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Nepal's graduation from the LDC category

Implications for international trade and development cooperation

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Executive summary

Nepal is scheduled to graduate from the least developed country (LDC) category in 2026. Graduation is an important milestone in Nepal's development journey and also a testament to the socio-economic progress the country has achieved in the past half a century since the LDC group was created. However, graduation will mean losing a host of international support measures offered by the international community to aid Nepal's efforts in overcoming its development-related challenges.

The Government of Nepal (GoN) is in the process of formulating a transition strategy to ensure graduation is smooth, sustainable and irreversible. Sustainability and irreversibility have acquired increased salience in the context of the ongoing COVID-19 pandemic, which has severely and adversely affected socioeconomic outcomes.

This study investigates the implications of graduation for Nepal in the areas of market access, development cooperation, and trade-related policy space, and offers recommendations in these areas for the government to consider when formulating a transition strategy.

Implications for market access

Tariff increases

A major implication of LDC graduation is the loss of preferential market access available through LDC-specific schemes under the Generalized System of Preferences (GSP) and other arrangements. About two thirds of Nepal's exports are absorbed by India, and preferential market access there is built into a bilateral trade treaty and is not tied to LDC status. However, Nepal's exports will face tariff increases in other major and potential destinations that offer LDC-specific tariff preferences. While the European Union, the United Kingdom, and Turkey provide a transition period of three years after graduation, Nepal will face new tariff regimes in other preference-granting countries post-graduation. For some products, the next-best tariff regime offers the same tariffs as the LDC-specific tariff regime, while for others the new tariffs will be distinctly higher. We find that exporters, in general, are not aware of the likely tariff changes.

While the tariff increase in the US market, which is the largest market for Nepal's exports after India, is relatively low (1.5 percentage points), it is especially pronounced in the European Union market (5.7 percentage points) if it becomes ineligible for the European Union's more generous GSP+ regime, which provides duty-free market access almost on a par with the LDC-specific Everything But Arms (EBA) scheme. However, the tariff increase is negligible if Nepal gets entry into the GSP+ group of countries. Tariff increase scenarios similar to that of the European Union apply in the case of Turkey and the United Kingdom, Nepal's largest destinations after the European Union, which also offer GSP+ like tariff regimes. Tariff increase is also relatively large for Nepal's next largest markets—China, Japan, and Canada. Tariff increase is zero in the case of Australia and Norway as their next-best schemes offer significant duty-free coverage. Exports to Switzerland will also see a negligible increase in applied tariffs. However, exports to the Republic of Korea, New

Zealand, and Thailand will see a large increase in applied tariffs; but they represent a low share of Nepal's exports.

Tariff increases are significant for most of Nepal's top exports; however, the tariff increases are mostly low if Nepal qualifies for GSP+ like regimes. A major export sector that faces the largest increase in tariffs is the clothing sector (6.7 percentage points), but the extent of change will be much lower under the GSP+ like regimes (1.4 percentage points). In the textiles sector, which represent the largest sector with regard to exports to preference-granting countries, the tariff increase will be 2.6 percentage points under the ordinary GSP regimes and 0.7 percentage point under the GSP+ like regimes.

The Nepali private sector is worried about the possible increase in tariffs and fear a severe impact given that Nepal's cost of production is already much higher than that of neighbouring and other competing countries—for instance, the cost of production in the apparel sector is about 26 percent higher than that of neighbouring countries, as per the Garment Association of Nepal. The impact is expected to predominantly be on small and medium enterprises (SMEs) as SME manufacturers represent the bulk of exports to LDC-specific preference-granting countries.

The study also looks at the post-graduation tariff change scenario for priority export products identified by the government in Nepal Trade Integration Strategy (NTIS), 2016. For agricultural priority products (cardamom, ginger, tea, and medicinal and aromatic plants (MAPS)), the tariff scenarios for NTIS products do not change in the United States, the European Union, Turkey, and United Kingdom (even between GSP and GSP+ like regimes); however, the tariffs are quite high in Turkey to begin with, which will most likely restrict exports of these products into the Turkish market. Agricultural NTIS products will see large tariff increases in China, particularly for ginger, tea, and MAPS. Exports of tea to Japan will encounter a large increase in applied tariffs (11.6 percentage points) and a small to moderate increase in the case of MAPS and ginger. The tariff for cardamom will remain the same in Japan's GSP for developing countries. Non-agricultural products—leather; all fabrics, textile, yarn and rope; carpets; and pashmina—will mostly see an increased tariff in all markets, except in the European Union, United Kingdom, and Turkey, if Nepal gets inclusion into the GSP+/Enhanced Framework category of countries. It has to be noted that tariffs for Nepal's exports of carpet, one of its major exports, will see either a small increase in the US market (0.6 percentage points) or no increase in the case of the United Kingdom (UK) market (even under the ordinary GSP scheme). Footwear exports from Nepal will see an adverse tariff scenario as the average tariff for footwear products will be high in all the markets; the tariff increase can, however, be greatly reduced if Nepal qualifies for inclusion into the GSP/GSP+ category of countries.

Nepal struggles to utilize the available trade preferences. Around 62 percent of Nepal's exports to preference-granting destinations are eligible for LDC-specific preferential treatment, but only 74.2 percent of these eligible exports enter utilizing LDC-specific preferences. The low or moderate utilization rate of preferences in some markets (e.g., China, South Korea, the US, and Japan) blunts the projected impact on exports of increases in tariffs. In some destinations, a huge proportion of current exports face zero duties even without being granted any preferences (e.g., two thirds of exports to the US), implying that such products can continue to get zero tariffs even after graduation.

Under the Agreement on South Asian Free Trade Area (SAFTA), Nepal will face a significant increase in tariffs for its top two current exports—refined soyabean oil and palm oil. It exports these products to India through the SAFTA route. However, the sustainability of these exports is questionable given that they are based on the differential in tariffs on imported raw materials between Nepal and India.

Estimates of impact on merchandise exports

Going by the estimates from prior studies using partial equilibrium models, Nepal's merchandise exports could fall by 2.5 percent to 4 percent as a result of increased tariffs upon graduation. Exports to the European Union (EU) are expected to see the largest losses, assuming that Nepali exports will face ordinary GSP instead of GSP+. Getting GSP+ will significantly reduce export losses in the EU. Export loss in the US will be much lower than in other markets. The impact will be the largest for the clothing and textiles sector.

Our tariff increase analysis coupled with the existing estimates of the impact on exports underscores the importance of securing access to the GSP+ and GSP Enhanced Framework (EF) schemes in the EU and the UK, respectively. The EU's newly proposed GSP for the period 2024-34 requires ratification and effective implementation of 32 international agreements, adding five agreements to the current 27 international conventions. To be eligible for the UK's EF scheme, Nepal has to ratify and implement 27 conventions, the same as with the current GSP+ scheme of the EU. Nepal has ratified 25 of these conventions, has signed but not ratified on convention and has not signed and ratified another convention. It is yet to sign and ratify one of the additional five conventions included in the EU's proposed revision to its GSP scheme.

None of the estimates of impacts on exports consider changes in rules of origin that graduation may entail. Incorporating changes (stringency) in rules of origin could increase the projected impacts.

Rules of origin

LDC graduation will not only have tariff implications but also implications in the form of more stringent rules of origin provisions in preference-granting countries, that include the European Union, Turkey, the United Kingdom, Canada, Australia, and Russian Federation, among others. Our product-specific assessment also shows that many of the products will be subject to stricter rules of origin requirements. One important observation, however, is that carpet, which is the top export of Nepal to several preference-granting countries, will not encounter changes in the rules of origin provisions in the top market destinations, including the United States, the European Union, and the United Kingdom. Likewise, the top export to Turkey, yarn, will not see any change in the rules of origin provisions.

However, many products, particularly apparel and made-up textile products, will face more stringent rules of origin in the form of double transformation requirements compared to the single transformation required for the LDCs. This may pose a serious obstacle to exporters despite the product achieving a preferential tariff rate in the next-best schemes (GSP/GSP+/EF). Readymade garment exporters express concerns that they may not be able to meet the more restrictive rules of origin requirements even if the alternative preference schemes offer preferential tariffs. We also find that not all exporters are aware of the change in rules of origin.

The UK allows for derogation from the rules of origin (relaxation of stringent rules of origin provisions) under certain conditions. This presents GoN with an opportunity to make a derogation request for its key exports to the UK that will not be able to meet rules of origin requirements so that the extended period offered by the derogation may be utilized to develop competency in meeting the requirements.

An important consequence of LDC graduation in terms of SAFTA trade will be the more stringent rules of origin provisions for non-LDCs. Given the current export structure, it might not be that big of a concern; however, the more stringent rules of origin will probably be an obstacle to expanding intra-SAFTA trade.

Services

Much of Nepal's export of services is in the travel and tourism sector, which has been taking place without any connection to the LDC services waiver at the World Trade Organization (WTO) which allows the granting of preferential market access to services and services providers from LDC members. Hence, even though the LDC services waiver is not applicable to graduating LDCs immediately upon graduation, the impact is estimated to be marginal given that the LDCs, including Nepal, have not been able to benefit substantially from the waiver. However, loss of access to the waiver could represent a missed opportunity if the waiver gets operationalized in future.

Implications for development cooperation

Official development assistance (ODA) is an important source of finance for GoN. ODA amounts to about a quarter of annual public expenditure. Two multilateral development partners, the World Bank and the Asian Development Bank (ADB), provide more than half of the ODA received by Nepal. Bilateral ODA, including that provided by the EU, accounts for about 42 percent of ODA.

To understand the impact of graduation and the potential loss of favourable treatment from development partners concerning development cooperation, we combined primary and secondary information. We conducted a survey of the top 15 development partners, asking them what graduation means for their ODA to Nepal. We combined their responses with publicly available information on their aid strategy towards LDCs in general and Nepal in particular to arrive at implications. For the few development partners from which we did not receive any responses, we relied solely on publicly available information on their strategy towards LDCs and Nepal to make informed inferences.

Bilateral aid

Geopolitical considerations, and bilateral relationships determine bilateral ODA. LDC status is not a criterion in the provision of ODA from most major bilateral sources of aid to Nepal. In cases where LDC status is a factor in the provision of bilateral aid, it is one of several factors. Overall, the volume and terms and conditions of bilateral ODA will not be significantly affected by graduation per se.

The concessionality of loans from Japan and the Republic of Korea is tied to LDC status, among other factors. But a country has to be low-income as well as an LDC to qualify for the most concessional loans offered by Japan. As Nepal is already a lower-middle-income country, the window of accessing the most concessional loans from Japan is in the process of closing, regardless of LDC status. Loans from South Korea, however, will become less concessional for Nepal upon graduation.

Most bilateral ODA to Nepal is in the form of grants (an average of about 75 percent during 2014/15-2019/20). There is no evidence or indication that graduation will change this significantly.

Germany is ending bilateral ODA to Nepal from 2025. This means the German government will not engage with Nepal government directly but route its development finance through other multilateral agencies and institutions, including the European Union. Germany contributes about a quarter of the EU budget and foreign aid. German cooperation through philanthropic organizations and civil society will continue. In addition, the German government will continue supporting the Nepali private sector through programmes such as developpp.de, which supports companies in the planning, financing and implementation of innovative projects in developing countries. The ending of direct German bilateral aid to Nepal is not happening because of LDC graduation. But because it is happening on the eve of graduation, GoN faces the task of mobilizing enough aid from the EU to make up for the loss of bilateral aid from Germany.

The EU is already the fifth-largest bilateral development partner of Nepal and with the exit of Germany, the EU's importance will grow. EU cooperation in Nepal recognizes the need to provide GoN with the instruments to support LDC graduation until 2030 and beyond. The EU also recognizes the need to provide support for enhancing productive capacity in Nepal so that Nepal could also meet the per capita income criterion. Beyond 2027, the new programme for Nepal will be identified and formulated based on the updated context, which will take into account the 2030 Agenda, the (to be formulated) sixteenth development plan of Nepal and also LDC graduation.

Developed countries have committed to providing 0.15-0.2 percent of their GNI as ODA to LDCs. This aid commitment is targeted at LDCs as a group, not at individual LDCs. Thus, even if Nepal upon graduation is excluded from the aid target specific to the LDC group, Nepal as a developing country will be eligible for receiving aid under another target of developed countries, which have pledged to provide 0.7 percent of GNI as ODA to developing countries.

World Bank

Nepal is receiving concessional loans from the World Bank's concessional body, the International Development Association (IDA). World Bank lending is based on GNI per capita, not LDC status. Nepal graduated from a low-income country to a middle-income country in 2020. Since Nepal has just graduated from a low-income country to a lower-middle-income country and is nearing the IDA's income cut-off, Nepal may be eligible to receive highly concessional loans only for the next couple of years. Hence, by the time Nepal graduates from the LDC group in 2026, it is quite likely that the World Bank will offer blend credit (subject to Nepal's situation in terms of external debt distress and creditworthiness). Blend credit is less concessional than the IDA's regular loans. For example, the maturity period could fall by 8 years; the grace period could fall by 1 year; the interest rate could increase by 0.5 percentage point; and the amortization rate could increase from an equally spread amortization to an amortization rate of 3.3 percent for the first 6-25 years and 6.8 percent for the remaining 26-30 years.

Asian Development Bank

Although the ADB considers per capita GNI and creditworthiness as the main criteria for fixing the rate and terms of concessional loans, it also considers the LDC status while classifying countries' assignments into groups. ADB classifies countries into three groups—Groups A, B and C—based on their creditworthiness and GNI per capita and provide them concessional assistance, ordinary capital resources or market-based resources. Nepal is currently classified in Group A. Group A is concessional assistance-only group. Placement in Group A is not related to LDC status if per capita income is below a cut-off. However, if Nepal crosses an income cut-off consistently, when it graduates from the LDC category it is likely to graduate to Group B category in ADB's classification, where loans are less concessional. The maturity period could fall by up to 7 years; the grace period could fall by 3 years; and the interest rate could increase by 1 percentage point. The shift from Group A to Group B does not happen immediately; it normally takes about four years after crossing the income threshold. Moreover, graduation to another lending group involves close consultation between ADB and the recipient country. Hence, even if Nepal's classification in ADB lending arrangement is to change, Nepal will be provided time to adjust and strategize.

United Nations

The United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) are mandated to provide a certain portion of their core resources to LDCs. This portion is allocated to the LDCs as a whole and not the individual LDCs. Hence, graduation from the LDC category could potentially affect a portion of the core resources dedicated to the country in the subsequent budget cycle. However, in the case of UNDP, the UN has mandated the organization to assist graduating countries in achieving a smooth transition; thus, it may not immediately curtail funds allocated to Nepal.

The United Nations Framework Convention on Climate Change (UNFCCC), the UN agency that looks into climate change and related matters, helps LDCs in climate change adaptation. UNFCCC is responsible for the LDC Fund (LDCF), which is operated by the Global

Environment Facility (GEF) to support the implementation of the LDC Work Programme, including the National Adaptation Programmes of Action, and the formulation of National Adaptation Plans. Upon graduation, Nepal will not receive new funding support from LDCF but projects approved prior to graduation will continue to receive support until completion. Nepal will also remain eligible to access other financing sources of UNFCCC, such as the Global Environment Facility (GEF) Trust Fund, the Special Climate Change Fund, the Adaptation Fund, and the Green Climate Fund (GCF). But Nepal will be excluded from the priority group of the GCF.

United Nations Capital Development Fund (UNCDF) is another UN agency dedicated to LDCs. It provides access to microfinance and investment capital, and helps leverage capital flows from the private sector, governments and development partners. After graduation, programmes can continue to be funded by the United Nations Capital Development Fund, under the same conditions, for three years. Assuming continued development progress, funding for another two years can be provided on a fifty-fifty cost-sharing basis with either the government or a third party. UNCDF could play an important role for the Nepali private sector as Nepal will try to cash in on its non-LDC status and present itself as a viable foreign direct investment destination.

Enhanced Integrated Framework

The Enhanced Integrated Framework (EIF) under the World Trade Organization provides aid for trade to LDCs. It also supports graduating LDCs for five years from graduation. Projects approved prior to graduation can continue to receive support until completion. However, the current phase of EIF expires in 2024. Thus, post-graduation support will depend on the extension of the EIF's mandate. EIF's support to Nepal is limited in terms of financial resources. However, with graduation in sight, the EIF has placed increased focus on consolidating Nepal's trade development gains over the past years through a sustainability focused project. The Sustainability Support Project is complementing, through a focus on the trade sector, the overall transition strategy being prepared by the National Planning Commission.

Technology Bank for LDCs

The Technology Bank for LDCs was established in 2018 to help LDCs build science, technology and innovation capacity. Nepal will continue to have access to the Technology Bank for five years after graduation. Nepal has not collaborated or participated in any projects at the Technology Bank so far.

Support for participation in international forums

LDCs are provided support for their participation in international forums. Upon graduation, Nepal will lose this support.

Implications for trade-related policy space

The implications of graduation for Nepal's policy space can be viewed through three lenses. First, Nepal stands to lose flexibilities that LDCs are entitled to in implementing policies related to, inter alia, trade, industrial development and health. Second, Nepal may be unable to continue with policies that run afoul of WTO rules or are potentially challengeable at the WTO because these policies are likely to come under greater scrutiny at the global trade body upon graduation. Third, the pressure to liberalize trade at the WTO and regional forums following graduation could further reduce Nepal's policy space to protect domestic industry as well as cause revenue loss.

Some 25 of the 155 special and differential treatment (S&D) provisions in WTO Agreements relate specifically to LDCs. There are also another 31 LDC-specific provisions in WTO Decisions (e.g., Ministerial, General Council Decisions). Under existing rules, Nepal will lose LDC-specific provisions upon graduation. But it can continue to enjoy all the other S&D provisions as long as it remains a developing country.

The LDC Group, in a proposal submitted in November 2020, called for an extension of all LDC-specific provisions, exemptions and support measures for a period of 12 years after graduation. In another proposal, made in October 2021, the LDC Group called for an extension of LDC-specific trade preferences by six to nine years after graduation, besides calling on the Sub-Committee for Least-Developed Countries to prepare a package of support measures for graduated LDCs. The LDC Group, in a separate proposal, has demanded that should an LDC member of the WTO graduate from the LDC group during a transition period provided to LDCs in existing and future WTO Agreements, the graduated LDC be allowed to utilize the remaining period of delay provided to LDCs.

Subsidies

GoN has been providing cash subsidies for the export of select products—agricultural and non-agricultural—for over a decade. Nepal had committed not to provide any agricultural export subsidies when it acceded to the WTO in 2003. Upon graduation from LDC status, the provision of subsidy for agricultural exports could come under greater scrutiny. Partly because the total export subsidy outlay (including both agriculture and non-agriculture) is small—under NPR 1 billion—it has not attracted much attention so far. On the other hand, the current provision of export subsidies for non-agricultural products is permissible because Nepal is an LDC. Upon graduation, it will be barred from providing export subsidies for non-agricultural products as such subsidies are prohibited for non-LDCs. However, there is a window of hope that Nepal will be able to provide non-agricultural export subsidies as long as its per capita GNI is less than US$1,000 (constant 1990 dollars) since developing countries with incomes below that threshold and listed as such are allowed to do so under existing rules. The LDC Group has proposed that graduated LDCs with incomes below the threshold be included in the list of countries allowed to provide non-agricultural export subsidies. If this proposal is accepted, Nepal stands eligible to provide non-agricultural export subsidies till the year 2039 or thereabouts if its real per capita income grows by no more than 5 percent per annum (from the year 2020). Exporters want the subsidy rates to be raised, the budget for subsidies to be increased, and the subsidy claim and disbursement process simplified. They aver that a withdrawal of export subsidies will hurt the competitiveness of Nepal's exports of both agricultural and non-agricultural products, given the high cost of producing in and exporting from Nepal. In contrast, available evidence indicates that the export cash subsidy programme has not resulted in increased exports.

Apart from the export cash-subsidy programme, GoN also supports exporters through other means such as income tax concessions and duty drawbacks. Furthermore, GoN is attempting to develop special economic zones (SEZs) as a means of achieving industrialization and export growth. The SEZ Act 2016 (amended in 2019) provides a slew of financial concessions, incentives and facilities to firms located in SEZs, and firms selling to firms located in SEZs. Most of these support measures are contingent on exporting and are export subsidies under WTO rules, and hence the above discussion of the implications of graduation for the export cash-subsidy scheme also holds for them. However, it must be noted that as any WTO member, Nepal is permitted to provide exemption or remission of duties or taxes on inputs that are consumed in the production of an exported product (regardless of LDC status).

Graduation will not impact the provision of domestic support/subsidies (which are not contingent on exporting) in agriculture. Regardless of LDC status, Nepal can provide product-specific subsidies equivalent to 10 percent of the product-specific value of agricultural production, and horizontal (non-product-specific) subsidies equivalent to another 10 percent of the total value of agricultural production. These subsidies can be trade distorting. Domestic subsidies in agriculture in Nepal are currently less than 2 percent of the value of agricultural GDP. Hence, there is a considerable room to increase such subsidies, if need be. Domestic subsidies can be designed to help exporters as long as they are not contingent upon exporting. Graduation will also not affect the space to provide non-trade-distorting subsidies (e.g., green box and development box subsidies), which are not subject to any limits. Graduation will, however, increase the required frequency of notifications of domestic support/subsidies, from biennially to annually. Nepal has struggled to meet even the biennial notification requirement. The Ministry of Agriculture and Livestock Development will benefit from technical support in this regard.

In the non-agricultural goods sector, WTO rules prohibit local content subsidies, which are contingent on the use of domestic over imported goods. This prohibition is also applicable to LDCs. Graduation could spell scrutiny of GoN's provision of such subsidies—for example, differential tax treatment for completely knocked down motorcycles (assembled in Nepal from imported parts) and imported motorcycles. However, as any WTO member, Nepal will be able to provide subsidies that are not tied to local content or export requirements, with the caveat these subsidies could be subject to remedial action by trading partners if they are demonstrated to cause adverse trade effects. Nepal will also be able to provide non-specific subsidies (those that are not directed at specific enterprises).

The WTO lacks specific disciplines on subsidies in the services sector. Graduation will not have an impact on the provision of support or subsidies for services.

Nepal must also be prepared for increased scrutiny of other measures that may not be compatible with WTO rules: for example, a trade-related investment measure that imposes local-content requirement on investments.

Intellectual property rights

Graduation will impact Nepal's access to some of the flexibilities and special and differential treatment in the implementation of the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). A general transition period for LDCs allows them to delay the implementation of the provisions of the TRIPS Agreement, other than the core non-discrimination principles of most-favoured-nation treatment and national treatment, until 1 July 2034. However, as Nepal agreed to implement the TRIPS Agreement by 1 January 2007 when acceding to the WTO, the general transition period till 2034 is not relevant to Nepal. It is yet to bring its intellectual property laws into conformity with the TRIPS Agreement.

As an LDC Nepal is exempted from protecting patents and undisclosed information for pharmaceutical products until 1 January 2033. It is also exempted from implementing exclusive marketing rights provisions and mailbox requirements with regard to pharmaceuticals until 1 January 2033. Nepal will lose these flexibilities concerning intellectual property right (IPR) protection of pharmaceutical products upon graduation. When Nepal graduates from the LDC group, production of generic versions of patented medicines will not be WTO-consistent unless recourse is taken to public/government use authorization or compulsory licensing. This, in turn, will require putting in place specific laws and regulations to incorporate and clarify the flexibilities, and developing the technical capacity of civil servants and the judiciary to invoke, interpret and administer the same.

Graduation could also make it difficult for Nepal to access a special system of compulsory licensing aimed at addressing public health needs. Under Article 31*bis* of the TRIPS Agreement, this system allows any WTO member to produce low-cost generic medicines under a compulsory license for the purpose of exporting the same to LDCs to meet their public health needs (and also to other members with an insufficient manufacturing capacity in the pharmaceutical sector). The importing LDC has to neither notify its intention to use the system nor confirm that it has insufficient or no manufacturing capacity. Upon graduation, if Nepal wants to use this system, it has to make a notification of its intention to use the system and confirm its insufficient manufacturing capacity. While Nepal has not made use of this system, and in fact there is very limited global experience with using this system, this is considered to be a potentially important flexibility, especially during public health crises. LDC graduation will render access to this flexibility less automatic and quick.

Trade negotiations and border charges

Under current rules at the WTO, LDCs will lose all exemptions from making new liberalization commitments. In other words, Nepal may be required to undertake new liberalization commitments even in the ongoing round of negotiations if it continues after 2026, besides future rounds of negotiations. Furthermore, as a developing country member, Nepal will not have access to S&D provisions that may result from the ongoing negotiations. However, it must be noted that developing country members also enjoy some flexibilities in negotiations and are not expected to undertake the same level of commitments as developed country members.

When it is no longer an LDC, Nepal could come under increased pressure to liberalize trade at not just the WTO but also at regional forums such as South Asian Association for Regional Cooperation (SAARC) and Bay of Bengal Initiative for Multisectoral and Technical Economic Cooperation (BIMSTEC). The government has concerns about the (real or perceived) adverse impacts of trade liberalization to date on public revenue (in the case of goods trade) and domestic industry. Some of the measures recommended by the government's revenue advisory body—such as differential rates of border charges other than basic customs duty for imports and like domestic goods—run counter to basic international trade rules. If implemented, they have a higher chance of coming under sharper scrutiny in the post-graduation period.

Regardless of LDC status, there are avenues for Nepal under WTO rules to impose antidumping duties on dumped imports, countervailing duties on subsidized imports and additional duties or quantitative restrictions when there is a surge in imports, as well as to impose quantitative restrictions on imports in times of balance-of-payments difficulties—all subject to certain conditions and due processes.

Lessons from LDC graduates

We undertook brief case studies of three of the countries that have graduated from the LDC category: (i) Botswana, the only landlocked country to have graduated so far, (ii) Maldives, the only South Asian country to have graduated so far, and (iii) Vanuatu, the most recent graduated country. Each of these countries achieved graduation with the aid of different strategies formulated and implemented in pursuit of developmental goals. None of these graduating countries specifically focused on graduation as a goal or destination, but rather considered graduation to be a milestone in their developmental path. Botswana tapped into its minerals resources for development, the Maldives focused on developing the tourism sector and Vanuatu promoted exports of kava, copra and coconut oil.

Recommendations

GoN should prepare a smooth transition strategy in consultation with all stakeholders and also in coordination with trade and development partners, consistent with its periodic development plan. Such a strategy must identify a comprehensive and coherent set of specific activities by taking into account the loss of LDC-specific international support measures, opportunities emerging in the wake of graduation as well as structural challenges and vulnerabilities. The following recommendations in the areas of trade and development finance could contribute to identifying the elements of a smooth transition strategy.

- GoN should promptly study the appropriateness of acceding to the remaining international conventions necessary for accessing GSP+ of the EU and GSP Enhanced Framework of the UK. It should launch a dialogue with the EU and the UK for accessing the GSP+ and GSP Enhanced Framework. In addition, since other preference-granting countries have extended GSP to graduated LDCs on a case-by-case basis, Nepal should also initiate dialogue with other trading partners seeking an extension to LDC-specific concessions and preferences for another 3-5 years following graduation. One of the agendas under discussion as the EU reviews its GSP scheme is whether the transition period for graduated countries could be extended to five years (from the current three years) to give them more time to implement reforms (including to qualify for GSP+). Nepal, together with other graduating countries, should actively participate in the review process and strongly pursue this option.

- Nepal should lobby for lenient rules of origin for LDCs for a period sufficient for the private sector to adjust to the new rules of origin.
- To realize the vast untapped export potential, the government should prepare trade strategies, in consultation with the private sector, to strengthen the overall competitiveness of the economy, upgrade exporters' capabilities, diversify export products and markets, simplify and streamline processes to attract more foreign direct investment and encourage enterprises to participate in regional/global value chains. Such strategic policies may also help compensate for the loss of LDC-specific international support measures.
- Nepal should ask members of the Agreement on South Asian Free Trade Area to accord it the same treatment after graduation as has been accorded to previously graduated, or vulnerable, member countries.
- The implications of LDC graduation should be disseminated at the grass roots across the country.
- GoN should explore new forms of finance, including blended finance, public-private partnerships, private philanthropies and co-financing, among others, and work with development partners for new forms of support mechanisms such as dedicated funds for graduated countries, disaster insurance, and technology transfer mechanisms.
- Nepal should work towards fully utilizing the existing source of finances contingent upon LDC status.
- Nepal must use international/multilateral forums to pursue its post-graduation interests, including continuation of the use of LDC-specific provisions for a specific period, particularly regarding the provisions related to preferential market access, use of export subsidies and the flexible implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights.

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1. Introduction

Nepal is scheduled to graduate from the least developed country (LDC) category in 2026. Graduation is an important milestone in Nepal's development journey and also a testament to the socio-economic progress the country has achieved in the past half a century since the LDC group was created. However, losing the LDC status will also mean losing a host of international support measures offered by the international community to aid Nepal's efforts in facing its development-related challenges. In order to be eligible for graduation, LDCs need to meet any two criteria among three—per capita income, human assets and economic and environmental vulnerability—in two consecutive triennial reviews of the United Nations Committee for Development Policy (CDP). Nepal met two criteria—human assets and economic and environmental vulnerabilities—in the 2015, 2018 and 2021 reviews. But it has yet to meet the per capita income criterion. The Government of Nepal is in the process of formulating a transition strategy to ensure graduation is smooth, sustainable and irreversible. Sustainability and irreversibility have acquired increased salience in the context of the ongoing COVID-19 pandemic, which has severely and adversely affected socioeconomic outcomes.

This study investigates the implications of graduation for Nepal in the areas of international trade (including policy space) and development cooperation, and offers recommendations in these areas for the government to consider when formulating a transition strategy. This study was commissioned by the International Economic Cooperation Coordination Division (IECCD), Ministry of Finance, Government of Nepal, with the support of Foreign, Commonwealth & Development Office (FCDO), the United Kingdom.

This research uses both secondary and primary data. Secondary information is combined with information obtained in a series of meetings/workshops with the private sector and policymakers, and a survey of development partners.[1] It also draws on information and analysis contained in prior studies on LDC graduation.

The report is structured as follows. Section 2 presents a brief background to graduation and Nepal's performance in indicators used to define LDCs, in comparison with the average LDC. Section 3 discusses the implications of graduation for market access for Nepal's products. Section 4 discusses the implications for development cooperation. Section 5 discusses the implications for the flexibility in the application of international trade rules and policy space. Section 6 presents case studies on the experiences of graduated LDCs. Section 7 concludes and provides recommendations to the government for mitigating the adverse impacts of graduation.

[1] See Annex 1 for the dates of the meetings and the stakeholders consulted, Annex 2 for the list of development partners surveyed, Annex 3 for the basic questions asked to development partners, and Annex 4 for the basic questions asked to the private sector. The methodology underlying data collection and analysis is explained in various sections of the report as and when relevant.

2. Background to graduation

The Government of Nepal's desire to see Nepal graduate from the LDC category has been reflected in various forms in its periodic development plans over the last one decade. The 12th Plan (2010/11-2012/13) had a long-term vision of seeing Nepal leave the LDC status in the following two decades.[2] The 13th Plan (2013/14-2015/16) had a long-term vision of upgrading Nepal from the LDC category by 2022. The 14th Plan (2016/17-2018/19) noted the setback to the process of graduation due to the 2015 earthquakes and the 2015/16 restrictions on the southern border, and emphasized the need for extra efforts to meet the graduation goal. It also noted the fact that Nepal was yet to meet the income criterion among the three criteria for graduation. The ongoing 15th Plan (2019/20-2023/24) holds steady on the goal of upgrading Nepal from LDC status by 2022, and, additionally, has a long-term vision of upgrading Nepal to an upper-middle-income country by 2030 and a developed country by 2043. It acknowledges the challenging task of developing the necessary strategy for the full utilization of the facilities available as an LDC and the mitigation of the impact brought about by graduation.

At the recommendation of the United Nations' Economic and Social Council, the UN General Assembly, on 24 November 2021, adopted a resolution[3] declaring that Nepal, along with Bangladesh and Lao PDR, would graduate from the LDC category with a five-year preparatory period. The three LDCs received an additional two years to the normal three-year preparatory period. In 2026, they will join the six other countries that have graduated from the LDC category to date (Botswana in 1994, Cape Verde in 2007, Maldives in 2011, Samoa in 2014, Equatorial Guinea in 2017, and Vanuatu in 2020). Based on its triennial review of the list of LDCs, the Committee for Development Policy (CDP), in a report[4] submitted to the Economic and Social Council in February 2021, had recommended the three LDCs for graduation with an extended time period.

The five-year preparatory period was provided to enable the three countries to "effectively prepare for a smooth transition" as they would "need to prepare for graduation while planning for a post-COVID-19 recovery and implementing policies and strategies to reverse the economic and social damage incurred by the COVID-19 shock".[5] The UN General Assembly noted that the CDP will analyze at its 2024 triennial review "whether the five-year preparatory period has been adequate to manage the effects of COVID-19 and make any recommendation, including on whether a further extension would be necessary". [6] After graduation, the CDP will continue to monitor a graduated country's development progress

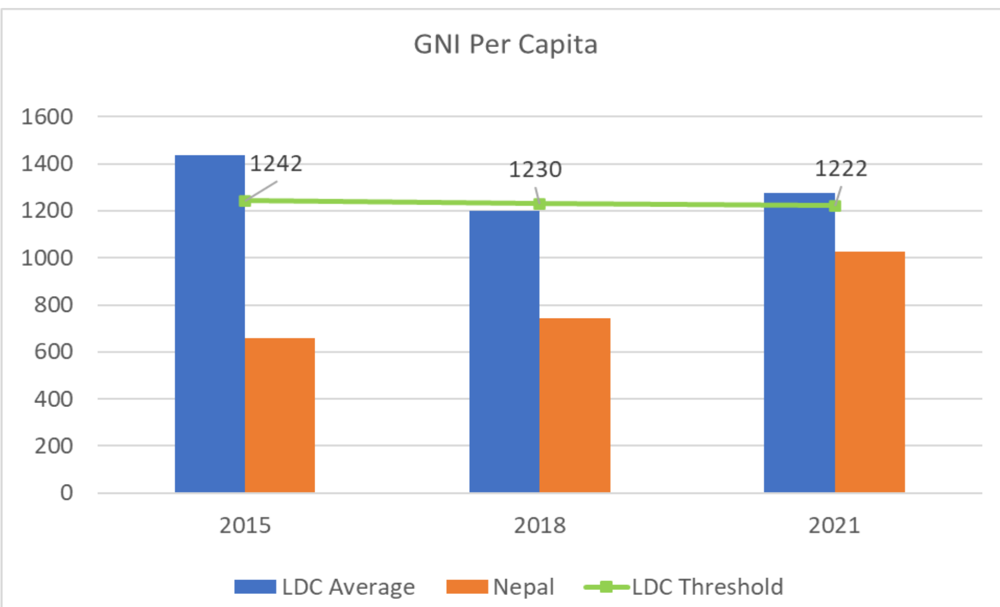
[2] This and other development plans are available at https://www.npc.gov.np/en/category/periodic_plans (accessed 15.02.2022).
[3] Resolution adopted by the General Assembly on 24 November 2021. 76/8. Graduation of Bangladesh, the Lao People's Democratic Republic and Nepal from the least developed country category. A/RES/76/8.
[4] Committee for Development Policy, Report on the twenty-third session (22–26 February 2021), Economic and Social Council Official Records, 2021, Supplement No. 13, E/2021/33.
[5] Resolution adopted by the General Assembly on 24 November 2021. 76/8. Graduation of Bangladesh, the Lao People's Democratic Republic and Nepal from the least developed country category. A/RES/76/8.
[6] *ibid*.

and the implementation of its transition strategy for three consecutive years after graduation, followed by two triennial reviews.

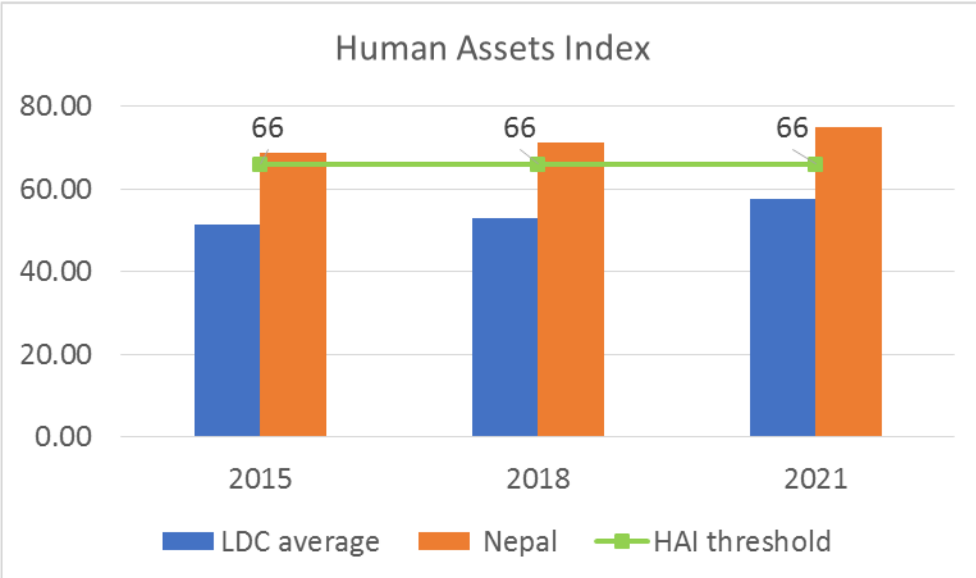
In order to be eligible for graduation from the LDC category, an LDC must meet graduation criteria for two successive triennial reviews by the CDP. The graduation criteria are: (i) meeting at least two of the three graduation cut-offs pertaining to per capita gross national income (GNI), human assets index (HAI), and economic and environmental vulnerability index (EVI); or (ii) an income-only criterion: a per capita GNI that is twice the inclusion threshold.[7] Higher values of per capita GNI and HAI denote better performance, while lower values of EVI indicate better performance.

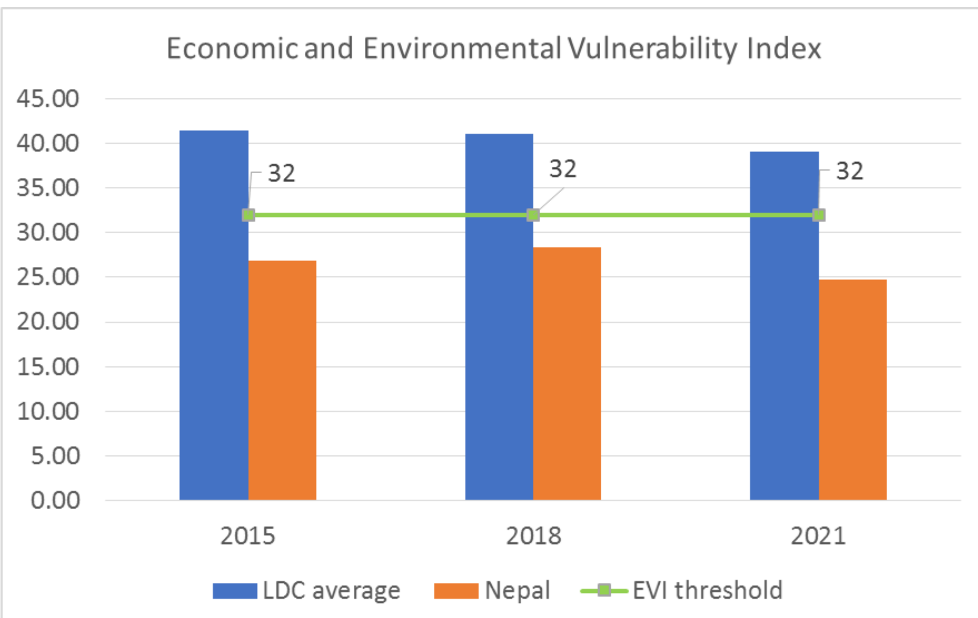
Nepal is graduating by meeting the first criterion, and, within it, by meeting the cut-offs pertaining to HAI and EVI, but without meeting the income cut-off (Figure 2.1). It has the lowest GNI per capita among the dozen LDCs that are on track towards graduation[8] (WTO, 2020a), and is the only country that is graduating without meeting the income cut-off. Its per capita income is also lower than the LDC average (Figure 2.1). The CDP had found Nepal to have met the HAI and EVI cut-offs for graduation in the 2015 and 2018 triennial reviews (Figure 2.1), but did not recommend graduation in its 2018 report to the Economic and Social Council, citing "concerns about the sustainability of" Nepal's "development progress" emanating, *inter alia*, from the devastating 2015 earthquakes.[9] In none of the triennial reviews till 2021 has Nepal met the income cut-off.

Figure 2.1: Nepal's performance in three triennial reviews



[7] See CDP and UNDESA (2021) for details on the graduation criteria, and the associated methods and data sources.
[8] These are LDCs that have met the graduation criteria at least once.
[9] Committee for Development Policy, Report on the twentieth session (12–16 March 2018), Economic and Social Council Official Records, 2018 Supplement No. 13, E/2018/33.





Note: GNI per capita is in US dollars. A major methodological change in the construction of EVI was introduced in the 2021 review.

Source: Based on Committee for Development Policy reports to the UN Economic and Social Council (E/2015/33, E/2018/33, E/2021/33).

3. Market access

3.1 Background

Enhanced market access to exports originating from the LDCs forms the core of the LDC-specific trade preferences (UNCTAD, 2016b). This includes preferential tariffs, often duty-free quota-free (DFQF), to a large swathe of goods exported by LDCs, and less stringent rules of origin (ROO) allowing LDCs to show with relative ease that the goods exported substantively originate in their territory.

The market access preferences provided to LDCs can broadly be categorized into two strands—the Generalized System of Preferences (GSP) provided mostly by developed nations and the DFQF schemes for LDCs that are increasingly being provided by developing nations (see Table A5.1 in Annex 5 for details). While the depth of tariff cuts in these preferences vary by the preference-granting country, many of the schemes offer duty-free entry to LDC exports on almost the entirety of their exports—for instance, Australia, New Zealand, Norway, and Switzerland offer duty-free treatment to 100 percent of exports originating from the LDCs and the European Union, Japan, the United Kingdom, Chile, and China offer duty-free treatment to more than 97 percent (mostly more than 99 percent) of LDC-exports. The United States offers a slightly less generous preferential scheme as it offers duty-free treatment on around 82 percent of LDC exports, while mostly excluding apparel and clothing, cotton, fibres, footwear, dairy and other animal products from its duty-free list. While India offers duty-free treatment on about 94 percent of exports originating from LDCs, it carries little value for Nepal given that Nepal gets DFQF treatment on close to 100 percent of its exports to the Indian market through the bilateral Nepal-India Trade Treaty.

There is one important distinction between the GSP scheme and other DFQF schemes provided by the developing countries when it comes to LDC graduation. While GSP schemes (except in the case of Iceland) offer a second-best preferential tariff regime for developing countries (which is what will be the case for LDC graduated countries), the DFQF schemes of other developing countries do not have a second-best preferential regime, and the most-favoured-nation (MFN), i.e., non-preferential, tariffs will apply to exports to these destinations (if not supported by other bilateral or regional trade agreements). GSP schemes of a few countries—the European Union, the United Kingdom, Norway, and Turkey—also offer preferential schemes that are almost as generous as the LDC scheme. While Norway's GSP+ scheme, which boasts a duty-free coverage on 89 percent of products, automatically applies to lower-middle-income countries[10] with a population less than 75 million, which will be the case for Nepal post-graduation, other similar schemes in the European Union, the United Kingdom, and Turkey are not automatic and need the fulfilment of certain conditions. In particular, the GSP+ regime of the European Union and the GSP Enhanced Framework (GSP EF) of the United Kingdom, which offer significantly better duty-free coverage, are provided to vulnerable low and lower-middle-income countries that implement 27 international conventions related to human and labour rights, environment, and good

[10] As per World Bank income classification for the year 2021-2022 (July 2021 update), lower-middle-income countries are those with per capita GNI (Atlas method) in the range US$1,046 – 4,095 (inclusive). See https://blogs.worldbank.org/opendata/new-world-bank-country-classifications-income-level-2021-2022

governance.[11] Nepal has already signed and ratified 25 conventions among these 27 conventions.[12] It has signed but not ratified the Cartagena Protocol on Biosafety to the Convention on Biological Diversity. It has not signed and ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (ILO Convention No. 87).

Hence, one of the primary challenges of LDC graduation stems from the loss of duty-free treatment in markets that represent a significant share of the world's imports.

Against this background, this section, through secondary data analysis, review of literature, and discussions with the private sector, looks into the trade-related impacts of LDC graduation, with a focus on merchandise trade.

