaboration with the development partners, particularly for enhancing productive and trade-related capacity of the country.

At the domestic level:

- Formulating an appropriate smooth transition strategy involving all the stakeholders, including private sector, Civil Society Organizations, development & trading partners.
- Incorporating graduation priorities into national development plans.
- Enhancing competitiveness through increasing productivity and reducing cost of production & business.
- Simplifying rules, regulations, procedures and improving overall trade facilitation system for reducing time and cost of doing business.
- Improving ease of doing business by removing domestic constraints and challenges.
- Enhancing capacity to fulfill stringent rules of origin criteria by expanding backward and forward linkage industries.
- Enhancing compliance capacity, including Sanitary & Phyto-sanitary (SPS), Technical Barriers to Trade (TBT), environmental compliances, etc.

- Developing skilled human resources for all levels of business and production.
- Upgrading technologies.
- Reducing lead time of exports.
- Designing appropriate policy and other supports consistent with the WTO rules for the post-graduation situation.
- Attracting more FDI in various potential sectors.
- Strengthening participation in Global Value Chain.
- Enhancing negotiating capacity.

Intellectual Property Rights:

- Continuing Persuasion for extending the TRIPS flexibilities/waivers for a certain year beyond graduation.
- In case of both the exemptions, conducting a comprehensive impact assessment is extremely necessary to identify the areas precisely, where support and interventions are required.
- In case of the impacts of the general exemption, which covers all the IP areas, existing laws and regulations need to be thoroughly examined to identify if there is need for amendments to make the laws WTO consistent and also to take more advantages from the in-built flexibilities available in the TRIPS Agreement.
- It needs to be examined in consultation with the relevant stakeholders whether we need to sign various WIPO instruments, like Patent Cooperation Treaty (PCT), etc.
- Enforcement mechanisms need to be strengthened through enhancing human as well as institutional capacities.
- Knowledge and understanding of the stakeholders on the IP issues need to be enhanced through appropriate training programmes and awareness-building campaigns.
- Inventions and innovations need to be encouraged for technological development.
- In the case for pharmaceuticals, the Patent law needs to be updated/amended for capturing all the in-built flexibilities available in the TRIPS Agreement, particularly relating to public health.
- Public health-related WTO Decisions need to be thoroughly examined in order to take full advantages of those decisions; Given the fact that Bangladesh's pharmaceutical industry has already gained enough experience and capacity, the industry can try to take full advantage of the evolving opportunities of the global pharmaceutical markets due to expiry of patents of many medicines around the world and other relevant issues.
- The Active Pharmaceutical Ingredient (API) park needs to be fully operational as early as possible.
- All possible supports need to be extended for facilitating smooth running of the API industries.
- Human resource development, technological facilities and other relevant factors need to be ensured for further development of the pharmaceutical industry, including the API industry.

Session 2: Tariff Rationalization and Subsidies in the Context of LDC Graduation

Keynote Presentation from Dr. Mostafa Abid Khan, Member (Rtd.), Bangladesh Trade and Tariff Commission (BTTC):

In the beginning of his presentation, Dr. Khan provided an overview of Bangladesh's international trade scenario including the export and import trends. He noted that although Bangladesh's exports are highly concentrated both in terms of products and destinations-- imports are more diversified, indicating product diversification in domestic market. He also pointed out that intermediate and capital

goods constitute major share of Bangladesh's import-- which indicates trade dependency of the country's entire economy.

Analysing the existing tariff structure of the country, Mr. Khan said that the highly protective tariff measures make domestic market lucrative and leads domestic investor to focus on domestic market— which, in turn, discourages investor to improve efficiency. In this context, Mr. Khan called for tariff rationalization and addressing subsidy in the context of the country's eventual LDC graduation.

Noting that Bangladesh would need to sign Free Trade Agreements (FTAs) with various trading partners following LDC graduation-- he opined that the current tariff policy of the country is not conducive for negotiating FTAs. He also observed that high protection in domestic market had led to anti-export bias. He also pointed out that LDC Graduation would lead to increased surveillance of trade policy measures by WTO members. He also stated that the National Board of Revenue still focuses on revenue target for revenue collection at import stage, which depends merely on import figures.

