



THE UNIVERSITY  
of ADELAIDE



**CREATING A MORE EQUITABLE GLOBAL TRADING SYSTEM**

# **INSIGHT BRIEF**



**OCTOBER 2021**

# INTRODUCTION & BACKGROUND

International trade theory reasons that trade liberalisation is beneficial to an economy because it contributes to allocative efficiency, competition, higher production and growth - domestically and internationally. However, it also acknowledges that markets are not perfect, and some fail owing to factors such as imperfect competition, inadequate institutions, underdeveloped infrastructure, human capacity constraints and access to appropriate technology.

For global trade rules to be applied uniformly to all, it has to assume that all markets are structured and operate similarly.

Given the World Trade Organization's (WTO) 164 Members have differing income levels and are at different stages of development, this assumption is highly problematic. Since there are clearly dangers in applying formal equality, it is prudent to instead adopt an equity approach in the formulation of trade rules.

Special and Differential Treatment (SDT) acknowledges that countries at different stages of development need different rules to support economic growth and seeks to address this challenge through a set of legal provisions that exempt Developing Countries from some of the binding commitments that accompany WTO membership. It also allows Developed Countries to unilaterally 'discriminate' in favour of Developing Countries in bilateral trade agreements. However, since it involves favourable treatment for Developing Countries, and since countries currently self-designate their status as 'Developing', the issue of who should





have the right to claim SDT is highly contested within the WTO. In recent years, tensions surrounding SDT have been exacerbated, with a number of Developing Countries continuing to claim SDT, despite having achieved significant economic growth and development. This has occurred during a period when Developed Countries have been forced to grapple with increasing levels of voter scepticism concerning globalization and liberal trade, amplifying concerns that SDT is unfair.

A number of options for reforming SDT have been advanced by WTO members, but these have been viewed unfavourably by some Developing Countries. With the process of reform at a standstill in Geneva, new thinking is needed to move beyond the current stalemate.

The key findings of a recent study undertaken by The University of Adelaide's Institute for International Trade intended to enhance the understanding of the pertinent issues pertaining to, and different perspectives on, SDT amongst key stakeholders in international trade policy'.

Without proposing quick fixes, this study set out to illuminate the outstanding issues and bridge certain gaps in their understanding, with the intention of contributing to the current debate and encouraging a meaningful conversation in this space.

## SURVEY METHODOLOGY

The first phase of the project comprised a comprehensive review of contemporary literature and analysis of official proposals submitted to the WTO, as well as statements made by key ministers and ministerial groups. This enabled us to explore the contours of the changing political economy of trade in relation to the meanings of development and obligations associated with 'system participation'.

Recognising the need to move beyond the processes and discussions in Geneva where negotiations on reforming SDT are deadlocked. The second phase of the project included the design and implementation of a global opinion survey focussed to elaborate our understanding of the state of thinking in key national capitals. Developed in consultation with stakeholders in key national capitals, the survey was offered to trade policy stakeholders working in government, the private sector and civil society across the globe. Following completion of the global opinion survey by 302 respondents representing 63 countries, additional qualitative data was collected through 30 qualitative interviews conducted virtually with stakeholders from the following select national capitals: Bangladesh, Barbados, Brazil, India, Indonesia, Sri Lanka, Vanuatu and Zambia. These national capitals were selected on the basis of the extent to which they were impacted by one or more of the prioritised policy issues and with a view to ensuring the sample covered a sufficiently representative mix of Least Developed Countries (LDCs), developing, and advanced developing countries covering the geographic spread of WTO membership.



# SUMMARY OF FINDINGS



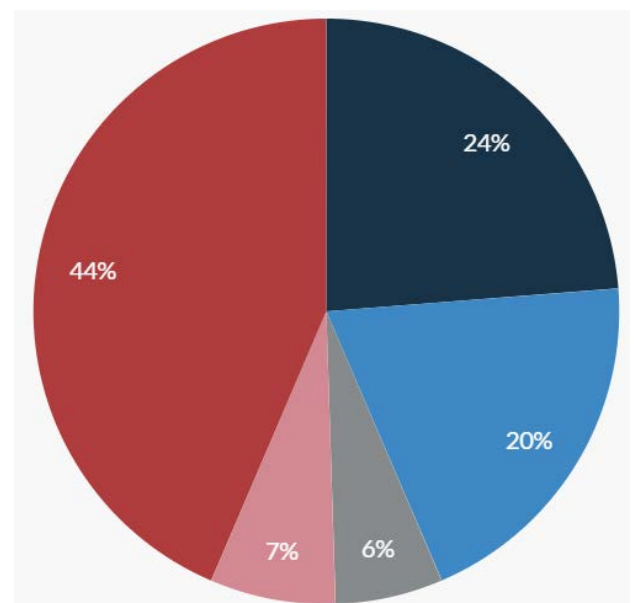
# ONLY 44% OF RESPONDENTS AGREE THAT ALL DEVELOPING COUNTRIES SHOULD BE ENTITLED TO CLAIM SPECIAL NEGOTIATING CONCESSIONS

The WTO Agreements recognise three categories of Members, two of which are self-designated – Developed and Developing. The Least Developed Country (LDC) designation is based on the UN classification criteria of national income, human and institutional assets and economic vulnerability

Almost half of the survey respondents (48%) acknowledged that Developing Countries are constrained from fully participating in the WTO, owing to their institutional and capacity constraints, and 61% were supportive of incorporating SDT into WTO Agreements in order to enable beneficiaries to participate more fully in the multilateral trading system.

