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Rethinking special and differential treatment in the World Trade Organization

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Abbreviations

AGOA	African Growth and Opportunities Act
ASCM	Agreement on Subsidies and Countervailing Measures
DFAT	Department of Foreign Affairs and Trade
EU	European Union
FCDO	Foreign and Commonwealth Office
FDI	Foreign Direct Investment
GATT	General Agreement on Tariffs and Trade
GNI	Gross National Income
GNP	Gross National Product
GSP	Generalised System of Preferences
GVCs	Global Value Chains
IIT	Institute for International Trade
MFN	Most Favoured Nation
LDC	Least Developed Country
NAFTA	North American Free Trade Agreement
NTM	Non-tariff Measure
PTA	Preferential Trade Agreement
R&D	Research and Development
RoO	Rules of Origin
SDT	Special and Differential Treatment
TFA	Trade Facilitation Agreement
TRAINS	Trade Analysis Information Systems
TRIMS	Trade-Related Investment Measures
UN	United Nations
US	United States of America
WTO	World Trade Organization

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Executive summary

This report represents the culmination of research undertaken by the Institute for International Trade (IIT) on Special and Differential Treatment (SDT) in the World Trade Organization (WTO).

The aim of this research is to enhance understanding of key SDT issues, as well as address different SDT perspectives held by international trade policy stakeholders.

This project does not intend in any way to provide negotiating options, nor does it seek to provide an anchor for WTO negotiations based on the findings from this study. Without proposing quick fixes, this study aims to contribute constructively and without prejudice to the current debate, and encourage a meaningful conversation.

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'. It concluded with the identification of seven core themes for investigation in the subsequent phase of the project:

- WTO members' right to SDT: The equity point of view
- Differentiation and determining eligibility

- Improving market access predictability and lowering export barriers
- Flexible provisions to restrict imports
- Subsidisation flexibilities
- Balance of obligations and global economic realities
- Plurilaterals and consensus

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. The interviews enabled us to collect important qualitative data to support a more nuanced analysis of the survey findings, most particularly as they relate to national and developing country perspectives on the role of SDT in the WTO.

Approximately 48 per cent of respondents identified themselves as working in Developing Countries, 23 per cent from Developed Countries and 29 per cent from LDCs. There were statistically significant differences between the responses received from respondents from each of the three country categories, which provided valuable insight on points of divergence and agreement in the current debate.



There were also a number of statistically significant differences between the responses received from respondents from the various sectors surveyed, including Government Departments (42.23 per cent), Academic Institutions (16.02 per cent), Private Companies (15.05 per cent), Non-Governmental Organisations (NGOs) (12.62 per cent), and Inter-Governmental Organisations (IGOs) (9.22 per cent).

Based on our analysis of the global opinion survey and qualitative interviews, IIT submits the following key insights which we believe may prove useful in advancing discussions on SDT in the WTO:

- **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', were 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 purpose¹.
- **Key Insight 3:** 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 counterparts².
- **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 Trade Facilitation Agreement (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 that 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 the capacity constraints of objectively qualifying Developing Country Members, respondents generally supported simplifying the way in which flexibilities granted in accordance with SDT were captured in relevant WTO Agreements, 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.

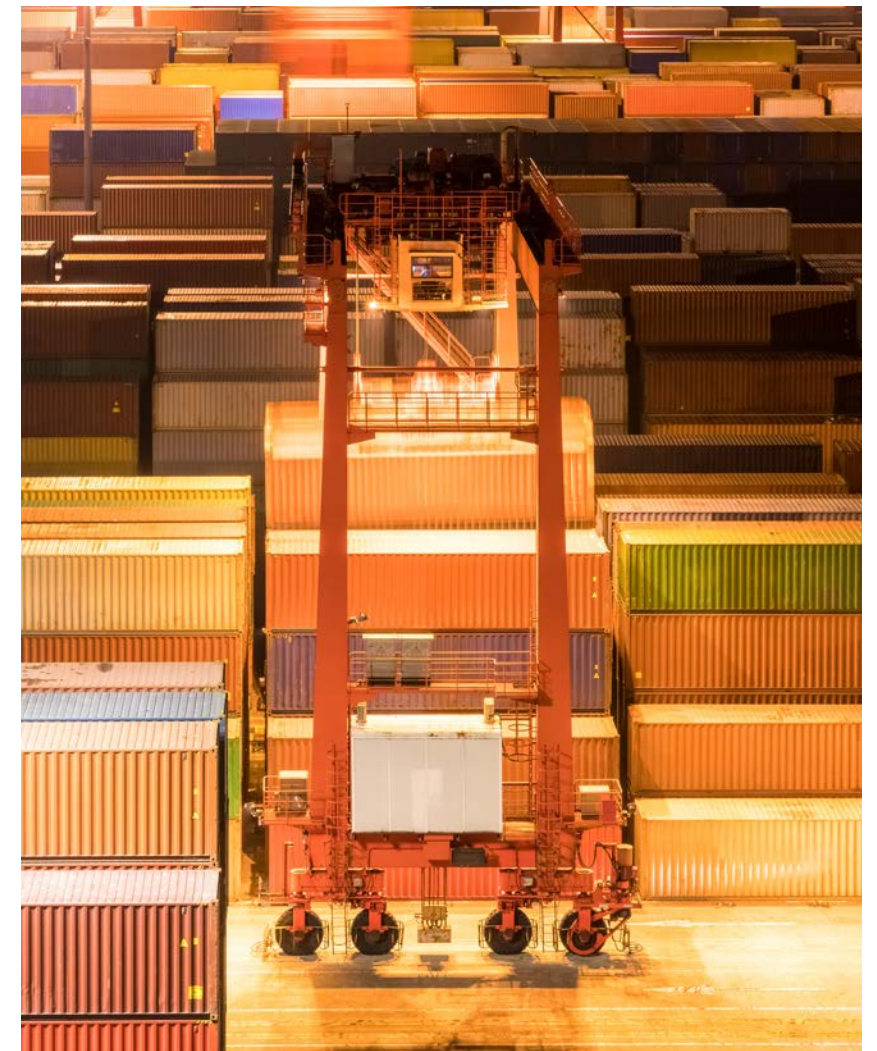
Overall, in our view the key to unlocking the real benefits SDT can provide is to establish objectively agreed qualification criteria for Developing Country Members. This would likely result in a reduced set of countries so qualifying, in turn allowing for greater focus of resources and negotiating capacities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

1. Background & introduction

Special and Differential Treatment (SDT) is a longstanding framework used to anchor negotiation expectations and outcomes, as well as to provide legal cover for developed countries to unilaterally 'discriminate' in favour of developing countries when designing trade policies.

