Workshop on
Enhancing the Development
Potential of Trade in Services
for the Least Developed Countries
through Preferential Treatment

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Presentation

Effective Market Access for LDC Services Exports – Is the LDC Services Waiver Being Implemented? Pilot Case Studies – Focus on Cambodia, Nepal, Senegal and Zambia

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Effective Market Access for LDC Services Exports – Is the LDC Services Waiver Being Implemented?

Pilot Case Studies – Focus on Cambodia, Nepal, Senegal & Zambia

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Overview

- Up Front: The Messages
- Recalled: The Waiver & How it Works
- The Notifications – An Overall Assessment
- Real Market Access? The Case Studies and their Outcome
- Conclusions & Recommendations
Up Front: The Messages

- The glass is in the process of being filled – the 24 notifications are a promising start. (But only that.)
- Many, arguably most challenges that could be addressed are not yet addressed – issues: substantive scope; type of preferences; geographical coverage
- Real, effective market access for LDC services & services providers requires increased attention, generosity and creativity
- Needed: Systematic follow-up, monitoring, exchange…
- …on all tools that can help. The Waiver as an opportunity for a real focus on real MA for LDC services
Recalled: The Waiver & How it Works

- 2011 Ministerial Decision: The LDC Services Waiver
- Exception to GATS Article II – MFN: LDC-only Enabling Clause for Services
- Automatically covered: Measures of the type covered by GATS Article XVI → classical market access
- Covered upon request (de facto just as much): Regulatory, administrative, tax & other preferences
- 2013, 2015 Operationalization Decisions →
  - 2014: Collective Request
  - 2015: High Level Meeting (= signalling conference)
  - 2015-2017: 24 Notifications
Updated Assessment: The Preference Notifications – Where Do We Stand?

- Two words of caution:
  - Counting preferences: an imprecise science
  - Real preferences? Hard to tell…

- How much is on the table?
  - Rising above the DDA offers
  - Getting close to “best PTA” level
  - More than demanded by the Collective Request? Yes, but…

- Types of preferences: mostly market access
- Sectoral distribution: uneven
- Modes of supply: almost equally distributed
- Degrees of liberalization (full/partial): mixed picture
- Some big packages, some small packages
Interim Conclusions: The Notifications – Best Practices & Lessons Learned

- Approach, technique, presentation
  - Comprehensive and systematic approach
  - Clear identification of preference
  - Clustering modes where possible
  - Courage - exploring unchartered waters

- Substance
  - Taking mode 4 seriously – CSS and IP, a step forward
  - Taking regulatory issues seriously
  - Targeted efforts in difficult areas help

- Lessons Learned
  - Asking works – the squeaky wheel gets the grease
  - Format influences content – the ‘schedule’ trap
Pilot Case Studies: Approach

- Four Countries – Cambodia, Nepal, Senegal, Zambia
- Eight sectors/clusters (4-6 per country, some overlap)
- Approach: Bottom-up, Sector by Sector, Provider by Provider, Issue by Issue
- Juxtaposed:
  - Services exports/export interests
  - Challenges (barriers) encountered
  - Possible preferences
  - Actual/notified preferences
- Pilot exercise with pertinent findings – but limited
- ‘Work in progress’ that should stimulate progressively deeper and broader engagement – by LDC governments, stakeholders, friends
Pilot Case Studies: Sectors/clusters

- Professional services (legal, accounting, medical (& related health), nurses, veterinary, architecture, engineering, mining) (KHM, SEN, ZMB)
- IT & IT-Enabled (NPL, SEN)
- Creative industries (entertainment, audiovisual) (KHM, NPL, SEN)
- Tourism (KHM, NPL)
- Education (SEN, ZMB)
- Insurance & re-insurance (ZMB)
- Banking (KHM)
- Construction (ZMB)
Pilot Case Studies: Cambodia

- Vibrant recent development, services central
- Sectors considered: Legal, tourism, banking, animation (audiovisual), circus/ballet (recreational)
- Example: Animation – *iThink Asia*
  - Forward-looking, fast-growing industry; creative, IT-related, skilled but not requiring formal education; work-intensive, open to young professionals – Asia as a growing source of outsourced animation services
  - Barrier/challenge: Local content, co-production
  - Possible preferences: reduce/remove local content requirements, extend benefits under co-production arrangements
  - Notified preferences: None directly related. Some broad preferences offered by US, also Chinese Taipei.
Pilot Case Studies: Nepal