However, only 44% agreed that all Developing Countries should be entitled to claim Developing Country status at the WTO in order to secure special negotiating concessions not available to more Developed Countries.

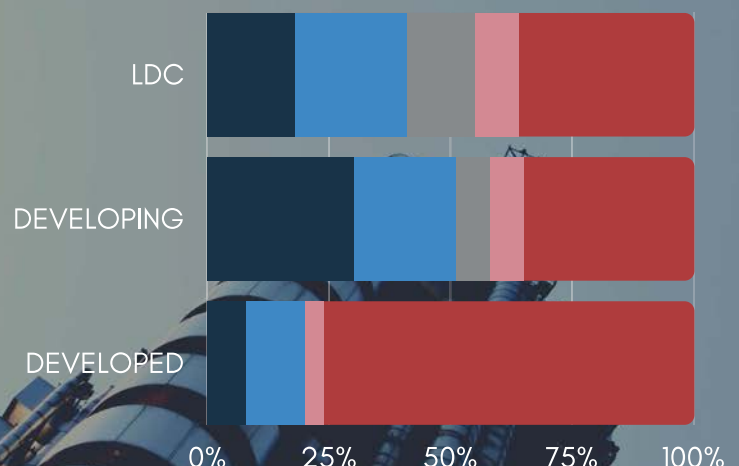
**All Developing Countries should be entitled to claim special negotiating concessions not available to more Developed Countries.**



STRONGLY AGREE
  AGREE
  NEUTRAL
  DISAGREE
  STRONGLY DISAGREE

## DIFFERENCES BY AUDIENCE

As many as 80 per cent of respondents from Developed Countries disagreed to some extent that all Developing Countries should be entitled to claim Developing Country status at the WTO, compared to just 42 per cent of respondents from Developing Countries and 45 per cent of those from LDCs.



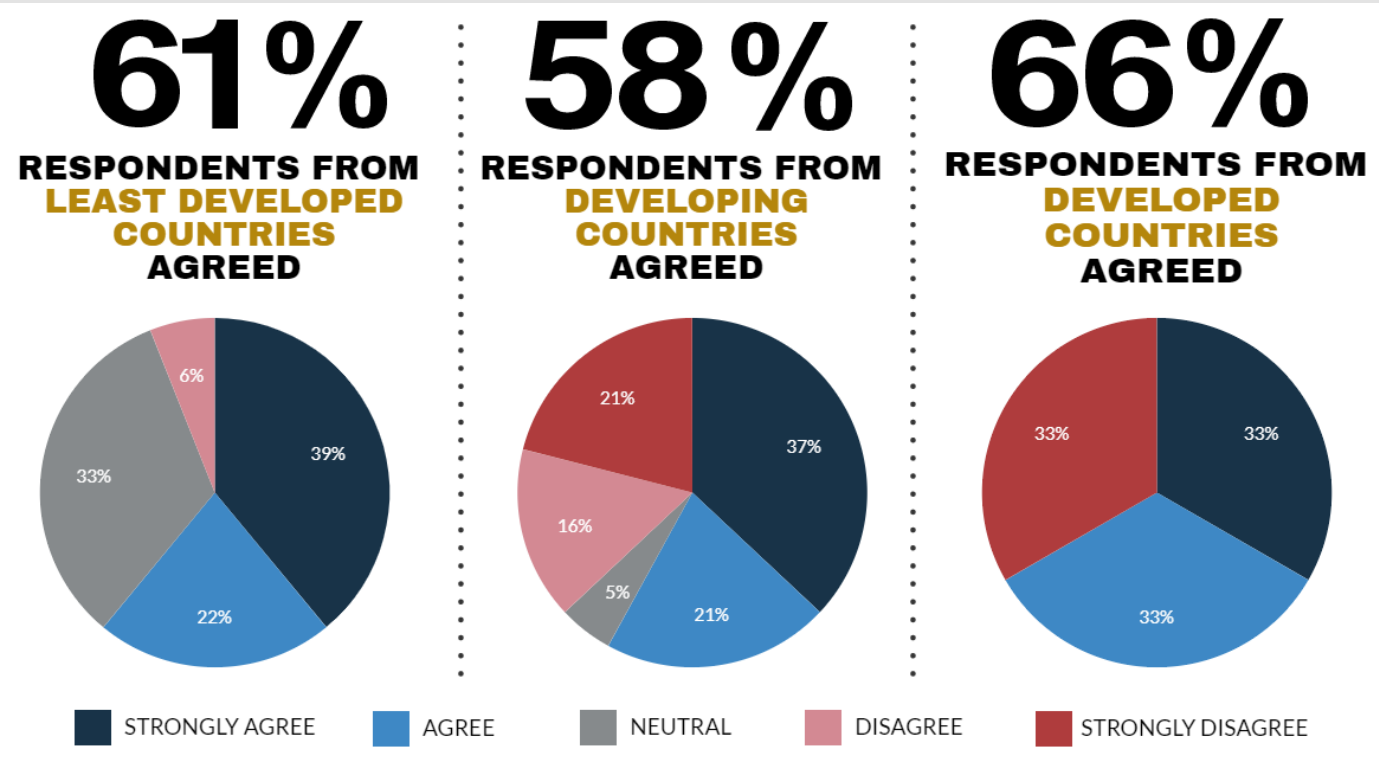
# RESPONDENTS AGREE THAT SDT PROVISIONS SHOULD BE A STEPPING STONE TOWARDS THE FULL IMPLEMENTATION OF OBLIGATIONS