As such, it is a shared undertaking involving the entire World Trade Organization (WTO) membership, and a shared responsibility to safeguard WTO SDT provisions – since they are embedded in WTO treaty provisions.

However, as it involves both favourable treatment for 'developing' countries, and positive discrimination in their favour, it has always been a contested and complicated matter in the WTO. In recent years it has become more so, as some Developing Countries have developed significant economic capacity but still claim SDT. At the same time, many Developed Countries are experiencing sustained voter scepticism of globalization and liberal trade, in particular alongside growing inequality gaps. These tensions are particularly sharp in relation to the United States (US) and China, and play a role in their ongoing trade tensions, which have spilled over into the WTO.



¹ This view emerged both in qualitative responses submitted by respondents and during qualitative interviews.

² Of the 74 qualitative responses received from survey respondents explaining their reasons for agreeing/disagreeing that all Developing Countries should be entitled to claim Developing Country status at the WTO to secure special negotiating concessions not available to more developed countries, 51% related to the need for more objective criteria to determine the development status of a country in the WTO system. This view was also evident in other sections of the survey where respondents were invited to provide qualitative response, and further reinforced during qualitative interviews, where a significant number of respondents raised the need for more objective criteria to determine Developing Country status.

The overarching principle of SDT is encapsulated in paragraph 1 of the preamble to the Marrakesh Agreement (1994), establishing the WTO and specifying its functions. The WTO Secretariat lists 155 SDT provisions in the WTO Agreements³. Development issues have been dealt with in the WTO for over sixty-years in subsequent ‘Trade Rounds’ and have concluded with varying degrees of success.

The Doha Round, which was launched in 2001 and set forth a development agenda, has stalled since 2008. There is currently no immediate prospect of finding a breakthrough in the current negotiations. The favourable provisions related to the implementation and the level of commitments accorded by the Agreements to Developing Country Members tend to lead to disagreements between the Parties, more specifically in relation to the perceived benefits that are accrued by the more advanced Developing Countries.

The general feeling amongst Developed Country Members has been that the benefits afforded by SDT should be targeted to the less advanced economies in the global trading system. This view has been expressed in the European Union (EU) Concept Paper (2018), which argues for ‘case by case’ SDT, and in the Canadian Paper which proposes the provision of SDT be based on ‘evidence of need’ and ‘subject to negotiations’⁴. The US proposal (WT/GC/W/757/Rev.1) of 14 February 2019, called for a revision of the self-designation practice amongst WTO Members on their development status. Rather, it suggests a set of objective criteria to perform that determination. At present, the only objective criteria used to determine designation in the WTO is the classification of Least Developed Countries (LDCs), which is reviewed annually and published by the United Nations (UN)⁵.

Those adverse to such reforms, view SDT as a political right of Developing Countries that should be preserved, especially as it was an important incentive for many to join the WTO in the first place⁶. They note that Developed Country Members have managed to negotiate carve-outs among

themselves in the WTO Agreements, a form of ‘reversed’ SDT, and see SDT provisions as an important equaliser of the ensuing benefits⁷.

Against this backdrop, the IIT undertook this study to contextualise the different perspectives in the SDT debate with the intention of contributing to greater understanding of the issues. 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, was undertaken in the first phase of the project to identify a number of key systemic issues for elaboration. Anchoring on those issues, a global opinion survey and qualitative interviews were undertaken in the second phase of the project for the purpose of elaborating our understanding of these issues.

The global opinion survey was launched on Friday, 21 May 2021 and remained open for a period of four weeks. Information and links to the questionnaire were disseminated through personalised e-mails and through social and professional networking sites, including Twitter, Facebook and LinkedIn. We also partnered with a range of organisations in the key national capitals who generously supported the project by disseminating the survey via their networks. The targeted respondents were academics, government officials, private sector operators and officials from Inter-Governmental Organisations (IGOs) and Non-Governmental Organisations (NGOs) involved in trade and development matters.

The results of the global opinion survey are summarised in this document: Section 2 briefly outlines the objectives of the study; Section 3 specifies the methodology used; Section 4 discusses the results using the framing established in the literature review; and Section 5 outlines a number of key insights which can be used to advance discussions related to SDT. Project materials are provided in the annexes.

2. Objectives

The main objectives of this study are to enhance understanding of the pertinent issues pertaining to, and different perspectives on, SDT amongst key stakeholders in international trade policy.

This project does not intend in any way to provide negotiating options, nor does it seek to serve as an anchor for WTO negotiations based on the findings from this study. Without proposing quick fixes, this study aims 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.

³ WTO Document - WT/COMTD/W/258 (2 March 2021)

⁴ https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf; WTO Document - JOB/GC/201 (24 September 2018)

⁵ <https://unctad.org/topic/least-developed-countries/list>; Mitchell (2006)

⁶ South Centre (2019)

⁷ WTO Document - WT/GC/W/765/Rev.1 (26 February 2019) by China, India, South Africa, the Bolivarian Republic of Venezuela, Lao People's Democratic Republic, Plurinational State of Bolivia, Kenya and Cuba

3. Methodology



This action-oriented research, dialogue and advocacy effort has been implemented using a range of quantitative and qualitative research methods in order to provide robust insights into current understandings of SDT and the role of trade in development in a post-pandemic world.