3.2 Tariff increase after LDC graduation

While European Union, the United Kingdom, and Turkey provide a transition period of three years after graduation, LDCs will usually face new tariff regimes in other preference-granting countries post-graduation—while countries such as Australia, Canada, New Zealand, Norway, and Switzerland have extended the LDC benefits for graduating LDCs, these extensions have been ad-hoc rather than explicit and transparent (Elliot, 2019). Table 3.1 provides an overview of tariff changes in different destinations for Nepal after graduation. While the tariff increases in the US market, which is the largest market for Nepal's exports after India, are relatively lower (1.5 percentage points)[13], they are especially pronounced in the European Union market (5.7 percentage points) if it becomes ineligible for the European Union's more generous GSP+ regime. However, the tariff increase is negligible if Nepal gets entry into the GSP+ group of countries. Tariff increase scenarios similar to that of the European Union apply in the case of Turkey and the United Kingdom, Nepal's largest destinations after the European Union, which also offer GSP+ like tariff regimes. Tariff increase is relatively large for Nepal's next largest markets—China, Japan, and Canada (Table 3.1). Tariff increase is zero in the case of Australia and Norway as their next-best schemes offer significant duty-free coverage. Exports to Switzerland will also see a negligible increase in applied tariffs. However, exports to the Republic of Korea, New Zealand, and Thailand will see a large increase in applied tariffs; but they represent a low share of Nepal's exports.

Tables 3.2-3.3 provide an overview of the increase in tariffs for Nepal's top exports to the preference-granting destinations, at the heading (HS 4-digit) level. Tables A6.1 and A6.2 in

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[11] See https://gsphub.eu/country-info/Nepal (accessed March-end 2022). The European Union's newly proposed GSP for the period 2024-34, which is yet to be endorsed by the European Parliament and European Council (as of March-end 2022), requires ratification and effective implementation of 32 international agreements (EIF, 2022; European Commission. 2021. ANNEXES to the 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. Brussels, 22.9.2021, COM(2021) 579 final.). Nepal is yet to sign and ratify one of the additional conventions proposed for eligibility: ILO Convention No. 81 on Labour Inspection (1947) [GoN. 2018. *List of Multilateral Treaties to which Nepal is a Party and a Signatory*. Ministry of Law, Justice and Parliamentary Affairs, Government of Nepal.]

[12] GoN. 2018. *List of Multilateral Treaties to which Nepal is a Party and a Signatory*. Ministry of Law, Justice and Parliamentary Affairs, Government of Nepal.

[13] Tariff changes are computed as trade-weighted averages, unless otherwise specified.

Annex 6 present tariff changes at the sub-heading (HS 6-digit) level. Tariff increases are significant for most of Nepal's top exports; however, the tariff increases are mostly low if Nepal qualifies for GSP+ like regimes. The largest tariff change among top products is seen in the case of 'glassware', which will see a tariff increase of 12.9 percent (Table 3.2). For exports of products that exceed US$ 5 million in a given year, apparel products will see a significant increase in tariffs; but the effect will be largely smaller under the GSP+ like regimes (Table 3.3). For Nepal's major preference-granting destinations, the destination-wise tariff changes for major exports to these destinations after graduation are presented in Tables A6.3-A6.12 in Annex 6.

Table 3.1: Destination-wise increase in tariff on Nepal's exports after graduation

Destination	Preference type (Next best tariff scheme)	Total export to the destination (in US$ million)	Share in Nepal's total export (%)	Current average tariff faced in the destination (%)	Next best average tariff in the destination (if not qualified for the next best scheme) (%)	Tariff increase after graduation (if not qualified for the next-best scheme) (in percentage points)
United States	GSP-LDC (GSP)	93.3	10.7	2.0	3.5	1.5
European Union	GSP-LDC (GSP+/GSP)	68.0	7.8	0.0	0.2 (5.7)	0.2 (5.7)
Turkey	GSP (GSP+/GSP)	28.5	3.3	0.0	0.0 (3.2)	0.0 (3.2)
United Kingdom	GSP (EF/GSP)	22.5	2.6	0.0	0.0 (5.5)	0.0 (5.5)
China	Duty-free LDC (MFN)	15.4	1.8	0.0	7.1	7.1
Japan	GSP-LDC (GSP)	9.0	1.0	0.2	6.2	6.0
Canada	GSP-LDC (GSP)	7.6	0.9	0.3	7.3	7.0
Australia	GSP-LDC (GSP)	6.5	0.7	0.0	0.0	0.0
Switzerland	GSP-LDC (GSP)	3.5	0.4	0.0	0.8	0.8

Republic of Korea	Duty-free LDC (MFN)	1.7	0.2	4.4	13.2	8.7
Norway	GSP (GSP+)	1.5	0.2	0.0	0.0	0.0
Russian Federation	GSP-LDC (GSP)	1.4	0.2	0.6	2.1	1.5
New Zealand	GSP-LDC (GSP)	0.9	0.1	0.0	7.0	7.0
Taiwan (Chinese Taipei)	Duty-free LDC (MFN)	0.9	0.1	3.9	5.3	1.4
Thailand	Duty-free LDC (MFN)	0.5	0.1	5.1	22.9	17.8
Chile	Duty-free LDC (MFN)	0.1	0.0	0.0	6.0	6.0
Iceland	GSP (MFN)	0.1	0.0	0.0	0.0	0.0
Kazakhstan	GSP-LDC (GSP)	0.0	0.0	4.0	5.1	1.1
Armenia	GSP-LDC (GSP)	0.0	0.0	5.6	5.6	0.0
Montenegro	Duty-free LDC (MFN)	0.0	0.0	0.0	5.5	5.5
Kyrgyzstan	GSP-LDC (GSP)	0.0	0.0	8.5	8.7	0.2
Tajikistan	Duty-free LDC (MFN)	0.0	0.0	7.5	15.0	7.5

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. “0.0” indicates rounded to zero. Belarus is excluded from the table as its average import from Nepal is zero. Average tariffs in the table are trade-weighted average tariffs. Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad valorem tariff, except for the United Kingdom, where only ad valorem tariff has been used. Tariff data are for the year 2021 except for Turkey (2017) and Iceland (2019). Trade preferences granted through Nepal Trade Preference Program are also included in the calculation of the current tariff in the United States market.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org and Tariff Download Facility, WTO (for United Kingdom).

Table 3.2: Tariff change in top exports to GSP-granting and LDC-preference granting countries (heading level)

HS4	Description	Exports to GSP and LDC-preference granting countries (in US$ million)	Export to GSP and LDC-preference granting countries as a share of total export of the product (in %)	Increase in trade-weighted tariff (percentage points)	
				if not included in GSP+ like regimes	if included in GSP+ like regimes
5701	Carpets and other textile floor coverings; knotted, whether or not made up	62.2	97.5	2.5	1.0
5509	Yarn (other than sewing thread) of synthetic staple fibres, not put up for retail sale	27.4	39.9	3.2	0.0
6214	Shawls, scarves, mufflers, mantillas, veils and the like (not knitted or crocheted)	21.1	93.7	5.7	1.4
6204	Suits, ensembles, jackets, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear); women's or girls' (not knitted or crocheted)	20.2	96.6	7.2	1.3
5602	Felt; whether or not impregnated, coated, covered or laminated	19.5	98.5	2.1	0.2
6110	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted	11.6	98.4	7.8	1.1
2309	Preparations of a kind used in animal feeding	9.9	84.5	0.1	0.1

7013	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than of heading no. 7010 or 7018)	4.9	99.8	12.9	12.9
6305	Sacks and bags, of a kind used for the packing of goods	4.1	15.2	2.9	0.6
9701	Paintings, drawings, pastels, executed entirely by hand; not drawings of heading no. 4906 and not hand-painted, hand-decorated manufactured articles; collages and similar decorative plaques	4.0	90.1	1.0	1.0
6505	Hats and other headgear; knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed	3.7	99.7	3.2	3.2
3301	Oils; essential (concretes, absolutes); concentrates thereof in fats, fixed oils, waxes or the like	3.5	76.2	0.5	0.5
6203	Suits, ensembles, jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear); men's or boys' (not knitted or crocheted)	3.3	77.8	6.9	2.0
8306	Bells, gongs and the like; non-electric, statuettes, other ornaments, photograph, picture,	2.9	90.7	5.5	5.5

	similar frames, mirrors, of base metal				
7113	Jewellery articles and parts thereof, of precious metal or of metal clad with precious metal	2.9	95.8	0.3	0.3
0902	Tea	2.9	10.4	1.7	1.7
1902	Pasta; whether or not cooked or stuffed with meat or other substance, or otherwise prepared, egg spaghetti, macaroni, noodles, lasagna, gnocchi, ravioli, cannelloni; couscous, whether or not prepared	2.3	22.4	4.2	4.2
9206	Musical instruments; percussion (e.g. drums, xylophones, cymbals, castanets, maracas)	2.2	95.1	0.7	0.7
6104	Suits, ensembles, jackets, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (not swimwear), women's or girls', knitted or crocheted	2.2	99.7	9.4	1.4
4202	Trunks; suit, camera, jewellery, cutlery cases; travel, tool, similar bags; wholly or mainly covered by leather, composition leather, plastic sheeting, textile materials, vulcanised fibre, paperboard	2.1	99.4	4.0	3.6

Note: GSP+ like regime in the last column includes the GSP+ tariff schedule of the European Union and Turkey and the GSP Enhanced Framework of the United Kingdom. GSP+ tariff schedule of Norway is already considered in the next-best scenario in the 5th column. Ad-valorem tariff equivalents are used in the case of non-ad-valorem tariffs (obtained from

Market Access Map). Tariff data are for the year 2021 except for Turkey (2017) and Iceland (2019).

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org and Tariff Download Facility, WTO (for United Kingdom).

Table 3.3: Highest tariff changes in products whose exports to GSP and LDC-preference granting countries exceed US$ 5 million (HS heading level)

HS4	Description	Category	Exports to GSP and LDC-preference granting countries (in US$ million)	Increase in trade-weighted tariff (percentage points)	
				if not included in GSP+ like regimes	if included in GSP+ like regimes
6110	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted	Clothing	11.6	7.8	1.1
6204	Suits, ensembles, jackets, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear); women's or girls' (not knitted or crocheted)	Clothing	20.2	7.2	1.3
6214	Shawls, scarves, mufflers, mantillas, veils and the like (not knitted or crocheted)	Clothing	21.1	5.7	1.4
5509	Yarn (other than sewing thread) of synthetic staple fibres, not put up for retail sale	Textiles	27.4	3.2	0.0
5701	Carpets and other textile floor coverings; knotted, whether or not made up	Textiles	62.2	2.5	1.0
5602	Felt; whether or not impregnated, coated, covered or laminated	Textiles	19.5	2.1	0.2

2309	Preparations of a kind used in animal feeding	Other agricultural products	9.9	0.1	0.1

Note: GSP+ like regime in the last column includes the GSP+ tariff schedule of the European Union and Turkey and the GSP Enhanced Framework of the United Kingdom. GSP+ tariff schedule of Norway is already considered in the next-best scenario in the 5th column. Ad-valorem tariff equivalents are used in the case of non-ad-valorem tariffs (obtained from Market Access Map). Tariff data are for the year 2021 except for Turkey (2017) and Iceland (2019).

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org and Tariff Download Facility, WTO (for United Kingdom).

In terms of different product categories[14], animal products, cotton, dairy products, sugars and confectionery, and oilseeds, fats and oils will see the largest increase in tariffs, but they represent a negligible share of exports to the preference-granting markets (Table 3.4). In terms of sectors that represent a large share of Nepal's exports to preference-granting destinations, the clothing sector will see the largest increase in tariffs (6.7 percentage points), but the extent of change will be much lower under the GSP+ like regimes (1.4 percentage points) (Table 3.4). The textiles sector, which represents the largest sector with regard to exports to the preference-granting countries, the tariff increase will be 2.6 percentage points under the ordinary GSP regimes and 0.7 percent under the GSP+ like regimes (Table 3.4).

Table 3.4: Category-wise tariff change in exports to GSP and LDC-preference granting countries

Category	Share of category in total exports to GSP and LDC-preference granting countries (%)	Change in trade-weighted tariff (percentage points)	
		if not included in GSP+ like regimes	if included in GSP+ like regimes
Animal products	0.0	40.9	40.9
Cotton	0.0	24.8	24.8
Dairy products	0.4	14.0	14.0
Sugars and confectionery	0.1	13.6	13.6
Oilseeds, fats and oils	0.1	12.0	12.0
Cereals and preparations	1.9	7.2	7.0

[14] We use the multilateral trade negotiations (MTN) category.

Clothing	25.3	6.7	1.4
Fruit, vegetables, plants	1.4	6.1	5.7
Beverages and tobacco	0.3	6.1	5.6
Minerals and metals	5.9	5.8	5.8
Fish and fish products	0.0	5.1	5.1
Leather, footwear, etc.	1.2	2.3	2.0
Non-electrical machinery	0.5	2.9	2.9
Textiles	47.8	2.6	0.7
Chemicals	1.0	2.0	2.0
Coffee, tea	1.4	1.4	1.4
Manufactures, nes	4.6	1.3	1.3
Transport equipment	0.2	0.5	0.0
Wood, paper, etc.	2.3	0.5	0.5
Other agricultural products	5.4	0.3	0.3
Electrical machinery	0.2	0.2	0.2

Note: GSP+ like regime in the last column includes the GSP+ tariff schedule of the European Union and Turkey and the GSP Enhanced Framework of the United Kingdom. GSP+ tariff schedule of Norway is already considered in the next-best scenario in the 5th column. Ad-valorem tariff equivalents are used in the case of non-ad-valorem tariffs (obtained from Market Access Map). Tariff data are for the year 2021 except for Turkey (2017) and Iceland (2019).

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org and Tariff Download Facility, WTO (for United Kingdom).

Table A6.13 in Annex 6 presents the post-graduation tariff change scenario for Nepal's priority products (identified by the government as top potential products in Nepal Trade Integration Strategy (NTIS), 2016). For agricultural priority products (cardamom, ginger, tea, and MAPS), the tariff scenario for NTIS products does not change in the United States, the European Union, Turkey, and the United Kingdom (even between GSP and GSP+ like regimes); however, the tariffs are quite high in Turkey to begin with, which will most likely restrict exports of these products into the Turkish market. Agricultural NTIS products will see large tariff increases in China, particularly for ginger, tea, and MAPS. Exports of tea to Japan will encounter a large increase in applied tariffs (11.6 percentage points) and a small to moderate increase in the case of MAPS and ginger. The tariff for cardamom will remain the same in Japan's GSP for developing countries.

Non-agricultural products—leather; all fabrics, textile, yarn and rope (FTYR); carpets; and pashmina—will mostly see an increased tariff in all markets, except in the European Union, the United Kingdom, and Turkey, if Nepal gets inclusion into the GSP+/EF category of countries. It has to be noted that the tariff for Nepal's exports of carpet, one of its major exports, will see either a small increase in the US market (0.6 percentage points) or no increase in the case of the United Kingdom market (even under the ordinary GSP scheme).

Footwear exports from Nepal will see an adverse tariff scenario as the average tariff for footwear products will be high in all the markets; the tariff increase can, however, be greatly reduced if Nepal qualifies for inclusion into the GSP/GSP+ category of countries.

Box 3.1 provides an overview of the United Kingdom's GSP scheme and Nepal's trade-relationship with the United Kingdom in the context of the impending LDC graduation.

3.3 Preference utilization

The tariff change computations in the previous section are based on the assumption that all exports to the preference granting destinations enter the market fully utilizing the preferences accorded. However, that is not the case. The substantive and administrative requirements that dictate whether preferences are granted or not may not always be fully met by the exporting entities and hence the exports may enter the destination market at a tariff rate higher than what the preference accords. Against that background, preference utilization (or preference utilization rate) may be defined as "the extent to which imports, which are eligible for trade preferences, are actually being imported under these preferences" (WTO, 2017). Furthermore, preference could be said to exist only if there is a preferential tariff margin, and thus, MFN-zero tariffs are not taken into account in the context of preference utilization (ibid). Moreover, for the purposes of this paper, the rate of tariff preference utilization dictates the extent of the actual change in tariff—zero preference utilization implies no change in applied tariff after graduation and full preference utilization implies that actual change in tariff corresponds to the projected change in applied tariff.

Nepal's preference utilization shows destination-specific characteristics (Figure 3.1). LDC-specific preference utilization is highest in the case of Turkey—100 percent of exports eligible for LDC-specific preferences enter Turkey utilizing the preferences; 99.5 percent of exports (by value) enter the market through LDC-specific preference utilization. Likewise, preference utilization is fairly high in the case of the European Union—around 78 percent of exports (by value) directed to the European Union enter the market utilizing LDC-specific preferences; the utilization rate among preference-eligible exports is 87.6 percent. Preference utilization of LDC-specific preferences is moderate for Japan, and is mostly low for other destinations; the preference utilization of LDC-specific preferences is the lowest for New Zealand (0 percent) and Chile (5

Box 3.1: Nepal-UK trade in the context of impending LDC graduation

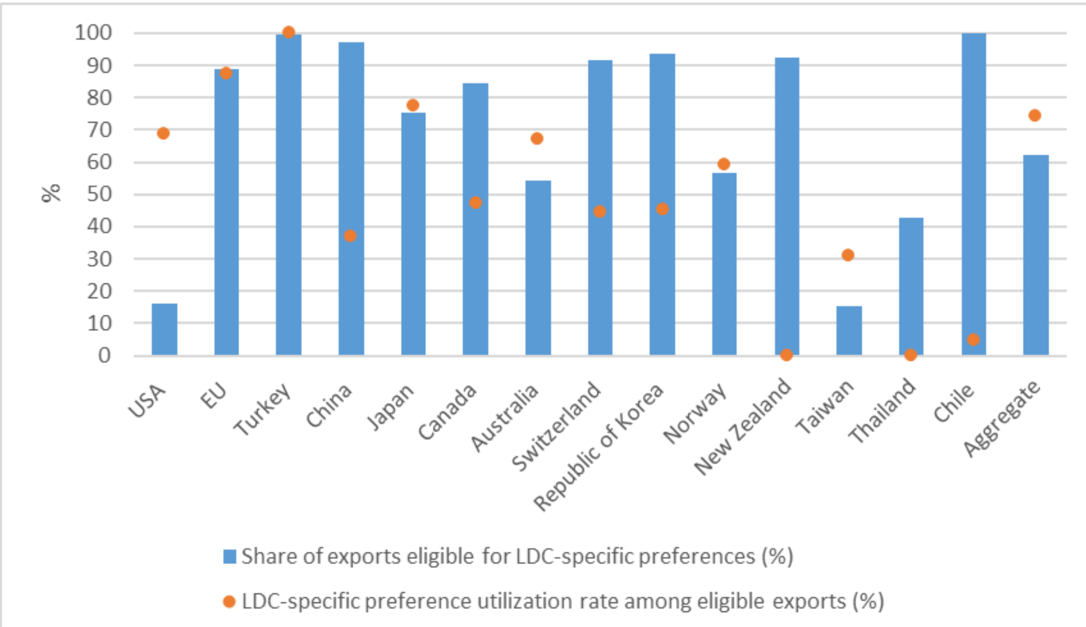
After the United Kingdom (UK)'s withdrawal from the European Union, it instituted its own GSP scheme, albeit replicating many of the provisions in the European Union's GSP scheme, through 'The Trade Preference Scheme (EU Exit) Regulations 2020'. Through its three GSP frameworks, the UK offers lower (often zero) tariffs on several goods imported from 70 countries included in its scheme. Its least-developed countries framework (LDCF) offers duty-free and quota-free treatment to all the products (other than arms and ammunitions) imported from countries classified as least-developed by the United Nations. Another framework, the General Framework (GF), offers reduced duties on imports from countries classified as low-income and lower-middle-income countries by the World Bank. Another special framework, the Enhanced Framework (EF), similar to European Union's GSP+ scheme, exists for low-income and lower-middle-income countries, which exhibit economic vulnerability owing to a lack of export diversification and a low level of global trade integration. However, inclusion into the EF is not automatic, and requires, along with the fulfilment of aforesaid conditions, implementation of 27 conventions in the area of human and labour rights, environment protection, and good governance. These 27 conventions are the same conventions that have to be implemented to get access to the European Union's GSP+ scheme; however, the European Union's new proposal has added another five conventions that have to be implemented to gain access to its GSP+ scheme. Currently, eight countries—Bolivia, Cape Verde, Kyrgyzstan, Mongolia, Pakistan, Philippines, Sri Lanka, and Uzbekistan—are parties to the EF. Compared to the duty-free coverage of 47.0% for GF, the EF offers a generous duty free-coverage of 90.2%, which is close to that offered by the LDCF (99.8%).

The UK has been one of the largest trade partners for Nepal. With an average import of US$ 22.5 million from Nepal (in the five-year period, 2016/17-2020/21), the UK ranked as the fifth largest export market for Nepal, and the fourth largest LDC-specific preference-granting destination. Textiles and clothing articles form the core of Nepal's exports to the UK—9 out of the top 10 exports to the UK belong to this category. Representing close to 22 percent of Nepal's exports to the UK, carpets represent Nepal's top exports to the UK. While carpets currently enter the UK's market on a zero MFN basis, Nepal's LDC graduation could still have significant implications for Nepal's export to the UK. Our computation based on Nepal's export structure shows that Nepal's average applied tariff (trade-weighted average) would increase from the current rate of zero by 5.5 percentage points if Nepal exports under the GF. However, there would not be any tariff change under the EF, if Nepal were to export the same products. Hence, Nepal could substantially mitigate losses arising from its LDC graduation if it were to gain access to the EF subsequent to its graduation out of the LDCF.

Besides the potential increase in tariff rates, the graduation could also impact Nepal's exports through stricter rules of origin (ROO) provisions. Our assessment shows that 5 out of Nepal's top 10 exports to the UK will witness more stringent ROO criteria. All of these products belong to the 'clothing' category and the origin criteria in these products will change from single transformation to double transformation. Since the UK allows for derogation from the rules of origin (relaxation of stringent ROO provisions) under certain conditions, the government of Nepal may consider making a derogation request for its major exports that will not be able to meet ROO requirements so that the extended period offered by the derogation may be utilized to develop competency in meeting the ROO provisions.

Source: Authors' computation and analysis, based on Government of the United Kingdom (2020a, 2020b), Government of the United Kingdom (2021), WTO PTA Database, UN LDC Portal percent). Moreover, LDC-specific preference utilization is moderate in the case of the United States, Nepal's largest GSP-granting destination market. However, only a small share of total exports to the United States is eligible for preferential treatment (Figure 3.1), implying that a large share of exports to the United States does not enter the market at preferential rates, either because they are not eligible for LDC-specific preferences or because the tariff rate is zero on an MFN basis (Figure 3.2).

Figure 3.1: LDC-preference utilization among preference-eligible products

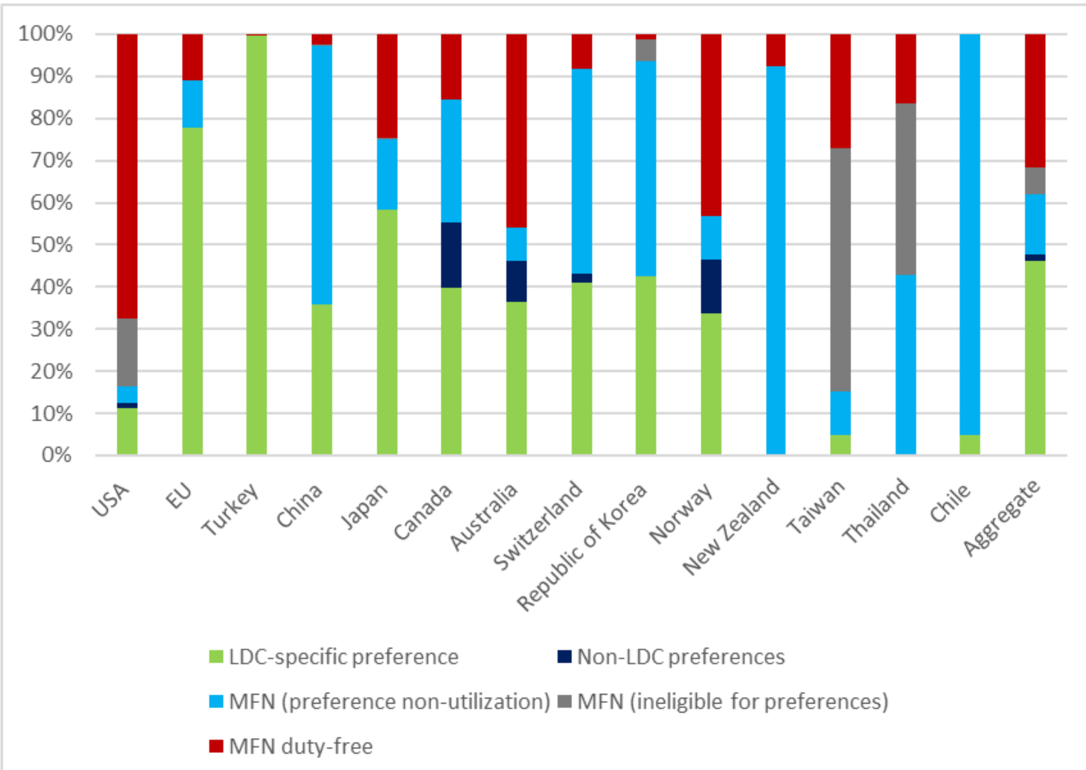


Note: The figure is based on three-year data except for Turkey where only two-years data for the recent years (2018-19) was available (2016-18 for China; 2017-19 for United States (USA), Japan, Canada, Australia, Norway, New Zealand, Thailand, and Chile; and 2018-20 for European Union (EU), Switzerland, Republic of Korea, and Taiwan). Data is not available for the United Kingdom, Russian Federation, and Iceland. Kazakhstan, Armenia, Montenegro, the Kyrgyz Republic, and Tajikistan are not considered because of their negligible imports from Nepal.

Source: Author, using WTO PTA database (http://ptadb.wto.org/ptaList.aspx)

On an aggregate level, around 46 percent of exports (by value) enter the LDC-specific preference-granting countries through utilizing the said preferences whereas around 15 percent of exports (by value) are levied non-zero MFN rates despite being eligible for LDC-specific preferences (Figure 3.2). Around 32 percent of Nepal's exports (by value) enter these markets at a zero-MFN rate, thereby not gaining any preference (Figure 3.2). The United States market is peculiar for attracting a high share of Nepal's exports that enter the market at zero MFN rates (Figure 3.2). Around 6 percent of Nepal's export (by value) to these destinations are ineligible for LDC-specific preferences and are hence dutiable at the MFN level. The United States, along with Taiwan and Thailand, is peculiar for attracting a high share of imports that do not qualify for the LDC-specific preference. A small share of exports to the United States, Canada, Australia, Switzerland, and Norway is shown to have entered the market claiming other preferences that are non-LDC specific. A reason for this could be that while non-LDC preference in the case of the United States is possibly accounted for (through Nepal Trade Preference Program), non-LDC preferences in other markets are possible recording errors or administrative errors by the traders resulting in exports through other schemes.

Figure 3.2: Destination-wise duty type for Nepal's exports



Note: The figure is based on three-year data except for Turkey where only two-year data for the recent years (2018-19) was available (2016-18 for China; 2017-19 for United States (USA), Japan, Canada, Australia, Norway, New Zealand, Thailand, and Chile; and 2018-20 for European Union (EU), Switzerland, Republic of Korea, and Taiwan). Data is not available for the United Kingdom, Russian Federation, and Iceland. Kazakhstan, Armenia, Montenegro, the Kyrgyz Republic, and Tajikistan are not considered because of their negligible imports from Nepal.

Source: Author, using WTO PTA database (http://ptadb.wto.org/ptaList.aspx)

Our computation of the LDC-specific preference utilization rate for Nepal differs from WTO (2020a), which finds that less than 15 percent of Nepali exports enter the markets through LDC-specific preferences. However, besides using slightly old data (2015-2016), the low rate in WTO (2020a) is primarily on account of the fact that it also includes India in its computation—about two thirds Nepal's exports are destined for the Indian market, with which Nepal shares a bilateral trade treaty, which is not based on the LDC status of Nepal. Once one excludes India from the equation, the proportion of Nepal's exports to non-Indian

GSP granting or LDC-specific preference-granting countries that enter these markets utilizing the preferences is relatively high (around 46 percent; Figure 3.2). However, a question remains why Nepal's export is so predominantly focused on India despite a large group of countries offering similar duty-free benefits to a large swathe of products—geographical proximity and contiguousness, a porous border, a long history of cultural relationships, a significant presence of Indian investment in the country, among others, may explain the phenomenon. A significantly small volume of exports to other preference-granting markets relative to India may also hint at missed opportunities for diversifying Nepal's export destinations and export competitiveness.

As described above, the portion of exports that do not enter utilizing LDC-specific preferences consists of different components: the share of exports entering at a zero-MFN rate, the share of exports ineligible for LDC-specific preferences, the share of exports entering through other non-LDC preferences, and the share of exports entering at MFN rates despite being eligible for LDC-specific preferences. While the first two components are accounted for in our computations of projected tariff changes, the last two are not. Around 1 percent of Nepal's exports to these destinations have been recorded as being exported through claiming non-LDC preferences (excluding exports to the United States as it is accounted for in our projections). Moreover, around 62 percent of Nepal's exports to these destinations were eligible for LDC-specific preferential treatment, but only 74.2 percent of these eligible exports entered through LDC-specific preferences (Figure 3.2). This implies that the actual change in tariff will be slightly lower than the projected tariff changes in the previous section.

3.4 Estimates of impact from the partial equilibrium models

A few studies have used partial equilibrium models, with some differences, to estimate the impact of LDC graduation (the change in applied tariff) on the value of Nepal's exports. Among these studies, WTO (2020b), ITC (n.d.), and NPC and UNDP (2020) offer estimates of the impact of tariff increases on the overall export value of Nepal (Table 3.5). WTO (2020b) finds that based on Nepal's export in 2016-2018 and its preference utilization level, LDC graduation would reduce its exports by 2.48 percent (equivalent to US$ 20.1 million). ITC uses a different approach in its partial equilibrium model as it uses Nepal's projected trade in 2026 rather than its current levels under the assumption that Nepal's exports will increasingly shift to fast-growing markets that do not offer LDC-specific preferences. It estimates a 4 percent reduction in total projected exports of Nepal in 2026. However, ITC (n.d.) does not mention accounting for the current level of preference utilization in its model, which would lead to over-estimation. NPC and UNDP (2020), using a partial equilibrium model, estimates a 3.7 percent reduction in total exports of Nepal (based on Nepal's export structure for the year 2017). NPC and UNDP (2020) does not take into account preference utilization and makes an assumption that MFN tariffs are the next-best tariffs, leading to over-estimation.

Table 3.5: Impact of LDC graduation on Nepal's overall export value

S.N.	Source	Trade impact	Methodology
1	WTO (2020)	2.48% (US$ 20.1 million) reduction in total exports	Partial equilibrium model (using trade data for 2016-2018) taking into account preference utilization rates
2	ITC (n.d.)	4% reduction (US$ 59 million) in total projected exports of US$ 1.4 billion in 2026.	Partial equilibrium model (using projected trade for the year 2026)
3	NPC and UNDP (2020)	3.7% reduction in total exports	Partial equilibrium model (using trade data for 2017) assuming MFN tariffs as the next best tariffs

Source: WTO (2020b), ITC (n.d.), and NPC and UNDP (2020)

ITC (n.d.) and WTO (2020b) project the largest loss of exports in the European Union (assuming that Nepal's next tariff regime is ordinary GSP instead of GSP+) (Table A7.1 in Annex 7). Razzaque (2020) and NPC and UNDP (2020) also estimate a significant export loss in the European Union market; however, estimates of NPC and UNDP (2020) are higher than other studies as it considers MFN as the next tariff regime instead of ordinary GSP. Razzaque (2020) shows that export loss in the European Union is negligible if Nepal qualifies for GSP+. ITC (n.d.) also shows this. All the studies also find that export loss in the United States will be much lower than in other markets; WTO (2020b) estimates that exports to the United States will increase owing to diversion from other markets. The findings of these studies are broadly in alignment with the tariff scenarios we have presented in section 3.2.

Studies estimate that the impact will be the largest for the clothing and textiles sector. For instance, WTO (2020b) estimates that exports in the clothing sector will reduce by 13.3 percent and that of textiles by 3 percent. ITC (n.d.) estimates that the impact of LDC graduation will be concentrated in apparel ($21 million), synthetic textile fabric ($14 million), carpets ($6 million), metal products ($3 million) and miscellaneous manufactured products ($2 million). These estimates are in line with our tariff increase computations in section 3.2.

3.5 Rules of origin

Our analysis so far as well as the estimates from other studies only take into account the tariff increase in the destination market. However, preferential market access for LDCs is not only limited to tariff preferences. Less stringent rules of origin (ROO)—requirements to prove that the products have undergone sufficient processing in the beneficiary country and that the goods have not been simply trans-shipped from a non-beneficiary country[15]—specifically for the LDCs are also offered by some preference-granting countries, which cover several products of interest to the LDCs, thereby making it easier for LDCs to export certain products at preferential rates. However, the graduation from the LDC status results in the suspension of these LDC-specific ROO benefits and if certain products could have been exported only through utilizing the ROO preferences, a changed ROO means that these products could not enter the market at the next-best preferential rates. This would also imply that the estimates made by the existing studies would only be lower-bound estimates as they only take into account tariff increase but not the change in ROO provisions.

Preferential rules of origin primarily require that the products be either wholly obtained in the exporting country (e.g. mineral products; animal and livestock products; plant and vegetables, etc.) or, in the case of final products using non-originating inputs (sourced through imports), that the non-originating inputs be sufficiently processed (or transformed) in a way that the final product is substantially different than the non-originating inputs used. The criteria for determining whether the non-originating inputs have been sufficiently processed show significant variations based on the importing country and the product. However, these criteria fall into broadly three categories—change in tariff classification, value-added (or ad valorem percentage or regional value content) criterion, and specific process (or a combination of these criteria).[16] A change in tariff classification (CTC) requires that the final product's tariff classification be different than that of all the non-originating inputs—the tariff classification change could be a change in tariff chapter (CC), or tariff heading (CTH), or a change in tariff sub-heading (CTSH), where chapter, heading, and sub-heading are defined in terms of the harmonized code (HS) system. Another method, the value-added criterion, specifies the minimum value-added (as a share of the total value that has to happen in the exporting country). The value-added criterion can also be expressed as the minimum regional value content (RVC) required or the maximum value of non-originating inputs (as a percentage of total value) allowed. Finally, there is the specific process criterion, which requires specific operations to be carried out for product transformation, which includes requirements such as single transformation (for instance, transformation of imported fabric to apparel) or double transformation (for instance, transformation of imported yarn to fabric to apparel).

Furthermore, 'rules of origin' considers certain processes (such as mere packaging, simple mixing, preserving, etc.) as insufficient processing despite the fulfilment of other criteria.

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[15] 'Rules of origin' is not limited to preferential trade. Non-preferential rules of origin may also be applicable when trade policy measures such as quota, anti-dumping measures, geographical prohibitions, labelling/marking requirements, etc. necessitate determination of origin even when the trade is conducted on a most-favoured nation (MFN) basis (for example, see https://www.wto.org/english/tratop_e/roi_e/roi_e.htm). However, for the purposes of this paper, we are only concerned with preferential rules of origin.

[16] For instance, see UNCTAD (2017b), UNCTAD (2018b), and UNCTAD's GSP Handbook Series (e.g. UNCTAD, 2022) for country-specific preferential rules of origin types and examples. For a clear and concise illustration of the types of preferential rules of origin, including types of cumulation, see also the United Kingdom's government website: https://www.gov.uk/guidance/check-your-goods-meet-the-rules-of-origin#products-made-or-processed-using-materials-from-different-countries.

Moreover, the final product has to be shipped from the beneficiary country to be eligible for the preference.

Next, we look into the destination-specific preferential rules of origin in the major GSP destinations for Nepal. We specifically look into the changes that may happen as Nepal slides into the next-best GSP scheme after graduation. Finally, we also look into the changes in rules of origin for Nepal's top exports to these destinations.

3.5.1 United States: No change in ROO provisions after graduation

Rules of origin for GSP-LDC as well as GSP in the case of the United States are identical. It adheres to the general rule that the minimum regional value content (RVC) of the beneficiary must equal at least 35 percent (Table 3.6). More precisely, "the sum of the cost or value of materials produced in the beneficiary developing country plus the direct costs of processing in the country must equal at least 35 percent of the appraised value of the article at the time of entry into the United States" (UNCTAD, 2016a). Imported materials count towards the 35 percent value-added requirement provided that the imported material undergoes a double substantial transformation, which is deemed to happen when the imported material is transformed into a finished article with a new name, character, and use (USTR, 2020). Regional cumulation—treatment of inputs from different countries as single-country inputs—is allowed for GSP-eligible regional associations. In the case of Nepal, regional cumulation is allowed for South Asian Association for Regional Cooperation (SAARC) countries. Rules of origin are identical for Nepal Trade Preference Program (NTPP) as well; however, there is no next-best preferential treatment for beneficiary products under NTPP once the program expires in 2025.

Hence, graduation from LDC status will not have any implications arising from rules of origin in the case of exports to the United States.

Table 3.6: Preferential rules of origin in the United States for GSP-LDC scheme and GSP scheme

Description	GSP-LDC	GSP
General Rule	RVC 35%	RVC 35%
Product-specific rules	None	None
Cumulation	GSP-eligible regional associations (SAARC in the case of Nepal)	GSP-eligible regional associations (SAARC in the case of Nepal)

Note: RVC=Regional Value Content

Source: Adapted from WTO (2020a), with some changes from USTR (2020) and UNCTAD (2016a) to make it Nepal-specific

3.5.2 European Union, Turkey, and United Kingdom

European Union, Turkey, and the United Kingdom, which represent the second, third, and fourth largest LDC-preference granting markets for Nepal, respectively, have identical rules of origin provisions for their GSP schemes.[17]

Primarily, products wholly obtained in the exporting country (e.g. mineral products; plants and vegetable products; animal and livestock products, etc.) or products "sufficiently worked or processed" from non-originating materials (imports) are deemed to have originated in the GSP-beneficiary countries (UNCTAD, 2014; UNCTAD, 2017a; UNCTAD, 2020; UNCTAD, 2022; and Government of the United Kingdom, 2020a). To determine if the non-originating materials are sufficiently worked or processed, either the change-in-tariff-classification criterion, or value-added criterion (expressed as the maximum content of non-originating material), or the specific process criterion, or a combination of these criteria is used (Table 3.7).

Moreover, the European Union—and through similarity, Turkey, the United Kingdom, Switzerland, and Norway—have less stringent rules of origin for LDCs, particularly in non-agricultural products, in broadly two ways. The LDCs have a higher allowance for the use of non-originating inputs for many manufactured products (70 percent in the GSP-LDC scheme compared to 50 percent in other GSP schemes) (UNCTAD, 2022). Moreover, single transformation (e.g., use of imported fabric to produce apparel) suffices for apparel products (HS chapters 61 and 62) to be considered as originating in LDCs instead of the double transformation requirement for developing countries (UNCTAD, 2022).

Hence, LDC graduation would have an adverse impact through more stringent rules of origin on certain products, specifically textiles and clothing products (Table 3.7).

Table 3.7: Preferential rules of origin in European Union, Turkey, and United Kingdom for GSP-LDC scheme and GSP scheme

Description	GSP-LDC	GSP+/EF/GSP
General rule	None	None
Product-specific rules (PSRs)	Maximum content of non-originating inputs or CTC or specific process (or combination), with allowances for LDCs in several products	Maximum content of non-originating inputs or CTC or specific process (or combination)

[17] Rules of origin for Switzerland and Norway, which represent the ninth and eleventh largest preference-granting market for Nepal, are also identical to that of the European Union. See UNCTAD, 2014; UNCTAD, 2017; UNCTAD, 2020; UNCTAD, 2022; and Government of the United Kingdom, 2020a for a detailed treatment of rules of origin provisions for Switzerland, Turkey, Norway, European Union, and the United Kingdom respectively. See WTO (2020a) for the summarized table on rules of origin provisions for the European Union, Turkey, Switzerland, and Norway.

PSRs in general	Rules based on a maximum content of non-originating materials with several PSRs based on CTC	The PSRs for LDCs and GSP beneficiary countries are (usually) identical, including for the food and agricultural sector
Allowances for LDCs		
PSRs for products of the chemical or allied industries, ceramic products, machinery and mechanical appliances, some vehicles and some optical elements	Local content requirement of 30%	Local content requirement of 50%
PSRs for several textiles and apparel articles	One-stage process or "single transformation" (e.g. weaving)	Two-stage process or "double transformation" (e.g. weaving accompanied by dyeing)
Cumulation	Bilateral; Regional (Bangladesh, Bhutan, India, Maldives#, Pakistan, Sri Lanka in the case of Nepal)—excludes many agricultural products; Cumulation system with European Union, Norway, Switzerland, or Turkey*—except products in Chapters 1–24 in the case of Norway and Switzerland); Extended (conditional)	Bilateral; Regional (Bangladesh, Bhutan, India, Maldives#, Pakistan, Sri Lanka in the case of Nepal)—excludes many agricultural products; Cumulation system with European Union, Norway, Switzerland, or Turkey*—except products in Chapters 1–24 in the case of Norway and Switzerland); Extended (conditional)

Note: CTC=Change in Tariff Classification
* Turkey is also included as partner in the cumulation with the European Union, Norway, and Switzerland, but Turkey currently only allows bilateral cumulation (UNCTAD 2017a) and will participate in the foresaid cumulation system in future (European Commission, 2016).
# The Maldives is not a party to the regional cumulation system in the United Kingdom's GSP scheme.
Extended cumulation refers to cumulation with FTA partners of European Union, which is conditional upon a request lodged by the beneficiary country and subsequent approval by the European Commission.

Source: Adapted from WTO (2020a), with minor changes made with information from European Commission (2016), UNCTAD (2017a) and UNCTAD (2022); information for the United Kingdom updated from Government of the United Kingdom (2020a)

The assessment of change in rules of origin provisions regarding top exports to the European Union, Turkey, and United Kingdom, shows that many of the top exports would attract more strict rules of origin provisions (Tables A8.1-A8.3 in Annex 8). However, the product with the highest export to the destinations (carpet in the case of the European Union and the United Kingdom, and yarn in the case of Turkey) will not see any change in the rules of origin provisions.

3.5.3 Japan: No change in rules of origin after graduation

Japan's criteria for origin determination in the case of non-originating inputs primarily adhere to a general rule that the final product must be classified under a different heading than that of all the non-originating inputs used provided that CTH is not achieved merely through minimal processes such as simple cutting, mixing, assembly, packaging, etc. or their combination (UNCTAD, 2017b; Ministry of Foreign Affairs of Japan, 2021). The exception to the general rule also exists for a certain set of products where origin criteria are defined in terms of specific process requirement or value-added criterion (maximum value of non-originating materials).[18] Another important aspect of Japan's GSP rules of origin is that articles of apparel and clothing accessories classified under HS chapter 61 can gain originating status if "manufactured from woven fabrics, felt, nonwovens, knitted or crocheted fabric or lace of Chapter 50 to 56 or 58 to 60", meaning that single transformation will suffice (UNCTAD, 2017b).

More importantly, for the purposes of this study, it has to be noted that rules of origin are identical for the GSP-LDC scheme and the ordinary GSP scheme, and hence there are no implications arising from rules of origin in the Japanese market after Nepal's graduation (Table 3.8).

Table 3.8: Preferential rules of origin in Japan for GSP-LDC scheme and GSP scheme

Description	GSP-LDC	GSP
General rule	CTH	CTH
Product-specific rules	Mostly CTC (CC or CTH with frequent exceptions)	Mostly CTC (CC or CTH with frequent exceptions)
• Textile products	One-stage process or single transformation	One-stage process or single transformation
• Apparel (HS Chapter 61)	Single transformation	Single transformation

[18] For a list of products that are the exception to the general CTH rule, see the website of the Ministry of Foreign Affairs of Japan: https://www.mofa.go.jp/files/000077857.pdf.

Cumulation	Bilateral; regional* (not applicable for Nepal)	Bilateral; regional* (not applicable for Nepal)

Note: CTC=Change in Tariff Classification; CTH=Change in Tariff Heading; CC=Change in Tariff Chapter

*Japan applies regional cumulation with Indonesia, the Philippines, and Viet Nam

Source: Adapted from WTO (2020a), with changes and updates from UNCTAD (2017b) and Ministry of Foreign Affairs of Japan (2021)

3.5.4 Canada

Under its GSP scheme, when goods contain non-originating inputs, Canada uses value-added criteria as the general rule for determining the origin, except for certain textile and apparel articles. Canada provides significant allowances for LDCs in meeting origin criteria, including a much friendlier cumulation rule.