Both survey respondents and interviewees agreed to a large extent, that SDT provisions should be considered a stepping stone towards the full implementation of obligations, and should be designed to achieve this purpose.

Many felt the right to claim SDT should be temporary, with associated support designed to achieve defined development objectives which ultimately facilitate fuller participation in the multilateral trading system and implementation of commitments.

The view that SDT should enable beneficiaries to participate more fully in trade was strongest among respondents from Developed Countries, with 66% supporting this view to some extent, and a number expressing concerns about the effectiveness of exempting or deferring commitments.

## SDT SHOULD ENABLE BENEFIFICARIES TO PARTICIPATE MORE FULLY IN INTERNATION TRADE

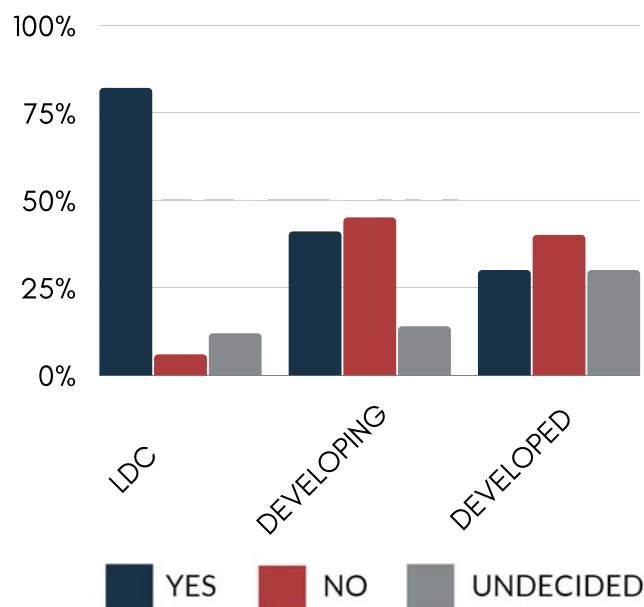




## MORE THAN 50% OF RESPONDENTS FEEL THE POLICY SPACE AFFORDED BY SDT IS SUBJECT TO ABUSE BY SOME MEMBERS

As many as 53% of respondents feel that the policy space afforded by SDT is subject to abuse by some members, while only 29% of respondents disagree with this statement.

This view was particularly strong among respondents from LDCs with 82% agreeing that the policy space afforded by SDT is sometimes used to promote globally competitive industries at the expense of their competitors, compared to just 41% of respondents from Developing Countries and 30% from Developed Countries.



## 50% OF RESPONDENTS BELIEVE SDT DIS-INCENTIVISES DEVELOPING COUNTRIES FROM PURSUING DOMESTIC ECONOMIC REFORMS

In alignment with recent criticisms of SDT by some Members of the WTO, as many as 50% of survey respondents acknowledged the potential for SDT to inhibit or dis-incentivise Developing Country members from taking on their legal obligations.

Those respondents who support the view that invoking SDT dis-incentivises developing countries from pursuing domestic economic reforms argue that permanent or deferred commitments invite countries to delay reforms.

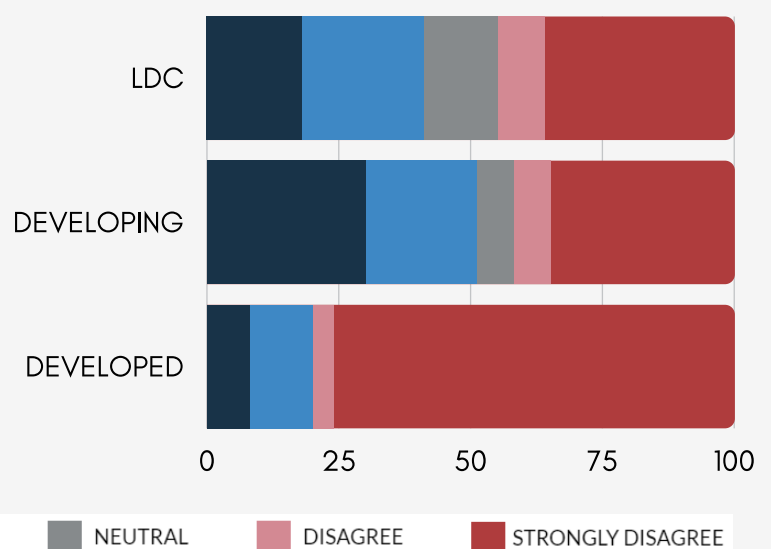
Furthermore, in the absence of a more rigorous definition for claiming Developing Country status and objective criteria for receiving assistance, some respondents expressed concern that countries may be unwilling to relinquish their right to claim SDT once having achieved significant economic growth, potentially extending the deferral of commitments indefinitely.