In the first instance, 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 was undertaken. 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’, and identify the following core themes for investigation in the subsequent phases of the project:

- WTO members’ right to SDT: The equity point of view
- Differentiation and determining eligibility
- Improving market access predictability and lowering export barriers
- Flexible provisions to restrict imports
- Subsidisation flexibilities
- Balance of obligations and global economic realities
- Plurilaterals and consensus

These themes, which are briefly presented in Section 4, guided the development of a set of structured interview questions (Annex II) that were elaborated in the construction of a global opinion survey purposefully designed to collect a combination of quantitative and qualitative data. A full copy of the survey is provided in Annex I.

Recognising the need to move beyond the processes and discussions in Geneva, where negotiations on reforming SDT are deadlocked, the global opinion survey focussed on understanding the state of thinking in key national capitals vis a vis the role of SDT in the WTO, in a rapidly changing world. 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. The qualitative interviews enabled us to collect important qualitative data to support a more nuanced analysis of the survey findings, most particularly as they relate to national and Developing Country perspectives on the role of SDT in the WTO.

The global opinion survey was supported by a comprehensive dissemination strategy which utilised IITs social media channels,

database, networks and a number of strategic partnerships with key organisations in each of the targeted national capitals.

The survey findings and qualitative interviews were subsequently used to inform the development of the key insights summarised in Section 5, which have relevance for the following policy issues:

- Subsidies for industrial products, specifically usage of the ASCM’s SDT provisions;
- Local content requirements;
- Disciplines governing infant industry protection and related issues pertaining to services liberalisation;
- The opportunities and challenges posed by GSP schemes as well as graduation from them; and
- Developing country self-designation, in relation to its costs and benefits for the country so designating.

4. Results and Discussion

This section reviews the detailed responses and provides an analysis thereof, in relation to the divergent opinions on the 7 issues identified through the

comprehensive review of literature undertaken in the first phase of the project, and elaborated in the subsequent opinion survey and qualitative interviews.



4.1 Survey results

Survey respondents by country status

Altogether, 302 responses were received, of which 197 specified the country they were residing in, accounting for 65 per cent of total responses. The greatest number of responses were received from individuals residing in Developing Countries (48 per cent), whilst respondents from Developed Countries and LDCs accounted for 29 per cent and 23 per cent of those received, respectively (Figure 1).

Table 1 provides a summary of the 63 countries represented in the three aforementioned country categories. For those countries for which there was a preponderance of responses, results were isolated in order to verify that they were not biasing the responses for the associated country categories. While isolating the results for these countries did, of course, result in some changes in the data, they did not generally result in a change in the overall pattern of responses for the associated country category.

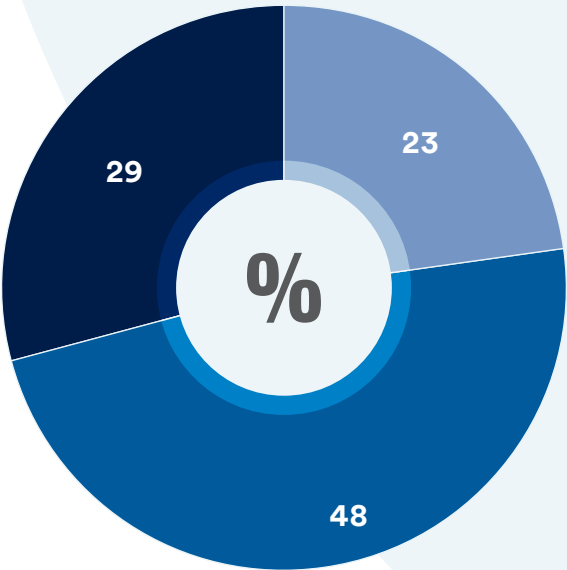
Survey respondents by sector

206 respondents specified the organisations they represented, accounting for 68 per cent of total responses. The majority were representatives of Government Departments (42.23 per cent), followed by Academic Institutions (16.02 per cent), Private Companies (15.05 per cent), NGOs (12.62 per cent), IGOs (9.22 per cent), and Other (4.85 per cent). This is presented in Figure 2.

Table 1: Countries represented in the survey results (results disaggregated by development status)

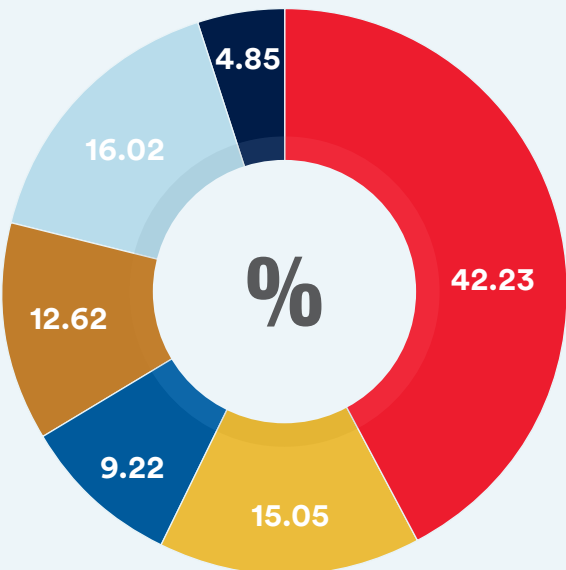
LDC	Developing	Developed
1. Bangladesh (23.91%)	1. Kenya (13.68%)	20. Dominica (1.05%)
2. Cambodia (21.74%)	2. Indonesia (10.53%)	21. Egypt (1.05%)
3. Ethiopia (17.39%)	3. India (8.42%)	22. Eswatini (1.05%)
4. Nepal (4.35%)	4. Ghana (5.25%)	23. Grenada (1.05%)
5. Zambia (4.35%)	5. Vanuatu (6.32%)	24. Honduras (1.05%)
6. Somalia (6.52%)	6. Papua New Guinea (5.26%)	25. Jamaica (1.05%)
7. Uganda (6.52%)	7. South Africa (5.26%)	26. Namibia (1.05%)
8. Djibouti (2.17%)	8. Chile (3.16%)	27. Nauru (1.05%)
9. Lesotho (2.17%)	9. Mexico (3.16%)	28. Pakistan (1.05%)
10. Madagascar (2.17%)	10. Philippines (3.16%)	29. Palau (1.05%)
11. Malawi (2.17%)	11. Barbados (2.11%)	30. Saint Kitts & Nevis (1.05%)
12. Rwanda (2.17%)	12. Brazil (2.11%)	31. Samoa (1.05%)
13. Senegal (2.17%)	13. Cameroon (2.11%)	32. Singapore (1.05%)
14. Tanzania (2.17%)	14. China (2.11%)	33. Thailand (1.05%)
	15. Fiji (2.11%)	34. United Arab Emirates (UAE) (1.05%)
	16. Nigeria (2.11%)	35. Venezuela (1.05%)
	17. South Korea (2.11%)	36. Vietnam (1.39%)
	18. Argentina (1.05%)	
	19. Cabo Verde (1.05%)	