As a general rule (excluding certain textile and apparel articles), under the LDC scheme (LDCT), 80 percent of the value (ex-factory price of goods) may originate outside the LDC beneficiary—60 percent of the value could originate anywhere; in the case of the remaining 40 percent of the value, 20 percent of the value could originate from a current or former GSP beneficiary, and the remaining 20 percent of the value could originate in the LDC beneficiary (UNCTAD, 2021). Furthermore, regarding 20 percent of the value that has to originate in the LDC beneficiary, the beneficiary may use inputs originating in any LDC or Canada as its own input. In contrast, under the ordinary GSP scheme (GPT), a maximum of 40 percent of the value (ex-factory price of goods) could come from imported inputs, and the remaining 60 percent of the value has to come from a GPT beneficiary or Canada (UNCTAD, 2021).

Preferential rules of origin are also provided for LDCs with respect to the textile and apparel articles that are excluded from the general rule described above. Put simply, apparel articles are deemed to originate in an LDC if they are assembled in the beneficiary LDC from the fabric (or from parts knit to shape) cut in an LDC or Canada (Government of Canada, 2022). There are further allowances in that the fabric (or parts knit to shape) produced in any LDC or Canada from yarns spun or extruded in any of the LDCs or Canada or a larger group of countries (Schedule 2 countries) can also be used as its own input by the beneficiary LDC. Likewise, fabric (or parts knit to shape) produced in Schedule 2 countries (from yarns spun or extruded in an LDC, Canada, or a country in Schedule 2) can also be used provided that the value of the non-originating inputs in the final good does not exceed 75 percent of the ex-factory price of the final good (ibid). For a certain group of apparel articles, in addition to the cumulation opportunities mentioned above, fabric (or parts knit to shape) produced in any FTA partner country of Canada (from yarns spun or extruded in an LDC, Canada, a country in Schedule 2, or the FTA partner country of Canada) can also be used provided that the value of the non-originating inputs in the final good does not exceed 75 percent of the ex-factory price of the final good (ibid). Likewise, made-up textile articles are deemed to originate in an LDC if they are assembled from fabric produced in any LDC or Canada from yarns spun or extruded in a least developed country, Canada, or any Schedule 2 countries (ibid). After graduation, the origin criteria for these textile and apparel articles would be the general rule for the ordinary GSP scheme—the minimum value-added or RVC of 60 percent.

Hence, rules of origin in the Canadian market will be significantly more stringent for Nepal post-graduation (Table 3.9).

Table 3.9: Preferential rules of origin in Canada for GSP-LDC scheme and GSP scheme

Description	GSP-LDC	GSP
General rule	RVC 40% or [RVC 20% (any LDC) +RVC 20% (in any GSP-beneficiary country)]	RVC 60%
Product-specific rules: Apparel and textile articles (Chapter 61–63)	Specified process (special rules of origin for LDCs)	None
Cumulation	bilateral, LDCs; developing countries (Schedule 2 countries) for textile and apparel articles	bilateral, GSP beneficiary countries

Note: RVC=Regional Value Content

Source: Adapted from WTO (2020a), with some changes made with information from Government of Canada (2022) and UNCTAD (2021)

An assessment of the top 10 exports to Canada shows that five of the top products will require higher regional value content (two of these products, however, are taxed at the MFN rate of zero percent and hence preferential rules of origin will not apply) and the remaining five (apparel and made-up textile articles) will be subject to more stringent rules of origin as described above (Table A8.4 in Annex 8).

3.5.5 Australia

Australia's GSP rules of origin adhere to a general rule defined by the minimum value-added or the regional value content (RVC) requirement, with special allowances for LDCs. Under Australia's GSP scheme, goods that contain non-originating imports qualify for GSP rates (for developing countries) if at least 50 percent of the factory cost of the goods originate in the qualifying area (Developing Country, Papua New Guinea, the Forum Island Countries, the other Developing Countries and Australia) provided that the last process in the manufacture was carried out in the beneficiary country (Government of Australia, 2017; UNCTAD, 2018a). Further allowances are made for LDCs—the origin criteria are satisfied if at least 25 percent of the total factory or works cost of the goods comes from one of the LDCs provided that at least another 25 percent of the cost comes from other countries in the qualifying area (Developing Countries, Forum Island countries and Australia) (ibid).

Hence, rules of origin will get stricter as a consequence of LDC graduation (Table 3.10).

Table 3.10: Preferential rules of origin in Australia for GSP-LDC scheme and GSP scheme

Description	GSP-LDC	GSP
General rule	RVC 25% (provided another RVC 25% comes from the qualifying area)	RVC 50%
Product-specific rules	None	None
Cumulation	Bilateral, LDCs, Qualifying area (Developing Countries, Forum Island countries and Australia)	Bilateral, Qualifying area (Developing Countries, Forum Island Countries, Papua New Guinea and Australia)

Note: RVC=Regional Value Content

Source: Adapted from WTO (2020a), with some changes made with information from Government of Australia (2017)

3.5.6 Rules of origin in other GSP-granting countries

Rules of origin in Switzerland and Norway are identical to those in the European Union and hence graduation will have consequences in terms of stricter origin criteria, particularly for textiles and apparel products (Table 3.7). Rules of origin will get slightly stricter after the graduation in Russian Federation (and other members of the Eurasian Economic Union (EAEU) (Table 3.11). In the case of New Zealand, rules of origin are identical (except for cumulation rules) under the GSP-LDC scheme and the ordinary GSP scheme (WTO, 2020a; Government of New Zealand, 2022), and hence the graduation will not result in stricter origin criteria (Table 3.12).

Table 3.11: Preferential rules of origin in Russian Federation for GSP-LDC scheme and GSP scheme

Description	GSP-LDC	GSP
General rule	RVC 45% (since January 1, 2020); RVC 40% (from January 1, 2025)	RVC 50%
Product-specific rules	None	None
Cumulation	LDCs, diagonal cumulation (Eurasian Economic Union)	Diagonal cumulation (Eurasian Economic Union)

Note: RVC=Regional Value Content

Rules of origin are identical in the other member countries of Eurasian Economic Union)—Armenia, Belarus, Kazakhstan, Kyrgyz Republic, which, however, represent trivial exports from Nepal

Source: Adapted from WTO (2020a) with changes made with information from the unofficial translation of the Decision No. 60 of the Council of the Eurasian Economic Commission, 2018 (obtained from ITC-WCO-WTO Rules of Origin Facilitator, findrulesoforigin.org)

Table 3.12: Preferential rules of origin in New Zealand for GSP-LDC scheme and GSP scheme

Description	GSP-LDC	GSP
General rule	RVC 50%	RVC 50%
Product-specific rules	None	None
Cumulation	bilateral, LDCs	bilateral, GSP beneficiaries

Note: RVC=Regional Value Content

Source: Reproduced from WTO (2020a)

3.6 Impact of LDC graduation on Nepal's regional trade agreement (SAFTA)

SAFTA, a preferential trade agreement among eight member states of SAARC, including Nepal, offers some LDC-specific benefits. However, SAFTA is characterized by a low depth of tariff cuts given that countries maintain an extensive sensitive list—a list of products that are exempt from tariff liberalization. This has contributed to a low intra-regional trade, which is also evident in the case of Nepal—Nepal exports a large share of its products to India on account of a preferential bilateral trade treaty but its exports to other members of the free trade area are very low (Table 3.13).

LDCs have special allowances in SAFTA primarily along two fronts—tariff preferences and allowances in the rule of origin provisions. In terms of tariff preferences, some countries—Bangladesh, India, Nepal, and Sri Lanka—offer a separate smaller sensitive list in the case of LDCs. While the difference in product coverage of the two sensitive lists is not large in the case of other countries, India's sensitive list for LDCs includes only a small number of products (25) compared to that for non-LDCs (614).[19] Likewise, India and Sri Lanka offer preferential rates to LDCs compared to non-LDCs in many of the products that are not in the sensitive list. Moreover, SAFTA's general rules of origin offer LDCs a larger allowance for using non-originating material.

Nepal's exports to the member countries in SAFTA are largely concentrated in India (Table 3.13). However, Nepal's exports to India are largely based on the Nepal-India Trade Treaty instead of SAFTA. Since the preference provided to Nepal through the Nepal-India Trade Treaty (duty-free and quota-free treatment on almost all products) is not based on the LDC status of Nepal, graduating from the LDC status would have little consequence for Nepal in terms of exports to India. However, there is one important caveat to that observation. Nepal's top two exports for the last three years (refined soyabean oil and palm oil) are being exported to India through the SAFTA route—while both Nepal-India trade treaty and SAFTA

[19] http://www.doc.gov.lk/index.php?option=com_content&view=article&id=32&Itemid=157&lang=en (accessed 17.02.2022).

(for LDCs) offer duty-free entry to these products, SAFTA's product-specific rules of origin (change in tariff sub-heading plus 30 percent domestic value addition) make it possible for Nepal to import crude oil and export the refined oil to India. This would not have been possible under the Nepal-India trade treaty as the origin criteria would be the change in tariff heading (CTH) in addition to a minimum 30 percent domestic value addition. However, after LDC graduation, the SAFTA (non-LDC) rates on soyabean oil (HS 150790) and palm oil (HS 151190) would be substantially higher (Table 3.14). This could have a tremendous impact on Nepal's exports of these products to India.

Export to Bangladesh is dominated by one item—lentils (HS 071340)—which represents 90.6 percent of Nepal's total export to Bangladesh. Since this item is taxed at an MFN rate of zero, graduation will have little impact in terms of exports to Bangladesh. Furthermore, the sensitive list maintained by Bangladesh is almost identical for LDCs and non-LDCs, with only a handful of items in the sensitive list for non-LDCs removed from the sensitive list for LDCs. Hence, graduation will have little impact in terms of tariff change (Table 3.13)

Besides India and Bangladesh, only Sri Lanka offers a separate smaller sensitive list for non-LDCs. Furthermore, Sri Lanka offers lower rates to SAFTA-LDCs in many products compared to non-LDCs. Current exports to Sri Lanka, however, will not see much increase in tariffs after graduation (Table 3.13). In addition, Nepal's export to Sri Lanka is insignificant for the graduation to have any significant impact. Exports to the rest of the SAFTA countries—Bhutan, Pakistan, Afghanistan, and the Maldives—will not see any tariff increase after graduation (Table 3.13). Moreover, exports to these destinations are low (Table 3.13).

Table 3.13: Tariff change in SAFTA after LDC graduation

Destination	Total export to the destination (US$ million)	Share in Nepal's total export (%)	Trade weighted average tariff (%)		
			SAFTA-LDC	SAFTA (non-LDC)	MFN
India	580.13	66.46	–	–	–
Bangladesh	9.13	1.05	0.6	0.6	1.0
Bhutan	1.87	0.21	4.9	4.9	9.8
Pakistan	0.80	0.09	4.3	4.3	8.3
Sri Lanka	0.21	0.02	2.0	2.1	2.3
Afghanistan	0.08	0.01	2.5	2.5	2.5
Maldives	0.05	0.01	0.1	0.1	14.1

Note: – indicates not applicable since Nepal's exports to India are largely based on Nepal-India bilateral trade treaty.

Export value is the average of export in the five-year period 2016/17-2020/21. Tariffs are for the year 2021 except for Afghanistan (2018). Ad valorem equivalents (obtained from Market Access Map) are used in case of non-ad-valorem tariff.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org

Table 3.14: Tariff change in Nepal's current top exports (refined soyabean oil and palm oil)

HS Code	Description	Average export to India in 5 years	No. of years exported in the five-year period	Share of export in total export to India (%)	Tariff in India for SAFTA (LDC) (%)	Tariff in India for SAFTA (non-LDC)	MFN Tariff
150790*	Refined soyabean oil	117.01	3	20.2	0	25	45
151190	Refined palm oil	49.81	3	8.6	0	54	54

Note: * HS 150790 has two tariff lines. HS 15079010 doesn't have preferential rate for non-LDC SAFTA members whereas HS 15079090 offers a preferential rate of 5% for non-LDC SAFTA members.

Source: Indian Trade Portal

Rules of origin under Nepal's regional trade agreement (SAFTA)

One important consequence of LDC graduation in terms of SAFTA trade will be the more stringent rules of origin provisions for non-LDCs (Table 3.15). Given the current export structure, it might not be that big of a concern; however, the more stringent rules of origin will probably be an obstacle for expanding intra-SAFTA trade.

Table 3.15: Preferential rules of origin in SAFTA for LDC scheme and non-LDC scheme

Description	SAFTA (LDC)	SAFTA (non-LDC)
General rule	CTH+DVA 30%	CTH+DVA 40% (35% for Sri Lanka)
Product-specific rules: Less stringent rules of origin for 190 products at HS subheading level and 1 product category at HS heading level (HS 8903)	CTSH+DVA 30% (172 products); CTSH+DVA 40% (16 products); CTSH+DVA 60% (2 products); CTSH+DVA 25% (1 HS heading)	CTSH+DVA 30% (172 products); CTSH+DVA 40% (16 products); CTSH+DVA 60% (2 products); CTSH+DVA 25% (1 HS heading)
Cumulation	SAARC (RVC 50% and DVA 20%)	SAARC (RVC 50% and DVA 20%)

Note: DVA=Domestic Value Addition; RVC=Regional Value Content

Source: Author, using information from Annex IV of the 'Agreement on South Asian Free Trade Area (SAFTA)' (obtained from https://commerce.gov.in/wp-content/uploads/2020/05/safta.pdf, accessed 17.02.2022)

Hence, graduation from LDC status could result in potential losses through lack of preferential market access for Nepal's top exports to India (refined palm oil and soyabean oil) and through obstacles to increasing intra-regional trade through general tariff increases in Sri Lanka as well as through stricter rules of origin provisions in general. One important provision of SAFTA has been that one of its articles (Article 12) provides a special provision for the Maldives—it commits to providing the Maldives no less favourable treatment than other SAFTA LDCs even after its graduation from the LDC status. This provides a precedent for graduating LDCs, including Nepal, to pursue such treatment post-graduation.

3.7 Impact of LDC graduation on Nepal's service trade

The General Agreement on Trade in Services (GATS), the agreement that governs multilateral trade in services, acknowledges the serious difficulty of the LDCs in its preamble and mentions providing special priority to LDCs in the implementation of measures aimed at increasing participation of developing countries in Article IV. In particular, the measures include strengthening of domestic services capacity, efficiency and competitiveness, facilitating access to distribution channels and information networks, and liberalization of market access in sectors of export interest to developing countries and LDCs. Furthermore, as per Article XIX of the agreement, developing countries and LDCs are given flexibilities with regard to their liberalization requirements—for instance, they may open fewer sectors compared to the developed countries, liberalize fewer types of transactions, and align the liberalization of their sectors with their development situation.

Hence, the impact of LDC graduation would depend upon the extent that these special and differential treatments provided have been utilized by Nepal. In terms of liberalization of domestic sectors, graduating LDCs do not need to change their GATS commitments just because of graduation and hence there would be no impact on this front. In terms of better market access commitments provided by GATS, evidence mostly points towards lack of concrete benefits on this front, and hence there would not be significant impacts for Nepal's service exports because of graduation.

While GATS, which came into effect in 1995, declared providing special priority to LDCs, it did not specify a concrete preferential mechanism for increasing market access of LDCs in services (ITC, 2015). It was only later, in 2003, that WTO members agreed on modalities, and in 2005, at the Hong Kong Ministerial Conference, they agreed to develop a specific mechanism for providing special priority to LDCs with regard to their service exports and modes of service supply of interest to them (ibid). It was finally in 2011, at the Geneva Ministerial Conference, that a decision was adopted, which allowed countries to provide preferential treatment to services and services suppliers from LDCs (WTO, 2011). The preferential treatment, also known as 'the LDC Services Waiver', however took at least until 2015 to materialize. To date, 24 WTO members, both developed and developing, representing about 86 percent of global services trade, have notified their preferences under the waiver (WTO, 2020a).

However, despite the impressive range of preference-granting countries, "the breadth, depth and real-life relevance of the preferences offered" has been less impressive (Mendoza, Schloemann, Bellmann, and Hijazi, 2016). Operationalizing the service wavier has been an issue since its inception and the current progress has also been slow. Much of Nepal's export of services is in the travel and tourism sector, which has been taking place without any connection to the services waiver. Hence, even though the LDC services waiver is not applicable to graduating LDCs immediately upon graduation, the impact is estimated to be marginal given that the LDCs, including Nepal, have not been able to benefit substantially from the waiver.

Other studies also point towards only a marginal impact of LDC graduation on service trade for LDCs in general, (WTO, 2020a) and Nepal, in particular (Razzaque, 2020). Given the current status of the implementation of services waiver and the service exports profile of Nepal (mainly travel and tourism, and migrant workers' services, without any utilization of services waiver), LDC graduation is unlikely to result in any loss for Nepal's exports of services except as a potential missed opportunity if the waiver gets effectively operationalized in the future (Razzaque, 2020).

3.8 Summing up impact on market access

We find that Nepal's exports will see a general rise in tariff in the LDC-specific preference-granting countries. The rise in tariff is particularly stark for the clothing sector, especially given that it comprises major exports to these preference-granting destinations. During our interactions with the private sector, the private sector associations expressed strong concerns over the rise in tariff and mentioned that the impact may be severe given that Nepal's cost of production is already much higher than that of its neighbouring countries—for instance, the garment association mentioned that Nepal's cost of production in the apparel sector is about 26 percent higher than that of neighbouring countries. Furthermore, discussions with the private sector indicated that the impact will predominantly be on the SMEs as the small manufacturers represent the bulk of exports to LDC-preference granting destinations. Moreover, the significant increase in tariff in SAFTA for Nepal's top two current exports—refined soyabean oil and palm oil—may have a sizeable impact on Nepal's already low amount of exports.

LDC graduation will not only have tariff implications but also implications in the form of more stringent rules of origin provisions in preference-granting countries, that include the European Union, Turkey, the United Kingdom, Canada, Australia, and Russian Federation, among others. Our product-specific assessment also shows that many of the products will be subject to stricter rules of origin requirements. One important observation, however, is that carpet, which is the top export of Nepal to several preference-granting countries, will not encounter changes in the rules of origin provisions in the top market destinations, including the United States, the European Union, and the United Kingdom. However, many of the products, particularly apparel and made-up textile products, will face more stringent rules of origin in the form of double transformation requirements compared to the single transformation required for the LDCs. This may pose a serious obstacle to exporters despite the product achieving a preferential tariff rate in the next-best schemes (GSP/GSP+/EF). For instance, a survey of textile and clothing manufacturers in Nepal finds that most of the exporters in the sector expressed concerns that they may not be able to meet the more restrictive rules of origin requirements even if the alternative preference schemes offer preferential tariffs (EIF, 2022). Our interaction with the private sector indicated that some exporters are not aware of the change in rules of origin whereas some think it is a serious issue that may have severe impacts on Nepal's exports of several major products

4. Development cooperation

Overseas development assistance (ODA) is a key facet of development cooperation, and a critical source of development finance in LDCs (UNCTAD, 2019). ODA is defined as "government aid designed to promote the economic development and welfare of developing countries" (UNCDP, 2021). Hence, ODA includes grants, concessional (or soft) loans and the provision of technical assistance, and can be provided bilaterally, from donor to recipient, or channelled through multilateral organizations (UNCDP, 2021). This section is structured as follows. Section 4.1 provides an overview of ODA in Nepal, discussing broad trends and importance of ODA, sectoral allocation, sources of ODA, debt burden and servicing, and aid received to fight the COVID-19 pandemic. Against this backdrop, section 4.2 discusses the implications of LDC graduation for development cooperation, with a focus on ODA but also covering other forms of aid.

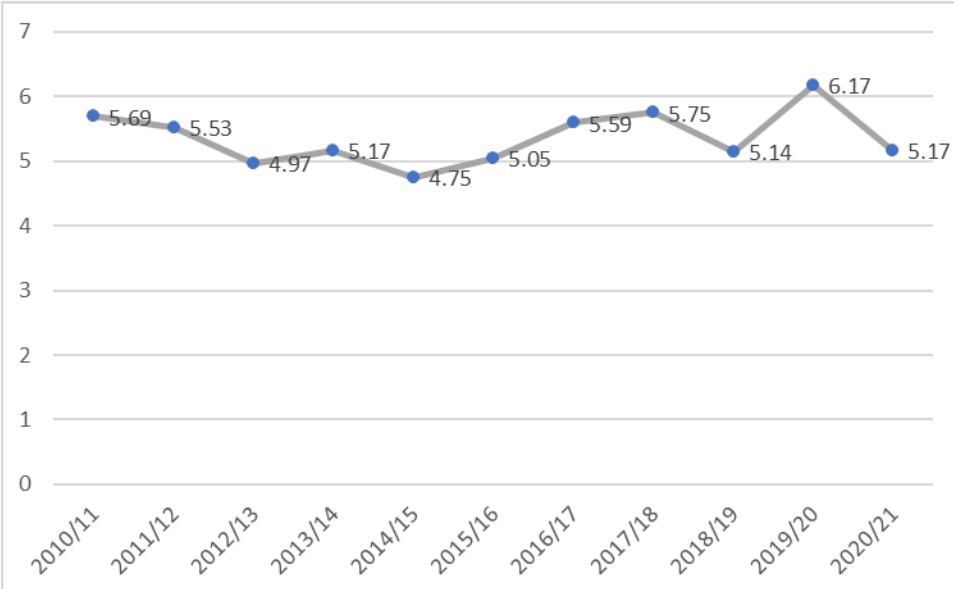
4.1 Overview of overseas development assistance in Nepal

4.1.1 ODA: Broad trends and importance

According to Ministry of Finance (MoF)'s figures, the average ODA received by Nepal between 2013/14 and 2018/19 averaged around US$1,282 million per year[20]. However, in FY2019/20, ODA disbursements went up by 25.5 percent to US$2,002.8 million following the increase in funding to Nepal to help the country battle the impacts of the COVID-19 pandemic (Ministry of Finance, Government of Nepal, 2021a). In the second year of the pandemic, 2020/21, Nepal received US$1,684 million as ODA, a 16 percent fall from the previous year. In the aftermath of the 2015 Nepal Earthquake too, a spike in ODA was observed. Despite these spikes, ODA disbursements as a percentage of GDP have remained stable—averaging above 5 percent during 2010/11-2020/21 (Figure 4.1). Among South Asian countries, Nepal is the fourth largest ODA recipient in terms of per capita ODA, which stood at US$52 in 2018. Similarly, among Asian LDCs too, Nepal ranks fifth in terms of per capita ODA (Ministry of Finance, Government of Nepal, 2021a).

[20] The figures for FY2020/21 were provided by the Ministry of Finance which were yet to be made publicly available at the time of finalizing this report. These figures show ODA disbursements, that is, actual transfer made by donor countries.

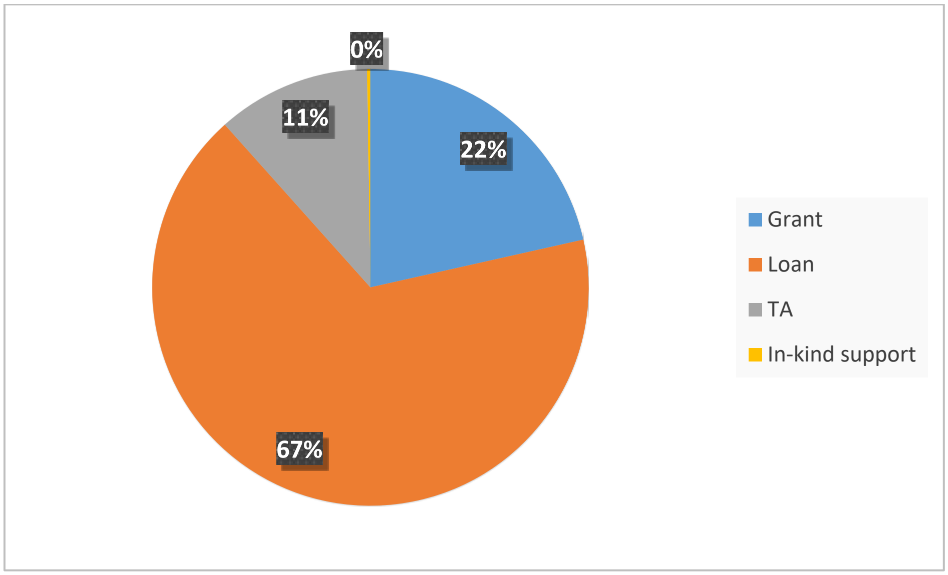
Figure 4.1: ODA as a percentage of GDP in Nepal



Source: Development Cooperation Report (various issues), Ministry of Finance (MoF).

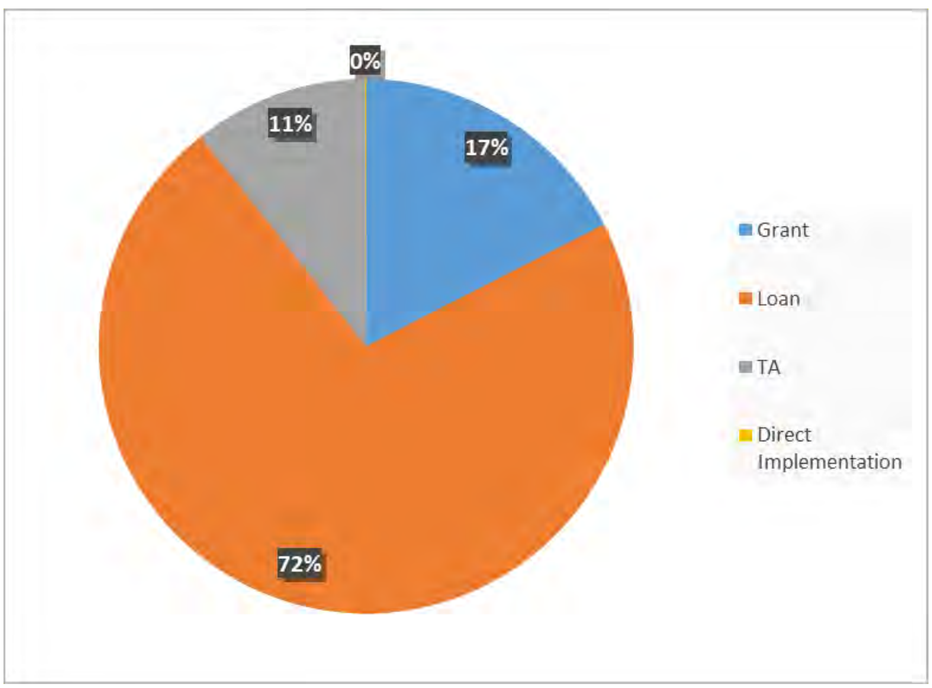
Loans have been increasing in absolute amounts and as a share of ODA, reaching US$1,400 million, or 69.9 percent of ODA in 2019/20. Loans were followed by grants at US$374.49.64 million and technical assistance at US$226.64 million in the same year. However, in 2020/21, the share of grants in ODA increased slightly (Figures 4.2 and 4.3). In FY2020/21, Nepal received US$362 million as grants, US$1,217 million as loans and US$192 million as technical assistance. Loans increased by nearly 48 percent in FY 2019/20 compared to the previous fiscal year as the additional funding received for COVID relief was mostly disbursed in the form of loans. On the other hand, grants in 2020/21 declined by about 3.3 percent compared to the previous fiscal year while loans in the review fiscal year declined by 27 percent.

Figure 4.2: Breakdown of ODA disbursements in 2020/21



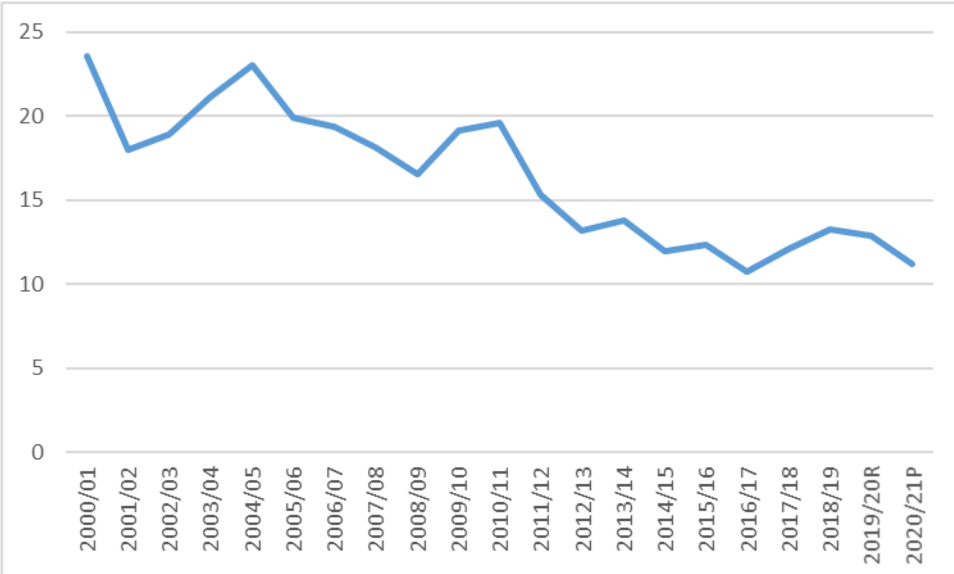
Source: Development Cooperation Report 2020/21, Ministry of Finance (MoF), Government of Nepal.

Figure 4.3: Breakdown of ODA disbursements in 2019/20



Source: Ministry of Finance, Government of Nepal (2021a).

Figure 4.4: On-budget ODA as % of government expenditure



Source: Nepal Rastra Bank, Current Macroeconomic and Financial Situation.

The importance of ODA for Nepal can be deduced from the fact that ODA comprises a large part of Nepal's public expenditure plan.[21] ODA as a proportion of the national budget has remained under 30 percent (Ministry of Finance, Government of Nepal, 2021a). It rose to 29 percent in 2016/17 following the earthquake, but had declined to 24 percent by 2018/19 (ibid.). Not all ODA is on-budget (recorded in the budget). When only considering on-budget ODA, its contribution to (actual) government expenditure has fallen steadily, from 26.4 percent in 1999/2000 to an average of 12 percent in 2016/17-2018/19 (Figure 4.4). The revised budget of FY 2021/22 shows that 21 percent of the estimated expenditure will be arranged through foreign loans and grants.[22]

Since ODA is an important source of development finance, it is instrumental in achieving the Sustainable Development Goals (SDGs). LDC graduation is a milestone in Nepal's development journey, not the destination. Hence, even after 2026, Nepal will continue to set its sights on sustainable development. Nepal is estimated to require 48 percent of GDP on average during the SDG period of 2016–2030, amounting to NPR 2,025 billion per year (National Planning Commission, 2017). There is a huge financing gap. An average of NPR 200 billion per year in ODA is estimated as needed to meet the SDGs.

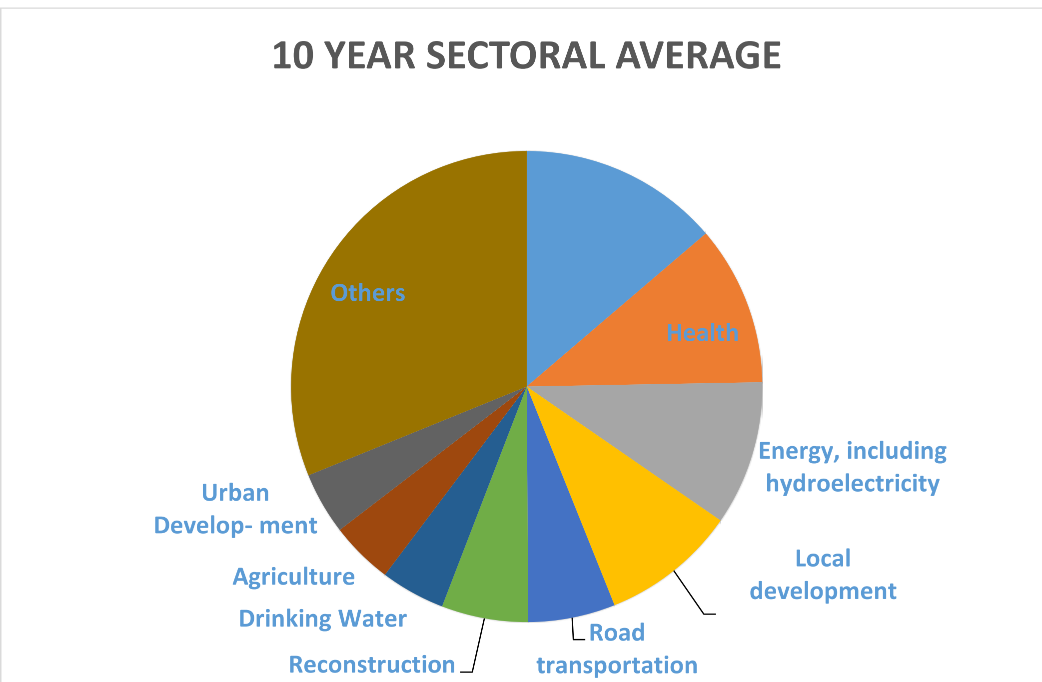
[21] The expenditure for the coming fiscal year is estimated based on the projections of government revenue and the ODA commitments signed with bilateral partners. The ODA commitments are disbursed based on the amount spent by the government in earmarked projects. For example, in FY 2019/20 the committed amount was NPR 219.88 billion while the utilized amount was NPR 139.70 billion (Ministry of Finance, Government of Nepal, 2021b).

[22] See Ministry of Finance, Government of Nepal, 2021, Bill for Replacing the Financial Ordinances (Fiscal Year 2021/22), https://mof.gov.np/site/publication-detail/3117).

4.1.2 ODA by sector

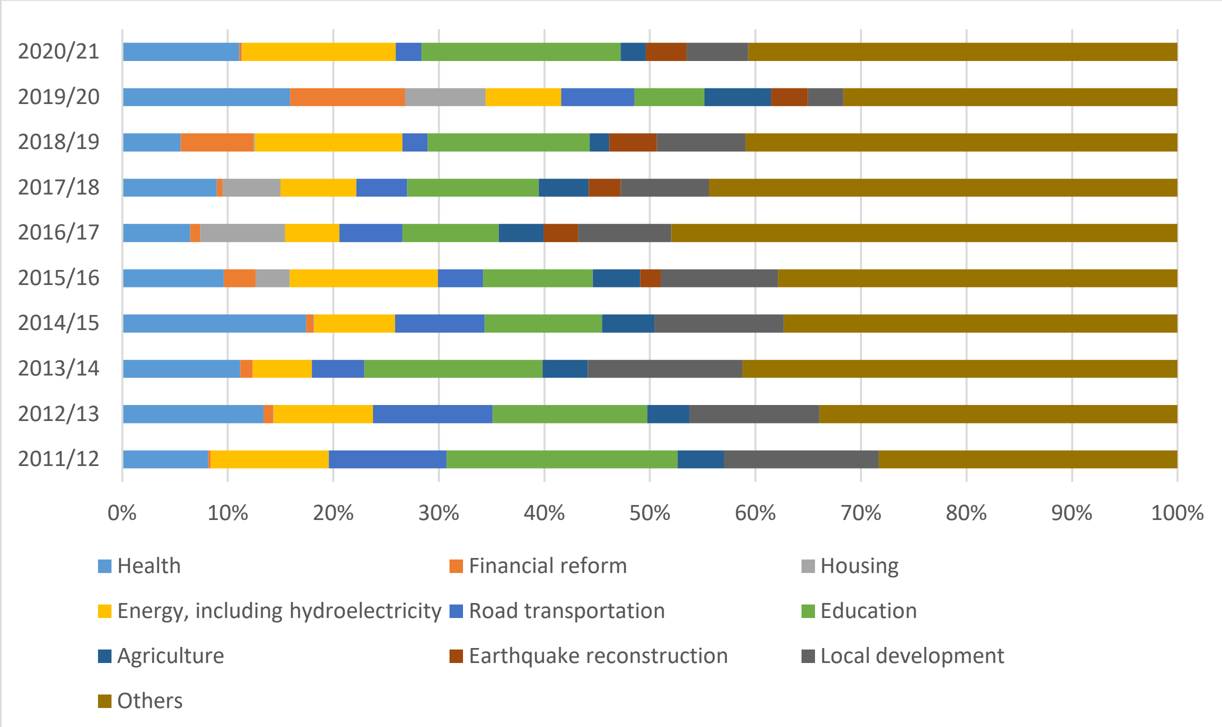
Health and education are the largest recipients of ODA (Figure 4.5). A large chunk is also directed towards physical and institutional infrastructure building. In FY2019/20, the most ODA receiving sector was health as the COVID-19 pandemic necessitated more funds to fight the spread of the pandemic and its impacts. Before 2019/20, the education sector was the highest recipient of ODA. However, in FY2020/21 more foreign funds were channelled to the policy and strategy heading, followed by education, energy and health. The sectoral allocation of ODA keeps changing from one year to another, while health and education are clearly most favoured by development partners (Figure 4.6). For example, policy and strategy (the highest ODA receiving sector in 2020/21) used to receive relatively less fund in earlier years. Similarly, in 2019/20, financial reform received the second-highest volume of ODA. Such variation gives weight to the argument that ODA is not contingent upon any one factor or sector but keeps evolving based on Nepal's needs and policies (donors' policies also matter in this regard). Moreover, such flexible sectoral allocation of ODA also allows GoN to mobilize necessary resources for development as per its plans and policies. This indicates that aid flows to Nepal may be able to accommodate the revised priorities of Nepal following LDC graduation.

Figure 4.5: Ten-year sectoral average of ODA



Source: Ministry of Finance, Government of Nepal (2022)

Figure 4.6: Sector-wise composition of ODA

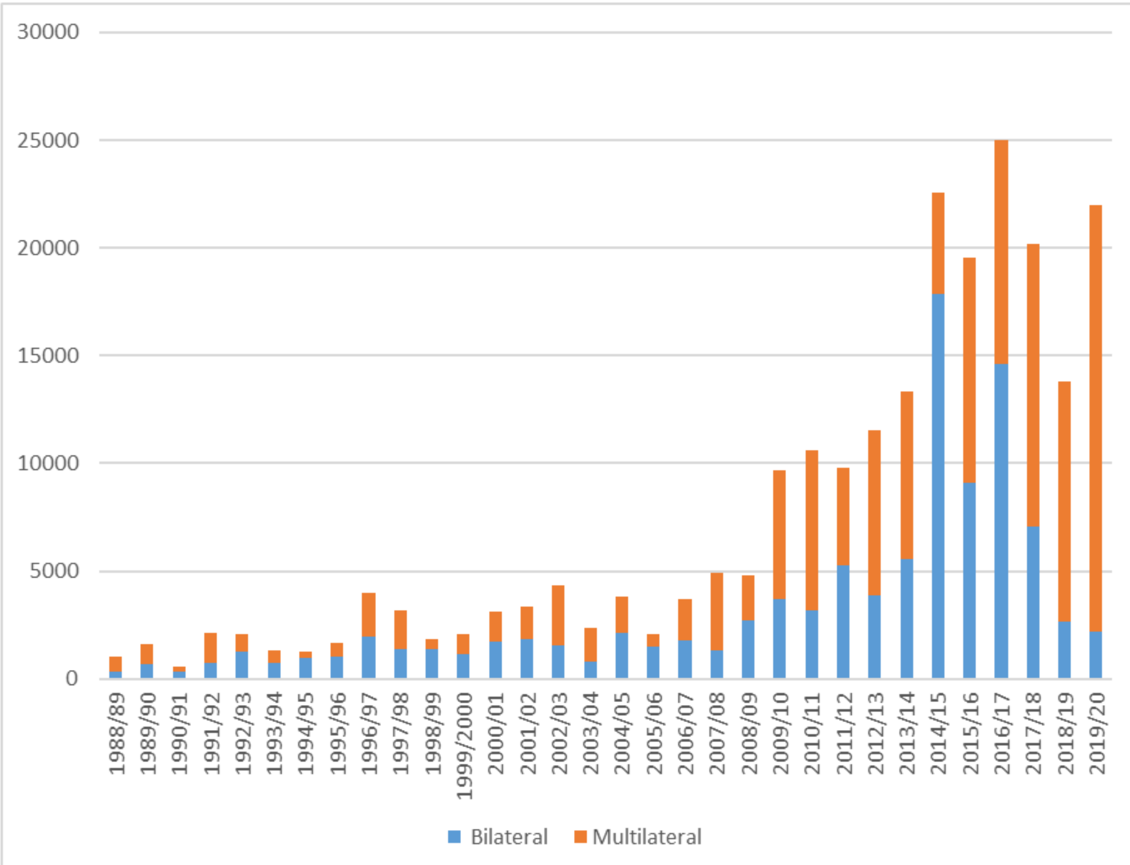


Source: Ministry of Finance, Government of Nepal (2022)

4.1.3 Sources of ODA

Multilateral aid accounts for over two thirds of ODA and the share has been increasing in recent years (Figure 4.7). Two multilateral development partners, the World Bank and the Asian Development Bank (ADB), provide more than half of the ODA received by Nepal (Table 4.1). Among the bilateral partners, the top five contributors are the US, the UK, China, Japan and the EU (Table 4.1). Following the COVID-19 pandemic and its impact on the economy, Nepal took out a direct loan from IMF worth US$214 million in 2019/20.

Figure 4.7: Multilateral and bilateral ODA approved between 1988/99 and 2019/20 (in NPR 10 million)



Source: Ministry of Finance, Government of Nepal, 2021b

Table 4.1: Average ODA disbursement source-wise from FY 2014/15 to 2020/21

	10-year average (in US$ million)
World Bank	387.33
ADB	251.63
IMF	214.00
UK	113.15
USAID	94.69
UN	71.25
Japan	63.62
European Union	56.61
India	56.11
China	55.76
Switzerland	32.69
Norway	27.09
Germany	25.27

Australia	19.19
Denmark	17.19
Finland	12.12
GFATM	10.51
OFID	9.61
Korea	9.36
IFAD	8.91
GAVI	4.07
Saudi Fund	2.99
Netherlands	1.08
KFAED	1.05
NDF	0.81
Canada	0.55
SDF	0.25
Others	0.14

Source: Ministry of Finance, Government of Nepal (2022)

The rise of multilateral development partners' share coincides with the increased share of loans in ODA disbursements since multilateral partners offer more loans than grants. According to the MoF data, in FY 2020/21 more than 99 percent of World Bank support was in the form of loans, and 88 percent of ADB's support came as loans (Table 4.2). On the other hand, Nepal's top bilateral donor, the US, extended 7 percent of the ODA as grants while 89 percent of its ODA was in the form of technical assistance. Likewise, of the UK's support, 53 percent came as grants and the rest as technical assistance. Some 83 percent of India's ODA was loans and 15 percent of it was grants. China provided 62 percent of its ODA as loans. Overall, on average about 75 percent of bilateral ODA to Nepal during 2014/15-2019/20 came as grants.