# 50%

think that invoking SDT dis-incentivises some countries from pursuing domestic economic reforms

## DIFFERENCES BY AUDIENCE

There were significant differences between the country groupings views on this issue, with 68% of respondents from LDCs agreeing with this statement, compared to just 41% of respondents from Developing Countries and 50% from Developed Countries.





## THERE WAS CONSENSUS AMONG RESPONDENTS ON POTENTIAL REFORMS TO GSP WHICH COULD IMPROVE ITS EFFECTIVENESS

**74%**

want changes  
to Rules of  
Origin (RoO)

**57%**

want changes  
to Product  
Coverage

**55%**

want changes  
to Standards

**47%**

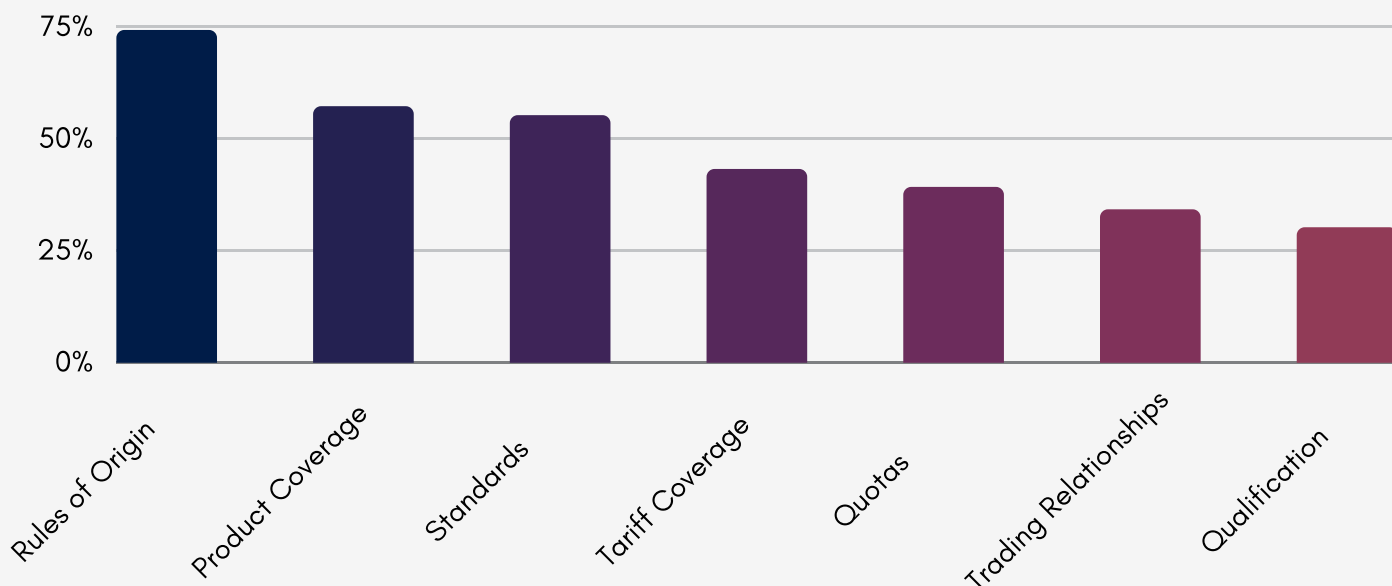
want changes  
to Tariff  
Coverage

The Generalised System of Preferences (GSP) is a preferential tariff system which provides Developing Countries (including LDCs) with tariff reductions on various products. A recent review of GSP schemes found their beneficial impact on preference receiving countries could be improved.

This was confirmed by the study, which found that Rules of Origin (RoO) are viewed as problematic by all sectors, and across all country categories, for beneficiaries accessing GSP schemes.

The study also highlighted the perceived need for improved product coverage, and identified standards as a significant Non-tariff Measure (NTM) which inhibits the participation of eligible countries in such schemes.

Which processes could be amended to increase the effectiveness of GSP?



