



LEAST DEVELOPED COUNTRY: TRIPS AGREEMENT & POLICY SPACE

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Article 66.1 of TRIPS Agreement

1. In view of the **special needs and requirements of least-developed country Members, their economic, financial and administrative constraints** in view of the, and their need for flexibility to create a viable technological base, such Members shall not be required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 10 years from the date of application as defined under paragraph 1 of Article 65.

The Council for TRIPS **shall**, upon duly motivated request by a least-developed country Member, accord extensions of this period.

Preamble of TRIPS Agreement

“Recognizing also the **special needs of the least-developed country Members** in respect of **maximum flexibility** in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base”

Request for Extension of General LDC transition period submitted by Chad on behalf of the LDC Group in October 2020.

- Doc. IP/C/W/668:
<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=r:/IP/C/W668.pdf&Open=True>

- Request is two-fold:

A least developed country Member shall not be required to apply the provisions of the Agreement, other than Articles 3, 4 and 5, as long as the Member remains in the category of least developed country and for a period of twelve years from the date of entry into force of a decision by the UN General Assembly to exclude the Member from the least developed country category

- Civil society organizations have supported this request.
https://www.twn.my/announcement/signonletter/CSO_LetterToWTOMembers.pdf

- The UN Conference on Trade and Development (UNCTAD)'s annual flagship Least Developed Countries Report 2020, released on 3 December 2020, forecasts that “the pandemic will push LDCs to their worst economic performance in 30 years in 2020, with falling income levels, widespread employment losses and widening fiscal deficits”. The GDP per capita of LDCs is projected to contract by 2.6% in 2020 from already low levels, with only \$1,088, compared with a world average of \$11,371 in 2019. The report informs that “at least 43 out of the 47 LDCs will likely experience a fall in their average income” and that “the current account deficit of LDCs is forecast to widen from \$41 billion (or 3.8% of their collective GDP) in 2019 to \$61 billion (or 5.6% of their GDP) in 2020, the highest value ever”.

- United Nations General Assembly resolutions 59/209 of 20 December 2004 and 67/221 of 21 December 2012, inviting all Members of the World Trade Organization to consider extending to graduated least developed country Members the existing special and differential treatment measures and exemptions available to least developed country Members for a period appropriate;

- The 2016 UNCTAD LDC report summarises some of the challenges faced by LDCs: "The process of development beyond graduation merits much greater attention, even during the pre-graduation period — that graduation itself should not be the primary focus of LDCs and their development partners, but should rather be viewed as one milestone in LDCs' longer-term sustainable development. 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"