Figure 1: Survey Respondents (Results Disaggregated by Development Status)



LDC Developing Developed

Figure 2: Sectoral Representation of Respondents (Results Disaggregated by Sector)



Government Department Private Company
Inter-Governmental Organisation Non-Government Organisation
Academic Institution Other

As summarised in *Table 2*, the spread of survey respondents by sector differed significantly between the country categories, with the largest grouping of respondents from LDCs (82.61 per cent) and Developing Countries (40.43 per cent) representing Government. Only 10.71 per cent of respondents from Developed Countries were from Government Departments, with the majority of respondents from this country category representing Non-Government Organisations (23.21 per cent), Academic Institutions (23.21 per cent) and the Private Sector (21.43 per cent).

We have been mindful in our analysis of the small number of respondents from

Table 2: Sectoral representation of respondents (results disaggregated by development status)

LDC	Developing	Developed
1. Government Department (82.61%)	1. Government Department (40.43%)	1. Non-Government Organisation (23.21%)
2. Non-Government Organisation (6.52%)	2. Private Company (19.15%)	2. Academic Institution (23.21%)
3. Academic Institution (4.35%)	3. Academic Institution (15.96%)	3. Private Company (21.43%)
4. Private Company (2.17%)	4. Non-Government Organisation (9.57%)	4. Inter-Government Organisation (16.07%)
5. Inter-Government Organisation (2.17%)	5. Inter-Government Organisation (8.51%)	5. Government Department (10.71%)
6. Other (2.17%)	6. Other (6.38%)	6. Other (5.36%)

Academic Institutions (4.35 per cent), Private Companies (2.17 per cent) and IGOs (2.17 per cent) represented within the LDC category, and the corresponding preponderance of Government Department respondents.

Survey respondents by location (Government Only)

Those respondents who indicated they worked for a Government Department also specified the geographic location from which they performed their role. The majority were based in the capital of their country of citizenship (86.76 per cent), followed by those in regional locations in their country of citizenship (4.41 per cent), Geneva (4.41 per cent) and Other (4.41 per cent). This data is presented in *Figure 3*.

Based on this data, we can be confident that the responses analysed herein are not unduly biased by a preponderance of Geneva based government officials, but represent the views of those working in national capitals.

Figure 3: Geographical Location of Respondents (Government Respondents Only)

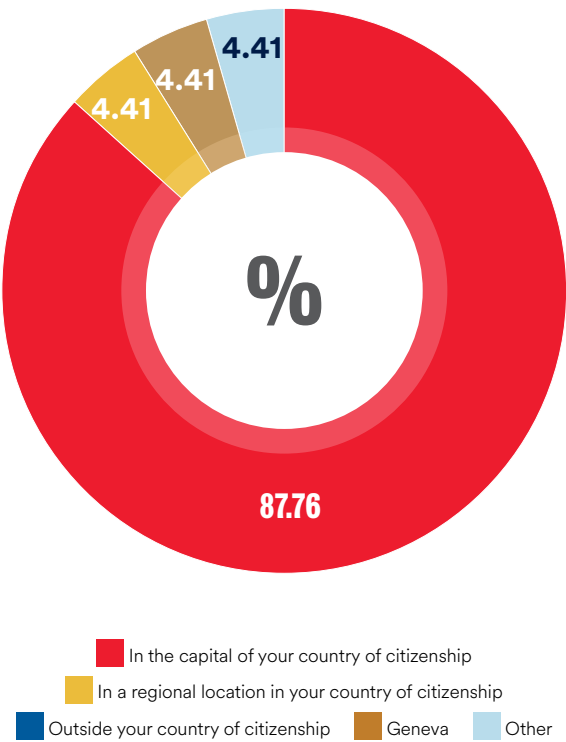
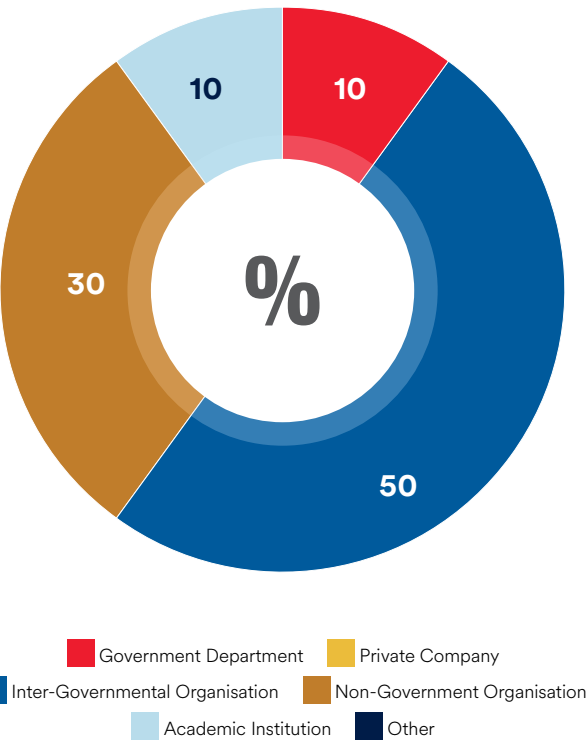


Figure 4: Respondents from Switzerland (Results Disaggregated by Sector)



Although respondents from Switzerland accounted for almost 18 per cent of those from Developed Countries, these were largely concentrated in IGOs (50 per cent) and NGOs (30 per cent), with only 10 per cent representing delegates from Developing Countries and LDCs. This data is represented in *Figure 4*.