Table 4.2: Source-wise breakdown of ODA disbursement in 2020/21 (in US$)

	Grant	Loan	TA	In-kind Support	Total
ADB	29,388,221	221,666,838	-	-	251,055,059
Australia	4,496,808	640,419	-	-	5,137,227
China	14,089,551	22,992,099	-	-	37,081,650
EU	102,560,632	-	2,883,515	-	105,444,147
Finland	10,666,866	-	1,535,520	-	12,202,386
GAVI	9,329,736	-	-	-	9,329,736

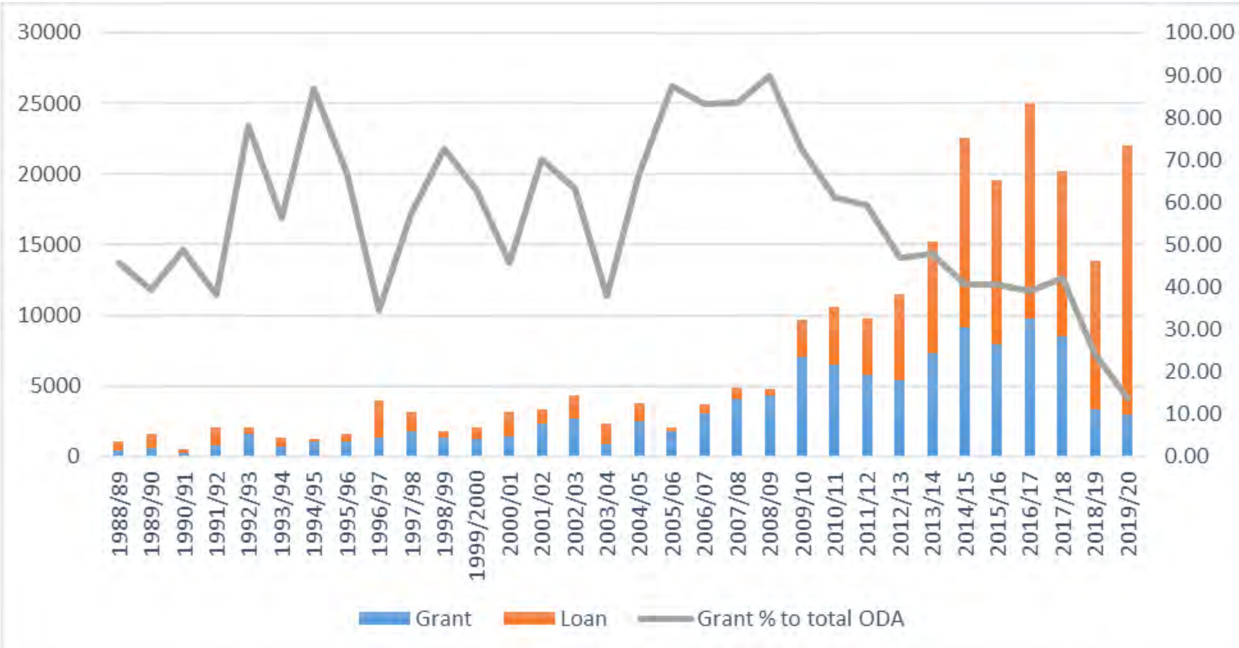
Germany	22,234,576	-	8,935,854	-	31,170,430
GFATM	3,015,332	-	-	-	3,015,332
IFAD	5,997,504	462,721	11,237	-	6,471,462
India	10,932,703	60,000,000	1,388,202	-	72,320,905
Japan	3,662,906	29,314,241	-	-	32,977,147
KFAED	-	797,826	-	-	797,826
Korea	1,307,304	-	6,817,679	-	8,124,983
Netherlands	-	-	1,322,302	-	1,322,302
Norway	21,868,100	-	-	-	21,868,100
OFID	-	4,277,126	-	-	4,277,126
Saudi Fund	16,593,151	175,254	-	-	16,768,405
Switzerland	16,715,254	-	7,682,455	-	24,397,709
UK	44,814,317	-	39,160,383	-	83,974,700
UN	28,973,528	-	27,410,955	-	56,384,483
USAID	7,314,746	-	94,654,596	3,971,866	105,941,208
WB	8,083,382	786,522,355	-	-	794,605,737
Total	362,044,617	1,126,848,879	191,802,698	3,971,866	1,684,668,060

Source: Ministry of Finance, Government of Nepal (2022)

4.1.4 Debt burden and servicing

In recent years, the loan component of ODA has outstripped grants considerably (Figure 4.8). Grants are not required to be repaid while loans need to be repaid with interest (although the rates are concessional). The increased external loan is accompanied by an increase in domestic borrowing, which has added to the debt servicing burden of Nepal (Table 4.3). Such rise is in line with global trend as the portion of loans in gross ODA disbursements to LDCs has increased in the last one decade (UNCTAD, 2019). Moreover, a growing economy, a rising per capita income and a sound repayment capacity are the reasons for the increased share of loans, according to the Ministry of Finance (Ministry of Finance, Government of Nepal, 2021a).

Figure 4.8: Loans vs grants approved between 1988/99 and 2019/20 (in NPR 10 million)



Source: Economic Survey, Ministry of Finance, Government of Nepal, various issues

Although external borrowing has emerged as an important source of financing for Nepal, a higher debt burden, which simultaneously exposes Nepal to potential interest rate, exchange rate and rollover risks, raises questions about debt sustainability. A rapid increase in both external and internal borrowing has increased the total debt-to-GDP ratio by nearly one third in the last eight years, touching nearly 41 percent in 2020/21 (Table 4.3). A Debt Sustainability Analysis done jointly by the Work Bank and IMF classifies Nepal in the low debt distress category (IMF and World Bank, 2019). As per the stress tests undertaken by the World Bank and IMF, even in the scenario of disasters and lower economic growth, Nepal is able to handle its external debt without running the risk of debt distress (ibid.). However, it is worth noting that the debt sustainability analysis was undertaken before the pandemic hit.

Table 4.3: Details of Nepal's gross debt liability (NPR 10 million)

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Internal debt	20,668.86	20,165.65	23,902.89	28,371.06	39,116.13	45,323.05	61,373.54	80,294.16

External debt	34,581.91	34,326.18	38,876.03	41,397.88	52,615.41	59,492.62	51,933.71	93,414.71
Total debt	55,350.77	54,491.86	62,775.92	69,768.94	91,731.57	104,815.69	143,340.25	173,708.87
Gross domestic product	194,162.40	212,464.98	224,869.10	259,923.40	303,103.40	346,431.90	376,704.30	426,632.00
Total debt to GDP %	28.51	25.65	27.92	26.84	30.26	30.26	35.05	40.72
External debt to GDP %	17.81	16.16	17.29	15.93	17.36	17.17	13.79	21.90

Source: Public Debt Management Office, Government of Nepal (2021)

The increase in debt liability and with it the debt-to-GDP ratio could mostly be attributed to increased internal borrowing. However, increased external loans in response to the COVID-19 pandemic also contributed to the jump in the debt-to-GDP ratio in 2020/21. Nepal still has fiscal space to borrow more to finance developmental works. The World Bank and IMF analysis also substantiates that Nepal's debt level is not a cause for alarm (IMF and World Bank, 2019). These figures also signal a fiscal space for Nepal to increase its borrowing to design its LDC graduation transition strategy if the need arises. But it is worth noting that the rising cost of servicing debt is considered to 'diminish fiscal space for counter-cyclical measures and investments in long-term structural transformation' (United Nations, 2020). Moreover, debt sustainability also depends on effective debt mobilization in productive usages.

Publicly available data show that Nepal has outstanding loans from 17 bilateral and multilateral partners (Table 4.4).[23] Nearly one third of Nepal's external loans are borrowed from the ADB while half of the borrowing can be attributed to the World Bank's International Development Association, which provides concessional loans to low-income countries (Table 4.4). Some 12 percent of the loans are owed to bilateral partners. India, China, Japan and South Korea are the major sources of bilateral loans. Details regarding interest rates and

[23] Nepal is not repaying Austria and Russia anymore.

terms are not easily available, especially in the case of bilateral loans. The only publicly available document that has information on foreign loan terms and interest rates cited from a credible source is a 2020 study undertaken by the Central Department of Economics, Tribhuvan University for the Ministry of Industry, Commerce and Supplies titled 'Nepal's exports and WTO: position and priorities' (Central Department of Economics, 2020). According to the study, Nepal is paying interest rates between 0 percent (such as loans offered by the International Monetary Fund and the International Fund for Agriculture Development) to 1.75 percent (such as loans extended by Indian and Chinese EXIM Banks) (ibid.).

Table 4.4: Outstanding external debt (in NPR 10 million)

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Total	34326.2	38876.3	41397.9	52615.4	59492.9	71966.5	93410.7
Multilateral (Total)	30891.5	35250.7	37599.6	47196.6	52469.5	62134.7	82103.7
Asian Development Bank	14083.49	15.590.73	16072.75	19.112.69	20816.01	27348.41	29291.99
European Economic Community	36.34	34.31	31.01	30.67	26.86	26.69	24.69
European Investment Bank			8.74	36.44	36.64	407.21	402.73
Asian Infrastructure Investment Bank							3.36
International Development Association	15531.09	18279.81	20045.56	26.374.84	29.919.21	29089.46	47117.15
International Fund for Agricultural Development	692.82	759.02	763.54	832.97	823.73	987.47	963.95
International Monetary Fund						3238.5	3281.82
Nordic Development Fund	226.87	232.61	220.43	228.63	209.91	220.78	214.3
Organization of Petroleum Exporting Countries	320.87	354.26	457.6	580.31	637.14	816.14	803.73

Bilateral (Total)	3434.7	3625.54	3798.27	5418.87	7023.35	9831.82	11307
Austria	11.32	9.44	6.77	4.57	1.7		
Belgium	98.24	94.39	84.91	85.45	75.81	76.51	75.52
China	873.12	860.48	798.79	1399.17	1846.83	2610.99	3165.78
France	74.84	61.56	49.38	42.98	33.38	30.6	31.4
India	560.54	620.42	720.49	917.91	1351.79	2563.47	3076.25
Japan	1147.22	1283.95	1444.1	2230.3	2971.41	3756.17	4115.32
South Korea	570.8	601.49	573.6	607.29	590.97	633.5	659.51
Kuwait	22.91	21.65	23.22	31.07	58.73	95.39	118.72
Russia	11.84						
Saudi Arabia	63.87	72.16	97.01	100.13	92.73	65.19	64.48

Source: Public Debt Management Office, Government of Nepal (2021)

Disbursed loans in Nepal are not fully utilized. According to the 58th Annual Report of the Auditor General, the persistent underutilization of foreign loans has increased the debt burden of the government (OAG, 2021). Moreover, in FY 2019/20 alone, the Nepal government had to shell out NPR 46.5 million as a service fee and interest for the loans that were not even utilized in the same period (OAG, 2021).

4.1.5 Aid to fight COVID-19

The spike in Nepal's ODA in FY 2019/20 is attributed to COVID assistance: one fourth of the ODA disbursed (US$ 512.9 million) was for COVID-19 response and recovery. A large part of this support came from new projects designed specifically for the purpose, indicating that development partners may have a leeway in introducing extra support when needed. INGOs contributed a further US$5.5 million to COVID-19-related efforts. The largest proportion of COVID-19 support was provided as loans (US$469.8 million), followed by technical assistance (US$29.7 million), grants (US$11.9 million) and direct implementation (US$1.5 million). Nearly all COVID-19 support was provided on-budget (93.6 percent). The top disbursing development partners for COVID-19 response and recovery were the ADB, the IMF, the US, the EU, and the World Bank (Ministry of Finance, Government of Nepal, 2021a).

4.2 Implications of LDC graduation for development cooperation

To understand the impact of graduation and the potential loss of favourable treatment from development partners concerning development cooperation, we combined primary and secondary data. We decided to focus on the top 15 development partners (both bilateral and multilateral) by taking an average of ODA offered to Nepal in the five fiscal years 2014/15 to 2020/21 (Table 4.1). We conducted a survey of these development partners, asking them what graduation means for their ODA to Nepal.[24] We combined their responses with publicly available information on their aid strategy towards LDCs in general and Nepal in particular to arrive at implications. For the few development partners from which we did not receive any responses, we relied solely on publicly available information on their strategy towards LDCs and Nepal to make informed inferences.

4.2.1 Bilateral sources

The consultations undertaken for the study and publicly available sources on bilateral partners' Nepal-specific development cooperation strategies suggest that financial commitment decisions are taken and revised on a needs basis and keep evolving. Some bilateral partners such as the European Union, Japan and Finland explicitly take into account Nepal's aspirations to graduate from the LDC category while devising their partnership strategy. Most bilateral partners do not explicitly address LDC graduation in framing their strategy. However, their support in health, education, energy and other cross-cutting areas such as equality and governance is expected to improve the productive resources of Nepal, and thus contribute to sustainable and irreversible LDC graduation. Table 4.5 summarizes the likely implications of graduation for bilateral aid received by Nepal.

Table 4.5: Summary of potential impact on ODA from bilateral sources

Partner	Potential impact on ODA	Source
Australia	There is currently no plan to change the current grant modality.	Consultation
China	Prioritizes LDCs in development cooperation; modality of LDC-specific support is not clear.	Development Cooperation Strategy announced in 2021
EU	Support is in line with Nepal government's strategy to graduate by 2026. The post-graduation strategy could be identified in the next plan for Nepal.	EU Strategy Paper for Nepal; and Consultation
Finland	Strategy for Nepal is in line with Nepal government's objective of LDC graduation. There is no immediate plan to change ongoing mode of cooperation.	Country Strategy Paper; and Consultation
Germany	Germany is phasing out bilateral development cooperation with Nepal by	German government development cooperation strategy; and Consultation

[24] See Annex A2 for information on the bilateral and multilateral partners consulted for this purpose.

	2024 but this is not related to Nepal's LDC status	
India	Development cooperation strategy is based on the recipient country's needs and priorities	Development Cooperation Overview
Japan	After losing LDC status Nepal may not receive bilateral loans from Japan at 0.01% rate. ODA provision strategy, including for Nepal, is revised periodically regardless of recipient country's LDC status.	Development cooperation strategy of Japan government; and Consultation
Norway	ODA not directly contingent on LDC status. The planning for the period 2024 and onwards has not yet been undertaken	Consultation
South Korea	LDC status only affects tied-loans with regard to specific terms and conditions as non-LDCs get less favourable interest rate and other terms and conditions. As of now, graduation will not affect South Korea's ODA provision strategy in the short term.	Consultation
Switzerland	Nepal is a priority country of Switzerland's development assistance, and Switzerland's support to Nepal is not conditional on the latter's LDC status	Consultation
US	US support is not contingent upon LDC status	Country Development Cooperation Strategy

Dearth of publicly available information on the terms and conditions, including interest rates, of bilateral loans received by Nepal makes it difficult to ascertain the impact of graduation on Nepal's indebtedness and debt servicing position. The responses recorded by UN CDP show that there is a possibility of Nepal having to pay more for bilateral ODA loans and the repayment schedule also could become unfavourable (UNCDP, 2018).

Some bilateral partners offer lower interest rates on loans to LDCs. Japan provides loans at the least interest rate (0.01 percent) and generous terms to countries with low incomes (GNI per capita <US$1,035) that are also LDCs.[25] Other LDCs (which are not necessarily categorized as having low incomes) also get concessional rates—the highest is 0.7 percent. Hence, after losing LDC status Nepal could possibly pay a higher rate for loans. As of FY 2020/21, of the NPR 934.14 billion external debt of Nepal, Japanese debt made up only 4.4 percent. Japan has aligned its cooperation strategy with Nepal's graduation plan as envisaged by Nepal's Fifteenth Periodic Plan. South Korea also follows similar rules as LDC countries are levied only 0.05 per cent interest with a repayment period of 40 years while

[25] Japan's ODA loan rates are available here: https://www.jica.go.jp/english/our_work/types_of_assistance/oda_loans/standard/index.html

for countries with GNI per capita between US$1,036 and US$1,945, the interest rate ranges from 0.15 to 1.5 percent with a repayment period of 25 to 35 years.[26]

In the case of Germany, the European country is ending bilateral development assistance to Nepal from 2025 (Federal Ministry for Economic Cooperation and Development of Germany, 2020). However, such bilateral disengagement is not based on Nepal's LDC status. As per the Reform Strategy announced by Germany's Ministry for Economic Cooperation and Development, Germany reduced the number of countries with which it will engage bilaterally in the area of development cooperation and Nepal is not among the selected 60 countries (ibid.). This means the German government will not engage with the Nepal government directly but route its development finance through other multilateral agencies and institutions, including the European Union. German cooperation through philanthropic organizations and civil society will continue.[27] In addition, the German government will continue supporting Nepal's private sector through programmes such as developpp.de, which supports companies in the planning, financing and implementation of innovative projects in developing countries.[28] ODA disbursements by Germany to Nepal in the last ten years averaged US$27.28 million, or 1.7 percent of the total ODA. It is not clear whether the loss of bilateral ODA from Germany will be compensated by an increase in ODA from the EU and other multilateral institutions, and aid routed through civil society.

With other European countries, such as Denmark and the Netherlands (European Union, 2020), also conceding their bilateral development cooperation with Nepal to the European Union, the EU has become one of the major bilateral development partners of Nepal. The EU is already the fifth-largest bilateral development partner for Nepal and with the exit of Germany, the EU will become more important. EU cooperation in Nepal takes into account the need to provide GoN with the instruments to support LDC graduation until 2030 and beyond (European Union, 2020). The EU has allotted EUR209 million for the period of 2021-2024 based on its Multi-Annual Indicative Programme 2021-2027. The EU's support for LDC graduation comes through this programme. The sectoral allocation of support is also dictated by the same programme. Moreover, the EU also recognizes the need to support enhancing productive capacity in Nepal so that Nepal could also meet the per capita income criterion. Beyond 2027, the new programme for Nepal will be identified and formulated based on the updated context, which will take into account the 2030 Agenda, the (to be formulated) sixteenth development plan of Nepal and also LDC graduation.[29]

Developed countries have committed to providing 0.15-0.2 percent of their GNI as ODA to LDCs. This aid commitment is targeted at LDCs as a group, not at individual LDCs. Thus, even if Nepal upon graduation is excluded from the aid target specific to the LDC group, Nepal as a developing country will be eligible for receiving aid under another target of developed countries, which have pledged to provide 0.7 percent of GNI as ODA to developing countries. However, donors might decide to provide more loans than grants as ODA. Nepal has taken

[26] Based on consultations.
[27] Based on consultations.
[28] Based on consultations.
[29] Based on consultations.

loans from only eight bilateral development partners but this figure might go up as Nepal graduates (although there is no certainty in this regard).

In terms of South-South partnership for development, Nepal counts its two nearest neighbours—India and China—as two major bilateral development partners. China is the sixth largest and India is the fifth largest bilateral donor for Nepal based on data for the last ten fiscal years (see Table 4.1). India's development cooperation is not contingent on LDC status as the country considers the priorities of recipient countries while extending its support.[30] China, on the other hand, prioritizes the LDCs in Asia and Africa along with the members of its Belt and Road Initiative while providing development cooperation.[31] However, Nepal being a party to the Belt and Road Initiative (BRI) and a neighbour with which China has a land border, LDC graduation is unlikely to bring about any significant change in China's development cooperation with Nepal.

Overall, there is unlikely to be a major direct impact of LDC graduation on Nepal's receipt of bilateral aid. This is in line with the finding in a UN assessment that graduation's impact on bilateral ODA to Nepal will be insignificant (UNCDP, 2018). One reason is that bilateral aid hinges critically on strategic and geopolitical considerations, besides bilateral relationships. Nevertheless, it is difficult to ascertain the direction and the composition of ODA following graduation. This is more so when the medium-term predictability of ODA in Nepal is significantly lower than the global average and lower than the LDC average (Ministry of Finance, Government of Nepal, 2021a). Lack of information in the forward-looking expenditure plans of development partners means a level of uncertainty persists with regard to future flows—even in the medium term. This was communicated in our consultations as well. Most bilateral partners adopt a multi-year strategy, which has increasingly been linked to Nepal's periodic plans. Moreover, bilateral partners acknowledge that graduating from LDC status to developing-country category will hardly bring any immediate and dramatic transition, and hence their ODA strategy for Nepal for the future will be based on a careful assessment of the Nepali economy and needs before they shift their development cooperation strategy.[32]

Besides government-to-government bilateral development cooperation, bilateral partners have started to directly support the private sector in a move towards blended finance.[33] For example, Finnfund—a development financier and impact investor partially funded by the Finland government—has made investments of 3.96 million euros in Nepal (Ministry for Foreign Affairs of Finland, 2021). Similarly, the business partnership programme, Finnpartnership, granted 360,000 euros to nine projects in Nepal from 2018 to 2020 (ibid.).

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[30] As explained in India's Development Partnership Overview. https://mea.gov.in/Overview-of-India-Development-Partnership.htm

[31] According to 'China's International Development Cooperation in the New Era' published on January 2021. http://www.scio.gov.cn/m/zfbps/32832/Document/1696686/1696686.htm

[32] Based on consultations.

[33] Blended finance refers to "strategic use of development finance for the mobilization of additional finance towards sustainable development in developing countries," according to Organization for Economic Cooperation and Development (OECD). In Nepal's context, the term blended finance is generally used to refer to external concessional resources used in mobilizing private sector resources. Adhikari (2021) emphasizes the untapped potential of LDCs to mobilize blended finance, besides impact investment, to fund their trade development priorities.

The developpp.de programme of the German government provides financial and technical support to private companies in developing countries and it has already selected a couple of Nepali enterprises for support. Germany's phasing out of bilateral development cooperation with Nepal will not affect the continuity of the developpp.de programme.[34] The EU also has a similar strategy to promote public and private investment in support of sustainable development. Likewise, in 2021, the Swiss Investment Fund for Emerging Markets (SIFEM) made its first investment in Nepal with a US$12 million debt investment in a private-sector commercial bank, which is intended to support micro, small and medium enterprises' access to finance and to aid the development of the local financial sector.[35] This transaction was enabled by a guarantee provided to SIFEM by the Swiss Agency for Development and Cooperation (SDC).

4.2.2 Multilateral sources

Multilateral donors are the biggest source of ODA for Nepal. We look into the funding mechanisms of the major multilateral development partners, with a focus on the World Bank, the ADB, and UN agencies, to figure out if the LDC graduation is likely to have an impact on their support to Nepal. Per capita income is a main criterion used by multilateral institutions; Table 4.6 presents the income threshold and other criteria used by major multilateral agencies.

Table 4.6: Income threshold of major multilateral agencies

Institution	GNI per capita threshold	Category	Other criteria
World Bank	US$1,045 (Updated in 2021)	Low-income	
World Bank	US$1,205 (updated in 2021)	IDA eligibility	Creditworthiness; assessment of macroeconomic prospects, debt, vulnerabilities, institutions, poverty, social indicators
IFAD	US$1,205 (updated in 2021)	Highly concessional loans	Creditworthiness based on the World Bank's debt sustainability framework
United Nations	US$1,222	LDC	HAI, EVI

[34] Based on consultations.
[35] Based on consultations.

ADB	US$1,175	ADB grants and loans	Insufficient creditworthiness, level of debt distress (Group A grants-only, blend and concessional ordinary capital resources loan (COL) countries)

Source: United Nations' Financing for Sustainable Development Report 2020 and IFAD lending terms for 2022

World Bank

The World Bank is the largest ODA provider for Nepal as nearly one fourth of Nepal's annual ODA in the last ten fiscal years has come from the multilateral lending agency. Nepal is receiving concessional loans from the World Bank's concessional body, the International Development Association (IDA). World Bank lending is based considerably on GNI per capita. Low-income countries with GNI per capita less than US$1,205[36] are provided funds at very low interest rates and other concessional terms. Loans under this window have a very long maturity period of 38 years, a grace period of six years, a service charge of 0.75 percent and an equal amortization period.[37] The World Bank's assistance to Nepal aligns with the government's vision to upgrade Nepal from LDC status to a middle-income country by 2030. At present, the financing provided by the World Bank to Nepal is concessional with the following terms, which are not linked to LDC status:

- Service charges – 0.75 percent per annum on the disbursement balance;
- Commitment charges – 0.50 percent per annum on the undisbursed balance. This has been set at 0 percent for FY 22.
- Repayment period – 38 years including a grace period of 6 years.

The World Bank is supporting Nepal in four areas: Financial Sector; Finance for Growth (Fiscal); Green, Resilient, and Inclusive Development (GRID) agenda; and Energy sector reform. The current partnership framework for Nepal was for FY19-23 but was extended to cover the period till FY2023/24 due to delays caused by COVID-19. The next country partnership that will lay out the strategy for FY25 through 29 will address the needs of Nepal arising from its graduation from the LDC category. This will also enable the shift from concessional financing through IDA to non-concessional financing through the International Bank for Reconstruction and Development (IBRD). More investments in the private sector will also be explored through its sister lending agency, the International Finance Corporation (IFC).[38]

As per the World Bank's classification, Nepal graduated from a low-income country to a lower-middle-income country in 2020 (Hamadeh et al., 2021). Since Nepal has just

[36] Updated income threshold for 2022 is available here https://ida.worldbank.org/en/about/borrowing-countries (Income cut-off is updated annually).
[37] IDA Terms (Effective as of January 1, 2022) available here https://treasury.worldbank.org/en/about/unit/treasury/ida-financial-products/lending-rates-and-fees
[38] Based on consultations.

graduated from a low-income country to a lower-middle-income country and is nearing the IDA cut-off, Nepal may be eligible to receive concessional credit only for the next couple of years. Hence, by the time Nepal graduates from the LDC group in 2026, it is quite likely that the World Bank will offer blend credit (subject to Nepal's situation in terms of external debt distress and creditworthiness). Blend credit is less concessional than the IDA's regular loans. Blend credits are concessional (30-year maturity, 5-year grace period, 1.25 percent interest rate apart from a 0.75 percent service charge, and an amortization rate of 3.3 percent for the first 6-25 years and 6.8 percent for the remaining 26-30 years).[39] A blend of IDA concessional terms and the market lending (LIBOR+) terms of IBRD, they are less concessional than "regular" credits. [40]

Asian Development Bank (ADB)

ADB is the second largest development partner of Nepal. For the last ten fiscal years, aid from ADB has made up more than 16 percent of Nepal's total ODA. Of the total ODA received from ADB, 92 percent is in the form of loans. For 2020-24, ADB has prioritized three areas of support—improved infrastructure for private sector-led growth, improved access to devolved services, and environmental sustainability and resilience (ADB, 2019). Although ADB considers per capita GNI and creditworthiness as the main criteria for fixing the rate and terms of concessional loans, it does consider the LDC status while classifying countries' assignments into groups. ADB classifies countries into three groups—Groups A, B and C—based on their creditworthiness and GNI per capita and provide them concessional assistance, ordinary capital resources or market-based resources (Table 4.7) (ADB, 2022).

Nepal is currently classified in Group A (ADB, 2019). Group A is concessional assistance only, wherein the countries in this group receive concessional loans that have a maturity of 24 years (policy-based loans) or 32 years (project loans), a grace period of 8 years, and an interest rate of 1 percent during the grace period and 1.5 percent during the amortization period, with equal amortization. Placement in Group A is not related to LDC status, when the per capita income is below a cut-off (Table 4.7). Nepal's GNI per capita in 2020, at US$1,190, was above a cut-off of US$1,175 (Table 4.6). If the crossing of the cut-off is sustained, Nepal is likely to graduate to Group B category in ADB's classification (ADB, 2022). If it were still an LDC, it would have been able to remain in Group A. Group B countries get loans with a maturity period of 25 years, and the grace period for these ordinary capital resources-blend loans is five years and the interest rate is at least 2 percent. The shift to another group (in this case, from Group A to Group B) does not happen immediately as graduation from concessional assistance normally takes about four years after crossing the income threshold (ibid.). Moreover, graduation to another lending group involves close consultation between ADB and the recipient country. Debt sustainability indicators will also be considered. Hence, even if Nepal's classification in the ADB lending arrangement is to change, Nepal will be provided ample time to adjust and strategize.

[39] IDA Terms (Effective as of January 1, 2022) available here https://treasury.worldbank.org/en/about/unit/treasury/ida-financial-products/lending-rates-and-fees
[40] Ibid.

Table 4.7: ADB's decision matrix of classification for assistance purposes

Creditworthiness	Per capita GNI cut-off		
	Below per capita GNI cut-off	Above per capita GNI cut-off	
		LDC	Other
Lack of	Concessional assistance-only (Group A)	Concessional assistance-only (Group A)	ordinary capital resources (OCR) Blend (Group B)
Limited	OCR Blend (Group B)	OCR Blend (Group B)	OCR Blend (Group B)
Adequate	OCR Blend (Group B)	OCR Blend (Group B)	Regular OCR-only (Group C)

Source: ADB (2022)

United Nations system

The United Nations is the sixth largest development partner of Nepal. Through its 17 agencies, the UN has been supporting Nepal in areas such as sustainable and inclusive economic growth, social development, resilience, disaster risk reduction and climate change, and governance, rule of law and human rights (United Nations Country Team Nepal, 2017). However, studies undertaken by the UN Committee for Development Policy (CDP) show that all UN organizations recognize the LDC category and make contributions to development efforts in many LDCs, but that did not translate into a consistent application of priorities and budget allocation, and the type and level of assistance to LDCs varied widely (UNCDP, 2018 and UNCDP, 2021).

Certain organizations under the UN, such as the United Nations Development Programme (UNDP)[41] and the United Nations Children's Fund (UNICEF)[42], are mandated to provide a certain portion of their core resources to LDCs. However, this portion is allocated for the LDCs as a whole but not the individual LDCs (UNCDP, 2021). Hence, graduation from the LDC category could potentially affect a portion of the core resources dedicated to the country in

[41] UNDP programmatic presence on the ground is financed primarily through core resources distributed to programme countries based on the target for resource assignment from the core (TRAC) system. TRAC is a three-tiered system in which TRAC-1 and TRAC-2 resources are linked in a combined pool to support country programming, while TRAC-3 resources are made available through a separate pool to support crisis response. The allocation of TRAC-1 and TRAC-2 takes into account a country's gross domestic product per person and its population size. By decision of its Executive Board, UNDP has a goal of ensuring the allocation of at least 60 per cent of TRAC-1 and TRAC-2 resources to LDCs. Source: https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/LDC-Handbook-2021.pdf

[42] UNICEF is also required by its Executive Board to allocate 60 per cent of its regular resources to LDCs and 50 percent to sub-Saharan Africa countries. Source: https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/LDC-Handbook-2021.pdf

the subsequent budget cycle. However, in the case of UNDP, the UN has mandated the organization to assist graduating countries in a smooth transition; thus, it may not immediately curtail funds allocated for Nepal.

In addition to the UN agencies with a presence in Nepal, there are other agencies that support LDCs like Nepal in the areas of policy analysis and information services, capacity-building, obtaining access to information and resources, and advocacy service. They include the Department of Economic and Social Affairs (UN DESA), the Economic and Social Commission for Asia and the Pacific (ESCAP), UNCTAD, the International Telecommunication Union (ITU), the World Meteorological Organization (WMO), the World Trade Organization (WTO), the secretariat of the United Nations Framework Convention on Climate Change (UNFCCC). They maintain dedicated programmes or teams focusing on LDC issues before, during and beyond graduation. In addition, UN's Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS) advocates support measures in favour of LDCs within the United Nations and with other partners in addition to monitoring the implementation of Programmes of Action for LDCs.

UNFCCC, the UN agency that looks into climate change and related matters, helps LDCs to address climate change adaptation. The most prominent of the activities that UNFCCC supports in LDCs is providing help to prepare the LDC work programme for preparation and implementation of national adaptation plans. UNFCCC is responsible for the LDC Fund (LDCF), which is operated by the Global Environment Facility (GEF) to support the implementation of the LDC Work Programme including the National Adaptation Plan of Actions (NAPAs), and the formulation of National Adaptation Plans (NAPs). Since 2011, LDCF has supported Nepal in nine projects related to disaster risk reduction, ecosystem restoration, developing climate-resilient livelihoods, among others, by providing funding worth US$32.1 million.[43]

Upon graduation, Nepal will not receive new funding support from LDCF but will be eligible to access other financing sources of UNFCCC, such as the Global Environment Facility (GEF) Trust Fund, the Special Climate Change Fund, the Adaptation Fund, and the Green Climate Fund (GCF). But Nepal will be excluded from the priority group for the GCF.

United Nations Capital Development Fund is another UN agency dedicated to LDCs. It provides access to microfinance and investment capital, and helps leverage capital flows from the private sector, governments and development partners. It offers "last mile" finance models that unlock public and private resources, especially at the domestic level, to reduce poverty and support local economic development. After graduation, programmes can continue to be funded by the United Nations Capital Development Fund, under the same conditions, for three years. Assuming continued development progress, funding for another two years can be provided on a fifty-fifty cost-sharing basis with either the government or a third party. UNCDF could play an important role for the Nepali private sector as Nepal will try to cash in on its non-LDC status and present itself as a viable foreign direct investment

[43] Information available at https://www.thegef.org/projects-operations/country-profiles/nepal

destination. The LDC Investment Platform could be used by private enterprises to get connected to investors.

International Fund for Agricultural Development (IFAD)

IFAD, a specialized United Nations agency and international financial institution dedicated to eradicating poverty and hunger in rural areas of developing countries, is an important multilateral development partner for Nepal. IFAD is the sixteenth largest development partner for Nepal and the fifth largest multilateral funding agency in Nepal. Between 2014/15 and 2020/21, Nepal received US$9.6 million annually on an average. Although IFAD considers per capita income as a key determinant of financing terms, it has integrated the Istanbul Programme of Action for the LDCs in its work to strengthen its engagement with LDCs. At present, Nepal is receiving IFAD support under the highly concessional category. The recipients under these categories receive interest-free loans with a maturity period of 40 years.[44] According to IFAD's lending criteria, the income cut-off (calculated based on the World Bank's Atlas method) was fixed at US$1,205 for 2022.[45] In addition to the income criterion, IFAD considers the credit worthiness of the recipient country based on the Debt Sustainability Framework model of the World Bank. Low-income countries with low debt sustainability receive assistance on 100 percent grant terms. In 2020/21, more than 92 percent of IFAD's support to Nepal was in the form of grants.

Graduation from the LDC status is unlikely to have a direct impact on IFAD's engagement with Nepal. However, rising income levels could have an impact as Nepal could be moved from the highly concessional category to blend or ordinary categories (it is worth noting, though, that loans under blend and ordinary terms are also highly concessional[46]).

4.2.3 Other mechanisms

Enhanced Integrated Framework

Besides the impact on the on-budget support from the multilateral agencies, technical assistance may also be affected. The most significant one could be the loss of support from the Enhanced Integrated Framework (EIF) under the WTO. Although EIF has support programmes to help graduated and graduating countries, Nepal could experience some resource crunch in the area of aid for trade. In Nepal, the EIF has supported foundational trade analytical work through, inter alia, the Diagnostic Trade Integration Study (Nepal Trade Integration Strategy – NTIS); trade institutional capacity-building projects; productive capacity-building interventions in priority sectors including ginger, medicinal and aromatic plants, pashmina and tea; and an eTrade Readiness Assessment.

EIF supports graduating LDCs for five years from graduation. However, the current phase of EIF expires in 2024. Thus post-graduation support will depend on the extension of the EIF's mandate. EIF's support to Nepal is limited in terms of financial resources. It is expected to

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[44] https://www.ifad.org/documents/38714170/39886304/IFAD%27s+engagement+in+least+developed+countries.pdf/bdc4a52a-c2d6-494d-a93c-e90e0fbb3918?t=1517327043000 (accessed 01.04.2022).

[45] https://www.ifad.org/documents/38711624/44744625/fy22_wca.pdf/ae6a3604-8a95-d304-09f4-ebfc91fd8e6a?t=1642667290679 (accessed 01.04.2022).

[46] https://www.ifad.org/en/financial-products-and-terms (accessed 01.04.2022).

disburse assistance worth NPR 56 million in FY 2021/22, as per GoN estimates (Ministry of Finance, Government of Nepal, 2021a). However, with graduation in sight, the EIF has placed increased focus on consolidating Nepal's trade development gains over the past years through a sustainability focused project. The Sustainability Support Project (SSP) is complementing, through a focus on the trade sector, the overall transition strategy being prepared by the National Planning Commission (NPC).

Technology Bank for LDCs

The Technology Bank for LDCs was established in 2018 to help LDCs build science, technology and innovation capacity, according to the plan envisaged in the Istanbul Programme of Action for 2011-2021. Currently, the Technology Bank conducts baseline science, technology and innovation reviews and technology needs assessments of LDCs, in collaboration with UNCTAD, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and other organizations; works to stimulate the production of high-quality research in LDCs through capacity development and international research collaboration; and works to strengthen the capacity of academies of science in LDCs, in partnership with regional networks of academies, regional commissions and regional development banks.[47] Nepal will continue to have access to the Technology Bank for five years after graduation. Nepal has not collaborated or participated in any projects at the Technology so far.

Support for participation in international forums

LDCs are provided support for their participation in international forums (Box 4.1). Upon graduation, Nepal will lose this support.

Box 4.1: Support for participation in international forums

Losing LDC status will mean that Nepal will no longer be eligible to access the support measures that help LDCs participate in international decision-making forums.

Mandatory budget contributions for LDCs are lower than for non-LDCs, agencies provide support for travel to LDC government and non-government delegations, and LDC negotiators are provided training. Likewise, LDCs are offered flexibility in reporting requirements under international agreements.

Several United Nations organizations and Conventions have also established financial mechanisms to fund the participation of LDCs in their processes. For example:

• A specific trust fund has been established in UN-OHRLLS for the travel, daily subsistence allowance and terminal expenses of up to two representatives from each LDC to attend major conferences sponsored by the United Nations and ministerial meetings;
• A trust fund established under UNFCCC funds the travel of two delegates to the sessions of the subsidiary bodies of the Convention and the travel of three representatives for participation in sessions of the Conference of the Parties;
• WHO funds the travel of one representative to the World Health Assembly and the sessions of the Executive Board;

[47] Information available at https://www.un.org/ldcportal/content/technology-bank-ldcs-0

• The United Nations Office on Drugs and Crime funds the travel of one representative to the United Nations Congress on Crime Prevention and Criminal Justice (every 5 years) and to the Conference of the States Parties to the United Nations Convention Against Corruption;
• UNIDO funds the travel of the Minister of Industry and Commerce (or equivalent) to the biennial Ministerial Conference of the Least Developed Countries, and provides other forms of travel support;
• LDCs receive travel support to attend the Ministerial Conferences of WTO.
In addition, different multilateral organizations support LDCs by providing training to participate in negotiations at the multilateral forums. For example:
• The United Nations Institute for Training and Research has fellowships for nationals of LDCs to participate in its Multilateral Diplomacy Programme and core diplomatic training courses;
• The WTO secretariat conducts dedicated courses for LDC participants in Geneva, including a three-week introductory trade policy course for LDCs as well as a one-week intermediate course on priority issues for LDCs in WTO. The courses are aimed at strengthening the human and institutional capacities of LDCs to enhance their participation in the multilateral trading system.
• The Advisory Centre for WTO Law provides services to LDCs without requiring them to become members;
• The Voluntary Technical Assistance Trust Fund to Support the Participation of Least Developed Countries and Small Island Developing States in the Work of the Human Rights Council provides training on human rights and engagement with the Council, among other;
• The Least Developed Countries Fund has funded programmes to build the capacity of LDCs to participate effectively in climate change processes, including the training of senior government officials, and the development of negotiation strategies and knowledge products.

Excerpted from UNDCP (2021).

5. Flexibility in the application of trade rules, and policy space issues

Nepal acceded to the World Trade Organization (WTO) in 2004. There are special and differential treatment (S&D) provisions in WTO Agreements and Decisions in favour of developing country and LDC members. The S&D provisions can be classified into five categories[48]:

a. Provisions aimed at increasing the trade opportunities of developing country members and LDCs;

b. Provisions under which WTO members should safeguard the interests of developing country members and LDCs;

c. Flexibility of commitments, of action, and use of policy instruments;

d. Transitional time-periods; and

e. Technical assistance.

LDC members benefit from all the S&D provisions applicable to developing country members. There are also LDC-specific provisions. Some 25 of the 155 S&D provisions in WTO Agreements relate specifically to LDCs.[49] There are also another 31 LDC-specific provisions in WTO Decisions (e.g., Ministerial, General Council Decisions).[50] While the provisions that are LDC-specific will be not be applicable to LDC graduates under existing rules, LDC graduates, as long as they remain developing countries, can continue to enjoy all the other S&D provisions. The LDC Group, in a proposal submitted in November 2020, called for an extension of all LDC-specific provisions, exemptions and support measures for a period of 12 years after graduation.[51] In another proposal, made in October 2021, the LDC Group called for an extension of LDC-specific trade preferences by six to nine years after graduation, besides calling on the Sub-Committee for Least-Developed Countries to prepare a package of support measures for graduated LDCs.[52]

Provisions aimed at increasing trade opportunities and provisions related to technical assistance are discussed in sections 3 and 4. This section discusses S&D provisions of types b, c and d listed above. It focuses particularly on policy space with regard to the use of subsidies, tariffs, and trade-related investment measures; protection of intellectual property; and flexibility and special treatment in trade negotiations. We weave into the analysis Nepal's policy stance, and specific examples of existing policy measures. Whenever relevant, we also refer to provisions and commitments under bilateral and regional trade agreements.

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[48] Special and differential treatment provisions in WTO agreements and decisions, Note by the Secretariat, 12 October 2018, WT/COMTD/W/239.
[49] Special and differential treatment provisions in WTO agreements and decisions, Note by the Secretariat, 12 October 2018, WT/COMTD/W/239.
[50] As compiled in WTO (2020a).
[51] Trade related challenges of the least developed countries and way forward: A draft for MC decision, 17 November 2020, WT/GC/W/807.
[52] A smooth transition package in favour of members graduating from the LDC category, 18 October 2021, WT/GC/W/829.

By way of analytical framework, the implications of LDC graduation for Nepal's policy space can be viewed through three lenses (Kharel, 2022):

> First, the loss of flexibilities enjoyed as an LDC in implementing policies related to trade and industrial development. Second, the inability to continue with policies that run afoul of WTO rules or are potentially challengeable at the WTO because Nepal's policies are likely to come under greater scrutiny at the global trade body upon graduation. Third, the pressure to liberalize trade further at the WTO and regional forums following graduation could further reduce policy space to protect domestic industry as well as cause loss of revenues needed to fund public sector investments in infrastructure and building other productive capacities.

Table A9.1 in Annex 9 provides a gist of select S&D provisions in WTO agreements and decisions, along with the implications of graduation for Nepal in its access to and use of these provisions.

5.1 Subsidies

This subsection briefly discusses how the WTO defines subsidies, presents Nepal's subsidy regime (separated into export subsidies and domestic subsidies) and analyses the possible implications of graduation for the provision of export and domestic subsidies.

5.1.1 Subsidies as defined at the WTO

Subsidies are, in the main, covered by two WTO Agreements: the Agreement on Subsidies and Countervailing Measures (ASCM) and the Agreement on Agriculture (AoA). While the AoA covers agricultural products, the ASCM, in general, covers non-agricultural products.

The ASCM holds that a subsidy is deemed to exist if (i) a financial contribution or income or price support is provided by a government, and (ii) a benefit is conferred. Such a subsidy is subject to the ASCM if it is "specific", that is, if access to the subsidy is limited to certain enterprises. There are two categories of specific subsidies: prohibited and actionable. Under prohibited subsidies fall export subsidies and local content or import substitution subsidies. Export subsidies are subsidies that are contingent on exporting. Local content subsidies are subsidies that are contingent on the use of domestic over imported goods. Subsidies that are not prohibited are actionable subsidies: countries can provide actionable subsidies but such subsidies could be subject to remedial action by trading partners if they are demonstrated to cause adverse trade effects as defined in the Agreement.

The AoA defines agricultural products as those under Harmonized System (HS) Chapters 1-24 less fish and fish products plus a handful of other products (e.g., hides and skins, raw furskins, wool and animal hair, etc.).[53] It refers to domestic support measures in favour of agricultural producers (which are subsidies in the context of the present paper), and export subsidies (defined as subsidies contingent upon exports). Domestic support (or subsidies) can be grouped under amber, green and blue boxes. Amber box subsidies are trade-distorting subsidies. Green box subsidies are those that are divorced from production decisions and hence deemed non-trade-distorting. Blue box subsidies are those contingent

[53] See Annex 1 of AoA, https://www.wto.org/english/docs_e/legal_e/14-ag_02_e.htm#annI

upon limitations in production. Domestic support reduction commitments are expressed in terms of what is called an aggregate measure of support (AMS), which only includes amber box subsidies.

The General Agreement on Trade in Services (GATS) does not have specific disciplines on subsidies. Article XV of the GATS deals with subsidies, but is essentially a negotiating mandate rather than rules on subsidies.

Whether Nepal, as a WTO member, can provide subsidies (including domestic support for agriculture) and, if it can, in what amounts and under what conditions are dependent on rules under the ASCM, the AoA and WTO Decisions, as well as its specific commitments made during its accession to the WTO. There are S&DT provisions for developing countries and LDCs. In some cases, Nepal's accession commitments override the S&DT flexibilities. In the rest of this section, we examine Nepal's subsidy regime, split into export subsidies and domestic support/subsidies, and analyse the possible implications of LDC graduation for the country's subsidy-related policy space.

5.1.2 Nepal's subsidy regime and implications of graduation

5.1.2.1 Export subsidies

Nepal's export subsidy regime

Nepal's Industrial Policy 2011 leaves open the space for the government to provide additional facilities and concessions to export-oriented industries and firms, including those established in special economic zones. The Industrial Enterprise Act 2020 provides a discount on income tax to export incomes. The 15th Plan (2019/20–2023/24) has a working policy related to exports that offers concessions and incentives to exporters based on value addition. The Commerce Policy 2015 has a policy providing for concessions and incentives to producers and exporters of priority export-oriented goods. The National Trade Deficit Minimization Action Plan 2019 calls for a study on the existing cash subsidy scheme for exporters and continued inclusion of the scheme in each year's budget. Income tax discounts on export income, provided for in the Industrial Enterprise Act 2020, and export-contingent incentives and facilities provided to exporters located in special economic zones, provided for in the SEZ Act 2016 (Amended in 2019), are also export subsidies.