# RESPONDENTS ACROSS ALL SECTORS AND COUNTRY GROUPINGS AGREE THE WTO ALLOWS GOVERNMENTS SUFFICIENT POLICY SPACE IN THE AREA OF IMPORT DUTIES

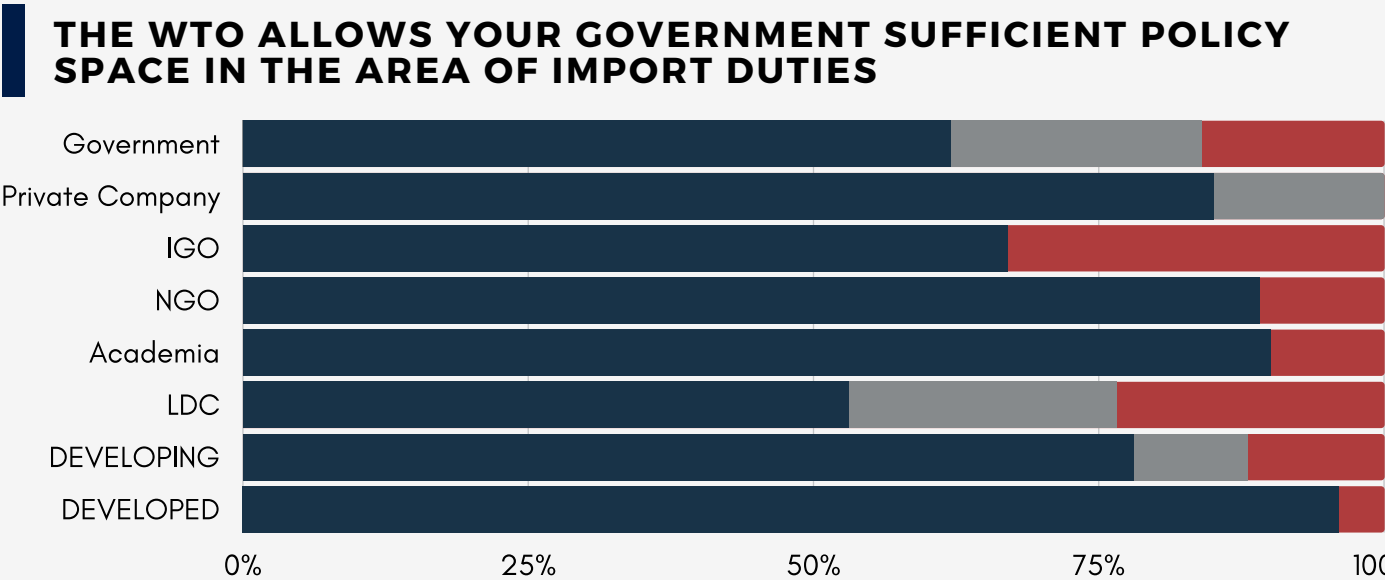
Survey respondents identified a number of benefits their governments would potentially derive as a result of greater freedom to raise import duties, including fostering domestic industry through restricted international competition, increasing domestic supply of critical products and creating more jobs for industry.

There was acknowledgment across all country groupings of the potential for such measures to inhibit the global competitiveness of their domestic industries and impact negatively on consumers.

Substantial minorities from LDCs and Developing Countries did not feel that this outweighed the benefits associated with supporting infant industries with the existing capacity to service their domestic markets, and the potential to expand their production capacity and raise their quality standards in order to meet the demands of the international market in the future.

Respondents across all country groupings and sectors, agree that the WTO allows their governments' sufficient policy space in the area of import duties, with only 24% of respondents from LDCs, 13% from Developing Countries and 4% from Developed Countries disagreeing with this position, though a further 24% of respondents from LDCs and 10% from Developing Countries were undecided on this point.

Perhaps unsurprisingly, respondents from Government and IGOs were less inclined than their counterparts from other sectors to agree with this statement, with just 67% and 62% agreeing, respectively.







# RESPONDENTS ACROSS ALL SECTORS AND COUNTRY GROUPINGS AGREE THE WTO ALLOWS GOVERNMENTS SUFFICIENT POLICY SPACE IN THE AREA OF INDUSTRIAL SUBSIDIES

A subsidy is a form of financial aid provided by governments to help an industry, by paying, whether directly or indirectly, for part of the cost of the production of a good or service, or by paying for part of the cost a consumer would pay to purchase a good or service.

Survey respondents from LDCs and Developing Countries indicated that subsidies were widely used and identified a number of potential benefits their governments could derive from subsidies being paid to industry, including more jobs in domestic industries, increased supply of locally produced goods, preventing the long-term decline of industries, and reduced costs of locally produced goods.