Respondents by position held

205 respondents specified the role they currently occupy in their organisation. Most respondents held a Technical Level position (32.20 per cent), followed by Senior Management (27.32 per cent) and Management Level (22.93 per cent). Business Owners comprised just 9.27 per cent of respondents, while 8.29 per cent considered themselves as falling into the Other category. This is presented in *Figure 5*.

Survey respondents by years' experience

A total of 202 responses were received for this question. The majority of respondents indicated they had at least six years'

experience working in their field. Most had between 11 and 20 years' experience (34.2 per cent), followed by those with more than 20 years' experience (27.6 per cent), and those with 6 to 10 years' experience (24.6 per cent). Respondents with 0-5 years of experience comprised just 13.6 per cent of total respondents. This is presented in *Figure 6*.

In addition to the survey responses received, qualitative interviews were undertaken with 30 representatives from the public and private sector in each of the 8 national capitals identified in the project planning stages: Bangladesh, Barbados, Brazil, India, Indonesia, Sri Lanka, Vanuatu and Zambia.

The following section utilises the findings of the survey and qualitative interviews to elaborate our understanding of the systemic issues identified through the comprehensive review of contemporary literature conducted on SDT in the first phase of the project.

4.2 WTO members' right to special and differential treatment – equity point of view

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 technology⁸.

For global trade rules to be applied uniformly to all, it has to assume that all markets are structured and operate similarly⁹. Given the WTO's 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.

Figure 5: Roles of Respondents

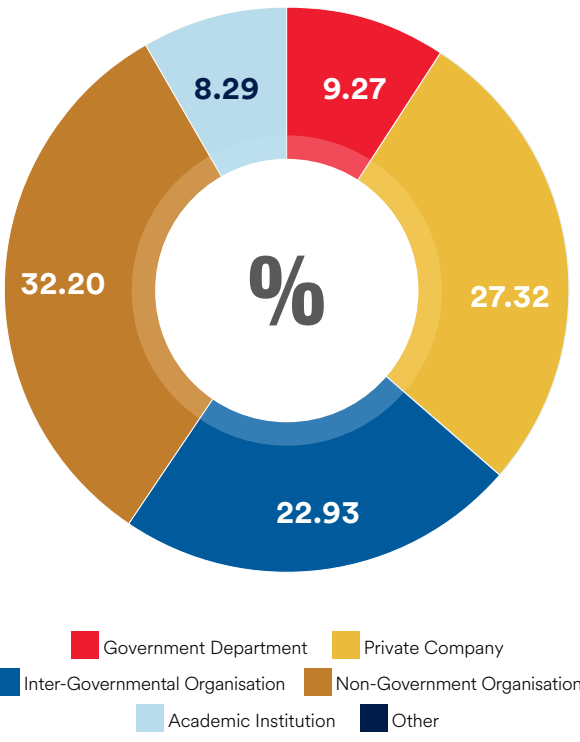
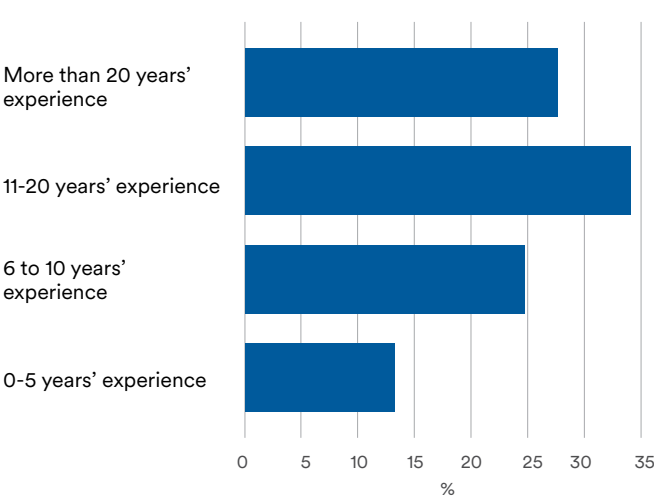


Figure 6: Respondents by Years' Experience



⁸ Youssef, 1999; Cunningham, 2011

⁹ Christensen, 2015

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 the right to claim SDT have been further exacerbated, with a number of Developing

Countries continuing to claim SDT, despite achieving significant economic growth and development.

Almost half of the survey respondents (48 per cent) acknowledged that Developing Countries are constrained from fully participating in the WTO owing to their institutional and capacity constraints, and as many as 61 per cent of respondents were supportive of incorporating SDT into WTO Agreements in order to enable beneficiaries to participate more fully in the multilateral trading system. However, only 39 per cent of respondents 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.

As shown in **Figure 7**, there was significant divergence in opinion between the three country groupings concerning the right of all Developing Countries to invoke SDT, with as many as 80 per cent of respondents from Developed Countries disagreeing to some extent with this proposition, compared to just 42 per cent of respondents from Developing Countries and 45 per cent of those from LDCs.