Through its cash subsidy scheme for exports administered by the Ministry of Industry, Commerce and Supplies, GoN provides export subsidies on select products, agricultural and non-agricultural. The subsidies amount to 3 percent or 5 of the value of exports, depending on the group of products and subject to a domestic value addition criterion (Table 5.1).

Table 5.1: Products under Nepal's export cash subsidy scheme

Products that qualify for 5% export subsidy (at least 50 percent domestic value addition)	Products that qualify for 3% export subsidy (at least 30 percent domestic value addition)
Processed tea	Domestically produced textiles
Processed coffee	Readymade garments
Handicraft and wooden craft	Carpet and woollen products
Processed hides and skins (crust leather) and leather products	'Chyangra' pashmina and products thereof
Hand-made paper and products thereof	Domestically processed jute and jute products
Processed herbs and essential oils	Gold and silver Jewellery
Worked/processed precious or semi-precious stones and jewellery thereof	Domestically produced semi-processed hides and skins
Allo (Himalayan nettle) products	Pharmaceuticals
Processed drinking water/mineral water	Felt (woolen) products
Processed turmeric	Polyester yarn/ fiber; viscous yarn/acrylic yarn/cotton yarn
Vegetables	Copper products (handicraft products, decoration products, and other utensils)
Flowers	Footwear*
Processed honey	
Processed cardamoms	
Processed ginger (including dried, sliding, oil, and powder)	

Note: Added through the first amendment.
Source: Working Procedure on Export Subsidy, 2019

Export cash subsidies under this scheme have been distributed since 2012. A major revision to the scheme was made in 2018. A total of NPR 2.54 billion has been distributed as export cash subsidies since 2011/12 (NPC, 2021). In 2018/19, 332 exporters got cash incentives amounting to NPR 363.9 million. In 2019/20, 372 exporters got NPR 844.85 million. In the first nine months of 2020/21, 431 exporters received NPR 983.7 million. Although the amount distributed has increased in the last three years, the amount allocated is less than the amount claimed. The claims for cash export cash incentive by 361 exporters could not be processed due to lack of funds, in the first nine months of 2020/21 (ibid.). The Department of Industry estimated that an additional NPR 300 million was needed to meet claims for the rest of 2020/21 (ibid.).

In the five years to 2020, goods listed as eligible for export cash subsidy in Annex 1 of the Working Procedure for the Provision of Export Subsidies (First Amendment), 2018, which are mostly agricultural goods (listed in Column 1 in Table 5.1 of this paper), accounted for 12 percent of Nepal's merchandise exports (NPC, 2021). Goods listed as eligible in Annex 2, which are mostly manufactured goods (listed in Column 2 of Table 5.1 of this paper), had a 37 percent share (ibid.).

The findings, arguments and recommendations made in a study on export cash subsidy commissioned by the National Planning Commission (NPC, 2021) indicate a strong likelihood of the continuation of the subsidy programme. The study recommends making it possible for small farmers who export their agricultural produce directly to also receive cash subsidy. It also recommends adding more agriculture products, such as dog chew and ameriso, in the list of eligible products. Simplification of the procedures for claiming and receiving the subsidy is also suggested, which if implemented is likely to increase total subsidy disbursement. The study recommends granting a sufficient amount of subsidies to products produced with raw materials entirely sourced within Nepal in order to make them competitive at least vis-à-vis products from other SAARC member states. It argues that the export subsidy scheme should be continued in view of the high cost of production in Nepal due to its landlocked geography, difficult in-country terrain and high labour cost, among other factors. The private sector also shares this view[54], and wants an even higher rate of export subsidy, of up to 15 percent.[55] The basic rationale for an export subsidy should be helping exporters with the fixed cost of exporting (mainly discovering new markets)—market intelligence, marketing, finding distribution channels, etc.—in the presence of an imperfect capital market. In that case, an export subsidy programme would have a sunset clause. However, the private sector and the study published by NPC see export subsidies as a mean to offset, in full or part, the high cost of production in Nepal and high trade costs faced by importers and exporters in the country. [56] In that case, export subsidies could be needed forever. Exporters worry that withdrawal of export subsidies—even if the current envelope is not big and there are procedural difficulties in receiving the subsidies—would hurt the competitiveness of Nepal's exports.

The NPC study sees a positive impact of export cash subsidies on the exports of processed herbs, processed tea and processed cardamom—Annex 1 products—and argues that the subsidy scheme has enthused and incentivized exporters. The study is silent on the method used to establish a link between subsidy distribution and export performance. In contrast, a World Bank study shows export subsidy did not result in increased export values and quantities by firms receiving export subsidies (Defever et al., 2017). Flaws in the design and the implementation of the export subsidy scheme may be detracting from its effectiveness:

[54] Discussions with the private sector.
[55] See "Obstructions to Nepal tea exports" [in Nepali], *Karobar* daily, 14.02.2022, https://www.karobardaily.com/news/174491; "12 percent subsidy on exports demanded", *Karobar* daily, 15.02.2022, https://www.karobardaily.com/news/174658
[56] Discussion with the private sector (Export Promotion Committee, Federation of Nepalese Chambers of Commerce and Industry (FNCCI)).

for example, a limited fund; disbursement on a first-come-first-served basis; the absence of extra incentives for incremental exports; high fixed costs of filing; lack of knowledge among exporters (Pazzini, Reyes, and Varela, 2016; Narain and Varela, 2017; Defever et al., 2017; Kharel and Dahal, 2021).

There is another smaller, and lesser known, export subsidy scheme, which supports organic agricultural products and is administered by the Ministry of Agriculture and Livestock Development (MoALD). Carrying an annual purse of NPR 2 million since 2018/19[57], this scheme provides subsidies on organic certification fees to exporters of organic agricultural products. A working procedure for the scheme dated 13 January 2022 states that a subsidy of up to 50 percent on organic certification fees shall be given to exporters of agricultural products in proportion to the value of exports.[58] Agricultural products have been defined as covering vegetables, fruits, potatoes, spice crops, food grains, pulses, oilseeds, honey, mushroom and local crops. The stated objectives of the scheme are: (i) to help the promotion of organic farming; (ii) to support certification of organic agricultural produce; and (iii) to encourage exportation of organic agricultural produce. Although the stated objectives imply that the subsidy under the scheme is not necessarily contingent on exports, other provisions in the working procedure are explicit that only exporters are eligible for the subsidy and exporters have to provide proof of exports to obtain the subsidy, in line with the title of the working procedure. These provisions alone make the subsidy contingent upon exports, even if the subsidy was not to be granted in proportion to export value, which it is.

Implications of graduation for agricultural export subsidies

Some of the products defined as agricultural by the WTO's AoA are considered to be manufactured products by the Industrial Policy, and firms producing some of these are surveyed in the census of manufacturing establishments. For example, fruit juice is an agricultural product under WTO rules, whereas it is considered a manufactured product by the Industrial Policy, the census of manufacturing establishments, the census of economic establishments and the national accounts. Policymakers in general are unware of the coverage of agriculture under WTO rules.[59] Understanding the WTO's definition of agriculture is important because Nepal bound export subsidies in agriculture at zero when acceding to the WTO.[60] Hence, the flexibility provided by the WTO to LDCs and net food-importing countries (NFIDs) to provide certain export subsidies (i.e., to reduce the cost of marketing exports, costs of international transport and freight, and internal transport and freight charges) until 2030 instead of 2023 for other developing countries[61] is not applicable to Nepal. Nepal's export subsidies could come under greater scrutiny after graduation. Nepal must explore other options to support its agriculture export sector. Export subsidies provided to agricultural products (see Table 5.1) could be questioned especially if the subsidy amount increases, and so do exports, and producers in other WTO members are

[57] Based on information provided by MoALD.
[58] MoALD, Working procedure for the provision of subsidy on certification fees for organic agricultural production for exports, approved on 13 January 2022.
[59] Based on discussions and interactions with policymakers.
[60] Working Party on the Accession of Nepal - Report of the Working Party on the Accession of the Kingdom of Nepal - WT/ACC/NPL/16.
[61] Export Competition, Ministerial Decision, 19 December 2015, WT/MIN(15)/45-WT/L/980.

hurt. The funds available for, and distributed under, the export cash incentive scheme have been low relative to potentially eligible exports since its inception in 2012. The WTO's Trade Policy Review report on Nepal in 2018 says the impact of the export subsidies (including both agricultural and non-agricultural), given their small amount, is "insignificant" (WTO, 2018).

There is a flexibility in the application of rules concerning export financing support in agriculture. Importing LDCs and net food-importing developing countries enjoy special and differential treatment with regard to maximum repayment terms for export financing support. They are allowed a longer repayment term for the acquisition of basic foodstuffs, with the maximum repayment term extended from 18 months for developing countries to 36-54 months.[62] Nepal's accession commitment to zero export subsidy in agriculture does not preclude it from enjoying this particular provision. However, it has not utilized this flexibility. Upon graduation it will lose access to this provision unless it requests the WTO Secretariat for its inclusion in the list of net food-importing countries.

Nepal is required to notify the WTO annually about its agricultural export subsidies. However, it notified only in August 2020, after a hiatus of eight years. Upon graduation from the LDC group, such a hiatus could attract attention. In the 2020 notifications[63], covering fiscal years 2012/13 through 2018/19, Nepal stated that export subsidies were not granted to agricultural products. MoALD does not report the cash subsidy scheme for exports, administered by the Ministry of Industry, Commerce and Supplies, when notifying the WTO because the scheme is not under its jurisdiction.[64]

Implications of graduation for non-agricultural export subsidies

In the case of non-agricultural products, WTO members in general cannot provide export subsidies. However, LDCs and developing countries with a per capita income below a threshold are exempted from disciplines on prohibited export subsidies. Under the Agreement on Subsidies and Countervailing Measures (ASCM), export subsidies on non-agricultural products are allowed to be provided by LDCs and countries with a per capita GNI less than US$1,000 (constant 1990 dollars). The latter countries are listed in Annex VII (b) of the ASCM. These Annex VIII (b) countries will not be able to provide export subsidies when their GNI per capita crosses US$1,000 for three consecutive years. It is not automatic that graduated LDCs with a per capita income below this threshold will still be able to provide export subsidies (Coppens, 2013). Indeed, the LDC Group in April 2018 submitted a proposal to allow graduated LDCs with a GNI per capita below the threshold to remain eligible to grant non-agricultural export subsidies under Article 27.2(a) and Annex VII(b) of the ASCM.[65] The LDC Group, in a ministerial declaration for the 12th WTO Ministerial Conference 2021,

[62] Export Competition, Ministerial Decision, 19 December 2015, WT/MIN(15)/45-WT/L/980.
[63] G/AG/N/NPL/5, G/AG/N/NPL/6, G/AG/N/NPL/7, G/AG/N/NPL/8, G/AG/N/NPL/9, G/AG/N/NPL/10, G/AG/N/NPL/11.
[64] Based on discussions with MoALD officials.
[65] Communication from the Mission of the Central African Republic on behalf of the LDC Group, 19 April 2018, WT/GC/W/742 — G/C/W/752.

reiterated the need for an outcome on that proposal.[66] This proposal is of great interest to Nepal because its per capita GNI (in constant 1990 US dollars) is well below the threshold, standing at US$443 in 2019 and lower than that in the preceding two years.[67]

LDCs and other developing country members listed in Annex VII of ASCM will have to phase out export subsidies for products over a period of eight years when such products have reached export competitiveness, defined as the member's share in world trade of that product being at least 3.25 percent for two consecutive years. Neither has Nepal self-notified having reached export competitiveness in any product, nor has the WTO Secretariat been requested to perform an export competition computation on Nepal (WTO, 2020a). Trade data do not indicate that Nepal has crossed the 3.25 percent threshold for export subsidy-receiving products, with the possible exception of cardamom.[68] In any case, cardamom is an agriculture product and subsidies on it attract Nepal's commitment under the Agreement on Agriculture.

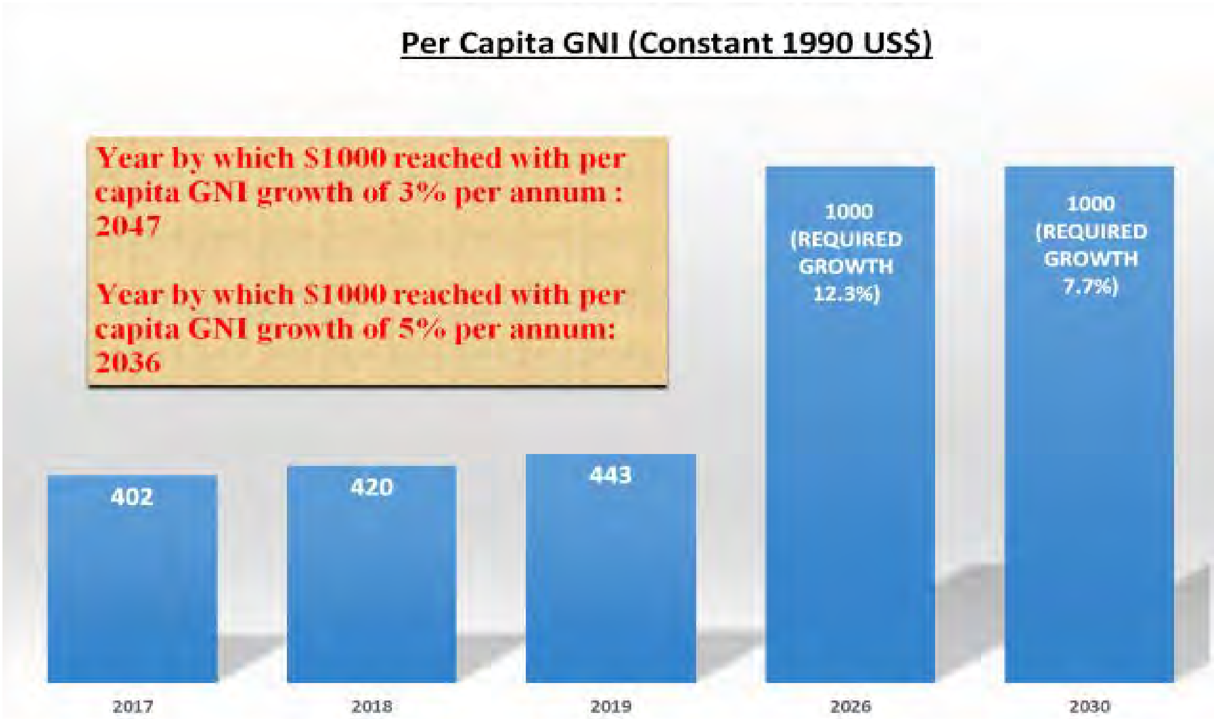
How many years are left before Nepal crosses the (constant 1990) 1,000-dollar GNI per capita mark and thus cannot provide non-agricultural export subsidies when it is no longer an LDC? At a real per capita GNI growth rate of 3 percent per annum from the year 2020, the threshold will be crossed for the first time in 2047 (Figure 5.1). At a higher growth rate of 5 percent, the threshold will be exceeded for the first time in 2036. If income does not fall below US$1,000 (constant 1990 dollars) in the subsequent two years, Nepal will not be eligible to provide non-agricultural export subsidies from 2050 onwards under a 3 percent growth rate and from 2039 onwards under a 5 percent growth rate. Another way to look at it is to fix the year when the threshold is crossed for the first time and then determine the real per capita GNI growth rate required to achieve that. If the year is 2026, the required growth rate is a whopping 12.3 percent; if the year is 2030, the required growth rate is 7.7 percent (Figure 5.1).

[66] LDC Ministerial Declaration for the Twelfth WTO Ministerial Conference 2021, 27 October 2021, WT/MIN(21)/2.

[67] See GDP per capita calculations for all WTO members using the methodology in G/SCM/38, Note by the Secretariat, G/SCM/W/585.

[68] Export share is to be computed at the section or heading level under the Harmonized System (HS) classification. However, as Coppens (2013) notes, the text of Article 27.6 is ambiguous as to whether products should be defined at the section level or at the heading level. At the heading level, the share of Nepal's exports of products corresponding to HS0908 (nutmeg, mace and cardamom) in total world exports (or imports) was greater than 3.25 percent during the years 2015-2019, recording a value of 3.6 percent (world exports as denominator) or 4.3 percent (world imports as denominator) in 2019 (trademap.org, accessed 18.01.22). At the section level, which is much broader than the heading level, the share is negligible.

Figure 5.1: Growth scenarios for crossing income threshold on non-agricultural export subsidies



Source: Authors' calculations. GNI per capita data for 2017-2019 from WTO Secretariat (G/SCM/W/585).

Once Nepal crosses the per capita GNI $1,000 (1990 constant dollars) threshold and ceases to be eligible to provide non-agricultural export subsidies, it will still have flexibilities under the ASCM as a developing country to provide non-agricultural domestic subsidies, such as non-specific subsidies, if done tactfully.

5.1.2.2 Domestic support/subsidies

Nepal's domestic support/subsidy regime

Nepal's domestic subsidies are concentrated in the agricultural sector. There is no single source of information on Nepal's domestic support programme for agriculture. We attempt to glean the value of such domestic support from multiple sources—for example, the Auditor General's report, data on the central bank-administered concessional loan scheme, and Nepal's notifications to the WTO.

As per the Auditor General's report for fiscal year 2019/20, agriculture subsidies are given to purchase fertilizer, to produce and purchase high-yielding seeds, and for fishery development, protection and development of crops, agricultural mechanization, food security, crop and livestock insurance, vegetable farming, and construction of ponds for fisheries (OAG, 2021). The disbursed subsidies amounted to NPR 13.61 billion in 2019/20, out of which 77.34 percent were fertilizer subsidies (ibid.).

The central bank, the Nepal Rastra Bank (NRB), implements a concessional loan scheme which has evolved over time, covering agriculture and other sectors and areas. Currently, the scheme features, *inter alia*, an interest rate subsidy of 5 percentage points on loans to commercial agriculture and livestock farming of up to NPR 50 million and 2 percentage points on loans exceeding NPR 50 million.[69] As of mid-November 2021, subsidized loans approved for agriculture amounted to NPR 152.9 billion, accounting for 64.3 percent of the total amount of subsidized loans approved.[70] At NPR 130.23 billion, the outstanding subsidized loans to agriculture made up 63.5 percent of the total amount of outstanding subsidized loans. NRB reports that interest rate subsidy payments during a period of nearly three years till mid-November 2021 total NPR 9.7 billion. If we assume interest rate subsidy payments in agriculture have the same share in total subsidy payments as the share of agriculture in total subsidized loans, interest rate subsidies for agriculture would amount to about NPR 6.2 billion during the same period.

Implications of graduation for domestic support/subsidies in agriculture

In the agriculture sector, as per its commitments made while acceding to the WTO, and which are not tied to LDC status, Nepal is allowed to provide product-specific Amber Box domestic support of up to 10 percent of the value of production, and non-product-specific Amber Box domestic support of up to 10 percent of the value of agricultural GDP.[71] These are *de minimis* supports, are allowed to be trade-distorting and are not subject to any reduction requirements. Even if we assume that all of the subsidies in agriculture discussed earlier are trade-distorting support (Amber Box support), there is still considerable room to increase non-export-oriented agricultural subsidies, if need be, up to the *de minimis* level. The total value of agriculture subsidies stated in the Auditor's General's report for 2019/20 plus the interest rate subsidies on agricultural loans amount to just under 2 percent of agricultural GDP.[72] In value terms, domestic subsidies in agriculture are mostly horizontal (non-product specific).

Nepal has not been regular in notifying the WTO of its domestic support (and also export subsidies) in agriculture. After notifying in 2012, instead of notifying biennially as required, it was only in 2020 that Nepal made the next notification. It issued three notifications on domestic support in August 2020, one each for the fiscal years 2012/13, 2014/15 and 2018/19. In these three notifications[73], Nepal has stated that there is a positive amount of support under "green box" and "development programmes" only—which are deemed non-trade distorting—and that the "aggregate measurement of support", that is, trade-distorting

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[69] Nepal Rastra Bank, Integrated work procedure on interest rate subsidy on concessional loans, 2075 (Including third amendment).

[70] https://www.nrb.org.np/contents/uploads/2021/12/Interest-subsidized-loan-to-be-published-Kartik-1.pdf

[71] Working Party on the Accession of Nepal - Report of the Working Party on the Accession of the Kingdom of Nepal - WT/ACC/NPL/16.

[72] Authors' calculation using nominal agricultural GDP for 2019/20 from NRB's Current Macroeconomic and Financial Situation database. The agriculture sector in the national accounts does not match the agriculture sector as defined by the WTO, but the key argument that there is considerable room to increase domestic agricultural subsidies holds.

[73] G/AG/N/NPL/12, G/AG/N/NPL/13, G/AG/N/NPL/14.

support, is zero (Table 5.2). The entire fertilizer subsidy programme has been listed as "development programmes" support. Nepal's submissions pertain to domestic support provided by the central government, and does not take account of various support programmes under province and local governments, a challenge acknowledged by the Ministry of Agriculture and Livestock Development (MoALD).[74] The Ministry is not sure about how to report product-specific subsidies, such as the year 2019/20 allocation of NPR 12.1 million to provide cash incentives to cooperatives at the rate of NPR 112 per quintal for buying paddy from farmers at the minimum support price.[75]

The Ministry is attempting to develop the required capacity to compile comprehensive and reliable data on domestic support in a format stipulated by the WTO in a timely manner, and would benefit from capacity building support in this regard.[76] Upon graduation, the frequency of notifications of domestic support in agriculture will increase, from biennially to annually.

Table 5.2: Domestic support and export subsidies in agriculture (NPR billion), as per Nepal's WTO notifications

	2012/13	2014/15	2018/19
Total aggregate measure of support	0	0	0
Green box support	6.56	12.70	11.19
Development programmes	4.93	5.45	8.38
Export subsidies*	0	0	0

Note: * export subsidies have been notified as zero for years 2012/13 through 2018/19.
Source: Nepal's notifications to the WTO; see text for details.

In gist, LDC graduation *per se* will not impact the policy space for the provision of domestic support in agriculture. Moreover, Nepal will be able to provide, without any limit, domestic support and measures that are not linked to production decisions and are not trade distorting (Green Box support), and developmental measures (assistance, whether direct or indirect, designed to encourage agricultural and rural development and that are an integral part of the development programmes of developing countries).[77]

[74] Based on discussions with MoALD officials.
[75] Based on discussions with MoALD officials.
[76] Based on data provided by MoALD, and discussions with MoALD officials.
[77] See https://www.wto.org/english/tratop_e/agric_e/ag_intro03_domestic_e.htm for a description of different types of agricultural subsidies.

Implications of graduation for local content subsidies in non-agriculture sector

Nepal cannot provide import-substitution or local content subsidies (subsidies that are contingent on the use of domestic goods over imported goods) in the non-agriculture sector, even as an LDC. The transition period for the implementation of the prohibition of domestic content subsidies under ASCM expired on 1 January 2003. In any case, Nepal had committed when acceding to the WTO to administer its subsidy programmes in full conformity with ASCM. The differential rates of excise duty on domestically produced billet and imported billet, and on completely knocked down motorcycles (assembled in Nepal from imported parts) and imported motorcycles that the government introduced in the budget statement (the replacement budget) for fiscal year 2021/22 can be deemed import-substitution subsidies, which are prohibited under WTO rules. The WTO, in its trade policy review of Nepal in 2018, had noted that in fiscal year 2018/19, excise duties on domestically produced wine and cider were lower than those for imported products (WTO, 2018). These measures are also against the principle of national treatment. Upon graduation from the LDC group, such subsidies could come under the scanner more prominently. GoN has to think through the types and amounts of subsidies that it wants to continue providing or introduce to realize import-substitution objectives and targets, as they are likely to come under increased scrutiny by trade partners.

5.2 Trade-related investment measures and non-tariff measures

Successive governments in Nepal have been keen to substitute imports alongside promoting exports. GoN has targets of self-sufficiency and self-reliance in several agriculture products—e.g., the 15th Plan; the National Trade Deficit Minimization Action Plan, 2019; annual budget speeches. The Department of Industry has commissioned and published a study (QEMS, 2021) on five goods in which the country is deemed self-reliant or having the potential to be self-reliant: tea, electrical cables and conductors, footwear, paint, GI sheet. The ever-widening trade deficit prompted GoN in 2019 to unveil a National Action Plan for Trade Deficit Minimization (GoN, 2019), which details both import substitution and export promotion actions.

A set of conditions stipulated by the Department of Industry for the setting up of motorcycle assembly includes domestic value addition of at least 10 percent in the first year and at least 30 percent by the end of the fifth year, and the use of at least 10 percent domestic material content within five years.[78] These conditions must be met by assembly plants in order to be eligible for a reduced excise duty on assembled motorcycles (with imported motorcycles paying the full excise duty). Nepal is not exempt from local content requirements under the Agreement on Trade-Related Investment Measures (TRIMS) of the WTO. At the time it acceded to the WTO, Nepal stated it did not have in place any measures that violated the TRIMS Agreement and committed not to introduce any such trade-related investment measures.[79] Prohibited measures, under the Agreement on TRIMS, include local content requirements, trade balancing requirements and requirement to export a certain percentage

[78] https://doind.gov.np/detail/111

[79] Working Party on the Accession of Nepal - Report of the Working Party on the Accession of the Kingdom of Nepal - WT/ACC/NPL/16.

of output. Annex F of the Hong Kong Ministerial Declaration of the WTO granted LDCs a new transition period to maintain existing TRIMs for seven years and introduce new measures for five years.[80] They were given until the end of 2020 to phase out all measures inconsistent with TRIMs Agreement. Nepal has not notified any measures inconsistent with TRIMs Agreement (WTO, 2020a). However, some of the measures announced by the government recently to promote industrialization could be deemed as such. One of them is the above-mentioned set of conditions that motorcycle assembly plants will have to meet. Graduation could invite increased scrutiny of such TRIMS Agreement-inconsistent measures.

The National Action Plan for Trade Deficit Minimization, 2019 sees sanitary and phytosanitary measures as a possible instrument to control imports. It seeks to "regulate, control and discourage import of goods that could adversely impact human health and *goods that need not be imported*" (emphasis added) (GoN, 2019). It also aims to "discourage, through customs duties, quality/standards-related regulations and other measures, the import of food products, vegetables and fruits whose demand can be met with domestic production" (ibid.). Under WTO rules, SPS measures cannot be used for protectionist purposes. Again, graduation could lead to closer scrutiny of such measures.

5.3 Special economic zones

Nepal is attempting to develop SEZs as a means of achieving industrialization and export growth. An SEZ Act came into force in 2016 and was amended in 2019. There are currently two SEZs: one at Bhairahawa and the other at Simara. In the 15th Plan, the government has a target of developing six more SEZs.

The SEZ Act 2016 (amended in 2019) provides a slew of concessions, incentives and facilities to firms located in an SEZ, and firms selling to firms located in SEZs. Only firms that export at least 60 percent of their output can be established in an SEZ and qualify for the concessions, incentives and facilities. A key concession is income tax discounts deeper than what are offered by the Industrial Enterprise Act to exporters in general (not necessarily located in an SEZ). These concessions, incentives and facilities, which are contingent upon exporting, could violate Nepal's commitment not to provide any export subsidies on agriculture, to the extent they are provided to firms for the exportation of agricultural products. However, the government can provide export-linked concessions, incentives and facilities to non-agricultural products produced in SEZs as long as Nepal's per capita GNI is less than US$1,000 (constant 1990 dollars), if an LDC Group proposal to grant the income-threshold-based eligibility to graduating LDCs is approved by the WTO (see subsection on export subsidies above).

A WTO Panel report of 2019 on a dispute involving India's export subsidies, including those provided to firms operating in SEZs, found most of the challenged measures of India to be inconsistent with WTO rules.[81] The report illustrates WTO's jurisprudence on export subsidies. However, certain subsidy-related measures applied to exporters may be

[80] Annex F (Special and Differential Treatment) of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC).
[81] See WTO's Panel Report on *India-Export Related Measures* (WT/DS541/R, circulated 31 October 2019), and Dhingra and Meyer (2021) for an analysis of the case and the report. See also UNCTAD (2019: 174).

permissible under the Agreement on Subsidies and Countervailing Measures even when Nepal's GNI per capita exceeds US$1,000 (constant 1990 dollars). For example, exemption or remission of duties or taxes on inputs that are consumed in the production of the exported product—currently in place in Nepal, through the Industrial Enterprise Act, the Fiscal Act and the SEZ Act—is permissible.[82]

5.4 Border charges: Protection and revenue

Import duties are an important source of government revenue and a tool for protecting domestic industry. Graduation from the LDC group could raise pressure on Nepal to reduce/eliminate tariffs and other border charges.

While Nepal's revenue-to-GDP ratio, at 21.5 percent in 2018/19 on the eve of the Covid-19 pandemic[83], is the highest in South Asia,[84] revenue is highly import dependent. Import-based revenue makes up about half of the total tax revenue[85], and tax revenue, in turn, accounts for some 90 percent of total revenue. Customs tariffs contribute about 19 percent to tax revenue, while import-based value added tax and excise duty contribute 27 percent.[86] Subnational governments rely heavily on transfers from the central government, and, by extension, on import-based taxes. Province governments generate 11 percent of total receipts (excluding cash surplus from the previous year) from internal revenue sources[87] while the figure for local governments is 9 percent.[88] Nearly half the revenue shared between federal and subnational governments in 2018/19 came from import-based VAT.[89]

As part of its WTO accession package, Nepal had to bind most of its tariffs, and had to reduce applied rates on a few products, notably motor vehicles, information technology products and some agricultural products. As an LDC Nepal has been exempt from making further tariff reduction commitments in the current round of multilateral trade negotiations—the Doha Round since 2001. It could be asked to make reduction commitments once it graduates from the LDC group even when the Doha Round is still under way. A proposal by the LDC Group, made in November 2020, calls for an extension of all LDC-specific provisions, exemptions and support measures for a period of 12 years after their graduation.[90] Not having to make any trade liberalization commitments can reasonably come under such an extension. However, in future rounds of trade negotiations, Nepal, when no longer an LDC, is likely to come under pressure to liberalize trade further. A proposal on smooth transition package for graduating LDCs made ahead of the 12th WTO Ministerial Conference 2021 does not

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[82] See Dhingra and Meyer (2021) for an analysis of the WTO's Panel Report on *India-Export Related Measures* (WT/DS541/R, circulated 31 October 2019). See also UNCTAD (2019: 174).
[83] Ministry of Finance, Economic Survey, 2020/21.
[84] South Asia data are from the World Bank's World Development Indicators.
[85] Calculations from GoN's Budget Speeches. Data are for 2018/19.
[86] Ibid.
[87] Average for 2018/19 and 2019/20 (calculated from Consolidated Financial Statement of the Financial Comptroller General Office, GoN).
[88] Calculated from data for 2018/19 in the Consolidated Financial Statement of the Financial Comptroller General Office, GoN for the year 2018/19.
[89] Calculated from Consolidated Financial Statement of the Financial Comptroller General Office, GoN
[90] Trade related challenges of the least developed countries and way forward: A draft for MC decision, 17 November 2020, WT/GC/W/807.

specify the period of time for the extension of all support measures except for trade preferences (for which an extension of six to nine years is sought), but calls on the Sub-Committee for Least-Developed Countries to prepare a package of support measures for graduated LDCs.[91]

When acceding to the WTO, Nepal had committed to reducing other duties and charges (para-tariffs) to zero by 2013.[92] Partly to protect agriculture and partly to raise revenue, Nepal levies an agriculture reform fee (ARF) of 5 percent or 9 percent[93] on primary agricultural products from India (and Tibet Autonomous Region of China) that are exempt from basic customs duty. Indian deems this fee a para-tariff. This is a recurring issue in bilateral trade talks. Although this issue is not related to LDC status, graduation could invite more pressure on Nepal to remove the agriculture reform fee.

There have been two rounds of tariff liberalization since the coming into force of the Agreement on South Asian Free Trade Area (SAFTA) in 2006. The Agreement requires the sensitive lists maintained by member states to be reviewed every four years or earlier as decided by the SAFTA Ministerial Council with a view to pruning the sensitive lists. In 2006, Nepal had the longest sensitive list, with 1,295 items for non-LDC members and 1,257 items for LDC members. Although pruned to 1,036 items for non-LDCs and 998 for LDCs in the second round (Kathuriya, 2018), Nepal's sensitive list is still the longest. Tariffs on products outside the sensitive list have to be slashed to 0-5 percent. There is no specific provision in the Agreement that allows LDC member states to have or continue to have longer sensitive lists. Yet consideration is given to LDC status during tariff negotiations. A principle, under Article 3 of the SAFTA Agreement, is that the special needs of LDCs "shall be clearly recognized by adopting concrete preferential measures in their favour on a non-reciprocal basis".

GoN's revenue advisory body, in its report presented to the government in 2021, expresses its concern about revenue loss arising from tariff liberalization, particularly that under SAFTA (NRAC, 2021). The SAFTA Agreement provided for a compensation mechanism to compensate LDC member states for their loss in revenue on account of tariff liberalization (Article 11 and Annex III). A formula for computing revenue loss and the procedures for compensation claim, assessment and release were included in the Agreement. Nepal was to receive compensation from non-LDC contracting states for four years, with the compensation amount in the first and second years capped at 1 percent of the basic customs duty collected on non-sensitive products imported from each non-LDC contracting state. The ceiling increased to 5 percent for the third year and fell to 3 percent in the fourth and final year. As the mechanism could not be enforced, Nepal did not receive any compensation.

[91] A smooth transition package in favour of members graduating from the LDC category, 18 October 2021, WT/GC/W/829.

[92] Working Party on the Accession of Nepal - Report of the Working Party on the Accession of the Kingdom of Nepal - WT/ACC/NPL/16; Working Party on the Accession of Nepal - Report of the Working Party on the Accession of the Kingdom of Nepal - Schedule CLVII - Nepal - Part I - WT/ACC/NPL/16/Add. 1.

[93] These are the rates levied in fiscal year 2021/22 (obtained from Integrated Customs Schedule, Department of Customs).

The government's revenue advisory body is also concerned about the adverse impact on domestic industry due to tariff liberalization. India is a major supplier of goods to Nepal outside the sensitive list, and is benefiting from tariff reductions under SAFTA for goods that have to pay higher customs duties when entering Nepal under the bilateral trade agreement. Upon graduation, Nepal could come under pressure to make deeper and wider tariff cuts under SAFTA. The 2021 report of GoN's revenue advisory body recommends that the government employ multiple rates of VAT and differential excise duty rates for imported and domestic goods (NRAC, 2021). Such measures would go against the principle of national treatment mandated at the WTO, SAFTA and the bilateral trade agreement with India. Such measures are more likely to be challenged when Nepal is no longer an LDC.

Nepal is also party to the Bay of Bengal Multisectoral Initiative for Technical and Economic Cooperation (BIMSTEC). A framework agreement on free trade area under BIMSTEC was signed in 2004. A free trade agreement (FTA) on trade in goods is under negotiation. It is in Nepal's interest to have a provision in the FTA that provides special consideration to LDCs in the depth, coverage and speed of tariff liberalization they have to undertake. It would also benefit from a provision along the lines of Article 12 of the SAFTA Agreement constituting a special provision for the Maldives anticipating its graduation from the LDC category. This would ensure that Nepal, or for that matter all current LDC member states of BIMSTEC, be eligible for a treatment no less favourable than that provided for the LDC member states under the FTA.

GoN's revenue advisory body calls for a review of the sensitive list under SAFTA, the negative list under the proposed BIMSTEC FTA, provisions under the Nepal-India trade agreement (e.g., reciprocal exemption of basic customs duties on primary products), and the bound tariff rates at the WTO (NRAC, 2021). GoN is not obliged to implement the recommendations of its revenue advisory body. Furthermore, some of the recommendations violate the core principle of national treatment or are extremely difficult to implement or are not necessary (such as raising bound tariff rates in Nepal's schedule of commitments at the WTO, despite the gap or "water" existing between the bound rates and the applied rates in most products). But since the body's leadership comprises former civil servants, including those who served in the Ministry of Finance, and the body until recently functioned under the wing of the Ministry of Finance before being elevated to a board from a committee, the analyses, concerns and recommendations in its report can offer a window on the thinking of the bureaucracy on revenue policy. Broadly, the concerns expressed over tariff liberalization could affect Nepal's possible pursuit of preferential and free trade agreements with trade partners as it seeks to maintain preferential market access and diversify export markets in the wake of graduation-induced loss of preferences. The Federation of Nepalese Chambers of Commerce and Industry (FNCCI) sees negotiating such trade agreements as an option to maintain preferential market access in the wake of graduation (FNCCI, 2021).

In making tariff reduction commitments, Nepal has to learn from past mistakes. For example, it had removed most cereals and most other primary agricultural products from its sensitive list under the second phase of tariff liberalization under SAFTA in 2011-12. India was the predominant source of these imports, and such imports from India were already getting tariff-free access on account of the bilateral trade treaty. This was an apparent ground for removing the products from the SAFTA sensitive list (Kharel, 2020). The decision was taken despite the widespread view that Nepali

farmers, including smallholders with precarious livelihoods, have been suffering from import competition (ibid.). In trade talks with India, however, GoN has been asking for Nepal to be exempted from providing tariff-free access to primary agricultural products from India. Even if the request is granted, there still remains the task of having to negotiate with other SAFTA members to bring those products back into Nepal's sensitive list (ibid.). Otherwise, imports of these products from India will likely be routed utilizing SAFTA preferences (ibid.) This policy incoherence is seen as a result of a lack of inter-governmental coordination, as tariffs are set by the Ministry of Finance, trade negotiations are led by the Ministry of Industry, Commerce and Supplies, and agriculture development is the mandate of the Ministry of Agriculture and Livestock Development (Kharel and Dahal, 2021).

The concern that trade liberalization may be causing revenue loss that is not being recouped through other tax sources could be valid. Cross-country evidence shows that low-income countries undertaking tariff reductions lose trade (tariff) tax revenue and are unable to recoup much of the lost revenue (see Dutt et al., 2020 for a survey of studies on the impact of trade liberalization on revenue). However, the revenue advisory body does not quantify the revenue lost by Nepal due to tariff liberalization which it has not been able to recoup. It is important to do so because reductions in tariffs can increase imports and if the increase in imports is sufficiently high and tariffs are not zero, tariff revenue could increase; revenue could also increase due to increased collections of excise duty and VAT on increased imports even if tariffs are zero; and the response of domestic production to reduced tariffs on imports affects internal tax collections and hence total revenue. In Nepal, in the period 2002/03-2018/19, while the share of customs duties in total tax revenue declined (from 25 percent, 30 percent if Indian excise refund is included, to 18.6 percent), the share of import-based taxes (including VAT and excise duty on imports) has not fallen much (52 percent in 2002/03 versus 48 percent in 2018/19), and the revenue-to-GDP ratio has nearly doubled to 22 percent.[94] Hence an in-depth investigation is needed to confirm whether trade liberalization has led to revenue loss, which is beyond the scope of the current study.

Revenue loss concerns may partly explain non-trivial duties on inputs used in production for exports and an ineffective duty drawback system (Arenas, 2016; Narain and Varela, 2017). If the government is motivated by a desire to promote domestic production of such inputs, if feasible at all, there appears to be no clear policy and strategy towards that end (Kharel, 2020). A World Bank study estimates an import-based revenue loss of up to 1 percent if tariff reductions are targeted at inputs used by three major export products, and up to 10.5 percent if tariffs are eliminated on raw materials and intermediate goods across the board (Narain and Varela, 2017). This implies revenue loss may not be high if input tariff reductions are precisely targeted. The revenue advisory board should assess revenue implications under various other scenarios (for example, waiving or reimbursing VAT on inputs used by exporters). Models that take into account intersectoral linkages would provide a more

[94] Except for revenue-to-GDP ratio, calculations are based on Budget Speeches of the government. Revenue-to-GDP ratio is taken from Nepal Rastra Bank's Current Macroeconomic and Financial Situation 2020/21 (annual). Regarding the latter, note that the GDP estimates for 2003/04 and 2020/21 are based on different systems of national accounts.

realistic picture. Such exercises can be extended to assessing the impact of trade liberalization in general instead of only looking at reductions in tariffs on inputs used by exporters. Such estimates need to be presented before GoN to get its feedback and understand what concerns it has other than revenue loss (e.g., a felt need to nurture domestic producers of such inputs) (Kharel, 2020).

5.5 Intellectual property rights and access to medicines

LDCs have been given four major flexibilities and special and differential treatment in the implementation of the WTO's Agreement on Trade-Related Aspects of Intellectual Rights (TRIPS).

5.5.1 General transition period

First, LDCs have been provided with a general transition period, originally provided for 11 years by Article 66.1 of the TRIPS Agreement and subsequently extended several times. The most recent extension is till 1 July 2034 (IP/C/88). This allows LDCs to delay the implementation of the provisions of the TRIPS Agreement, other than the core non-discrimination principles of most-favoured-nation (MFN) treatment and national treatment, until 1 July 2034. This exemption will not apply once they graduate from LDC status, even if graduation happens before 2034. Since Nepal agreed to a much shorter transition period applicable for LDCs at the time of accession, the general transition period till 2034 is not relevant to Nepal. Nepal pledged to implement the TRIPS Agreement by 1 January 2007 when acceding to the WTO.

The Intellectual Property bill, prepared by the Ministry of Industry, Commerce and Supplies, seeks to bring Nepal's intellectual property laws into conformity with the TRIPS Agreement. The bill is comprehensive compared to existing acts on patent, design and trademark and copyright (Sharma and Gupta, 2021). It will replace the Patent, Design and Trade Mark Act and Copyright Act. Passing and enforcing the intellectual property legislation is Nepal's WTO obligation, regardless of LDC status, if we assume that the general transition period is not applicable to Nepal.

Even if we assume that the general transition period is still applicable to Nepal, the country will, upon graduation, be required to adhere to all TRIPS provisions, including notifications requirements concerning, *inter alia*, IPR-related laws and regulations and their enforcement. Nepal has not met the notification requirements concerning such laws and regulations and their enforcement. The TRIPS Council reviews laws and regulations notified pursuant to Article 63.2. Upon notifying, Nepal must be prepared for reviews.

5.5.2 Transition period for pharmaceutical products

The second major flexibility for LDCs in the implementation of the TRIPS Agreement is a specific transition period for pharmaceutical products. Through various declarations and decisions at the WTO, as an LDC Nepal is exempted from protecting patents and undisclosed information for pharmaceutical products until 1 January 2033. Originally, the exemption was until 1 January 2016, provided by the 2001 Doha Ministerial Declaration on the TRIPS Agreement and Public Health. This means Nepal can produce generic versions of patented medicines without seeking the permission of or paying royalty to the patent holder. It can also export such medicines to countries where the medicines are not patented. It can also import generic versions of patented medicines produced without paying royalty to the patent holder and/or without the formal issuance of compulsory licence in the producing/exporting country.

Nepal, as an LDC, is also exempted from implementing exclusive marketing rights provisions of Article 70.9 and mailbox requirements of Article 70.8 with regard to pharmaceuticals until 1 January 2033. Nepal will lose all these flexibilities concerning IPR protection of pharmaceutical products upon graduation. The LDC Group has demanded that should an LDC member of the WTO graduate from the LDC group during a transition period provided to LDCs in existing and future WTO Agreements, the graduated LDC be allowed to utilize the remaining period of delay provided to LDCs.[95] If the WTO endorses this proposal, Nepal will continue to be entitled to the pharmaceuticals-related transition period till 1 January 2033.

Domestically produced pharmaceuticals account for about 50 percent of the medicine market in Nepal in volume terms and about 45 percent of the same in value terms (Sharma and Gupta, 2021). While there is no organized data on the consumption, importation and production of patented medicines in Nepal, information provided by industry sources to Sharma and Gupta (2021) indicates that not a single patent on medicines, domestic or foreign, has been registered in Nepal; medicines patented in other countries and imported into Nepal make up less than 10 percent of the annual medicine consumption, the rest being off-patent generic medicines; and domestic manufactures product mostly off-patent generic medicines. However, a dozen dominant domestic pharmaceutical firms have been producing generic versions of medicines patented abroad (ibid.). These medicines are mostly in the non-communicable disease category, such as hypertension and diabetes. The production of generic versions of medicines patented abroad generated 10-30 percent of the annual sales of the top four domestic firms, and the sales of such drugs have been a driver of the sales growth of some of them (ibid.). The market price of the generic versions is half that of the innovator drugs (ibid.). When Nepal graduates from the LDC group, production of generic versions of patented medicines will not be WTO-consistent unless recourse is taken to public/government use authorization or compulsory licensing. This, in turn, will require putting in place specific laws and regulations to incorporate and clarify the flexibilities, and developing the technical capacity of civil servants and the judiciary to invoke, interpret and administer the same.