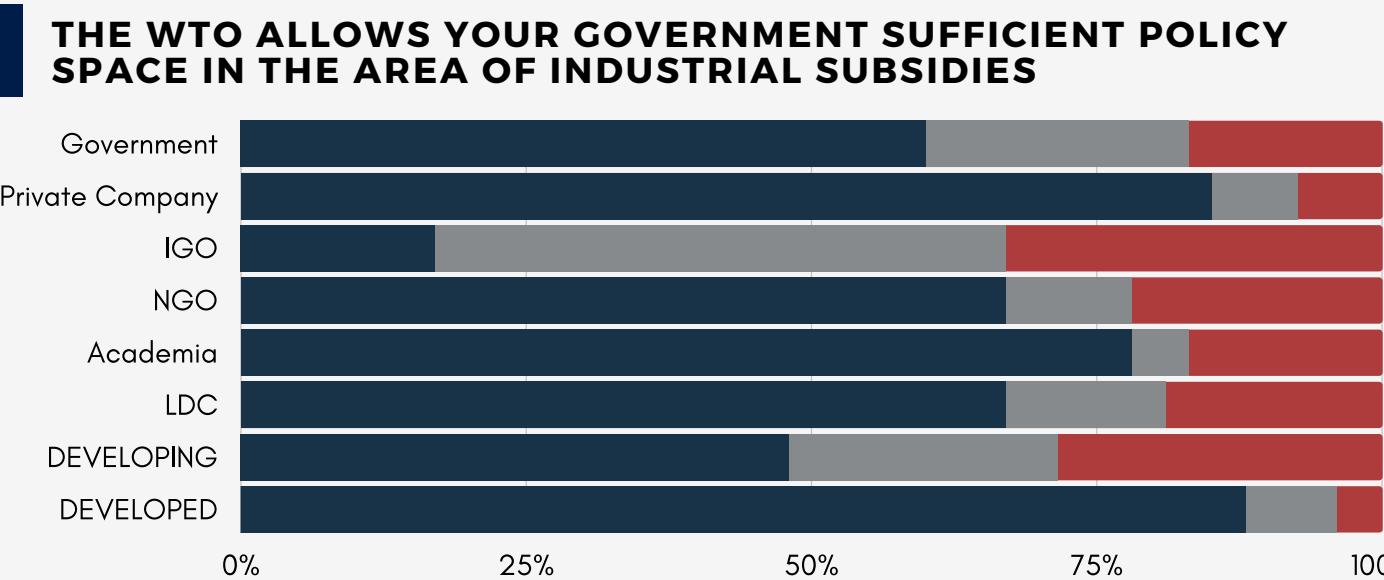
There was acknowledgment across all country categories, most particularly among respondents from Developing Countries and LDCs, of the potential for subsidies to compromise the competitiveness of domestic industries.

This was associated with the potential for industry to become dependent on subsidies, a risk perceived by 86% of respondents from Developed Countries, 72% from LDCs and just 35% from Developing Countries

There was strong support across most sectors for the proposition that the WTO allows countries sufficient policy space in the area of industrial subsidies.

IGOs were a notable exception, with only 17% of respondents from IGOs agreeing with this proposition, and a substantial number of them remaining undecided (50%).

Interestingly, when viewed along sectoral lines, the data showed that respondents from Private Companies were the most supportive, with 85 % agreeing the WTO allows sufficient policy space in this area.



## THERE WAS SUBSTANTIAL SUPPORT FOR THE PROPOSITION THAT THE WTO ACCORDS SUFFICIENT POLICY SPACE IN THE AREA OF LOCAL CONTENT REQUIREMENTS

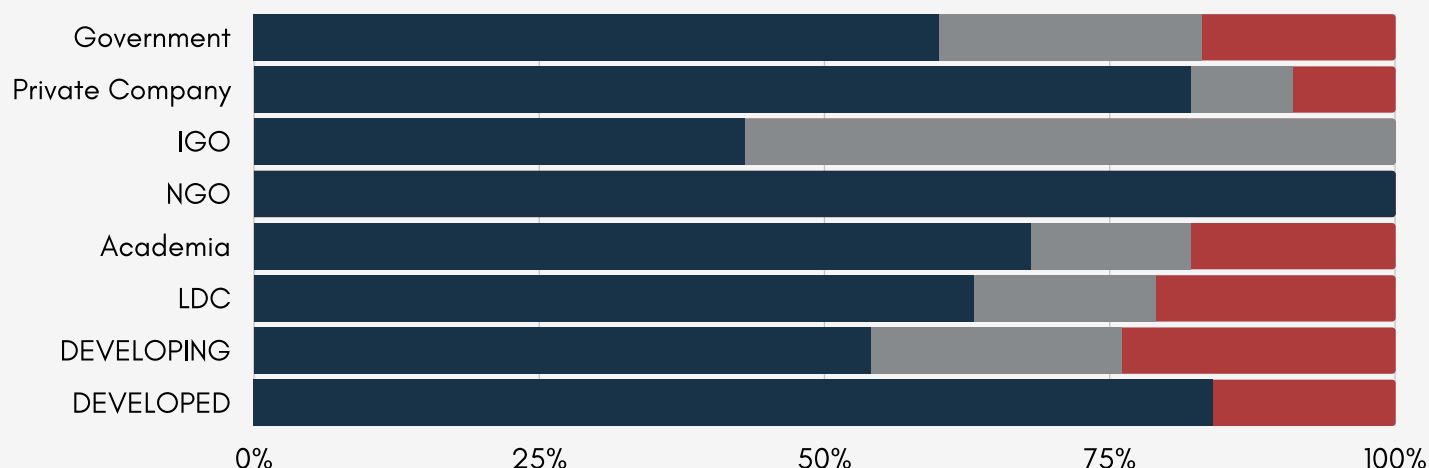
Local content requirements are another policy tool used to support the development and protection of domestic industry by obliging foreign investors to use domestically-manufactured goods or domestically-supplied services as a condition of operating within an economy.