The most commonly cited objection, particularly among respondents from Developed Countries, related to the need for more nuanced differentiation between developing countries, which recognises the significant variations in their economic, social and environmental status. This is related to concerns regarding the right for countries to self-determine their

Figure 7: All Developing Countries should be entitled to claim Developing Country Status at the WTO to secure special negotiating concessions not available to more Developed Countries? (Results Disaggregated by Development Status)

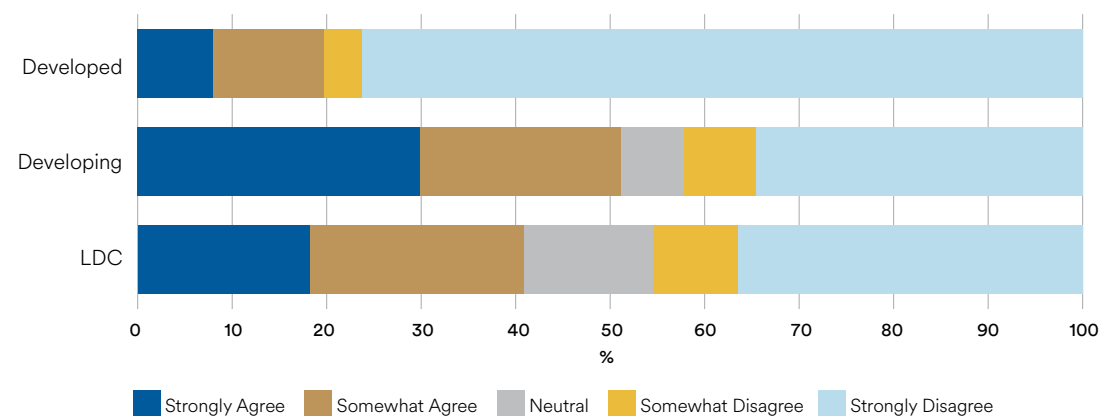
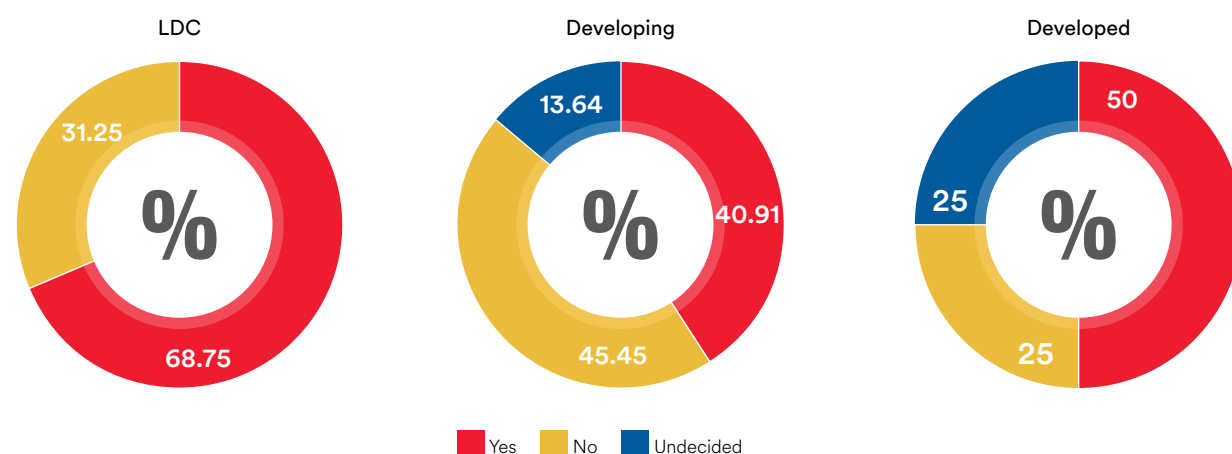


Figure 8: Do you think that invoking Special and Differential Treatment dis-incentivises some countries from pursuing domestic economic reforms? (Results Disaggregated by Development Status)



status, rather than being required to meet objective criteria, and is explored at length in the following section.

In alignment with recent criticisms of SDT by some Members of the WTO, as many as 50 per cent of survey respondents acknowledged the potential for SDT to inhibit or dis-incentivize developing-country members from taking on their legal obligations. As illustrated in **Figure 8**, there were significant differences between the country groupings views on this issue, with as many as 68 per cent of respondents from LDCs agreeing that invoking SDT dis-incentivises some countries from pursuing domestic economic reforms, compared to just 41 per cent of respondents from Developing Countries and 50 per cent from Developed Countries.

Those respondents who supported the view that invoking SDT dis-incentivises developing countries from pursuing domestic economic reforms argued that permanent or deferred commitments invite countries to delay reforms. They were sceptical of the potential for recipients to significantly increase their readiness to implement deferred commitments in the short-to-medium term, without targeted technical assistance and capacity building, which can be challenging to obtain and leverage.

Furthermore, a number of Developing Country respondents raised concerns that in the absence of a more rigorous definition of Developing Country status and objective criteria for receiving assistance, there is a risk that countries may be unwilling to relinquish their right to claim SDT once they achieve significant economic growth, potentially extending the deferral of commitments indefinitely.

Both survey respondents and qualitative interviewees agreed to a large extent that SDT provisions should be considered a steppingstone towards the full implementation of obligations, and should be designed to achieve this purpose. That is to say, they 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. As shown in **Figure 9**, the view that SDT should enable beneficiaries to participate more fully in trade was strongest among respondents from Developed Countries, with 66 per cent supporting this view to some extent, and a number expressing concerns about the effectiveness of exempting or deferring commitments. While 61 per cent of respondents from LDCs and 58 per cent from Developing

Countries also agreed to some extent, some were dubious about the potential for them to fully engage in the multilateral trading system in the foreseeable future and saw SDT as an important tool for pursuing their domestic interests.

The argument put forward in recent debates by a number of Developing Country Members that the right to access SDT provisions should be preserved, since they serve as an incentive to join the WTO, without which many countries may not become members, was reflected to some extent in the survey data. As shown in **Table 3**, increased market access opportunities, which are expanded under SDT provisions, were identified as the primary motivation for joining the WTO for respondents from all three country groupings. The perceived effectiveness of flexibility of commitments, actions, and policy instruments on the part of LDCs and Developing Countries, as elaborated in Sections 4.5 and 4.6, also supports this interpretation. However, it should be noted that bolstering economic reform was identified by respondents from each of the country categories as the fourth most significant motivation for joining the WTO, suggesting that respondents did not view SDT as incongruent with domestic economic reform.