As the share of generic versions of medicines patented abroad in the total sales of the domestic pharmaceutical industry as a whole is also low, graduation is unlikely to have a major immediate and direct impact on the domestic industry. A few leading domestic firms may lose sales. However, the main implication on the production side is that the improvement in manufacturing capacity through learning that might be taking place on account of the freedom to produce generic versions of patented medicines risks being reversed or stalled. Not having to provide patent protection to pharmaceuticals has helped

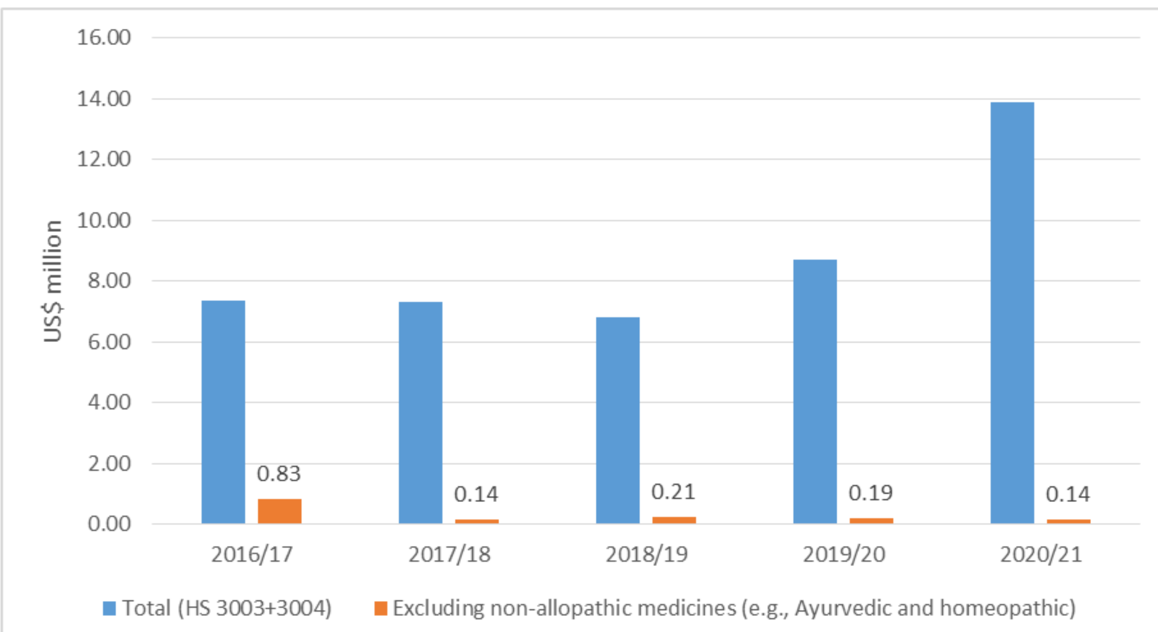
[95] Trade related challenges of the least developed countries and way forward: A draft for MC decision, 17 November 2020, WT/GC/W/807.

Bangladesh develop its pharmaceutical manufacturing capacity (Gay and Gallagher, 2020; UNCTAD, 2011). Nepal has been unable to utilze the flexibility effectively.

An even more serious implication is on the consumption side. Domestically produced generic versions of patented medicines have been mainly in the category of non-communicable diseases, which have emerged as the major cause of premature deaths in Nepal. Increased prices for such medicines when patented drugs replace generic versions threaten to adversely impact access to medicines in a country where over 55 percent of current health expenditure is out-of-pocket expenditure, and over 60 percent of the latter is taken up by non-communicable diseases (GoN, 2018). Medicines for non-communicable diseases account for over 60 percent of the annual sales of medicines in Nepal (Sharma and Gupta, 2021).

Being exempt from providing patent protection to medicines implies Nepal can product generic versions of drugs patented abroad and export them to LDCs or countries where the patents have not been registered. LDC graduation will shut this window. However, Nepal has not been able to utilize this option significantly. Nepal's exports of medicines, as captured by HS codes 3003 and 3004, have not exceeded US$14 million in any year during 2016/17-2020/21 (Figure 5.2).

Figure 5.2: Nepal's exports of medicines



Source: Authors' calculation based on data from Department of Customs.

The bulk of these exports were in the Ayurvedic and Homeopathic categories, with less than 4 percent in the modern/allopathic category in most years (Figure 5.2). Exports of modern/allopathic medicines have not exceeded US$850,000 in any year during 2016/17-2020/21. Uganda absorbed at least two thirds of Nepal's modern/allopathic medicine exports during 2017/18-2019/20. The flexibility to produce generic versions of drugs patented abroad is more relevant to the modern/allopathic medicine category. Only a few

Nepali pharmaceutical manufacturers have been exporting modern/allopathic medicines (Sharma and Gupta, 2021). The drugs exported are mostly basic drugs such as paracetamol, although of late drugs for cardiac diseases and anaesthesia are also being exported (Sharma and Gupta, 2021).

GoN has provided tax concessions in the import of inputs necessary for pharmaceutical production, but pharmaceutical producers say the support is not adequate, pointing out that import duties on some inputs and capital equipment are still high, and this dents their competitiveness. The lack of accessible detailed data on the production and importation of generic versions of medicines patented abroad is a major constraint to analysing the possible implications and impact of the loss of flexibility on this score upon graduation.

5.5.3 Access to medicines through imports

The third type of flexibility in the implementation of the TRIPS Agreement that Nepal is entitled to as an LDC concerns a special system of compulsory licensing aimed at addressing public health needs. Under the mandate of the Doha Ministerial Declaration on the TRIPS Agreement and Public Health (with further clarification in a 2003 General Council decision[96]) and provided full legal effect through the new Article 31*bis* of the TRIPS Agreement, this system allows any WTO member to produce low-cost generic medicines under a compulsory license for the purpose of exporting the same to LDCs to meet their public health needs (and also to other members with an insufficient manufacturing capacity in the pharmaceutical sector). The importing LDC has to neither notify its intention to use the system nor confirm that it has insufficient or no manufacturing capacity. Upon graduation, if Nepal wants to use this system, it has to make a notification of its intention to use the system and confirm its insufficient manufacturing capacity. While Nepal has not made use of this system, and in fact there is very limited global experience with using this system, this is considered to be a potentially important flexibility, especially during public health crises. LDC graduation will render access to this flexibility less automatic and quick.

A related special treatment to LDCs, granted under the mandate of the Doha Declaration with a clarification in a 2003 General Council decision and given full legal effect through Article 31*bis*, is that a developing country member or LDC that produces or imports pharmaceuticals under compulsory licences and which is party to a regional trade agreement (RTA) in which at least half of the members are LDCs, can export the medicines to other RTA members that share the same health problem, without any further notification required. This provision has not been used to date, although it could have been used by member states of South Asian Association for Regional Cooperation (SAARC), where four of the eight members were LDCs until 2011 and the others were developing countries. Nepal's graduation from LDC status will not have any effect in this regard.

Nepal's Intellectual Property Policy 2017 takes into account Nepal's commitments on intellectual property rights, including under the TRIPS Agreement. It provides for the issuance of compulsory licensing to, *inter alia*, domestically produce or import life-saving drugs for non-commercial use if the patent owner of the drug refuses to either produce the drug or to provide the permission to produce it, or if there are anti-competitive practices.

[96] https://www.wto.org/english/tratop_e/trips_e/implem_para6_e.htm

The draft Intellectual Property Act has provisions for compulsory licensing. Getting the legislation passed by parliament and enforcing it through appropriate regulations and rules are a prerequisite for Nepal to be able to utilize compulsory licensing provisions and other flexibilities in the TRIPS Agreement available to WTO members independent of LDC status.

5.5.4 Technology transfer

The fourth type of special treatment accorded to an LDC under the TRIPS Agreement is under Article 66.2, which obliges developed country members to provide incentives to enterprises and institutions in their territories to promote technology transfer to LDCs. The implementation of this provision has been weak. A proposal submitted by the LDC Group in February 2018 avers that implementation of Article 66.2 "continues to fall short of the letter and spirit of TRIPS Agreement mandate" despite several decisions taken to implement the same, including reporting by developed countries on actions taken or planned in pursuance of their commitments under the said Article (IP/C/W/640).[97] The proposal points out that incentive programmes reported by developed countries also "identify recipients that are not LDCs and where LDCs are identified, incentives do not result in transfer of technology". It asks the TRIPS Council to deliberate on the meaning of "incentives to enterprises". In similar vein, the LDC Ministerial Declaration for the 12th WTO Ministerial Conference 2021 demanded that "the relevant institutions and enterprises in the developed countries must be compelled to transfer the necessary technology with clear evidence and precision".[98]

Reports on the implementation of Article 66.2 submitted by the United States, the European Union and the UK[99], for example, list Nepal as a beneficiary country under many projects and initiatives presented as contributing to the implementation of the Article. Scholarships, student exchange programmes and sponsored visits to the donor country by select individuals in Nepal are included in the reported actions, as are research grants where Nepali institutions implement research projects in collaboration with institutions in the donor country. Most of the listed actions do not specify exactly how technology transfer is happening and what incentives have been provided to the enterprises and institutions located in the donor country involved in the projects. GoN should carefully go through the reported actions and assess whether they correspond to its technology transfer needs and whether they have actually resulted in technology transfer. Since many of the reported actions are part of official development projects, including bilateral projects, they are likely to have existed even without Article 66.2 and they will probably not be withdrawn upon LDC graduation.

The impact of losing eligibility for this provision appears to be minimal, going by its ineffective or ambiguous operationalization to date. However, if the provision is effectively operationalized, as has long been the demand of LDCs, then the potential loss of access to it could be significant.

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[97] Proposal on the implementation of article 66.2 of the trade-related aspects of intellectual property rights (trips) agreement, IP/C/W/640.

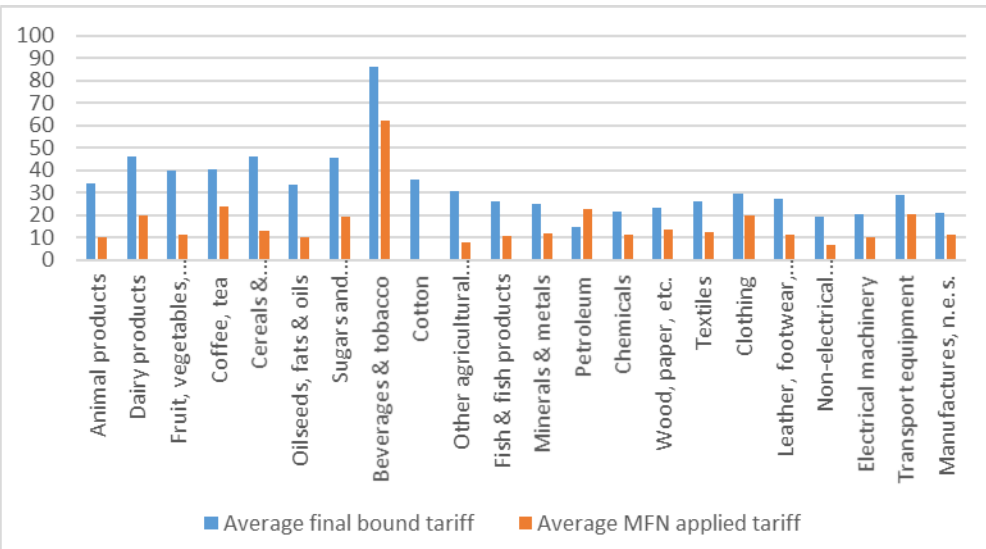
[98] LDC Ministerial Declaration for the Twelfth WTO Ministerial Conference 2021, 27 October 2021, WT/MIN(21)/2.

[99] Year 2021 reports on the implementation of Article 66.2 of the TRIPS Agreement: IP/C/R/TTI/USA/2, IP/C/R/TTI/EU/2, IP/C/R/TTI/GBR/2.

5.6 Existing commitments in trade in goods and services at the WTO

Graduation will not impact Nepal's tariff bindings and schedules of concessions under the General Agreement on Tariffs and Trade (GATT). Although Nepal's average bound tariff is relatively low—it is higher than that of only seven of the other 35 WTO members (Figure 2 in WTO, 2020a: 16)—there is "binding overhang" that allows it increase current applied tariffs (Figure 5.3). LDC graduation does not impact this flexibility. Moreover, there are avenues under WTO rules to impose antidumping duties on dumped imports, countervailing duties on subsidized imports and additional duties or quantitative restrictions when there is a surge in imports, as well as to impose quantitative restrictions on imports in times of balance-of-payments difficulties—all subject to certain conditions and due processes. Nepal will also not be required to change its schedule of commitments under the General Agreement on Trade in Services (GATS).

Figure 5.3: Nepal's "Binding overhang": difference between bound and applied tariffs, 2019



Note: Only 16.7 percent of tariff lines in the Petroleum group are bound.
Source: WTO, World Tariff Profiles 2021

5.7 Trade negotiations at the WTO

The ongoing Doha Round of trade negotiations, launched in 2001, provides LDCs with flexibilities in negotiations, including in the areas of agriculture, non-agriculture market access (NAMA) and services. The 2004 "July package" on framework negotiation modalities (WT/L/579) exempted LDCs from making reduction commitments in agriculture and applying tariff-reduction formula in NAMA negotiations. Under the GATS, LDCs are entitled to liberalize at a more cautious pace than other members. Under the Doha Round, specific modalities for the treatment of LDCs in services negotiations were adopted in 2003 (TN/S/13). In addition, as per the Hong Kong Ministerial Declaration in 2005, LDCs are not expected to undertake new commitments in services negotiations. Under current rules, LDCs will lose all these exemptions from making new liberalization commitments. In other words, Nepal may be required to undertake new liberalization commitments even in the ongoing round of negotiations if it continues after 2026, besides future rounds of negotiations. Furthermore, as a developing country member, a graduated LDC will not have access to S&D provisions that may result from the ongoing negotiations (WTO, 2020a).

It should be noted, though, that developing country members also enjoy some flexibilities in negotiations and are not expected to undertake the same level of commitments as developed country members (WTO, 2020a). The LDC Ministerial Declaration for the 12th WTO Ministerial Conference 2021 (WT/MIN(21)/2) demanded that LDCs be exempted from any reduction commitments in agriculture in future negotiations. Furthermore, earlier, in November 2020, the LDC Group proposed (WT/GC/W/807) a formal smooth transition procedure in the WTO that would extend all support measures benefitting LDCs for a period of 12 after their graduation, where the support measures include:

a. All special and differential treatment measures and exemptions available to an LDC under existing and future WTO Agreements, Understandings, Ministerial, General Council and other relevant Decisions;
b. All LDC-specific technical assistance and capacity building programmes and facilities provided under the WTO system; and
c. Any other relevant measure in favour of LDCs.

If this proposal is accepted, Nepal will not have to make new liberalization commitments at the WTO for up to 12 years after its graduation.

6. Case studies

Since the creation of the LDC category in 1971, only six countries have graduated.[100] A few more countries are on the path to graduation in the coming years.[101] This section consists of case studies of three of the countries that have graduated from the LDC category: (i) Botswana, the only landlocked country to have graduated so far, (ii) Maldives, the only South Asian country to have graduated so far, and (iii) Vanuatu, the most recent graduated country. Each of these countries achieved graduation with the aid of different strategies formulated and implemented in pursuit of developmental goals. None of these graduating countries specifically focused on graduation as a goal or destination, but rather considered graduation to be a milestone in their developmental path. Botswana tapped into its minerals resources for development, the Maldives focused on developing the tourism sector and Vanuatu promoted exports of kava, copra and coconut oil.

6.1 Botswana

Botswana, which graduated in 1994, was the first country to graduate from the LDC category. After meeting the income criterion and human capital criterion[102] in 1991, Botswana graduated three years later. Botswana is the only country to have graduated very shortly after meeting the graduation threshold. Other countries after Botswana took longer to graduate. Samoa, for example, graduated 23 years after meeting the graduation threshold (UNCTAD, 2016).

The landlocked country in Africa achieved its graduation not by focusing explicitly on graduation but from development policies that were based on the efficient capture and use of mineral rents, and effective investment in education and physical infrastructure (ibid.). Botswana's graduation was achieved in pursuit of broader development objectives. Botswana was able to graduate by creating and implementing national policies and strategies to tap its potential. Botswana has been preparing national development plans (NDPs) ever since its independence in 1966 and one of the focus areas of the NDPs has been to increase the living standard of the people of Botswana. Botswana did not formulate a transition strategy at the time of its graduation but integrated strategies for economic growth in its NDPs, which proved to be fruitful. Botswana's economic and social planning contributed greatly towards graduation (ibid.). Botswana also tapped into its mineral resources for development. Effective taxation policy for mining was introduced along with the creation of a sovereign wealth fund which allowed the Botswanan government to both save a portion of the income for future generations as well as to utilize the fund for economic diversification (ibid.). Development of infrastructure and transportation corridors was also essential for Botswana given the country is landlocked. As diamonds exports are high-value goods, export via air was an economically viable option for Botswana. The Botswanan

[100] Botswana, Cabo Verde, Maldives, Samoa, Equatorial Guinea and Vanuatu.

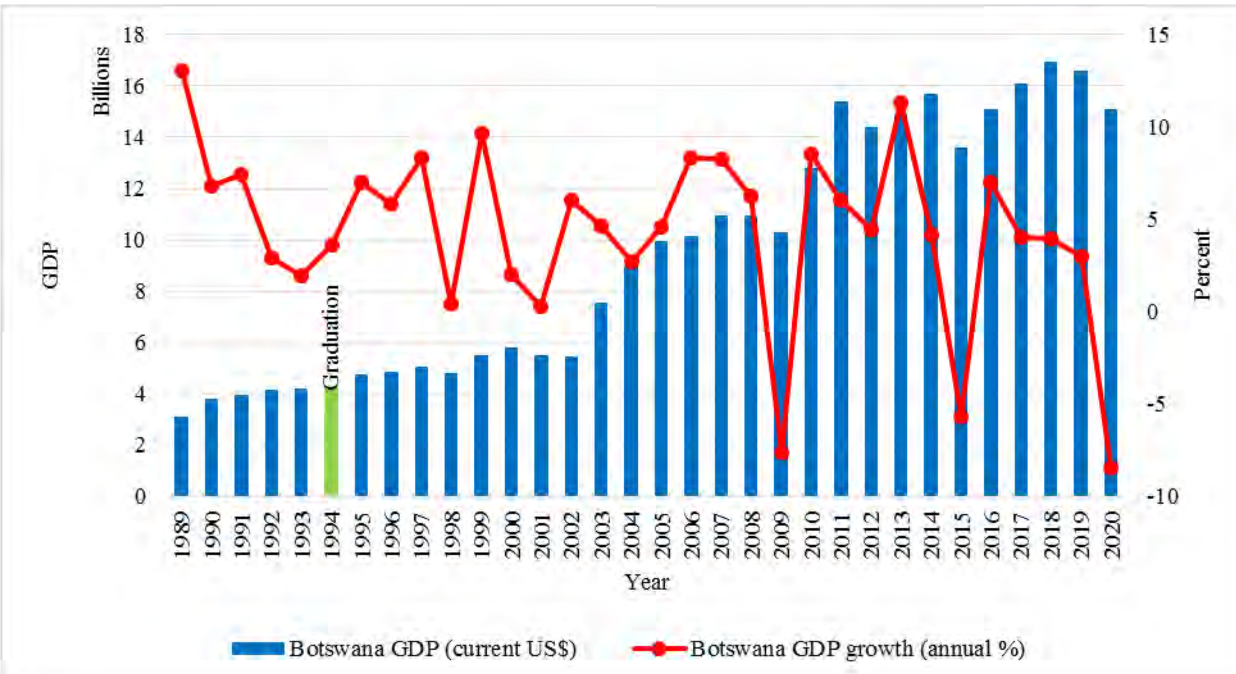
[101] Bhutan (2023), Angola, Sao Tome and Principe and Solomon Islands (2024), Bangladesh, the Lao People's Democratic Republic and Nepal (2026).

[102] When Botswana graduated the income criterion was determined by GDP per capita (US$) and the human capital criterion was determined by augmented physical quality of life index.

government invested in roads and air transportation. Further, its road network was expanded into regional road networks so that other goods could also be exported easily.

Botswana's GDP, GDP per capita and their growth trends show that its economy continued to perform well after graduation (Figures 6.1 and 6.2). At the time of graduation, Botswana's GDP per capita stood at US$ 2970.19, and reached US$ 3405.82 in 1999 (five years after graduation). The growth rates of GDP and GDP per capita have remained quite erratic after graduation. The economy was hit hard by the global financial crisis and the Covid-19 pandemic, as can be seen from the negative growth rates in 2009 and 2020.

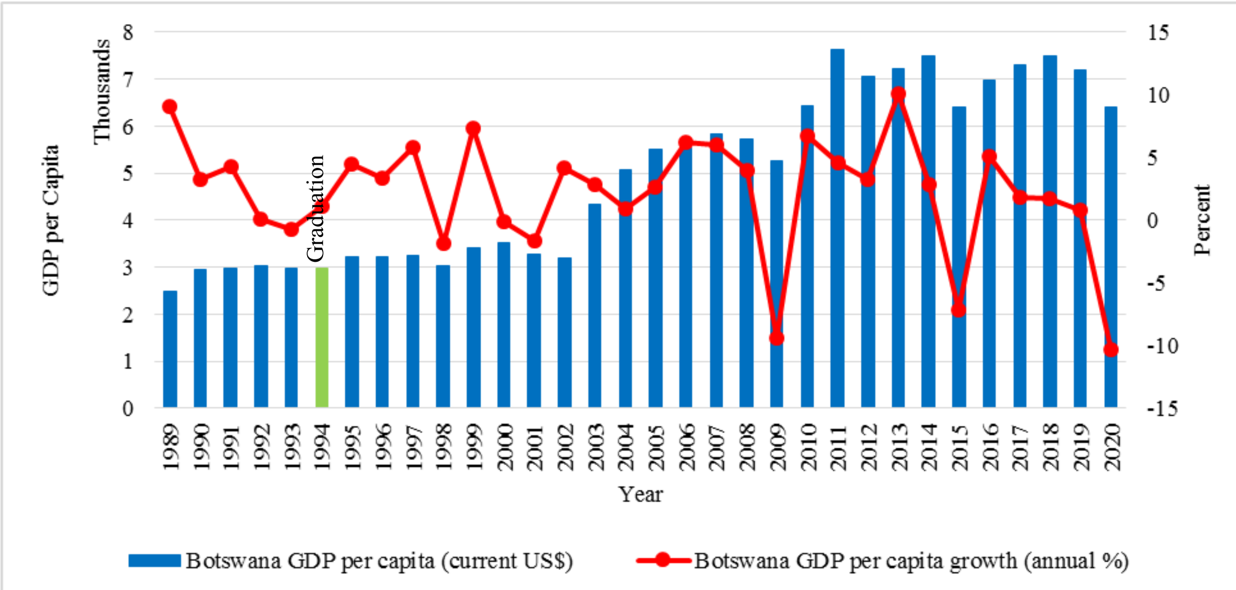
Figure 6.1: Botswana GDP and its growth



Source: World Development Indicators, World Bank Group

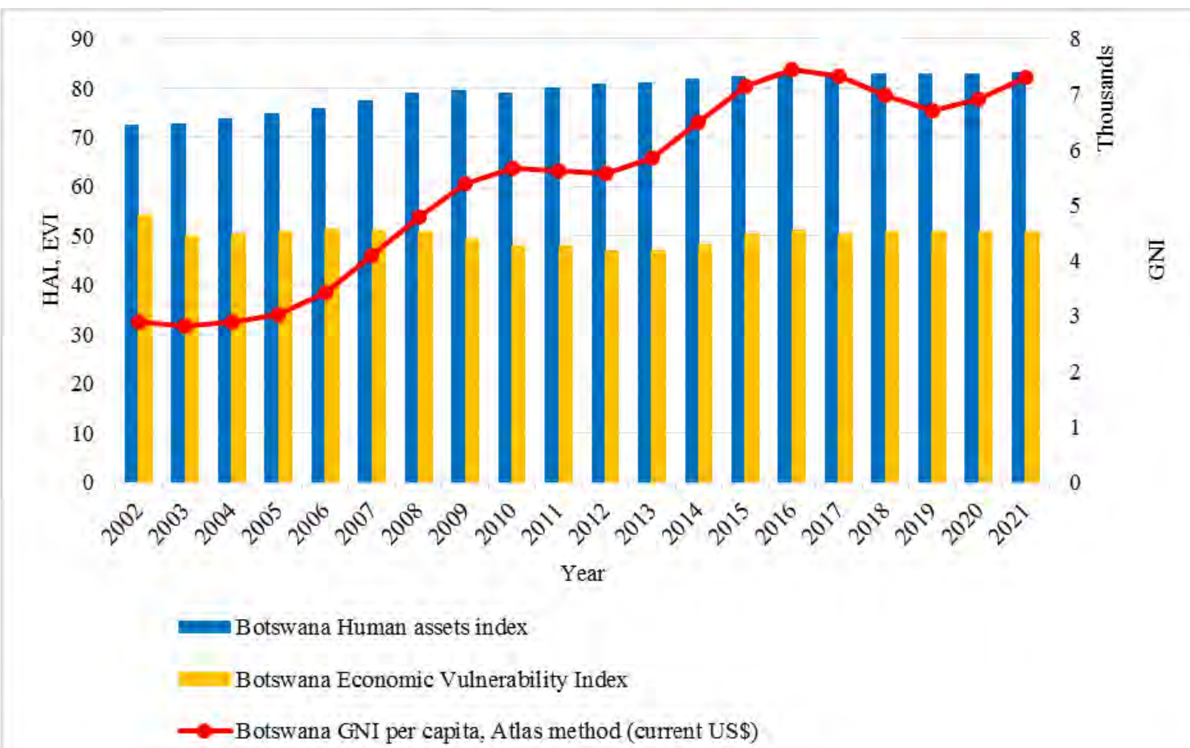
Since the graduating criteria have been revised by the CDP over the years, UNDESA only provides data of the most recently improved criteria. Both HAI and EVI were introduced in 2000 so only the data from 2002 is available. Although this will not present Botswana's pre-graduation performance in these indicators, the status of these indicators after graduation can be observed. Botswana graduated after meeting the income and human capital criteria and the data from UNDESA shows that the EVI criterion still remains unmet. This indicates that Botswana is vulnerable to economic and environmental shocks which can hamper progress and economic development. However, GNI and HAI both have been well above the graduation thresholds and the economy has been able to prosper, as shown in Figures 6.1 and 6.2, despite the economy being vulnerable to economic and environmental shocks (Figure 6.3). Botswana's GNI per capita stood at US$ 7300 and HAI stood at 83.1 in 2021 (Figure 6.3), which indicates that the economy is doing well.

Figure 6.2: Botswana GDP per capita and its growth



Source: World Development Indicators, World Bank Group

Figure 6.3: Botswana graduation indicators

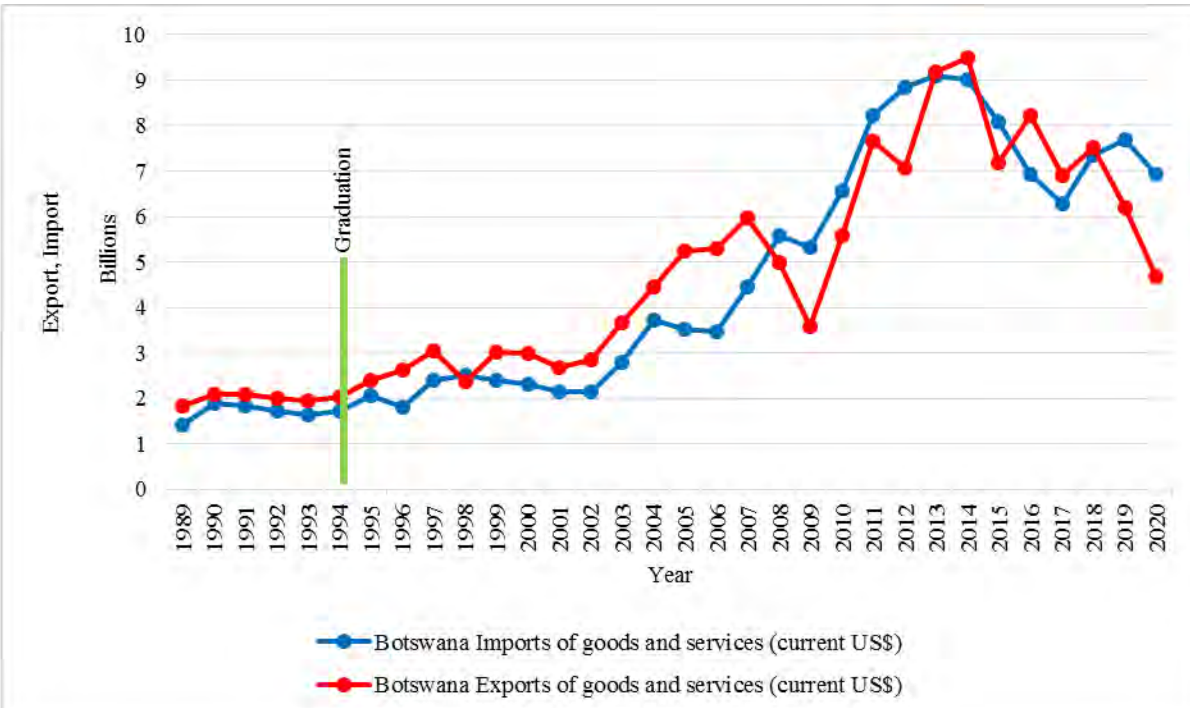


Source: UNDESA

Diamonds and mineral resources played a crucial role in Botswana's economic growth. Botswana's exports of goods and services have been increasing with occasional dips after graduation. The decline in export values in 2009 could be due to the global financial crisis

(Figure 6.4). Imports of goods and services have also been increasing. They are partly a reflection of increased purchasing power of consumers, as can be seen in rising GDP per capita.

Figure 6.4: Botswana export and import of goods and services

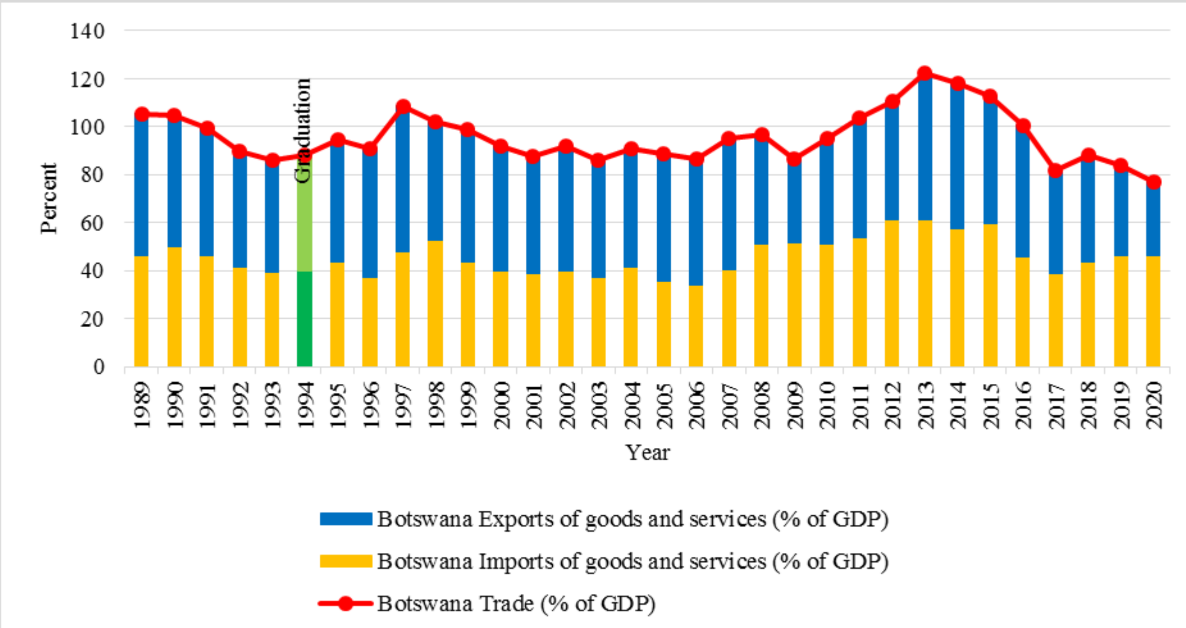


Source: World Development Indicators, World Bank Group

Trade has been one of the major driving factors for Botswana's economic growth. As diamonds and minerals are high-value exports, the contribution of exports to the GDP of Botswana has been large and important. Exports as a percentage of GDP have remained well above 40 percent since 1989 (Figure 6.5) with occasional dips.

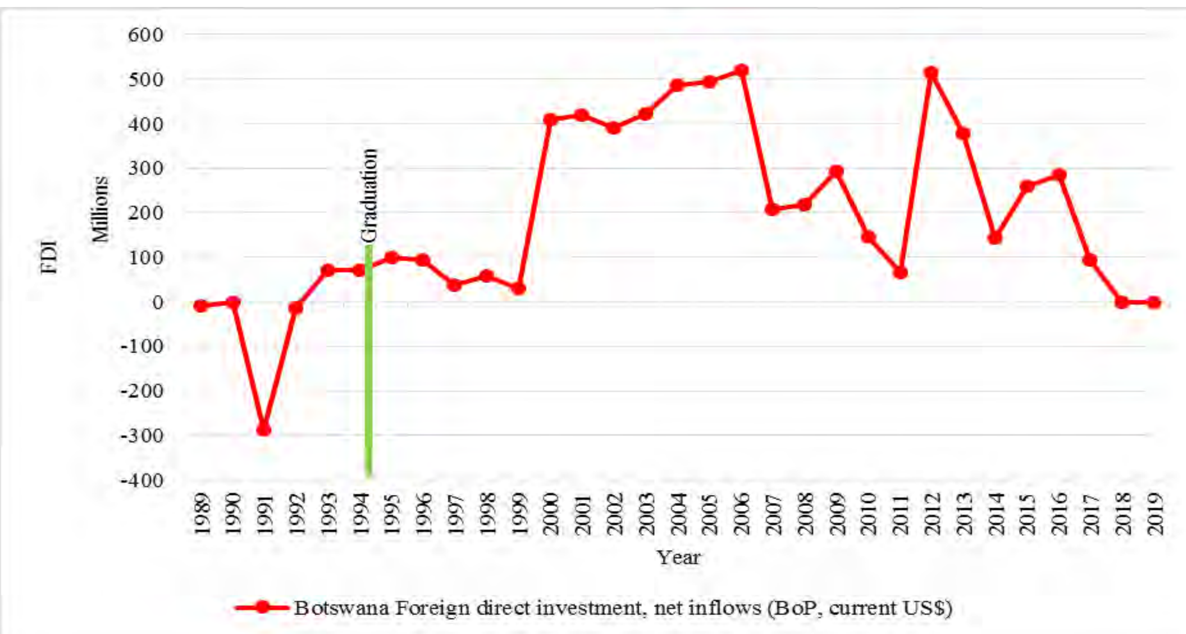
Foreign direct investment has also been on an increasing trend since Botswana's graduation in 1994 (Figure 6.6.). This indicates that Botswana was able to create a business-friendly environment to attract FDI after graduation.

Figure 6.5: Botswana trade as a percentage of GDP



Source: World Development Indicators, World Bank Group

Figure 6.6: Botswana foreign direct investment, net inflows



Source: World Development Indicators, World Bank Group

Botswana's graduation has been successful as the economy has progressed. One of the main reasons for the success of the graduation could be that the strategies and policies focused on development, enhancing living standards and providing quality education rather than aiming for graduation per se. Similarly, the government of Botswana did not consider graduation to be the destination but rather a milestone for its development path and continued to implement its development plans to further develop and strengthen the economy. Botswana did not create a transition strategy. Looking at some of Botswana's economic indicators, it is evident that graduation has been successful. Botswana's NDPs have successfully been able to drive the economy to prosper further. As NDPs played a large role in boosting the economy, Botswana has been regularly creating progressive strategies and policies through its NDPs. The most recent NDP, NDP11, was adopted in December 2016, with an all-encompassing theme of "achieving prosperity for all". It is also the first medium-term plan towards implementing Botswana's country Vision 2036-Sustainable Economic Development; Human and Social Development; Sustainable Environment; and Governance, Peace and Security (M) A clear pathway for development aligned with the overarching themes for development is a key takeaway from Botswana's LDC graduation and development path.

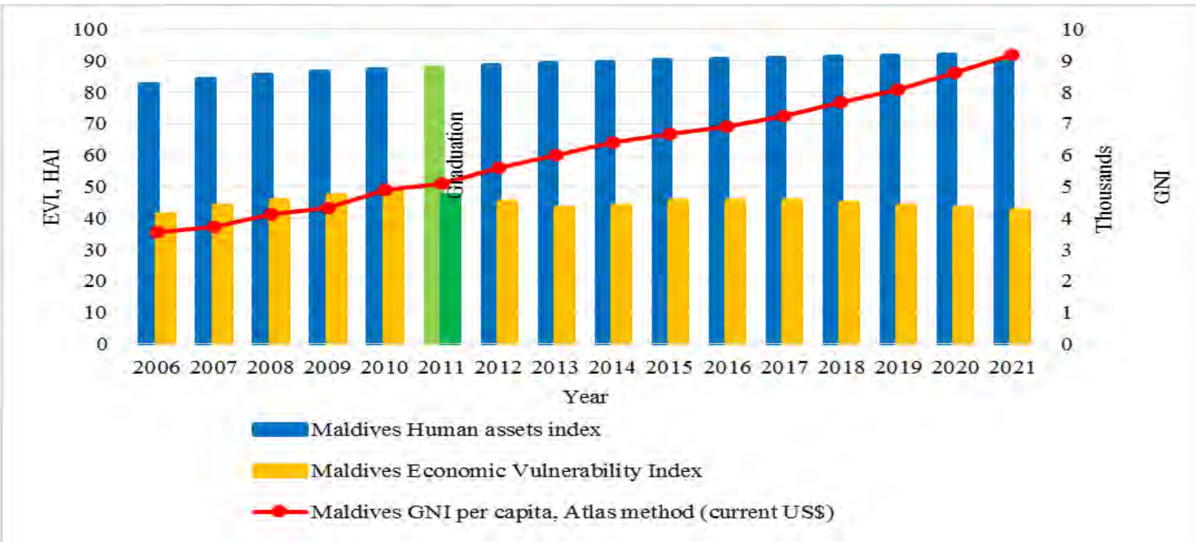
Takeaway from Botswana's graduation

A major lesson that can be learnt from Botswana's LDC graduation is to take graduation as a milestone in a continuous and forward-looking development plan. As Botswana's graduation was achieved as a result of national plans that consisted of strategies and policies aimed at development and economic growth, another lesson could be to focus on development and economic growth rather than to keep graduation as the final or temporary destination in the long and continuous development path.

6.2 Maldives

Maldives, a small island developing state, achieved graduation from LDC status in 2011 after having met two of the graduation thresholds: income and human assets criteria (UNCTAD, 2003). Figure 6.7 shows that Maldives's GNI per capita has increased steadily, hinting at the sustainability of graduation. Similarly, HAI remains well above the graduation threshold. The vulnerability criterion, on the other hand, still remains unmet, which indicates that the economy is vulnerable to economic and environmental shocks.

Figure 6.7: Maldives graduation indicators



Source: UNDESA

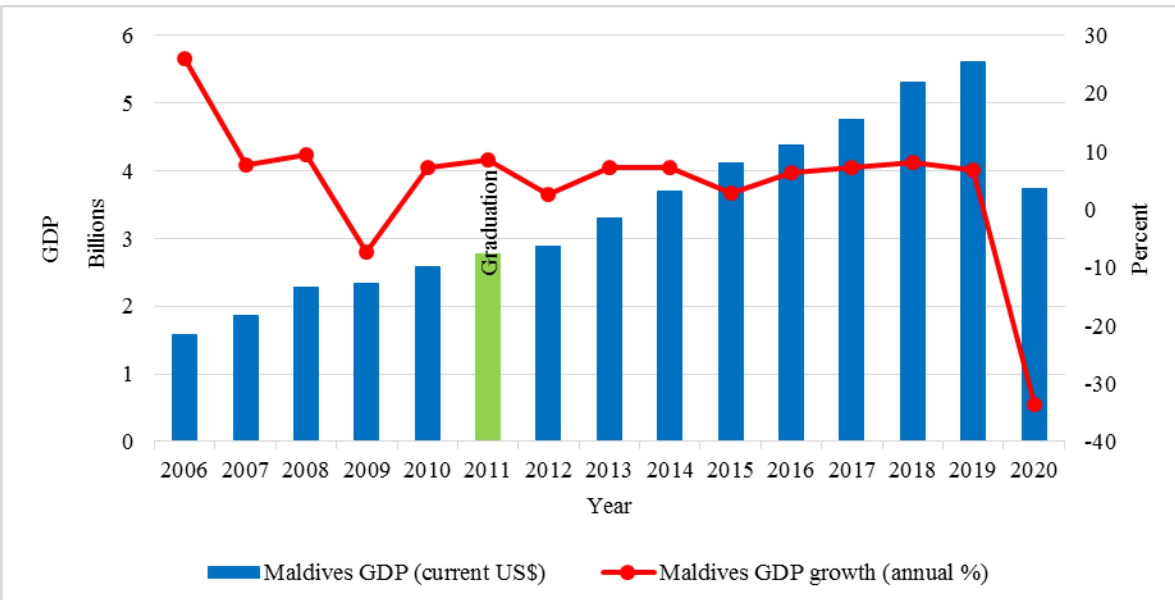
Maldives's achievement of the graduation thresholds is largely due to its investment in and development of the tourism sector, which drove economic growth. "During the 1980s and 1990s, the Government invested heavily in tourism-related construction, transport and communication, and attracted investments in resort development" (UNCTAD, 2016). The government's strategy to develop the tourism sector led not only to GDP growth but also created employment opportunities. In 1983, the tourism master plan set the foundations for the sustainable development of the tourism sector and its integration into social and economic development of the country (Kundur, 2012). The master plan also established regulations to ensure quality services were provided to tourists. Similarly, fisheries played a large part in Maldives's graduation. Modernization of the fisheries sector to include more advanced and efficient technologies was one of the successful strategies of the government of Maldives (UNCTAD, 2016).

Similar to Botswana, the Maldivian government also invested heavily in the education sector. Improved education provided for employment opportunities which facilitated economic growth. Similar investment was made in the health sector, which was successful in reducing child mortality rate and increasing life expectancy. Both investment in education and health sectors led to economic growth, employment opportunities and availability of a working population. However, the government faced a shortage of domestic labour to meet the demands of the growing tourism sector. The issue was resolved by allowing immigration of foreign workers and exercising flexibility in the application of domestic regulations. This allowed investors to bring in foreign labour to meet the labour gap that was seen in the tourism sector. By the end of 2006, 11,095 of the 22,000 jobs in the tourism sector were filled by expatriates, despite a limit of 50 percent on the proportion of expatriates among total employees in tourist resorts (Kundur, 2012).

Maldives's major strength for economic development was found in the tourism sector which the government identified and effectively developed. While tourism is a sector that is vulnerable to external shocks, the Maldivian economy has progressed largely due to tourism.