Lastly, he came up with following recommendations regarding tariff rationalization and subsidy in the context of LDC graduation.

Tariff Rationalization:

- **Rationalize Tariff gradually-**
 - Bringing conformity with WTO commitment
 - Making SD trade neutral
 - Making RD temporary emergency measures
 - Addressing complexity in Tariff Regime through reducing number of HS codes and user specific exemptions
 - Making duty free treatment of raw material for all exporters including partial exporters
- Making clearance process speedy for reducing trade cost

Subsidy:

- Gradual elimination of subsidies that are not compatible with WTO.
- In-depth study for new approach for support scheme for increasing competitiveness of industry
- Searching for new support measures
- Having an agreement from WTO for continuing export subsidy, if GNI per Capita in 1990 constant US\$ is less than US\$ 1,000.

Q & A Session

At this stage, the floor was opened for feedbacks and queries from participants. During this session, the following feedbacks and queries came from the participants.

- It was queried that whether the new GSP Plus scheme of EU is compliant with the rules and regulations of WTO. In response, Mr. Md. Hafizur Rahman informed that the new GSP Plus scheme of EU is compliant with the WTO rules and regulations.
- Participants also queried that how Bangladesh can attain the same level of competitiveness as Turkey or Vietnam in the global RMG arena to mitigate the potential negative impacts of LDC graduation. In response, it was pointed out that Bangladesh would need to develop its backward linkage industries to enhance its competitiveness in RMG.
- The participants also observed that the rapid shift in the global apparel market from cotton to non-cotton based Man-Made Fibre (MMF) may thwart the potential growth of the Bangladesh RMG sector as currently, the overwhelming portion of our RMG exports are still cotton-based.

In this context, it was suggested that Bangladesh would need to grab the potential of MMF by expanding its market in the global MMF-based RMG segment while maintaining the current growth in cotton-based apparel to increase its global market share.

- Participants also queried that what measures are being taken to overcome the nontariff barriers. In response, it was informed that many of the non-tariff measures are compatible with WTO rules and regulations. As such, it would be important to ensure necessary conformity through various measures, e.g.- enhancing the capacity of the local testing labs.
- Participants queried that what measures were being taken for the diversification of export markets or to tap the regional markets. In response, Mr. Mostafa Abid Khan said that product diversification would be necessary beforehand for diversification of export markets.

Remarks from Special Guest: Mr. Md. Faizul Islam, Chairman (Secretary to the Government), Bangladesh Trade and Tariff Commission

Highlighting on the recommendations coming from the keynote presentations, Mr. Md. Faizul Islam affirmed that certain tariffs and duties like supplementary duties, regulatory duties and advanced income taxes should be reviewed and gradually phased out. He also informed that the government had recently formulated a draft tariff rationalization policy which was being reviewed by the Ministry of Commerce and which would subsequently be sent to the Cabinet for approval. Noting that subsidies and cash incentives are not necessary for the well-established businesses-- he also affirmed that such provisions should be reviewed and rationalized. Underscoring the need for export diversification-- he observed that there are scopes for diversification within RMG and other major export items.

Remarks from Chief Guest: Ms. Sharifa Khan, Secretary, Economic Relations Division (ERD)

The Chief Guest, in her remarks, observed that government officials would play a very crucial role in LDC graduation related policy formulation as well as trade negotiations with the major trading partners in the aftermath of LDC graduation. In this context, she underscored the need for attaining comprehensive knowledge about the process, impacts and opportunities of LDC graduation. Noting that the withdrawal of subsidies and cash incentives is a sensitive issue-- she also affirmed that such facilities should be gradually reviewed in line with the WTO regulations. Lastly, she thanked the special guest as well as the keynote speakers for their insightful observations.

Concluding Remarks from Chair: Mr. Farid Aziz, Wing Chief, DEW and PD, SSGP

Mr. Farid Aziz, in his concluding remarks, observed that since ERD is the main focal point for LDC graduation related issues of the government—it would be imperative for the ERD officials to have comprehensive knowledge about the impacts of LDC graduation and the potential mitigation measures. Lastly, he thanked all the participants for their active engagement and contribution.