- Services central to Nepal’s development and reconstruction – not just tourism.
- Considered: IT & IT-enabled, audiovisual, music, tourism
- Example: IT & IT-enabled BPO – *e.g.* Cloud Factory
  - 155 full-time staff, 1800+ freelancers in Nepal alone
  - Locations in UK, Kenya, Ireland, US
  - Artificial intelligence, data management & transcription, other IT-related – AI for self-driving cars (!)
- Barriers/challenges (*inter alia*):
  - (1) visas & work permits – getting visas/work permits for CSS and intra-corporate transferees, speed, location of consular services (impact on understanding of business context);
  - (2) public procurement – local content, other preferences/exclusivities
Possible preferences:

1. Facilitated visas/work permits for IT professionals; ‘trusted persons’ systems; LDC quotas; fast-track procedures; etc.

2. Access for LDC providers to otherwise closed public procurement markets; national treatment, access to national/other quotas, other preferences

Notified preferences

- General on physical market access: very little, not sure whether preferential
- But: Quite a few improvements on CSS / IP, e.g. Australia
- Computer-related services: several far-reaching offers (new/improved) across modes
  - Trend: readiness to promise openness – but not sure how much new or preferential
- (Procurement not addressed – but not a Waiver issue)
Pilot Case Studies: Senegal

- Services a key component of the country’s development strategy (PSE). Great interest, great focus, great potential.
- Sectors touched upon: Professional (medical/health, veterinary), entertainment, audiovisual (film); education
- Examples: Veterinarians
  - Interesting opportunities reflecting Senegal’s background as a regional champion of quality education – Modes 1 and 4, across the region and in Europe
  - Barriers: nationality requirements in France & elsewhere
  - Possible preference: remove nationality requirements
  - Notified preferences: N/A
Pilot Case Studies: Zambia

- “Landlocked land of opportunity” – a slogan with spice! Mining boom has translated into multiple developments. Services on the political map.

- Sectors considered: Professional (accounting, architecture, engineering, nurses); education; insurance; construction

- Example: Insurance (Madison) and re-insurance (Prima Re)
  - Several Zambian (re)insurance providers active across the region
  - Insurance in Mode 3 (closer region), re-insurance in Mode 1 (wider region)
  - Barriers/challenges: local/regional preferences & quotas (re-insurance); domestication of insurance sub-markets; work permits for executives of insurance subsidiaries / numbers of natural persons, executives; local partner requirements; withholding taxes; local partner requirements
Possible preferences:
- Access to local/other re-insurance quotas
- Exemption from withholding tax
- Waiving of ‘domestication’ requirements (e.g. ‘marime’)
- Relaxation on Mode 3 limitations (local partnering, form of legal entity, foreign capital)
- Facilitated access for Mode 4 (work permits for intra-corporate transferees)

Notified preferences:
- Relevant regional markets not covered
- Some ‘inspiration’ in other notifications (e.g. relaxed residency requirements for directors – Iceland, Norway)
Pilot Case Studies: Cross-cutting issues

- Physical market access for LDC service providers
  - Clear need, clear demand, reasonable possibilities
  - Very little response
  - Get creative!
- Fees, charges, taxes
  - Clear demand, obvious relevance, uncomplicated handling
  - Very muted response
- Mode 4 categories: CSS & IP
  - Clear relevance, clear demand
  - Reasonable response from 12 Members
  - Good start
Conclusions & Recommendations

- Not much tangible improved access yet – but: The glass is arguably still half full
- Substance: Towards attentive, generous and creative preferences
- Scope: Towards broader geographical coverage
- Institutions and Support: Towards a holistic process & systematic follow-up – including:
  - Data collection
  - Research, analysis and information dissemination
  - Capacity Building & Technical Assistance
  - Forum for dialogue, exchange of experiences, continuous monitoring, peer review, mutual inspiration
Discussion

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