Figure 9: Special and Differential Treatment should enable beneficiaries to participate more fully in trade or exempt them from certain provisions? (Results Disaggregated by Development Status)

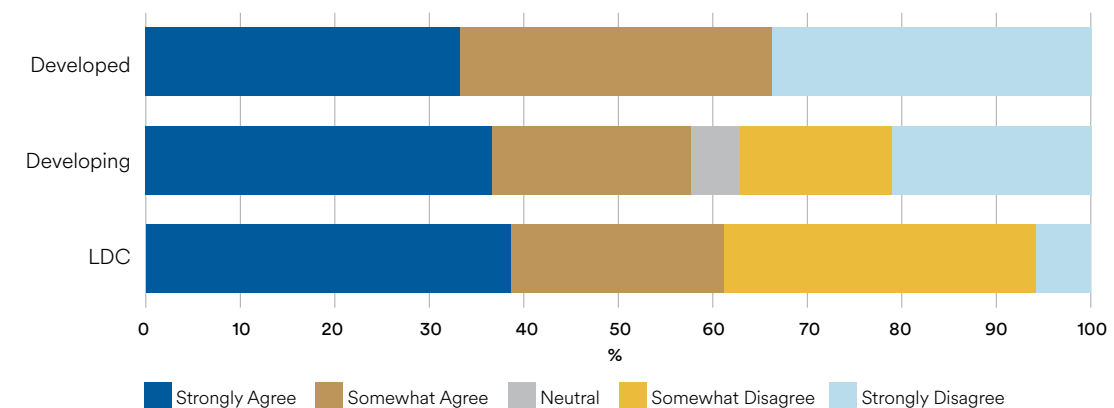


Table 3: Motivation for becoming a WTO Member (where 1 is most important and 5 is fifth most important)

LDC	Developing	Developed
1. Increased Market Access	1. Increased Market Access	1. Increased Market Access
2. Global Partnership	2. Global Partnership	2. Global Partnership
3. Regional Solidarity	3. Improve Economic Governance	3. Improve Economic Governance
4. Bolster Economic Reform	4. Bolster Economic Reform	4. Bolster Economic Reform
5. IMF Structural Reform Package Requirement	5. Regional Solidarity	5. Regional Solidarity

Table 4: Benefits respondents expect their country to receive as WTO Members (where 1 is most important and 5 is fifth most important)

LDC	Developing	Developed
1. Reduced trade barriers which provide for increased trade between WTO Members (90%)	1. Increased predictability and transparency of international trade between WTO Members (90%)	1. Increased predictability and transparency of international trade between WTO Members (97%)
2. Increased predictability and transparency of international trade between WTO Members (68%)	2. Reduced trade barriers which provide for increased trade between WTO Members (90%)	2. Reduced trade barriers which provide for increased trade between WTO Members (95%)
3. Participation in the development of new rules and principles of international trade (68%)	3. Participation in the development of new rules and principles of international trade (81%)	3. Participation in the development of new rules and principles of international trade (92%)
4. Ability to defend trade interests via the WTO's Dispute Resolution System (68%)	4. Ability to defend trade interests via the WTO's Dispute Resolution System (74%)	4. Ability to influence global negotiating agenda (86%)
5. Increased competitiveness (68%)	5. Ability to influence global negotiating agenda (72%)	5. Improved international governance (84%)

Interestingly, there was a high degree of commonality between the three country categories concerning their motivations for joining the WTO, most particularly between Developing Countries and Developed Countries. There was similar alignment concerning the benefits respondents expected their countries to receive as members of the WTO, with as many as 95 per cent of respondents from Developed Countries, and 90 per cent from LDCs and Developing Countries expecting reduced trade barriers which provide for increased trade between WTO Markets. As members of the WTO, a significant number of respondents from each of the country categories also expected their country to benefit from increased predictability and transparency of international trade between WTO Members and participation in the development of new rules and principles of international trade.

Finally, there was a view among respondents that mechanisms are needed to support the effective monitoring and evaluation of SDT, as well as provisions to allow the revocation of rights in cases where it is not being utilised effectively or appropriately by beneficiaries. This was evident in responses to general questions and discussion on SDT where respondents called for a “strong monitoring mechanism” to allow “follow up on progress by developing countries” and “enforcement of SDT provisions”. It was also in evidence in more nuanced discussions on particular forms of SDT, such as the flexibility to apply import tariffs, local content requirements and provide subsidies. Here respondents were clear that such policy tools should only be used in limited cases, for a set duration of time, and for the purpose of achieving clearly defined objectives that can be monitored and evaluated. Where the policy tool does not prove to be effective in achieving the stated objectives, the right to utilise it should be revoked.

4.3 Differentiation and Determining Eligibility

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 vulnerability¹⁰. Certain provisions within WTO Agreements provide for differentiation between Developing Countries. For example, Article 27.2(a) of the Subsidies and Countervailing Measures (SCM) Agreement allows non-LDCs with a Gross National Product (GNP) per capita of \$1,000 to provide export subsidies to their manufacturing sector. However, differentiation between Developing Countries is a controversial topic.

In 2019, the US called for a review of the ‘self-designation’ practice¹¹. In its view the wealthiest Developing Countries are being

provided a ‘free ride’ in the multilateral trading system by not fulfilling their obligations under the guise of SDT and are benefiting from provisions that were originally designed for poorer WTO Members¹². In its proposal, developing WTO Members should be excluded from obtaining any benefits under SDT provisions based on the following criteria:

- A Developing Country is in the accession process to, or is currently a member of, the Organization for Economic Cooperation and Development (OECD);
- The country is a Member of the G-20;
- The country is classified as ‘High-Income’ by the World Bank; or
- The country accounts for 0.5 per cent or more of global merchandise trade.

Without commenting on the validity of the US’s approach of identifying whether a country is sufficiently ‘developed’ that it should be disqualified from accessing SDT, some of the specified criteria are non-trade considerations and critics argue that it is insufficiently attentive to the complexities of development processes. Nonetheless it reflects widely shared concerns about the effectiveness of the current model and attempts to address the related eligibility of countries to claim SDT provisions in WTO Agreements, as well as the challenge of classifying some WTO Members as Developing Countries, given their relatively high level of economic development.