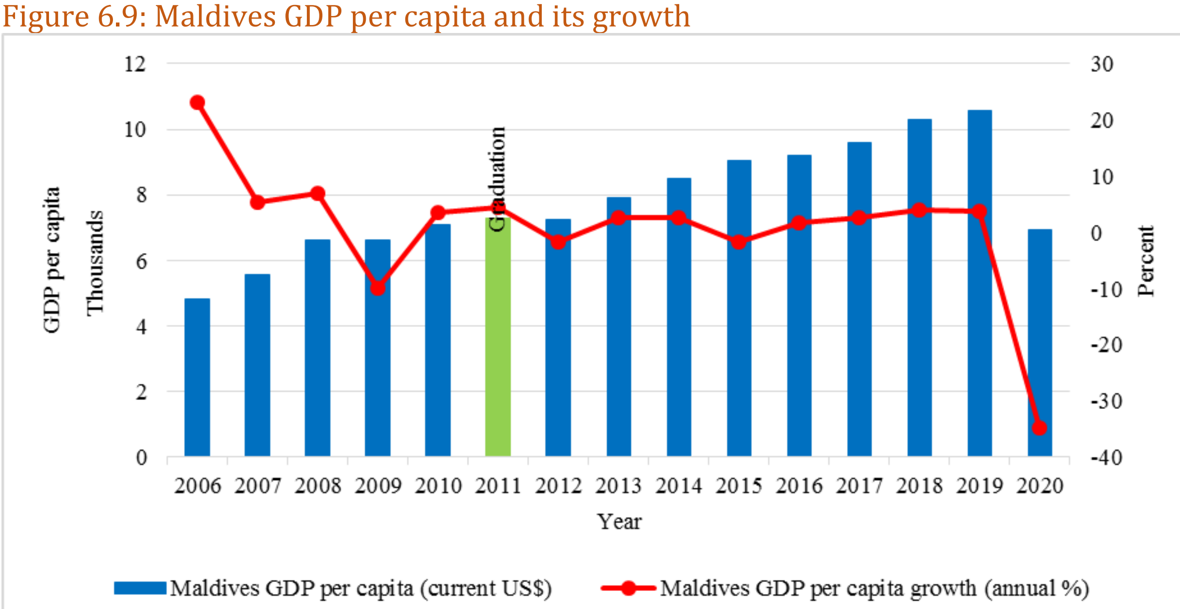
However, recognizing the vulnerability of the tourism sector, the government also developed the fishing industry which also contributed to economic growth. Maldives's economic growth has remained between four to eight percent after graduation (Figure 6.8). GDP per capita has increased continuously since graduation (Figure 6.9). The growth rates of GDP and per capita GDP have been distinctly more stable in Maldives than in Botswana. Maldives also suffered negative growth in 2009 and 2020, due to the global financial crisis and the pandemic, respectively.

Figure 6.8: Maldives GDP and its growth



Source: World Development Indicators, World Bank Group

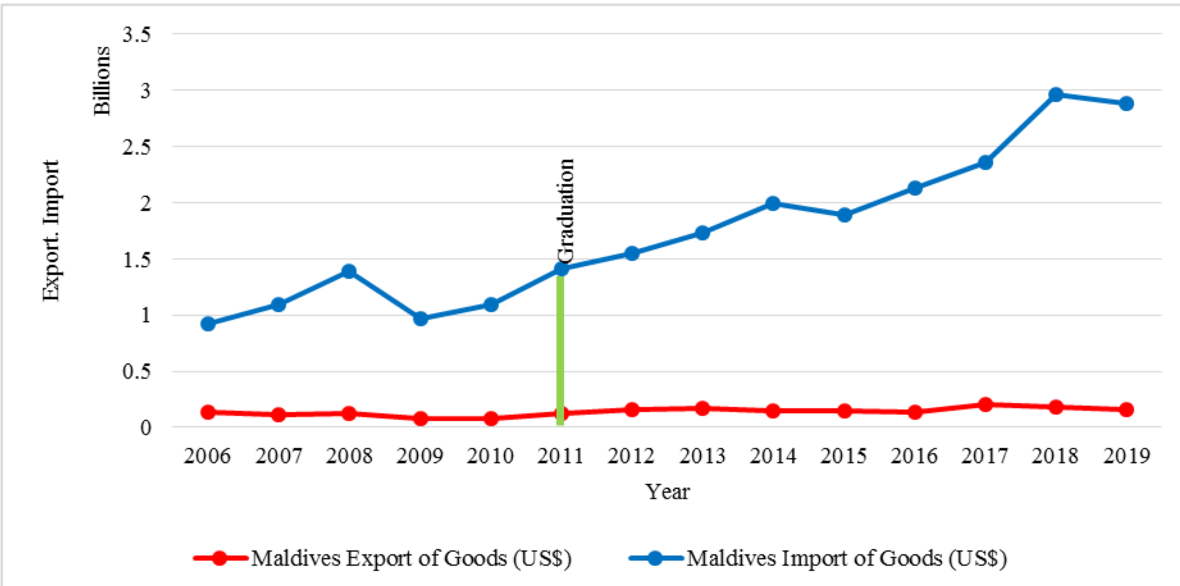
Figure 6.9: Maldives GDP per capita and its growth



Source: World Development Indicators, World Bank Group

Being a service-oriented economy, heavily reliant on tourism, Maldives has a large goods trade gap. Import of goods has been increasing over the years while export of goods has remained stagnant (Figure 6.10). While imports of goods reached almost US$3 billion in 2018, exports amounted to just US$181 million in the same year.

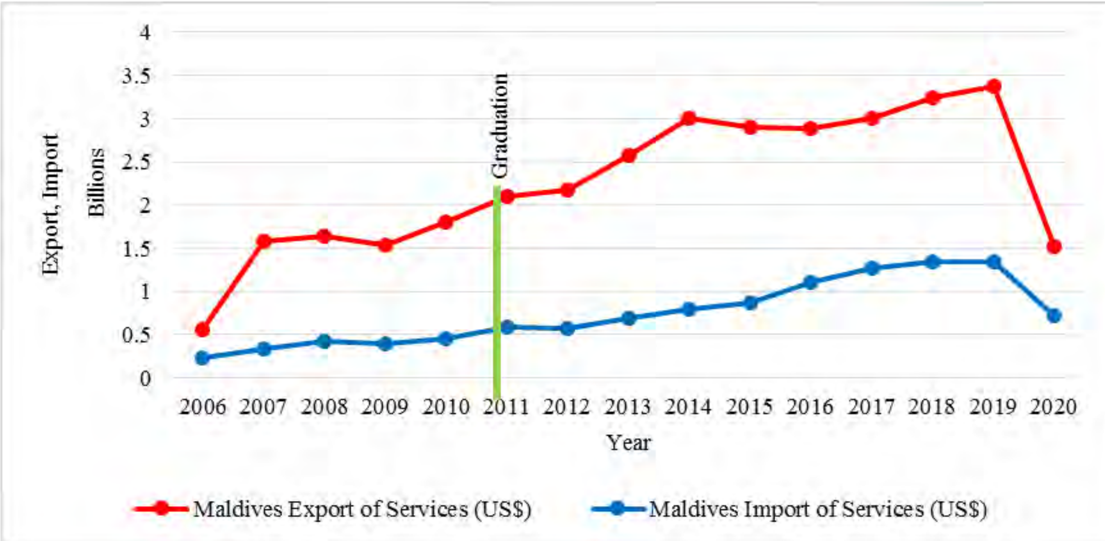
Figure 6.10: Maldives export and import of goods



Source: World Integrated Trade Statistics, World Bank Group

Figure 6.11 shows that Maldives's export of services has been well above import of services. Tourism receipts are the predominant source of services export earnings. Export of services reached US$3.3 billion in 2019, more than the import of goods, which stood at US$ 2.8 billion in the same year. This indicates that while import of goods is large in Maldives, relatively large export of services has been able to keep trade fairly balanced.

Figure 6.11: Maldives export and import of services



Source: International Trade Center

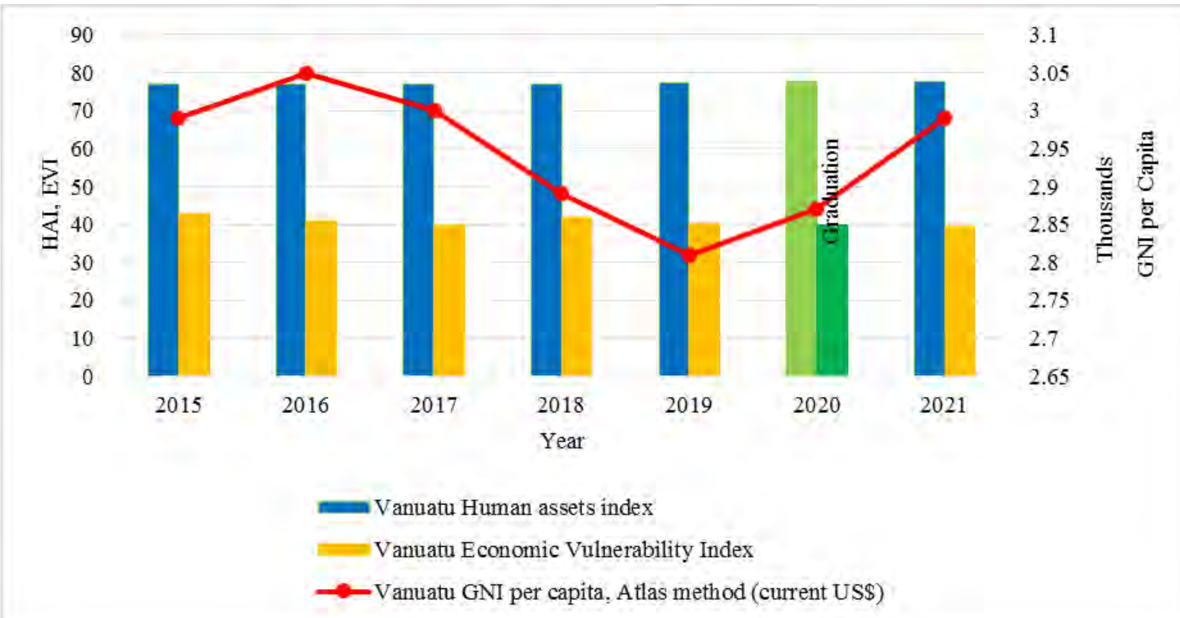
Takeaway from Maldives's graduation

Looking at Maldives's development indicators, graduation has been successful despite Maldives being highly vulnerable to external and environmental shocks. The government of Maldives recognized the potential of its tourism industry and formulated policies to strengthen the tourism sector. In doing so the Maldivian government not only gained revenue from the tourism sector but also created employment opportunities. Identification and strengthening of the tourism sector is one of the main reasons Maldives was able to graduate from the LDC category. Like Botswana, the government of Maldives focused heavily on economic development rather than making graduation a goal. A key takeaway from Maldives's graduation is to play to the economy's strengths.

6.3 Vanuatu

Vanuatu is the most recently graduated country. Like Botswana and Maldives, Vanuatu also graduated after having met the income and human assets thresholds. Vanuatu was recommended for graduation in 2012 by the CDP and the recommendation was approved by the General Assembly in 2013. However, the country was granted an extension in 2015 due to the devastation caused by Cyclone Pam and thus graduation was postponed to December 2020 (UN News, 2020). In order to ensure smooth transition from LDC status to developing country status, the government of Vanuatu's strategy is to fully implement its national sustainable development plan, "Vanuatu 2030, People's Plan". The success of Vanuatu's graduation hinges heavily on the effective implementation of its transition strategy.

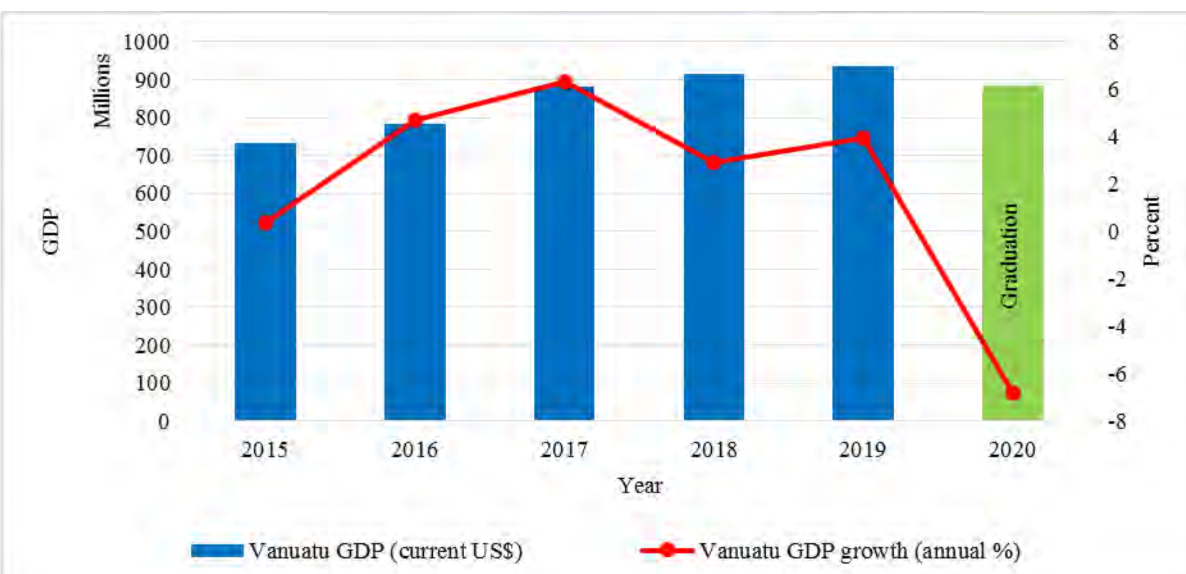
Figure 6.12: Vanuatu graduation indicators



Source: UNDESA

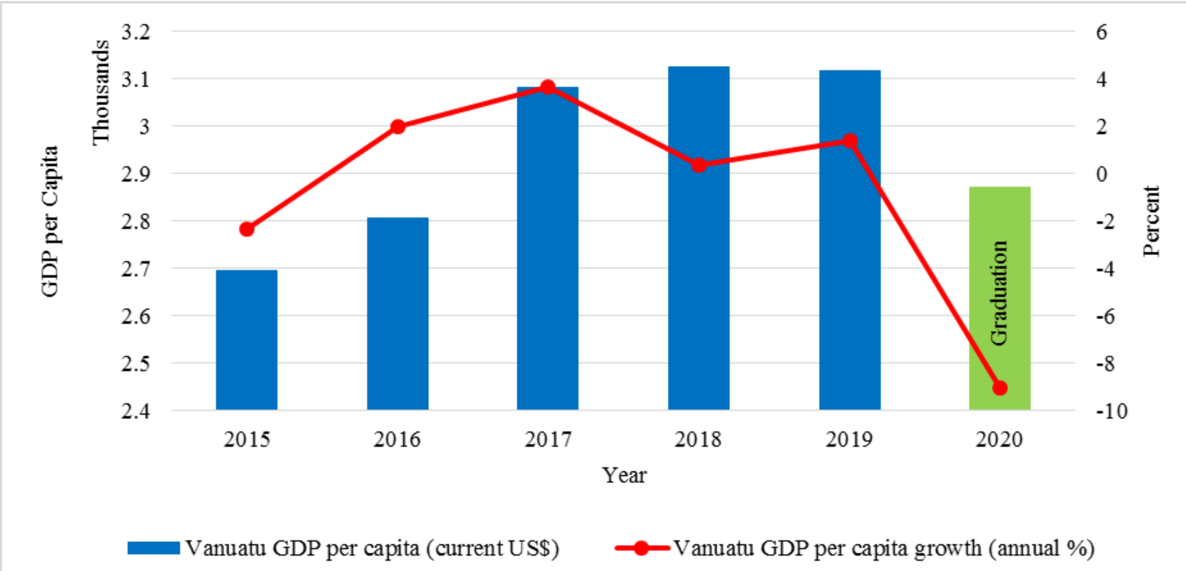
Since Vanuatu graduated only in 2020, it will be difficult to paint an after-graduation-picture for Vanuatu. However, the situation prior to graduation can be analysed. Vanuatu's graduation was achieved through a number of activities. Improved productive capacities, diversification of agricultural activities and exports and economic growth driven by international services are some of the activities that made graduation possible (UNCTAD, 2020). The major risk for Vanuatu is its continued vulnerability to environmental and economic shocks (Figure 6.12).

Figure 6.13: Vanuatu GDP and its growth



Source: World Development Indicators, World Bank Group

Figure 6.14: Vanuatu GDP per capita and its growth



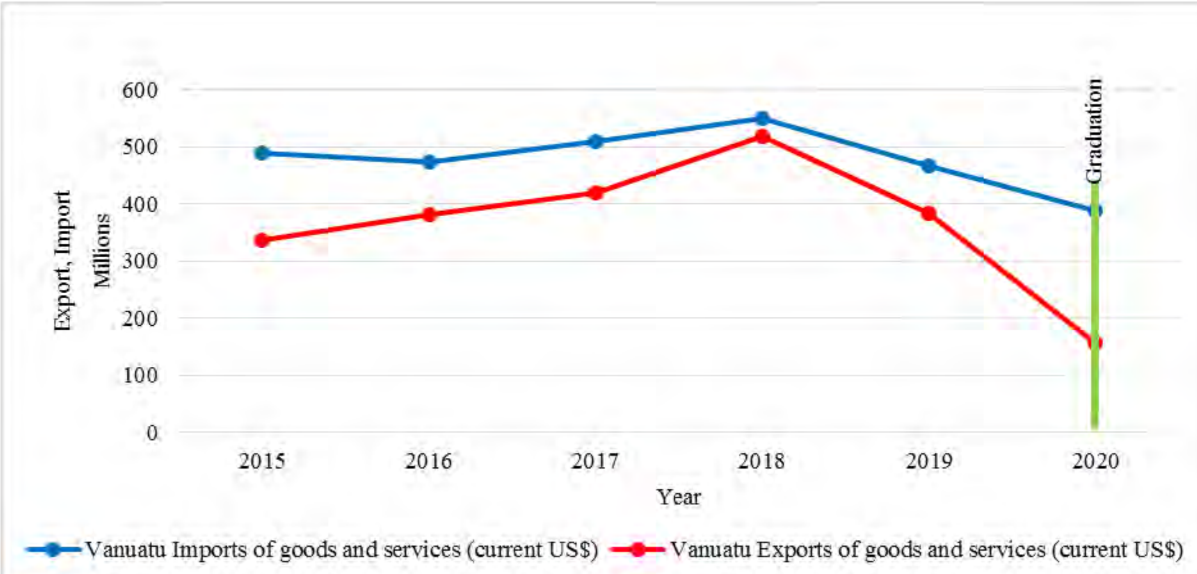
Source: World Development Indicators, World Bank Group

The growth of Vanuatu's economy prior to graduation can be seen in Figures 6.13 and 6.14. Vanuatu had had a fairly steady economic growth prior to graduation; however, due to the COVID-19 pandemic, economic growth declined in 2020. International developmental aid played a large role in keeping Vanuatu's economic growth steady. But Vanuatu is vulnerable to external, economic and environmental shocks. The pandemic caused the economy to contract in 2020. However, with continued support from the international community as well as effective implementation of Vanuatu's transition strategy, the economy can sustain the graduation and make it irreversible.

Along with international support, Vanuatu prioritized agricultural transformation and enhancing productive capacities to stimulate the economy (UNCTAD, 2020). The country was able to diversify its agricultural production which resulted in kava being the top export product in 2018.[103] Vanuatu's major export items in 2018 were kava, copra and coconut oil, and the major destinations were the US, Fiji and Kiribati.[104] Kava accounted for 52 percent of total exports (Government of Vanuatu, 2019). Figure 6.15 shows that Vanuatu's exports experienced a rising trend till 2018. After 2018 both exports and imports declined.

[103] In 2008, Vanuatu's top export good was copra. In 2018, due to agricultural and export diversification kava became the number one export good.
[104] According to data from Ministry of Tourism, Trade, Industry, Commerce and Ni-Vanuatu Business

Figure 6.15: Vanuatu export and import of goods and services



Source: World Development Indicators, World Bank Group

The main expected impact of graduation on Vanuatu's exports is the loss of LDC-specific preferential market access. However, with a small and volatile export base, the implications are expected to be minor. "Many of the main LDC preference granting countries and regions, such as the European Union, are not major export destinations. In the cases, where tariff increases, the margin is mostly small" (ibid.). More than half of Vanuatu's major export goods are traded duty free. However, graduation will only impact export of certain goods to certain destinations such as kava and Noni juice to China and beef to Japan (ibid.). Table 6.1 presents a summary of Vanuatu's export commodities, destinations and duty status as an LDC, with bold-faced entries referring to LDC-specific concessions.

Table 6.1: Summary of Vanuatu's main export commodities in 2017

Percent of total value of merchandise exports	Percent exported to main destination(s)	Duty status
Copra 30.6%	Philippines 95%	10% General import tariff applied. No LDC concession
Kava 21.5%	Kiribati 31%	0% General commitment available all countries
	United States 27%	0% General commitment available all countries
	Fiji 20%	0% Duty free under MSGTA[105]

[105] Melanesian Spearhead Group Trade Agreement

	New Caledonia 16%	5% General import tariff applied. No LDC concession
Coconut oil 13.8%	Malaysia 77%	5% General import tariff applied. No LDC concession
	Taiwan 15%	**0% General import tariff 4%; LDC concession applied**
	New Zealand 5%	0% Duty-free under SPARTECA[106]
Timber 6.1%	Hong Kong 55%	0% Hong Kong is a duty-free port
	China 29%	0% General commitment available all countries
	Australia 13%	0% Duty-free under SPARTECA
Beef/Veal 3.0%	PNG 38%	0% Duty free under MSGTA
	Japan 36%	**0% General import tariff 38.5%; LDC concession applied**
	Solomon Islands 26%	0% Duty free under MSGTA
Cocoa 2.8%	Malaysia 89%	0%. General commitment available to small countries
	Australia 7%	0% duty free under SPARTECA
Fish (n/a)	**Thailand 88%**	**0% General import Tariff 3.5%; LDC concession applied**

Source: Extracted from Derek (2019).

With the exception of beef sent to Japan and coconut oil to Taiwan, this duty-free treatment has not been afforded under LDC concessional measures provided under the GSP. Rather, it is due to the market access arrangements Vanuatu has negotiated (e.g., Vanuatu exports kava duty-free to Fiji under the terms of the Melanesian Spearhead Group Trade Agreement) (Brien, 2019). One of the main impacts of graduation is expected to be on Vanuatu's beef exports to Japan. "In the absence of any bilateral arrangements, Vanuatu's beef exports to Japan will face a tariff rate of 38.5 per cent imposed by Japan on all countries that do not have preferential access" (ibid.). Vanuatu's graduation strategy emphasizes that mitigation measures should consist of extension of existing preferential access to major existing and potential future markets such as the EU, China and Japan, as well as negotiations for new trade and investment agreements with China and Japan, either bilaterally or as part of a Pacific bloc (MTTICNVB, n.d.).

[106] South Pacific Regional Trade and Economic Cooperation Agreement

Vanuatu's graduation strategy

Being the most recently graduated country, Vanuatu's graduation strategy can be a learning stone for other countries that are nearing their graduation dates. The graduation strategy of Vanuatu has analyzed the potential impact and identified opportunities for trade in goods, trade in services, official development assistance, aid for trade, application of WTO rules, and investment. Based on the analysis of the impacts and identified opportunities, the Ministry of Tourism, Trade, Industry, Commerce and Ni-Vanuatu Business has created a graduation action plan in its graduation strategy. The graduation action plan aims to focus on a number of issues such as trade negotiations with Japan to seek a zero-duty transition period for beef exports, seek a five-year transition period under the Enhanced Integrated Framework (EIF), increase efforts to mobilize commercial finance through ODA and formally engage with all international organizations providing general support measures to Vanuatu seeking, transition periods after graduation, among others (MTTICNVB, n.d.). The action plan of the graduation strategy broadly aims at achieving the goals and objectives under Vanuatu's national sustainable development plan 2030 along with other national policies and strategies.

Takeaway from Vanuatu's graduation

The lesson other soon-to-be graduating countries can learn from Vanuatu's graduation, graduation strategy and transition strategy is to have a clear action plan aimed at achieving the larger goals of national policies and strategies. Vanuatu has prepared a graduation strategy and a smooth transition strategy that paint a clear future plan for the economy after graduation. The challenges, mitigation measures, opportunities and action plans stated in the graduation and smooth transition strategy directly complement the country's national sustainable development plan 2030. Similarly, as one of the main impacts of graduation is on trade and ODA, Vanuatu has emphasized negotiations, both bilateral and multilateral, to ensure that trade and ODA benefits can be gained after graduation as well. Another takeaway from Vanuatu's graduation is to have as many stakeholder support and consultations as possible when formulating graduation strategies. When formulating the graduation and transition strategies, Vanuatu consulted with development partners and other graduated and soon-to-be graduating countries to learn from their best practices.

7. Conclusion and recommendations

As UNCTAD has aptly put, LDC graduation is "not the winning post of a race to cease being an LDC, but rather the first milestone in the marathon of development" (UNCTAD, 2016b). Graduation does not represent a solution to all the development challenges facing Nepal, pre-existing or new. Rather, structural impediments to development—landlockedness and difficult topography, high trade costs, infrastructure gaps, low productive capacity—will continue in the post-graduation phase, as will the challenges of ending poverty and reducing inequality. Nepal should sustain its efforts to strengthen its productive capacity, upgrade its economic structure, bridge development gaps, reduce trade costs, efficiently manage and effectively use available resources, integrate its economy into global and regional value chains and economies, and undertake integrated policy reforms, including reforms to industrial and technological policies, to achieve high economic growth and inclusive and sustainable development.

The impact analysis of the loss of international support measures (ISMs) indicates that graduation from LDC status will have trade implications in terms of higher tariffs and more stringent rules of origin provisions in preference-granting countries. However, the projected loss in total exports is moderate. The policy space to promote infant industries and exports, and pursue public health objectives, could be squeezed. The impact on development cooperation will be relatively small as most of the development partners—multilateral and bilateral—have indicated that LDC status is not the main criterion for aid flows. However, some donors might switch from grants to concessional loans or increase interest rates for concessional loans. Nepal could lose access to specific instruments and funds dedicated exclusively to LDCs, particularly with regard to climate change-related funds, after a transition period. While this study has focused on market access, policy space and development cooperation in assessing the implications of graduation, there is a view, also expressed during consultations for the research, that graduation will send a positive signal to international investors, and hence graduation must be utilized as an opportunity to mobilize foreign direct investment, which will also help in boosting exports through the trade-investment nexus.

Trade and development partners have a critical role to play to ensure that Nepal's graduation is smooth, meaningful, irreversible and sustainable. The need for specific and targeted support from the international community has become even more important for the post-pandemic recovery, for implementing policies and strategies to reverse the socioeconomic damages wrought by the COVID-19 pandemic, for mitigating and adapting to the adverse impacts of climate change, and for addressing the resource gaps to meet the sustainable development goals (SDGs). In order to mobilize international support, the government should prepare a smooth transition strategy, in consultation with all stakeholders and also in coordination with trade and development partners, consistent with its periodic development plan. Such a strategy must identify a comprehensive and coherent set of specific activities by taking into account the loss of LDC-specific ISMs, opportunities emerging in the wake of graduation as well as structural challenges and vulnerabilities. The following recommendations in the areas of trade and development finance could contribute to identify the elements of a smooth transition strategy.

- The EU's Generalized System of Preferences (GSP) as well as the UK's GSP have provisions for granting a three-year transition period to graduating countries to access the Everything but Arms (EBA) initiative and the Least Developed Country Framework, respectively, which provide duty-free and quota-free market access. The GSP schemes of the EU and the UK also include the Generalized System of Preferences Plus (GSP+) scheme and GSP Enhanced Framework, respectively, for countries fulfilling vulnerability criteria and implementing 27 international conventions on labour rights, human rights, environment protection and good governance. These instruments provide more generous tariff preferences than under the standard GSP schemes. Nepal has already signed and ratified 25 conventions among these 27 conventions. It has signed but not ratified the Cartagena Protocol on Biosafety to the Convention on Biological Diversity. It has not signed and ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (ILO Convention No. 87). A proposed revision to the GSP scheme of the EU has introduced an additional five conventions that need to be ratified to gain eligibility for GSP+. Nepal is yet to sign and ratify one of them (ILO Convention No. 81 on Labour Inspection (1947). As Nepal already fulfils the vulnerability criteria, it should study the implications of acceding to the three conventions, and act accordingly, and launch a dialogue with the EU and the UK to access GSP+ of the EU and GSP Enhanced Framework of the UK. In addition, since other preference-granting countries have extended GSP to graduated LDCs on a case-by-case basis, Nepal should also initiate dialogue with other trading partners seeking an extension to LDC-specific concessions and preferences for another 3-5 years following graduation. One of the agendas under discussion as the EU reviews its GSP scheme is whether the transition period for graduated countries could be extended to five years to give them more time to implement reforms (including to qualify for GSP+). Nepal, together with other countries, should actively participate in the review process and strongly pursue this option.

- The shift from LDC-specific preferential regimes to GSP or other next-best regimes is also associated with more stringent rules of origins (ROOs). For example, the 30 percent local value addition requirement under the EU's EBA and the UK's Least Developed Country Framework will be replaced by a 50 percent value addition requirement in some products, and substantive transformation requirements will be introduced (e.g., double transformation requirement for apparel). Nepal should lobby for lenient ROOs for LDCs for a period sufficient for the private sector to adjust to the new ROOs.

- The World Bank estimates Nepal's untapped export potential at around US$9.2 billion—12 times its actual annual merchandise exports (World Bank, 2021). To realize the potential, the government should prepare trade strategies, in consultation with the private sector, to strengthen the overall competitiveness of the economy, upgrade exporter's capabilities, diversify export products and markets, simplify and streamline processes to attract more foreign direct investment and encourage enterprises to participate in regional/global value chains. Such strategic policies may also help compensate for the loss of LDC-specific ISMs.

- Under the Agreement on South Asian Free Trade Agreement (SAFTA), the Maldives, even after its graduation from the LDC group, has been granted LDC-specific preferential market access conditions, including the 30 percent value addition applicable to LDCs instead of the 40 percent value addition requirement for non-LDCs. Nepal can ask SAFTA members to accord it such treatment after graduation.

- In the process of consultations with the private sector, it was found that exporters and other private sector stakeholders would benefit from information on the implications of LDC graduation for exports—for example, for some products there will be no change in tariffs or rules of origin, and favourable next-best tariff regimes are available. This highlights the need for the government to work together with think tanks and private sector associations to disseminate information on the implications of LDC graduation along with taking trade capacity building measures.

- Since bilateral development partners, including south-south partners, and multilateral development banks mostly use criteria other than LDC membership in their aid allocation decisions, ODA appears unlikely to fall substantially, or at all, after graduation. However, the increasing pressure of triple structural gaps faced by the Nepali economy—savings-investment gap, revenue-expenditure gap and balance-of-payments gap—together with the fiscal stress generated by the COVID-19 pandemic and the need for green growth demand mobilization of additional external finances. For this, the government should explore new forms of finance, including blended finance, public-private partnerships, private philanthropies and co-financing, among others, and work with development partners for new forms of support mechanisms such as dedicated funds for graduated countries, disaster insurance, and technology transfer mechanisms.

- The loss of the special access to climate finance, particularly access to the LDC Fund, could have significant implications. However, projects approved prior to graduation will continue to receive support until completion. EIF has also such provisions. Thus, Nepal needs to work on getting approval of the projects at the earliest opportunity by exhausting the eligible upper limit of the fund.

- The Fifth United Nations Conference on the Least Developed Countries, to be held in Doha in 2022, provides an important opportunity for graduating countries to put their case for the adoption of new categories of international support measures directed to graduating LDCs, particularly with respect to access to concessional finance and setting up innovative financing mechanisms and instruments, including access to climate finance and climate facilities. The Twelfth Ministerial Conference of the WTO, to be held this year, also provides a unique opportunity for graduating countries to put their case for continuation of the use of LDC-specific provisions for a specific period, particularly regarding the provisions related to preferential market access, use of export subsidies and the flexible implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights. Nepal should prepare itself to use these international platforms to pursue its post-graduation interests.

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Annexes

Annex 1: Meetings with policymakers, private sector and development partners

Date	Organizer/convener	Participants	Mode
7 Dec 2021	National Planning Commission, GoN	Policymakers from various federal ministries (including Ministry of Finance, Ministry of Agriculture and Livestock Development, Ministry of Industry, Commerce and Supplies)	In-person
13 Dec 2021	Ministry of Finance, GoN	MoF officials	In-person
13 Dec 2021	Ministry of Industry, Commerce and Supplies, GoN	MoICS officials	In-person
9 Jan 2022	Ministry of Agriculture and Livestock Development, GoN	Policymakers from federal and province-level agriculture ministries	In-person [Research team member presented on Nepal's agriculture trade in the context of WTO membership, including a section on LDC graduation. Held discussions with policymakers.]
11 Jan 2022	National Planning Commission, GoN	NPC officials, province-level policymakers	Virtual
6 Feb 2022	SAWTEE and Nepal Chamber of Commerce	Private sector	Virtual

15 Feb 2022	SAWTEE and National Planning Commission, GoN	Private sector	Virtual
24 March 2022	Ministry of Finance, GoN	MoF officials	In-person
4 April 2022	National Planning Commission, GoN	NPC officials, development partners	Virtual

Annex 2: List of development partners surveyed

Development Partners reached out	Responded
Australia	Yes
China	
EU	Yes
Finland	Yes
Germany	Yes
India	
Japan	Yes
Norway	Yes
South Korea	Yes
Switzerland	Yes
UK	
US	Yes
World Bank	Yes
Asian Development Bank	Yes
Enhanced Integrated Framework	Yes
UNCDF	No
UN Technology Bank for LDCs	No

Annex 3: Basic questions for development partners

1. Is Nepal's LDC status a factor in your country/agency's provision of official development assistance (ODA) to Nepal?
   If yes, please explain in what ways is ODA to Nepal contingent on its LDC status. For example, how is LDC status a factor in the amount of aid provided, the share of grants and loans in the total aid provided, the terms and conditions (or degree of concessionality) of loans?

2. Is there any specific programme or support being offered by your country/agency to Nepal as an LDC? If yes, please provide the information.

3. Will your country/agency revise its ODA provision strategy for Nepal following Nepal's graduation from LDC category? That is, will graduation from LDC category affect the volume and/or modality of ODA disbursement to Nepal? If yes, how? If not, why not?

4. Will Nepal's graduation from LDC status affect current grant-loan composition of ODA provided by your country/agency? If yes, how?

5. Will Nepal's graduation from LDC status affect the terms and conditions of loans provided by your country/agency? If yes, how?

6. Will Nepal's graduation from LDC status affect the sectoral composition (e.g., economic affairs, social, environmental, governance, etc.) of ODA disbursement, for both grants and loans? If yes, how?

7. Does your country/agency plan to offer assistance to Nepal in the near future to support Nepal's transition to developing country status? If yes, how?

Annex 4: Basic questions for the private sector

1. Do you agree with the predictions of the likely impact of loss of trade preferences on Nepal's goods exports? Do you think the negative impact will be higher or lower that the predictions – total, by sector, by market-sector?
2. In which sectors are SMEs likely to be hurt the most? How will SMEs be impacted? What are SMEs' views on graduation?
3. Why is preference utilization low in the US, China, Australia, Canada, Japan, Switzerland, Korea – compared to the EU (90+)?
4. Why have Nepal-specific trade preferences (although not LDC related) provided by the US from 2015-2024 not been fully utilized?
5. What will be the impact of the tightening of rules of origin (ROO) following graduation?
   a. EU market: apparel will need to meet double transformation requirement in order to qualify for duty-free access under GSP+
      i. Will apparel producers be able to meet the changed ROO and still remain competitive? How much will cost rise?
      ii. What is the feasibility of establishing backward linkages (apparel using domestic textiles)
      iii. How do they plan to cope with this challenge?
   b. Other ROO changes.
6. What are the implications for exports under SAFTA (E.g., edible vegetable oil exports to India)? What will be the impact of an increase in value added requirement?
7. A few top domestic pharmaceutical manufacturers have been also producing generic versions of medicines patented abroad without paying royalty. This is allowed by TRIPS as Nepal is an LDC. Nepal will lose this upon graduation. How is the pharmaceutical industry preparing for this loss of flexibility? What support does it need from GoN?
8. Subsidies: export and domestic, agri and non-agri, effectiveness
   a. Regardless of LDC status, Nepal is not allowed to provide export subsidies on agricultural products. Upon graduation, the current export subsidy scheme could come under greater scrutiny. What could be the other ways GoN can support exporters, without providing direct export subsidies?
   b. Non-agricultural export subsidies: Nepal may be allowed to provide such subsidies even after LDC graduation as long its income is below $1,000 (constant 1990 dollars). If GNI per capita grows in real terms by 7.7 percent per annum (with 2019 as base), Nepal may be allowed to provide such subsidies till around 2032. There is no evidence that these export subsidies

are stimulating exports. In what other ways can the government support exporters?

c. If the argument is that export subsidies are needed because Nepal's international and internal trade costs are high and wages are high, then that amounts to endorsing such subsidies almost forever. In principle, export subsidies are provided to help exporters with the fixed costs of exporting (e.g., discovering markets, marketing, gathering market intelligence, etc.). Through what other ways can support be provided for these areas, excepting export subsidies?

9. Local content requirements: Strictly speaking, a condition set by the government for the eligibility of motorcycle assembly plants for tax rebates/discounts is not WTO consistent. For example: the requirement of domestic content. This violates TRIMS Agreement. Is the private sector aware of this?

10. Industrial policy: Case of iron industry: differential rates of excise duty on imported and domestically produced billets violate national treatment principle. Is the private sector aware of this?

11. Tariff reductions under SAFTA, BIMSTEC, future WTO negotiations will put further competitive pressure on domestic industry. Is the private sector adequately consulted when government makes tariff concessions? What support does it need to remain competitive in the fact of likely tariff reductions?

12. What is the feasibility of offsetting, at least partially, loss of sales abroad through domestic sales? For example, anecdotal evidence suggests domestic apparel producers did brisk business when the Covid pandemic disrupted apparel imports. Can this be sustained? Any other export-oriented sectors where turning attention to domestic market holds promise? What forms of government support are needed towards that end?

13. Are there ways to mitigate the loss of tariff preferences through trade facilitation measures, including improved logistics, and building and upgrading national quality infrastructure (concerning standards and technical regulations)?

14. What is the private sector's view of aid for trade received by Nepal? What kind of specific support through aid for trade is needed to develop productive capacity, and improve supply and export capacity?

15. Services: what measures are needed to boost services exports (which could help mitigate the impact on goods sector – from the macro perspective)

16. What is the private sector planning to do to effectively respond to the challenges posed by loss of trade preferences?

    a. How about raising awareness about graduation among members?

17. What should be done to attract FDI, cashing in on a possible positive signal sent to global investors by graduation, in order to enable Nepal participate in and benefit from regional and global value chains?

18. What support measures from GoN are needed to help private sector enhance its export competitiveness in the wake of graduation? What special support measures do SMEs need?

Annex 5: Major preferential schemes

Table A5.1: Major preferential schemes relevant to Nepal

Preference schemes (Initial Entry into Force)	Description	Duty-free tariff line coverage	Next Best Scheme	Duty-free tariff line coverage for the next-best scheme (duty-free tariff line coverage at MFN level)
Generalized System of Preferences (GSP) for LDCs				
Armenia (2016)[a]	GSP-LDCs	43.9% (excludes electrical machinery, chemicals, iron and steel products, alcoholic beverages	GSP-developing countries	21.5% (21.5%)
Australia (2021)	Australian System of Tariff Preferences (ASTP)-LDCs	100%	ASTP-Developing Countries (DC) rates of duty[d]	98.4% (49.4%)
Belarus[a]	GSP-LDCs	NA	GSP-developing countries	NA
Canada (2021)	General Preferential Tariff (GPT)-Least Developed Country Tariff (LDCT)	98.5% (excludes dairy and other animal products, meat, meat preparations, cereal products)	GPT-Developing Countries	76.4% (70.4%)
European Union (2021)	Everything But Arms (EBA)-LDCs	99.8% (excludes arms and ammunition)	GSP+[e]/GSP	89.0%/57.2% (26.7%)
Iceland (2018)	GSP-LDCs	91.8% (excludes meat, food preparations, vegetables, dairy and	MFN	NA (89.4%)

		other animal products, plants and trees)		
Japan (2021)	GSP-LDCs	97.9% (excludes fish and crustaceans, footwear, milling products, cereal products, sugar)	GSP	58.4% (40.5%)
Kazakhstan[a] (2019)	GSP-LDCs	62.9% (excludes vehicles, machinery, beverages, articles of iron and steel)	GSP-developing countries	18.0% (18.0%)
Kyrgyz Republic[a]	GSP-LDCs	57.6% (excludes motor vehicles, meat products, wine, sugar)	GSP-developing countries	NA
New Zealand	GSP-LDCs	100%	GSP-developing countries	62.8% (61.1%)
Norway	GSP zero (LDCs)	100%	GSP plus[f]	89.0% (26.7%)
Russian Federation[a]	GSP-LDCs	61.2% (excludes transport vehicles, machinery and mechanical appliances, beverages, iron and steel products, electrical machinery, meat products and articles of wood)	GSP-developing countries	NA
Switzerland (2021)	GSP-LDCs	100%	GSP-developing countries	77.5% (26.9%)
Turkey (2021)	GSP-EBA (LDCs)	78.1% (excludes iron and steel products, fish and crustaceans, food preparations, meat, oil seeds and oleaginous fruits)	GSP+[g]/GSP	77.1%/54.9% (23.2%)
United Kingdom (2021)	GSP-Least Developed Country Framework (LDCF)	99.8% (excludes arms and ammunition)	GSP Enhanced Framework (EF)[h]/GSP General Framework(GF)	90.2%/64.7% (47.0%)
United States[b]	GSP for Least Developed	82.2% (excludes apparel and clothing, cotton,	GSP for beneficiary developing countries	69.8% (38.4%)

(2021)	Beneficiary Developing Countries (LDBDC)	fibres, footwear, dairy and other animal products)		
Other LDC-specific duty-free, quota-free (DFQF) schemes				
Chile (2021)	Duty-free treatment for LDCs	99.1% (excludes cereals, sugar, milling products)	MFN	(0.4%)
China (2021)	Duty-free treatment for LDCs	96.1% (excludes chemicals, transport vehicles, machinery and mechanical appliances, electrical machinery, paper)	MFN	(10.2%)
India[c] (2021)	Duty-free treatment for LDCs	94.1% (excludes plastics, coffee and tea, alcoholic beverages, tobacco, food residues)	MFN (Not applicable for Nepal)	Not applicable for Nepal
Korea (2017)	Duty-free treatment for LDCs	89.9% (excludes fish and crustaceans, mineral fuels, oil seeds and oleaginous fruits, wood products, vegetables)	MFN	(19.6%)
Montenegro (2020)	Duty-free treatment for LDCs	93.5% (excludes fish and crustaceans, alcoholic beverages, meat and dairy products)	MFN	(29.3%)
Taiwan (Chinese Taipei) (2021)	Duty-free treatment for LDCs	32.1% (excludes machinery and mechanical appliances, chemicals, electrical machinery, fish and crustaceans, plastics)	MFN	(30.5%)
Tajikistan (2017)	Duty-free treatment for LDCs	3.7% (duty-free access for machinery, glass products, petroleum	MFN	(3.7%)

		products); preference provided to LDCs (mostly 50%) on 96.3% of tariff lines		
Thailand (2020)	Duty-free treatment for LDCs	71.1% (excludes transport vehicles, electrical machinery, machinery and mechanical appliances, iron and steel products, apparel and clothing)	MFN	(30.4%)
Regional agreements providing LDC-specific preferences				
South Asian Free Trade Area (SAFTA)			Increased tariff for certain products	

Note: Major exclusions in the third column of the table are obtained from WTO (2020a) and United Nations (UN) LDC Portal. Duty-free tariff line coverage for the Kyrgyz Republic and Russian Federation (in the third column) are obtained from the UN LDC Portal. Other estimates of the duty-free tariff line coverage for the LDCs (in the third column) and the duty-free tariff line coverage (in the fifth column) under the next-best scheme are computed by the author using the WTO PTA database.

a. Armenia, Belarus, Kazakhstan, the Kyrgyz Republic, and the Russian Federation are members of the Eurasian Economic Union (EAEU). EAEU offers GSP facilities for the LDCs developing countries.
b. The United States also offers duty-free access to Nepal in 77 tariff lines (textiles, clothing, leather, footwear) through the Nepal Trade Preference program; however, the scheme does not depend on Nepal's LDC status—the program's objective is to promote the expansion of trade and economic development to ameliorate the social and economic consequences of the devastating earthquake and its aftershock that Nepal witnessed in 2015. It came into effect on 30 December 2016 and is scheduled to expire on 1 December 2025.
c. Since Nepal and India have a bilateral trade treaty, where preferences given to Nepal are not dependent upon its LDC status, LDC-specific preferences provided by India have little meaning for Nepal as of now. However, India's DFQF scheme for LDCs would have provided a fallback position in case provisions of the bilateral trade treaty were to change.
d. Non-LDC developing countries are subject to different categories of GSP—the more generous GSP for developing countries subject to Developing Country (DC) rates of duty (Part 3, Schedule 1 of Customs Tariff Regulations 2004), and the less generous GSPs that include GSP for developing countries subject to Developing Country Status (DCS) rates of

duty (Part 4, Schedule 1 of Customs Tariff Regulations 2004), and GSP for developing countries subject to Developing Country Category T (DCT) rates of duty (Part 5, Schedule 1 of Customs Tariff Regulations 2004). All the countries that have graduated from the LDC status so far are included in the next best GSP scheme— GSP for developing countries subject to Developing Country (DC) rates of duty.

e. GSP+ is a special incentive arrangement offered to vulnerable low and lower-middle countries which is contingent upon them implementing 27 international conventions related to human rights, labour rights, environment protection, and good governance. As per EIF (2022), the newly proposed GSP for the period 2024-34, which is yet to be endorsed by the European Parliament and European Council, requires ratification and effective implementation of 32 international agreements, adding five agreements to the current 27 international conventions.

f. Introduced in 2013 to ease the transition from low-income country group to the middle-income country group, Norway's GSP plus category offers better market access than its ordinary GSP (duty-free coverage of 89.0% compared to 57.2%) whose beneficiaries are the middle-income group. Lower middle-income countries with a population of less than 75 million (which applies to Nepal) are granted GSP plus facilities.

g. Turkey's GSP mirrors that of the European Union's GSP scheme, with an objective of completely aligning with it. According to UNCTAD (2017a), GSP preferences are granted on all industrial products (including DFQF market access to LDCs on almost all of the industrial products) and select agricultural products covered by the European Union's GSP scheme. As is the case with European Union's GSP+, conferral of Turkey's GSP+ is not automatic and needs to be applied for. Turkey currently does not have any GSP+ beneficiaries.

h. United Kingdom's GSP Enhanced Framework (EF) is similar to European Union's GSP+ and is offered to economically-vulnerable countries that implement 27 conventions relating to human and labour rights, the environment, and good governance.[107]

Source: WTO PTA Database; WTO (2020a); UN LDC Portal[108]; Generalized System of Preferences (UNCTAD)[109]; UNCTAD GSP Handbooks[110]

[107] https://www.gov.uk/government/publications/trading-with-developing-nations

[108] https://www.un.org/ldcportal/content/preferential-market-access-goods-2

[109]https://unctad.org/topic/trade-agreements/generalized-system-of-preferences

[110] https://unctad.org/publications-search?f[0]=product%3A498

Annex 6: Tariff increases after graduation

Table A6.1: Tariff change in top exports to GSP-granting and LDC-preference granting countries (sub-heading level)

HS6	Description	Exports to GSP and LDC-preference granting countries (in US$ million)	Export to GSP and LDC-preference granting countries as a share of total export of the product (in %)	Increase in trade-weighted tariff (percentage points)	
				if not included in GSP+ like regimes	if included in GSP+ like regimes
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	61.7	97.5	2.5	1.0
550951	Yarn; (not sewing thread), of polyester staple fibres, mixed mainly or solely with artificial staple fibres, not put up for retail sale	20.3	68.8	3.2	0.0
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	18.4	93.5	5.7	1.4
560290	Felt; impregnated, coated, covered or laminated (excluding needle loom felt and stitch-bonded fibre fabrics)	15.6	98.5	2.4	0.3
230910	Dog or cat food; put up for retail sale, used in animal feeding	9.9	99.0	0.1	0.1
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	9.3	98.1	7.0	1.5
611012	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or	7.9	98.9	7.5	0.9

	crocheted, of fibres from kashmir (cashmere) goats				
550921	Yarn; (not sewing thread), single, of synthetic staple fibres, containing 85% or more by weight of polyester, not put up for retail sale	6.4	31.2	3.2	0.0
620442	Dresses; women's or girls', of cotton (not knitted or crocheted)	5.2	96.2	7.7	1.1
701310	Glassware; of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than of heading no. 7010 or 7018), of glass-ceramics	4.9	99.8	12.9	12.9
620462	Trousers, bib and brace overalls, breeches and shorts; women's or girls', of cotton (not knitted or crocheted)	4.4	95.6	7.3	0.9
970110	Paintings, drawings and pastels; executed entirely by hand, other than drawings of heading no. 4906	3.9	92.8	1.0	1.0
630520	Sacks and bags; of a kind used for the packing of goods, of cotton	3.7	97.7	3.1	0.7
650500	Hats and other headgear; knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed	3.7	99.7	3.2	3.2
611011	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or	2.6	98.0	8.5	1.7

	crocheted, of wool or fine animal hair				
560221	Felt; of wool or fine animal hair (excluding needle loom felt or stitch-bonded fibre fabrics), not impregnated, coated, covered nor laminated	2.5	98.2	0.6	0.1
920600	Musical instruments; percussion (e.g. drums, xylophones, cymbals, castanets, maracas)	2.2	95.1	0.7	0.7
830629	Statuettes and other ornaments; of base metal other than plated with precious metal	2.0	88.5	5.9	5.9
621410	Shawls, scarves, mufflers, mantillas, veils and the like; of silk or silk waste (not knitted or crocheted)	2.0	96.8	5.1	0.5
190219	Food preparations; pasta, uncooked (excluding that containing eggs), not stuffed or otherwise prepared	1.9	27.4	4.6	4.5

GSP+ like regime in the last column includes the GSP+ tariff schedule of the European Union and Turkey and the GSP Enhanced Framework of the United Kingdom. GSP+ tariff schedule of Norway is already considered in the next-best scenario in the 5th column. Ad-valorem tariff equivalents are used in the case of non-ad-valorem tariffs (obtained from Market Access Map). Tariff data are for the year 2021 except for Turkey (2017) and Iceland (2019).