Survey respondents identified a number of potential benefits their governments would derive as a result of greater freedom to impose local content requirements on businesses, including promoting the use of local inputs, expanding opportunities for domestic industries to enter and upgrade within global value chains and increasing jobs in, and skill levels for, the domestic workforce.

Proponents of local content requirements expressed the view that they could be effective providing they are accompanied by clear and coherent government policies, the required goods and expertise are available within the local market, they do not compromise the cost or quality of the products ultimately being produced, and there is transparency around the requirements and beneficiaries.

Those who were not supportive of imposing local content requirements highlighted the potential for such policies to compromise the competitiveness of local producers by removing their incentive to compete for business on the basis of price and quality, the potential to disincentivise foreign direct investment in their countries, and the negative impacts for consumers who may face higher costs, reduced variety, and diminished quality of locally produced goods.

### THE WTO ALLOWS YOUR GOVERNMENT SUFFICIENT POLICY SPACE IN THE AREA OF LOCAL CONTENT REQUIREMENTS



# THERE IS STRONG SUPPORT AMONG RESPONDENTS FOR REFORM OF THE CURRENT SYSTEM

There is strong support for reform of the current system, with 69% of respondents agreeing, and only 28% disagreeing, that more tailored approaches to SDT are needed, based on the specific economic and trade circumstances of beneficiaries.

## OPTIONS FOR TAILORED SDT

When invited to indicate how tailored forms of SDT could be constructed, respondents offered a number of suggestions which can broadly be summarised as:

- Establishing objective qualification criteria to determine the development status of WTO members
- Establishing objective qualification criteria for graduation from Developing Country status, and providing greater support for countries to transition to full obligations
- It should be needs based, derived from evidence, and established in close consultation with key stakeholders from beneficiary countries, including the private sector
- Greater flexibility for implementation of commitments through provision of transition periods
- Establishing strong mechanisms for monitoring, evaluation and enforcement

## A MODEL FOR SDT

The Trade Facilitation Agreement's (TFA) phased approach to commitments, linked to provision of technical support, was supported as a potential model for a more tailored approach to SDT, with 92% of survey respondents agreeing that the TFA is beneficial for their country and almost 80% indicating that they feel this approach could be applied to other agreements.

# 69%

agree that more tailored approaches to SDT are needed, based on the specific economic and trade circumstances of beneficiaries



# 79%

agree that the TFA's phased approach to commitments could be used in other agreements





# 82% OF RESPONDENTS IDENTIFIED TECHNICAL ASSISTANCE TO SUPPORT FULL-IMPLEMENTATION AS THE MOST EFFECTIVE FORM OF SDT

Survey respondents were asked which forms of SDT they felt were most effective.

Technical assistance to support the implementation of SDT provisions received the highest number of recorded responses, with 82% of respondents identifying this as an effective form of SDT. This was followed by provisions aimed at increasing Developing Country Members' trade opportunities (65%), flexibility of commitments (63%) and transition time periods leading to full implementation (63%).

Although there was a high degree of consensus across the country categories, significantly fewer respondents from Developed Countries identified flexibility of commitments, action and policy-instrument use and provisions aimed at increasing Developing Country Members' trade opportunities.

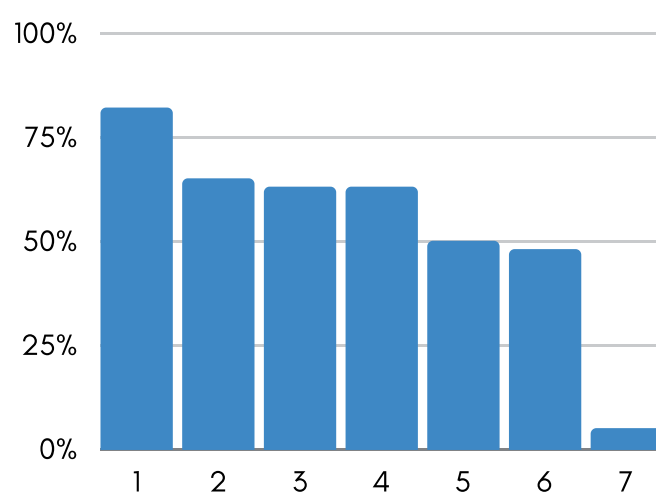
## 82%

identified technical assistance to support full implementation as an effective form of SDT

## 65%

identified increasing Developing Country Members' trade opportunities as an effective form of SDT

### Which forms of SDT are most effective?



- 1 Technical assistance to support full implementation
- 2 Provisions aimed at increasing Developing Country Members' trade opportunities
- 3 Flexibility of commitments, action and policy-instrument use
- 4 Transitional time periods leading to full implementation
- 5 Provisions relating to LDC Members
- 6 Provisions under which Members should safeguard developing country Members' interests
- 7 Other





# KEY INSIGHTS





## KEY INSIGHTS

Based on the data gathered from the global opinion survey data and qualitative interviews, the Institute for International Trade submits the following ten key insights:

- **Key Insight 1:** A recurring pattern in the respondent data is that the primary beneficiaries of SDT, being LDCs, seemed most alive to the problems with the current system and consequently to the need for reforms, whereas those perhaps best placed to 'free-ride', are inclined to maintain the status quo. We emphasise that this is not a definitive result; rather an impression worthy of deeper consideration. Developed Country respondents, not surprisingly, consistently came down on the side of reforming current approaches through better targeting.
- **Key Insight 2:** There was clear support for establishing mechanisms to encourage the effective monitoring and evaluation of SDT. In our view, monitoring and evaluation should be for a purpose, and logically this should mean establishing mechanisms to allow for the review and potential revocation of rights enjoyed by beneficiaries in cases where SDT is not being utilised effectively or for its intended purpose.
- **Key Insight 3:** Currently, in our view the self-designation principle creates uncertainty and is causing unnecessary conflicts amongst the WTO membership as well as distracting from the main negotiating issues. In this light, there was qualified support for establishment of objective criteria to determine the development status of a country in the WTO system, with government officials more in favour of retaining the status quo than their international organization, academic, and private sector counterparts.
- **Key Insight 4:** Respondents clearly supported the case for providing specific SDT that caters for the needs of LDC and (objectively) qualifying Developing Country WTO Members. The TFA was strongly supported as a potential model, subject to greater clarity being accorded to how aid for trade could be better mobilised to support its implementation. However, most Developing Country respondents felt there would be a need to exclude countries from certain obligations under WTO Agreements.
- **Key Insight 5:** There was clear support for the proposition that the WTO accords sufficient policy space to implement local content requirements and subsidies. While several potential benefits of raising import duties to protect local industries were identified, the substantial majority across all respondent categories acknowledged the self-harm this would likely cause to their own economies. Surprisingly, LDC and Developing Country respondents were more concerned than Developed Country respondents that SDT could be used by Developing Countries to promote globally competitive industries at the expense of their competitors. Overall, respondents generally supported the case for revising SDT provisions in these policy areas with the aim of re-calibrating them to better reflect the current and evolving global economic environment.
- **Key Insight 6:** There was some evidence to suggest a lack of awareness on the part of respondents from LDCs and Developing Countries of the risks associated with raising import tariffs and imposing local content requirements. In our view, initiatives aimed at increasing awareness of these risks may help to shift attitudes concerning the effectiveness of these policy tools. At the same time, where such tools have been objectively shown to work as intended, such successful recourse to SDT could be publicised.

- **Key Insight 7:** Recognising objectively qualifying Developing Country Members capacity constraints, respondents generally supported simplifying those WTO provisions wherein SDT provides flexibilities, with a view to making them more accessible.
- **Key Insight 8:** Similarly, respondents supported provision of more resources to objectively qualifying Developing Country Members to enable them to make full use of the multilateral trading system and pursue their development objectives.
- **Key Insight 9:** Respondents clearly signalled that to enable greater use of the GSP scheme for objectively qualifying Developing Members Rules of Origin requirements should be less stringent and foster greater trading relationships between beneficiaries, third countries, and providers of preferences.
- **Key Insight 10:** Respondents supported the view that Members should be able to freely undertake plurilateral negotiations which

serve their interests. Nonetheless, and as shown in the qualitative responses, caution needs to be exercised as there is significant opposition to the undertaking of such initiatives especially amongst Developing Country Members. Furthermore, the inability of many Developing Countries to participate in such negotiations as a result of their limited capacities should be recognised and addressed in such negotiations.

Overall, in our view the key to unlocking the real benefits SDT can provide is to establish objectively agreed qualification criteria for Developing Country Members. This would likely result in a reduced set of countries so qualifying, in turn allowing for greater focus of resources and negotiating capacities where the real problems lie, presumably resulting in better solutions.

You can learn more about this study or download a copy of the full research report at [iit.adelaide.edu.au](http://iit.adelaide.edu.au).







## ABOUT THE INSTITUTE

The University of Adelaide's Institute for International Trade (IIT or the Institute) is a leading institution with a global focus, and a reputation for providing academically rigorous and practical trade training, policy advice and technical assistance relating to international trade and development.

Much of our training and research is conducted in support of governments, industry and coordinating bodies responsible for the effective implementation of regional and development cooperation projects and activities, with the ultimate goal of enhancing trade facilitation through the simplification and harmonisation of international trade policies and procedures, and the strengthening of local and regional capacity to effectively engage in the global economy.

Drawing on our extensive network of distinguished researches and experienced trade practitioners, our team brings together discipline knowledge and practical expertise to conduct research and deliver training that helps shape public policy, facilitates wider and more effective participation in trade and promotes sustainable economic development across the globe.

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## Further enquiries

Institute for International Trade,  
The University of Adelaide SA 5005 Australia

**enquiries** [iit@adelaide.edu.au](mailto:iit@adelaide.edu.au)

**phone** +61 8 8313 6900

**web** [iit.adelaide.edu.au](http://iit.adelaide.edu.au)

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