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org and Tariff Download Facility, WTO (for United Kingdom).

Table A6.2: Highest tariff changes in products whose exports to GSP and LDC-preference granting countries exceed US$ 1 million (HS sub-heading level)

HS6	Description	Category	Exports to GSP and LDC-preference granting countries (in US$ million)	Increase in trade-weighted tariff (percentage points)	
				if not included in GSP+ like regimes	if included in GSP+ like regimes
701310	Glassware; of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than of heading no. 7010 or 7018), of glass-ceramics	Minerals and metals	4.9	12.9	12.9
611011	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of wool or fine animal hair	Clothing	2.6	8.5	1.7
620442	Dresses; women's or girls', of cotton (not knitted or crocheted)	Clothing	5.2	7.7	1.1
620332	Jackets and blazers; men's or boys', of cotton (not knitted or crocheted)	Clothing	1.1	7.6	2.2
611012	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of fibres from kashmir (cashmere) goats	Clothing	7.9	7.5	0.9
620462	Trousers, bib and brace overalls, breeches and shorts; women's or girls', of cotton (not knitted or crocheted)	Clothing	4.4	7.3	0.9
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	Clothing	9.3	7.0	1.5

140490	Vegetable products; n.e.c. in chapter 14	Fruit, vegetables, plants	1.1	6.4	6.4
611691	Gloves, mittens and mitts; of wool or fine animal hair, knitted or crocheted, (other than impregnated, coated or covered with plastics or rubber)	Clothing	1.0	6.3	3.2
830629	Statuettes and other ornaments; of base metal other than plated with precious metal	Minerals and metals	2.0	5.9	5.9
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	Clothing	18.4	5.7	1.4
620520	Shirts; men's or boys', of cotton (not knitted or crocheted)	Clothing	1.1	5.5	1.9

GSP+ like regime in the last column includes the GSP+ tariff schedule of the European Union and Turkey and the GSP Enhanced Framework of the United Kingdom. GSP+ tariff schedule of Norway is already considered in the next-best scenario in the 5th column. Ad-valorem tariff equivalents are used in the case of non-ad-valorem tariffs (obtained from Market Access Map). Tariff data are for the year 2021 except for Turkey (2017) and Iceland (2019).

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org and Tariff Download Facility, WTO (for United Kingdom).

Table A6.3: Top 10 exports to the United States and tariff scenario after LDC graduation

HS	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	GSP tariff (%)	MFN tariff (%)
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	Textiles	33.5	35.9	0.0	1.1	1.1

230910	Dog or cat food; put up for retail sale, used in animal feeding	Other agricultural products	8.7	9.4	0.0	0.0	0.0
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	Textiles	6.9	7.4	6.7	6.7	6.7
701310	Glassware; of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than of heading no. 7010 or 7018), of glass-ceramics	Minerals and metals	4.9	5.2	0.0	13.0	16.4
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	Clothing	2.6	2.8	0.0	6.7	6.7
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	Clothing	2.4	2.6	6.1	6.1	6.1
560221	Felt; of wool or fine animal hair (excluding needleloom felt or stitch-bonded fibre fabrics), not impregnated, coated, covered nor laminated	Textiles	1.9	2.0	10.2	10.2	10.2
570210	Carpets and other textile floor coverings; woven, (not tufted or flocked), whether or not made up,	Textiles	1.8	1.9	0.0	0.0	0.0

	including kelem, schumacks, karamanie and similar hand-woven rugs						
630520	Sacks and bags; of a kind used for the packing of goods, of cotton	Textiles	1.5	1.6	6.2	6.2	6.2
650500	Hats and other headgear; knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed	Textiles	1.4	1.5	0.5	6.5	7.0

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2021. Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad valorem tariff. Tariff value represents simple average of tariff applied at HS subheading level.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org.

Table A6.4: Top 10 exports to the European Union and tariff scenario after LDC graduation

HS	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	GSP+ tariff (%)	GSP tariff (%)	MFN tariff (%)
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair,	Textiles	15.9	23.4	0.0	0.0	5.5	6.5

	whether or not made up							
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	Clothing	10.4	15.2	0.0	0.0	6.4	8.0
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	Textiles	5.2	7.7	0.0	0.0	5.3	6.7
611012	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of fibres from kashmir (cashmere) goats	Clothing	3.3	4.8	0.0	0.0	9.6	12.0
620442	Dresses; women's or girls', of cotton (not knitted or crocheted)	Clothing	2.5	3.6	0.0	0.0	9.6	12.0
620462	Trousers, bib and brace overalls,	Clothing	2.3	3.4	0.0	0.0	9.6	12.0

	breeches and shorts; women's or girls', of cotton (not knitted or crocheted)							
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	Clothing	2.3	3.3	0.0	0.0	9.6	12.0
410621	Tanned or crust hides and skins; of goats or kids, without wool or hair on, whether or not split, but not further prepared, in the wet state (including wet blue)	Leather, footwear, etc.	1.5	2.2	0.0	0.0	0.0	0.0
611011	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of wool or fine animal hair	Clothing	1.5	2.2	0.0	0.0	9.2	11.5
630520	Sacks and bags; of a kind used for the packing of goods, of cotton	Textiles	1.3	2.0	0.0	0.0	5.7	7.2

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2021. Ad valorem equivalents (obtained from Market

Access Map) are used in the case of non-ad valorem tariff. Tariff value represents simple average of tariff applied at HS subheading level. Tariff data for HS 410621 updated as per WTO's Tariff Download Facility.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org and Tariff Download Facility, WTO.

Table A6.5: Top 10 exports to Turkey and tariff scenario after LDC graduation

HS	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	GSP+ tariff (%)	GSP tariff (%)	MFN tariff (%)
550951	Yarn; (not sewing thread), of polyester staple fibres, mixed mainly or solely with artificial staple fibres, not put up for retail sale	Textiles	20.3	71.2	0.0	0.0	3.2	4.0
550921	Yarn; (not sewing thread), single, of synthetic staple fibres, containing 85% or more by weight of polyester, not put up for retail sale	Textiles	6.4	22.3	0.0	0.0	3.2	4.0
550810	Sewing thread; of synthetic staple fibres, whether or	Textiles	0.7	2.6	0.0	0.0	3.4	4.3

	not put up for retail sale							
550922	Yarn; (not sewing thread), multiple (folded) or cabled yarn, of synthetic staple fibres, containing 85% or more by weight of polyester, not put up for retail sale	Textiles	0.6	2.0	0.0	0.0	3.2	4.0
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	Textiles	0.2	0.6	0.0	0.0	4.6	5.2
410419	Tanned or crust hides and skins; bovine or equine, without hair on, in the wet state (including wet blue), excluding full grains, unsplit; grain splits	Leather, footwear, etc.	0.2	0.5	0.0	0.0	0.5	1.4
940110	Seats; of a kind used for aircraft	Wood, paper, etc.	0.1	0.3	0.0	0.0	0.0	0.0

551011	Yarn; (not sewing thread), single, of artificial staple fibres, containing 85% or more by weight of artificial staple fibres, not put up for retail sale	Textiles	0.0	0.1	0.0	0.0	3.2	4.0
550932	Yarn; (not sewing thread), multiple (folded) or cabled, of synthetic staple fibres, containing 85% or more by weight of acrylic or modacrylic, not put up for retail sale	Textiles	0.0	0.1	0.0	0.0	3.2	4.0
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	Textiles	0.0	0.1	0.0	0.0	5.3	6.7

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2017. Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad valorem tariff. Tariff value represents simple average of tariff applied at HS subheading level.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org.

Table A6.6: Top 10 exports to the United Kingdom and tariff scenario after LDC graduation

HS	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	GSP+ tariff (%)	GSP tariff (%)	MFN tariff (%)
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	Textiles	4.9	21.9	0.0	0.0	0.0	0.0
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	Clothing	3.1	13.6	0.0	0.0	9.6	12.0
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	Clothing	2.2	9.9	0.0	0.0	6.4	8.0
611012	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or	Clothing	2.2	9.6	0.0	0.0	9.6	12.0

	crocheted, of fibres from kashmir (cashmere) goats							
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	Textiles	1.1	4.8	0.0	0.0	4.8	6.0
620442	Dresses; women's or girls', of cotton (not knitted or crocheted)	Clothing	1.1	4.7	0.0	0.0	9.6	12.0
620462	Trousers, bib and brace overalls, breeches and shorts; women's or girls', of cotton (not knitted or crocheted)	Clothing	0.7	3.0	0.0	0.0	9.6	12.0
610442	Dresses; women's or girls', of cotton, knitted or crocheted	Clothing	0.6	2.5	0.0	0.0	9.6	12.0
650500	Hats and other headgear; knitted or crocheted, or	Textiles	0.5	2.1	0.0	0.0	0.0	2.7

	made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed							
482010	Paper and paperboard; registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles	Wood, paper, etc.	0.4	2.0	0.0	0.0	0.0	0.0

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2021. Only ad-valorem tariff is used and specific duties (non ad-valorem) are not included in the analysis. Tariff value represents simple average of ad-valorem tariff applied at HS subheading level.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Tariff Download Facility, WTO

Table A6.7: Top 10 exports to China and tariff scenario after LDC graduation

HS	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	MFN tariff (%)
570110	Carpets and other textile	Textiles	1.9	12.2	0.0	6.0

	floor coverings; knotted, of wool or fine animal hair, whether or not made up					
830629	Statuettes and other ornaments; of base metal other than plated with precious metal	Minerals and metals	1.6	10.2	0.0	7.0
970110	Paintings, drawings and pastels; executed entirely by hand, other than drawings of heading no. 4906	Manufactures, not elsewhere specified	0.9	5.6	0.0	4.3
741810	Copper; table, kitchen or other household articles and parts thereof; pot scourers and scouring or polishing pads, gloves and the like	Minerals and metals	0.8	5.4	0.0	7.0
840710	Engines; for aircraft, spark-ignition reciprocating or rotary internal combustion piston engines	Non-electrical machinery	0.7	4.4	0.0	2.0

140490	Vegetable products; n.e.c. in chapter 14	Fruit, vegetables, plants	0.6	3.9	0.0	11.7
830621	Statuettes and other ornaments; of base metal plated with precious metal	Minerals and metals	0.6	3.7	0.0	7.0
121190	Plants and parts (including seeds and fruits) n.e.c. in heading no. 1211, of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, fresh, chilled, frozen or dried, whether or not cut, crushed or powdered	Fruit, vegetables, plants	0.5	3.5	0.0	6.1
970300	Sculptures and statuary; original, in any material	Manufactures, not elsewhere specified	0.5	3.1	0.0	1.0
330499	Cosmetic and toilet preparations; n.e.c. in heading no. 3304, for the	Chemicals	0.5	2.9	0.0	1.0

	care of the skin (excluding medicaments, including sunscreen or suntan preparations)					

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2021. Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad valorem tariff. Tariff value represents simple average of tariff applied at HS subheading level.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org.

Table A6.8: Top 10 exports to Japan and tariff scenario after LDC graduation

HS6	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	GSP tariff (%)	MFN tariff (%)
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	Clothing	0.8	9.1	0.0	11.0	11.0
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	Clothing	0.6	7.1	0.0	0.0	6.0
470692	Pulp; of fibrous cellulosic	Wood, paper, etc.	0.6	6.1	0.0	0.0	0.0

	material, other than of bamboo or fibres derived from recovered (waste and scrap) paper or paperboard or from cotton linters pulp, chemical						
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	Textiles	0.4	4.3	0.0	0.0	5.6
650500	Hats and other headgear; knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or	Textiles	0.4	4.3	0.0	0.0	4.9

	not lined or trimmed						
140490	Vegetable products; n.e.c. in chapter 14	Fruit, vegetables, plants	0.4	4.2	0.0	0.3	2.7
611012	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of fibres from kashmir (cashmere) goats	Clothing	0.3	3.8	0.0	10.9	10.9
420292	Cases and containers; n.e.c. in heading 4202, with outer surface of sheeting of plastics or of textile materials	Textiles	0.3	3.4	0.0	8.0	8.0
611011	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of wool or fine animal hair	Clothing	0.3	3.0	0.0	10.9	10.9
670420	Wigs, false beards, eyebrows and	Manufactures, not elsewhere specified	0.3	3.0	0.0	0.0	0.0

	eyelashes, switches and the like and other articles n.e.c.; of human hair						

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2021. Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad valorem tariff. Tariff value represents simple average of tariff applied at HS subheading level.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org.

Table A6.9: Top 10 exports to Canada and tariff scenario after LDC graduation

HS	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	GSP tariff (%)	MFN tariff (%)
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	Textiles	1.9	24.9	0.0	5.0	9.7
230910	Dog or cat food; put up for retail sale, used in animal feeding	Other agricultural products	0.7	9.2	0.0	0.0	3.5
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom	Textiles	0.4	5.8	0.0	0.0	0.0

	felt and stitch-bonded fibre fabrics)						
560221	Felt; of wool or fine animal hair (excluding needleloom felt or stitch-bonded fibre fabrics), not impregnated, coated, covered nor laminated	Textiles	0.4	5.1	0.0	0.0	0.0
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	Clothing	0.3	3.8	0.0	9.0	9.0
650500	Hats and other headgear; knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or	Textiles	0.3	3.8	0.0	8.5	9.3

	not lined or trimmed						
620442	Dresses; women's or girls', of cotton (not knitted or crocheted)	Clothing	0.2	2.9	0.0	17.0	17.0
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	Clothing	0.2	2.8	0.0	17.0	17.0
611691	Gloves, mittens and mitts; of wool or fine animal hair, knitted or crocheted, (other than impregnated, coated or covered with plastics or rubber)	Clothing	0.2	2.3	0.0	16.5	18.0
630790	Textiles; made up articles (including dress patterns), n.e.c. in chapter 63, n.e.c. in heading no. 6307	Textiles	0.2	2.3	0.0	10.2	12.9

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2021. Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad valorem tariff. Tariff value represents simple average of tariff applied at HS subheading level.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org.

Table A6.10: Top 10 exports to Australia and tariff scenario after LDC graduation

HS	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	GSP tariff (%)	MFN tariff (%)
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	Textiles	1.4	21.3	0.0	0.0	0.0
190219	Food preparations; pasta, uncooked (excluding that containing eggs), not stuffed or otherwise prepared	Cereals and preparations	0.7	10.9	0.0	0.0	5.0
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	Textiles	0.5	8.2	0.0	0.0	5.0
621420	Shawls, scarves,	Clothing	0.3	4.7	0.0	0.0	0.0

	mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)						
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	Clothing	0.3	3.9	0.0	0.0	5.0
630520	Sacks and bags; of a kind used for the packing of goods, of cotton	Textiles	0.2	3.4	0.0	0.0	0.0
620442	Dresses; women's or girls', of cotton (not knitted or crocheted)	Clothing	0.2	3.2	0.0	0.0	5.0
620462	Trousers, bib and brace overalls, breeches and shorts; women's or girls', of cotton (not knitted or crocheted)	Clothing	0.2	3.1	0.0	0.0	5.0
210390	Sauces and preparations therefor; mixed condiments	Cereals and preparations	0.2	2.7	0.0	0.0	0.0

	and mixed seasonings						
711319	Jewellery; of precious metal (excluding silver) whether or not plated or clad with precious metal, and parts thereof	Minerals and metals	0.2	2.5	0.0	0.0	5.0

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2021. Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad valorem tariff. Tariff value represents simple average of tariff applied at HS subheading level.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org.

Table A6.11: Top 10 exports to Switzerland and tariff scenario after LDC graduation

HS	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	GSP tariff (%)	MFN tariff (%)
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	Textiles	1.1	32.7	0.0	1.0	2.1
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool	Clothing	1.0	28.6	0.0	0.7	1.4

	or fine animal hair (not knitted or crocheted)						
611012	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of fibres from kashmir (cashmere) goats	Clothing	0.1	4.1	0.0	0.5	1.0
621410	Shawls, scarves, mufflers, mantillas, veils and the like; of silk or silk waste (not knitted or crocheted)	Clothing	0.1	3.0	0.0	0.8	1.7
970110	Paintings, drawings and pastels; executed entirely by hand, other than drawings of heading no. 4906	Manufactures, not elsewhere specified	0.1	2.6	0.0	0.0	0.0
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and	Textiles	0.1	2.4	0.0	2.0	4.1

	stitch-bonded fibre fabrics)						
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	Clothing	0.1	2.1	0.0	1.3	2.6
090111	Coffee; not roasted or decaffeinated	Coffee, tea	0.1	1.6	0.0	0.0	0.0
920600	Musical instruments; percussion (e.g. drums, xylophones, cymbals, castanets, maracas)	Manufactures, not elsewhere specified	0.1	1.5	0.0	0.0	1.9
711311	Jewellery; of silver, whether or not plated or clad with other precious metal, and parts thereof	Minerals and metals	0.0	1.2	0.0	0.0	0.5

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2021. Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad valorem tariff. Tariff value represents simple average of tariff applied at HS subheading level.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org.

Table A6.12: Top 10 exports to Republic of Korea and tariff scenario after LDC graduation

HS	Description	Category	Total export to the destination (US$ million)	Share in total export to the destination (%)	Current tariff (%)	MFN tariff (%)
670420	Wigs, false beards, eyebrows and eyelashes, switches and the like and other articles n.e.c.; of human hair	Manufactures, not elsewhere specified	0.5	30.8	0.0	8.0
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	Textiles	0.2	10.5	0.0	8.0
240120	Tobacco; partly or wholly stemmed or stripped	Beverages and tobacco	0.2	9.1	0.0	20.0
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	Textiles	0.1	4.7	0.0	10.0
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	Clothing	0.1	4.2	0.0	8.0
121190	Plants and parts (including seeds and fruits) n.e.c. in heading no. 1211, of a kind used primarily in perfumery, in	Fruit, vegetables, plants	0.1	3.5	5.0	9.5

	pharmacy or for insecticidal, fungicidal or similar purposes, fresh, chilled, frozen or dried, whether or not cut, crushed or powdered					
611012	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of fibres from kashmir (cashmere) goats	Clothing	0.1	3.2	0.0	13.0
230910	Dog or cat food; put up for retail sale, used in animal feeding	Other agricultural products	0.0	2.5	0.0	5.0
040620	Dairy produce; cheese of all kinds, grated or powdered	Dairy products	0.0	2.0	36.0	36.0
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	Clothing	0.0	2.0	0.0	13.0

Note: Total export is the average of export to the destination in the five-year period 2016/17-2020/21. Tariff data is for the year 2021. Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad valorem tariff. Tariff value represents simple average of tariff applied at HS subheading level.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org.

Table A6.13: Post-graduation tariff change scenario in major destinations for products promoted by the government (NTIS products)

Product	HS	United States		European Union			Turkey			United Kingdom			China		Japan	
		LDC	GSP	LDC	GSP	GSP+	LDC	GSP	GSP+	LDC	GSP	EF	LDC	MFN	LDC	GSP
Cardamom	90831 90832	0	0	0	0	0	25.0	25.0	25.0	0	0	0	0	3.0	0	0
Ginger	91011 91012	0	0	0	0	0	25.0	25.0	25.0	0	0	0	0	15.0	0	2.0
Tea	0902	0	0	0	0	0	145.0	145.0	145.0	0	0	0	0	15.0	0	11.6
Medicinal and Aromatic Plants (MAPS)	1211	0	0	0	0	0	33.3	33.3	33.3	0	0	0	0	11.1	0	0.9
Leather	4104	0	0.5	0	1.8	0.9	0	2.0	1.2	0	0	0	0	5.7	0	19.1
	4106	0	1.9	0	0.7	0.7	0	1.2	1.2	0	0.5	0.5	0	14.0	0	4.3
All Fabrics, Textile, Yarn and Rope	5407	9.5	9.5	0	6.4	0	0	6.4	0	0	6.4	0	0	8.0	0	5.5
	5509	11.0	11.0	0	3.2	0	0	3.2	0	0	3.2	0	0	5.0	0	4.8
	6305	6.3	6.3	0	5.5	0	0	5.5	0	0	5.1	0	0	5.7	0	0
Carpets	5701	0	0.6	0	5.0	0	0	4.8	0	0	0	0	0	6.0	0	1.6
Pashmina	6214	1.1	6.1	0	6.4	0	0	6.4	0	0	6.4	0	0	6.0	0	0
Footwear	6404	20.7	20.7	0	11.9	0	0	11.9	0	0	11.9	0	0	10.0	0	39.7

Note: A simple average of tariffs (of products that are in Nepal's export basket in the last 5 years) is used in the table. Tariffs are for the year 2021 except for Turkey (2017). Ad valorem equivalents (obtained from Market Access Map) are used in the case of non-ad-valorem tariffs except for the United Kingdom where only ad-valorem tariffs are considered.

Source: Author, using trade data from Department of Customs (Nepal) and tariff data from Market Access Map, International Trade Centre, www.macmap.org and Tariff Download Facility, WTO (for United Kingdom)

Annex 7: Export loss due to loss of trade preferences

Table A7.1: Destination-wise loss in exports due to preference loss

S.N.	Source	Destination	Changes in export in the destination (in US$ million)	Export change as a share of total export (or projected export in ITC (n.d.)) in the destination
1	ITC (n.d.)	European Union	-18 (Standard GSP); <-1(GSP+)	Approx. -17% (Standard GSP)
		Turkey	-14	Approx. -33%
		China	-11	Approx. -25%
		United Kingdom	-7	Approx. -20%
		Canada	-3	
		Japan	-2	
		United States	-1	
		Rest of the World	-3	
2	WTO (2021)	European Union	-20.6	-19.13%
		Canada	-1.4	-13.39%
		Japan	-1.4	-11.40%
		Russian Federation	-0.4	-17.11%
		Republic of Korea	-0.2	-7.98%
		New Zealand	-0.2	-13.78%
		India	-0.1	-0.03%
		Switzerland	-0.1	-0.67%
		Armenia	0.0	-8.56%
		Chile	0.0	0.95%

		Thailand	0.0	2.11%
		Norway	0.1	4.13%
		China	0.1	0.71%
		United States	3.2	3.22%
3	Razzaque (2020)	European Union	-6.05 (Standard GSP); -0.06(GSP Plus)	-5.96%(Standard GSP); -0.06%(GSP Plus)
		China	-2.56	-11.45%
		Canada	-0.6	-7.25%
		United States	-0.32 (GSP for BDCs); -1.06 (MFN tariff)	-0.34%; -1.16%
4	NPC and UNDP (2020)	Republic of Korea		-27.8%
		Canada		-26.1%
		China		-24.5%
		New Zealand		-20.7%
		European Union		-20.1%
		Thailand		-19.7%
		Japan		-18.7%
		Chile		-14.1%
		Turkey		-9.5%
		Australia		-8.1%
		USA		-1.7%

Source: ITC (n.d.), WTO (2020b), Razzaque (2020), NPC and UNDP (2020)

Annex 8: Changes in rule of origin

Table A8.1: Rules of origin (ROO) scenario in top 10 exports to the European Union after graduation

HS6	Description	Product's share in total export to the destination (%)	Current ROO	ROO after graduation (GSP/GSP+)
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	23.4	Specific Process (SP)	SP (no change)
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	15.2	SP or (SP and RVC)	SP or (SP and RVC) (no change)
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	7.7	SP	SP (no change)
611012#	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of fibres from kashmir (cashmere) goats	4.8	SP (single transformation—manufacture from fabric)	SP (double transformation—knitting and making-up (including cutting))
620442	Dresses; women's or girls', of cotton (not knitted or crocheted)	3.6	SP (single transformation—manufacture from fabric)	SP (double transformation)
620462	Trousers, bib and brace overalls, breeches and shorts; women's or girls', of cotton (not knitted or crocheted)	3.4	SP (single transformation—manufacture from fabric)	SP (double transformation)

620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	3.3	SP (single transformation—manufacture from fabric)	SP (double transformation)
410621*	Tanned or crust hides and skins; of goats or kids, without wool or hair on, whether or not split, but not further prepared, in the wet state (including wet blue)	2.2	SP or CTH	SP or CTH (no change)
611011#	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of wool or fine animal hair	2.2	SP (single transformation—manufacture from fabric)	SP (double transformation—knitting and making-up (including cutting))
630520	Sacks and bags; of a kind used for the packing of goods, of cotton	2.0	SP (weaving or knitting and making up (including cutting)	SP (Extrusion of man-made fibres or spinning of natural and/or man-made staple fibres accompanied by weaving or knitting and making-up (including cutting))

SP=Specific Process; CTH=Change in Tariff Heading
# indicates that some of the products in the chapter described as other (other than "obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form") have the same ROO provisions for LDC scheme as well as non-LDC GSP schemes.
* indicates that product is currently taxed at the MFN rate of zero and hence the preferential ROO is not applicable

Source: European Commission (https://ec.europa.eu/taxation_customs/guide-users-gsp-rules-origin_en) for ROO provisions

Table A8.2: Rules of origin (ROO) scenario in top 10 exports to Turkey after graduation

HS6	Description	Product's share in total export to the destination (%)	Current ROO	ROO after graduation
550951	Yarn; (not sewing thread), of polyester staple fibres, mixed mainly or solely with artificial staple fibres, not put up for retail sale	71.2	SP (Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning)	SP (no change)
550921	Yarn; (not sewing thread), single, of synthetic staple fibres, containing 85% or more by weight of polyester, not put up for retail sale	22.3	SP (Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning)	SP (no change)
550810	Sewing thread; of synthetic staple fibres, whether or not put up for retail sale	2.6	SP (Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning)	SP (no change)
550922	Yarn; (not sewing thread), multiple (folded) or cabled yarn, of synthetic staple fibres, containing 85% or more by weight of polyester, not put up for retail sale	2.0	SP (Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning)	SP (no change)
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	0.6	SP	SP (no change)
410419	Tanned or crust hides and skins; bovine or equine, without hair on, in the wet state	0.5	SP or CTH	SP or CTH (no change)

	(including wet blue), excluding full grains, unsplit; grain splits			
940110*	Seats; of a kind used for aircraft	0.3	CTH or RVC 30%	CTH or RVC 30% (no change)
551011	Yarn; (not sewing thread), single, of artificial staple fibres, containing 85% or more by weight of artificial staple fibres, not put up for retail sale	0.1	SP (Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning)	SP (no change)
550932	Yarn; (not sewing thread), multiple (folded) or cabled, of synthetic staple fibres, containing 85% or more by weight of acrylic or modacrylic, not put up for retail sale	0.1	SP (Spinning of natural fibres or extrusion of man-made fibres accompanied by spinning)	SP (no change)
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	0.1	SP	SP (no change)

SP= Specific Process; RVC=Regional Value Content; CTH=Change in Tariff Heading
* indicates that product is currently taxed at the MFN rate of zero and hence the preferential ROO is not applicable

Source: UNCTAD (2017a) for ROO provisions

Table A8.3: Rules of origin (ROO) scenario in top 10 exports to United Kingdom after graduation

HS6	Description	Product's share in total export to the destination (%)	Current ROO	ROO after graduation
570110*	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	21.9	SP	SP (no change)
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	13.6	SP (single transformation—manufacture from fabric)	SP (double transformation)
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	9.9	SP or (SP and RVC)	SP or (SP and RVC) (no change)
611012#	Jerseys, pullovers, cardigans, waistcoats and similar articles; knitted or crocheted, of fibres from kashmir (cashmere) goats	9.6	SP (single transformation—manufacture from fabric)	SP (double transformation—knitting and making-up (including cutting))
560290	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	4.8	SP	SP (no change)
620442	Dresses; women's or girls', of cotton (not knitted or crocheted)	4.7	SP (single transformation—manufacture from fabric)	SP (double transformation)
620462	Trousers, bib and brace overalls, breeches and shorts; women's or girls', of	3.0	SP (single transformation—manufacture from fabric)	SP (double transformation)

	cotton (not knitted or crocheted)			
610442#	Dresses; women's or girls', of cotton, knitted or crocheted	2.5	SP (single transformation—manufacture from fabric)	SP (double transformation—knitting and making-up (including cutting))
650500	Hats and other headgear; knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed	2.1	CTH	CTH (no change)
482010*	Paper and paperboard; registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles	2.0	CTH or RVC 30%	CTH or RVC 30% (no change)

SP=Specific Process; RVC=Regional Value Content; CTH=Change in Tariff Heading
# indicates that some of the products in the chapter described as other (other than "obtained by together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form") have the same ROO provisions for LDC scheme as well as non-LDC GSP schemes.
* indicates that product is currently taxed at the MFN rate of zero and hence the preferential ROO is not applicable

Source: Government of the United Kingdom (2020) for ROO provisions

Table A8.4: Rules of origin (ROO) scenario in top 10 exports to Canada after graduation

HS	Description	Share in total export to the destination (%)	Current ROO	ROO after graduation
570110	Carpets and other textile floor coverings; knotted, of wool or fine animal hair, whether or not made up	24.9	RVC 40% or [RVC 20% (any LDC)+RVC 20% (in any GSP-beneficiary country)]	RVC 60%
230910	Dog or cat food; put up for retail sale, used in animal feeding	9.2	RVC 40% or [RVC 20% (any LDC)+RVC 20% (in any GSP-beneficiary country)]	RVC 60%
560290*	Felt; impregnated, coated, covered or laminated (excluding needleloom felt and stitch-bonded fibre fabrics)	5.8	RVC 40% or [RVC 20% (any LDC)+RVC 20% (in any GSP-beneficiary country)]	RVC 60%
560221*	Felt; of wool or fine animal hair (excluding needleloom felt or stitch-bonded fibre fabrics), not impregnated, coated, covered nor laminated	5.1	RVC 40% or [RVC 20% (any LDC)+RVC 20% (in any GSP-beneficiary country)]	RVC 60%
621420	Shawls, scarves, mufflers, mantillas, veils and the like; of wool or fine animal hair (not knitted or crocheted)	3.8	SP (allowances for LDCs)	SP (stricter requirements)
650500	Hats and other headgear; knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or	3.8	RVC 40% or [RVC 20% (any LDC)+RVC 20% (in any GSP-beneficiary country)]	RVC 60%

	trimmed; hair-nets of any material, whether or not lined or trimmed			
620442	Dresses; women's or girls', of cotton (not knitted or crocheted)	2.9	SP (allowances for LDCs)	SP (stricter requirements)
620432	Jackets and blazers; women's or girls', of cotton (not knitted or crocheted)	2.8	SP (allowances for LDCs)	SP (stricter requirements)
611691	Gloves, mittens and mitts; of wool or fine animal hair, knitted or crocheted, (other than impregnated, coated or covered with plastics or rubber)	2.3	SP (allowances for LDCs)	SP (stricter requirements)
630790	Textiles; made up articles (including dress patterns), n.e.c. in chapter 63, n.e.c. in heading no. 6307	2.3	SP (allowances for LDCs)	SP (stricter requirements)

SP=Specific Process; RVC=Regional Value Content
* indicates that product is currently taxed at the MFN rate of zero and hence the preferential ROO is not applicable

Source: Government of Canada (2022)

Annex 9: Special and differential treatment provisions in the WTO

Table A9.1: Summary of special and differential treatment in the WTO, and implications of graduation for Nepal

Agreement/Decision	Support measure	Remarks/implications
Agreement on Agriculture	LDCs and net food importing developing countries may provide certain export subsidies until the end of 2030 (Article 9.4, most recent extension in G/AG/5/Rev.10).	Nepal committed to zero agricultural export subsidy when acceding to the WTO.
	Longer repayment periods for export financing support (WT/MIN(15)/45-WT/L/980): 36-54 months (longer in exceptional circumstances) for LDCs; 18 months of developing members.	Nepal does not use this flexibility; however, it will not be eligible to use this upon graduation.
	Less frequent notifications to WTO regarding domestic support (G/AG/2): biennially for LDCs; annually for developing members.	Specific technical assistance can be provided by the WTO Secretariat to move to annual notification.
Agreement on Sanitary and Phytosanitary Measures	Members to take account of the special needs of developing country members, and in particular of the LDC members in the preparation and application of SPS measures (Article 10).	Reference to LDCs not exclusive in nature.
	Provision of technical assistance to developing country members to comply	

Agreement/Decision	Support measure	Remarks/implications
	with the SPS requirements of their export markets (Article 9). Members to provide financial and technical assistance to support LDCs to respond to the introduction of any new SPS measures and special problems faced by them in implementing the SPS Agreement (Doha Ministerial Declaration, 2001). The Standards and Trade Development Facility (STDF) has a target of dedicating at least 40% of total project financing to LDCs or other low-income countries. Lower co-financing requirement for technical assistance to LDCs: 10 percent as opposed to 20 percent for lower-middle-income countries and 60 percent for upper-middle-income countries.	Provided to developing country members and LDC members alike. Nepal will lose this upon graduation. But implementation of this provision has been so far. Nepal became a lower-middle-income country in 2020, so upon graduation, it will have to increase co-financing to 20 percent.

Agreement/Decision	Support measure	Remarks/implications
Agreement on Technical Barriers to Trade (TBT)	Elaborate provisions on S&D treatment for developing country members. The special problems of LDC members to be taken into account in the context of the TBT Committee's capacity to grant, upon request, specified time-limited exceptions from obligations under the TBT Agreement in the field of preparation and application of technical regulations, standards and conformity assessment procedures (Article 12.8). Members are required to give priority to the needs of LDCs in providing advice and technical assistance (Article 11.8) and take account of their stage of development in determining the terms and conditions of technical assistance to developing country members on the preparation of technical regulation (Article 12.7). WTO members instructed to provide the financial and technical assistance to support LDCs in their response to the introduction of any new TBT measures, as well as with any problems	Most provisions are intended for developing country members in general, except for the two special considerations. However, these two are 'best endeavour' clauses and difficult to operationalize.

Agreement/Decision	Support measure	Remarks/implications
	they face in implementing the TBT Agreement (Doha Ministerial Decision on Implementation-related Issues and Concerns, 2001).	
Agreement on Subsidies and Countervailing Measures	LDCs (and other countries with GNI per capita below $1,000 in constant 1990 US dollars, i.e., the Annex VII(b) countries) are exempted from the prohibition of non-agricultural export subsidies (Article 27.2 and Annex VII of the Agreement and paragraph 10.1 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17)).	Nepal's per capita GNI is below $1,000 (constant 1990 US dollars). Under current rules, a graduated LDC is not automatically eligible for the income-based exemption even if its income is below the cut-off. The LDC Group has proposed making graduated LDCs below the income threshold eligible to provide non-agricultural export subsidies (WT/GC/W/742 — G/C/W/752; WT/MIN(21)/2).
TRIPS Agreement	<u>General transition period for LDCs</u> Exemption from applying all substantive TRIPS standards until 1 July 2034 (Article 66.1, latest extension IP/C/88).	When acceding to the WTO, Nepal had agreed to apply the TRIPS Agreement by no later than 1 January 2007 (para. 138, Working party report (WT/ACC/NPL/16)).

Agreement/Decision	Support measure	Remarks/implications
	<u>Transition period for pharmaceutical products for LDCs</u>	
	Exemption from providing protection for patents and undisclosed information until 1 January 2033 (Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) and TRIPS Council Decision (IP/C/73)).	Nepal declared it would be entitled to the flexibilities provided in the Doha Declaration on the TRIPS Agreement and Public Health (para. 129, Working party report (WT/ACC/NPL/16)). Upon graduation, it will lose these flexibilities.
	Waiver for Articles 70.8 (mailbox requirements) and 70.9 (exclusive marketing rights) until 1 January 2033 (General Council Decision (WT/L/971)).	
	Waiver from notification requirements for issuing compulsory licenses for exports of pharmaceutical products to LDCs or other countries with insufficient manufacturing capacities in the pharmaceutical sector (Article 31 bis)	Upon graduation, if Nepal wants to use this system, it has to make a notification of its intention to use the system and confirm its insufficient manufacturing capacity. Nepal has not used this system to date.
	<u>Technology transfer</u> Developed country members required to	

Agreement/Decision	Support measure	Remarks/implications
	provide incentives to enterprises and institutions in their territories to promote technology transfer to LDCs (Article 66.2). Notifications LDCs are exempt from most TRIPS notification requirements.	Upon graduation, Nepal will lose the S&D concerning technology transfer. But the implementation of this provision has been weak. Following graduation, Nepal will be required to adhere to the transparency provisions outlined in the TRIPS Agreement and TRIPS Council decisions, including the obligation in Article 63 to notify laws and regulations on intellectual property rights pertaining to TRIPS. Nepal will also be subject to a TRIPS Council decision requiring members to notify responses to a checklist of questions on enforcement (IP/C/2). It will also be invited to provide information regarding its regime for the protection of geographical indications and the patentability of plants and animals in their territory (IP/C/13 and Add.1; IP/C/W/122; IP/C/W/126)). Furthermore, laws and regulations notified pursuant to Article 63.2 will be reviewed by the TRIPS Council.

Agreement/Decision	Support measure	Remarks/implications
Trade Facilitation Agreement (TFA)	Longer notification time frames: until 22 February 2020 for definitive implementation dates for category B measures; until 22 February 2021 for indicative dates and 22 August 2022 for definitive implementation dates for category C measures (Article 16).	All the notification deadlines fall before 2026, Nepal's graduation date. Hence, no impact on this score.
	Longer deadlines under the early warning mechanism, in case an LDC has difficulties in implementing categories B and C measures (Article 17). Automatic extension if the additional time requested does not exceed 3 years (notify 90 days prior to the designated implementation date) – compared to 18 months (with notification 120 days in advance) in the case of developing members.	Nepal will lose access to LDC-specific flexibilities under early warning mechanism, but will be entitled to general flexibilities for developing members.
	The new implementation date for measures shifted from category B to category C require approval from the Trade Facilitation Committee only if it is longer than four years beyond the original notification date (Article 19). For developing members, the cut-off period is 18 months (Articles 17 and 19).	Nepal will lose access to the LDC-specific flexibility, but will be entitled to the

Agreement/Decision	Support measure	Remarks/implications
	Longer grace period from dispute settlement (until 22 February 2023 for category A measures, and 8 years from the date of implementation of category B or C measures) (Article 20). No grace period for developing members with regard to category B or C measures.	flexibility for developing members. Longer grace period from dispute settlement for category A measures expires before Nepal graduates. Hence, no impact. Nepal will lose access to longer grace period from dispute settlement for category B and C measures. Nepal will continue to have access to the technical assistance it seeks to implement the TFA, as will other developing members.
Understanding on the Balance-of-Payments Provisions of General Agreement on Tariffs and Trade (GATT)	Simplified procedures for consultations in the Committee on Balance of Payments for LDC members, similar to other developing country members.	Upon graduation, Nepal cannot have more than two successive consultations under simplified procedures.

Agreement/Decision	Support measure	Remarks/implications
	LDCs can have more than two successive consultations under these procedures.	
Dispute Settlement Understanding	There are several S&D provisions in the DSU. LDC members enjoy additional flexibilities: Members to exercise due restraint in bringing up cases involving LDC members and in asking for compensation or seeking authorization to suspend the application of concessions or other obligations against an LDC member (Article 24.1). LDC members can request the use of good offices and conciliation or mediation of the Director General or the Chair of the Dispute Settlement Body, before the establishment of a panel (Article 24.2).	Upon graduation, Nepal will lose access to these provisions, but no significant impact expected. Only one LDC (Bangladesh) has participated in the WTO's dispute settlement process; no panel was established.
Trade Policy Review Mechanism	Trade policy of most members is reviewed every seven years. A longer period may be fixed for LDCs (Annex 3).	No significant impact expected.

Source: Authors' compilations and interpretations based on: Special and differential treatment provisions in WTO agreements and decisions, Note by the Secretariat, 12 October 2018, WT/COMTD/W/239; WTO (2020a); CDP and UNDESA (2021).