As noted in the preceding section and illustrated in **Figures 7 and 10**, these concerns were reflected in the survey results where there was a significant divergence in opinion between respondents from the three country categories, and across the five sectors



surveyed concerning the right for all Developing Countries to self-designate their development status in order to gain benefits under SDT. As many as 80 per cent of respondents from Developed Countries disagreed with this proposition, while this view was shared by 42 per cent of respondents from Developing Countries and 45 per cent of respondents from LDCs.

As shown in **Figure 10**, a total of 66 per cent of respondents from Academia, 63 per cent from IGOs and 51 per cent from NGOs disagreed to some extent with the view that all Developing Countries should be entitled to claim developing country status at the WTO, while 66 per cent of Private Company respondents agreed with his statement. Overall, there were clear divides between Developed and Developing Countries, and along technical/private versus implementer lines.

Based on the survey results, respondents from Developed Countries overwhelmingly felt that not all Developing Country Members of the WTO should be eligible to claim SDT benefits, even if they

self-designate themselves as Developing Countries. Those who supported this view across all of the country categories called for greater differentiation within the Developing Country category, which recognises significant differences in economic, social and environmental status of these countries and takes into account their economic vulnerability, as well as more objective criteria for determining eligibility for SDT.

With approximately one-third of the WTO’s 164 members currently classified as Developing Countries, many respondents felt that the current practice of allowing countries at more advanced stages of economic development to self-designate as Developing and claim SDT on this basis put undue pressure on the system. Generally, they also aligned with the view that the WTO would “continue to malfunction” under these conditions whereas countries without the economic or institutional capacities of much needed support required to independently pursue their development agendas would be deprived.¹³

¹⁰ <http://unohrrls.org/about-ldcs/criteria-for-ldcs/>
¹¹ United States, WTO Document – WT/GC/W/757/Rev.1, 14 February 2019

¹² Bacchus and Manak (2020)
¹³ On a separate but related note, there was anecdotal evidence of Foreign Direct Investors taking advantage of the policy space afforded by SDT in eligible economies, in some cases applying significant pressure to local governments to resist economic reforms that would cut into their profit margins.

Figure 10: All Developing Countries should be entitled to claim Developing Country status at the WTO to secure special negotiating concessions not available to more developed countries? (Results Disaggregated by Sector)

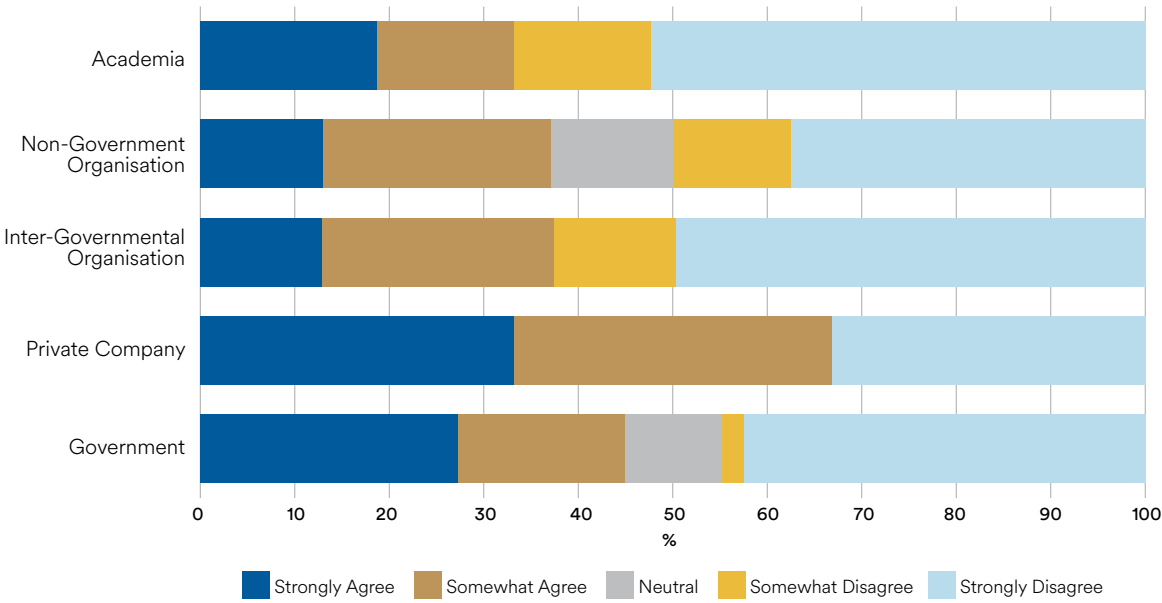
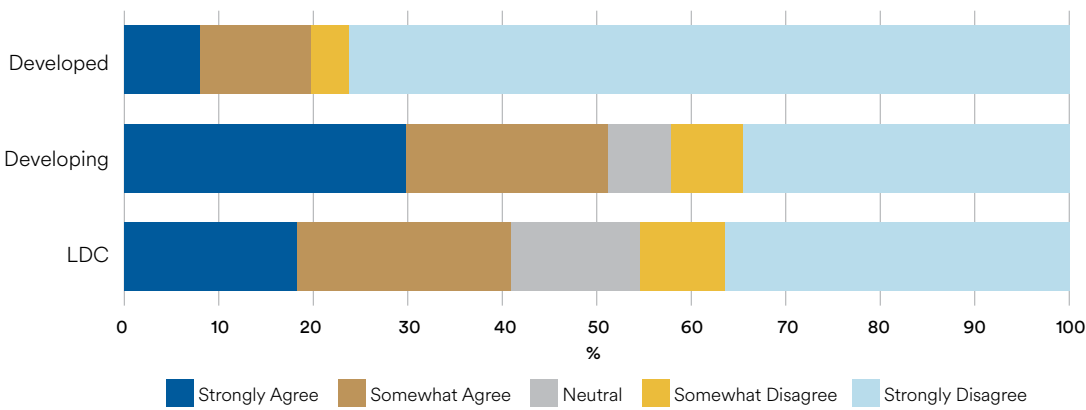


Figure 11: The policy space afforded by Special and Differential Treatment may be used by Developing Countries to promote globally competitive industries at the expense of their competitors (Results Disaggregated by Development Status)



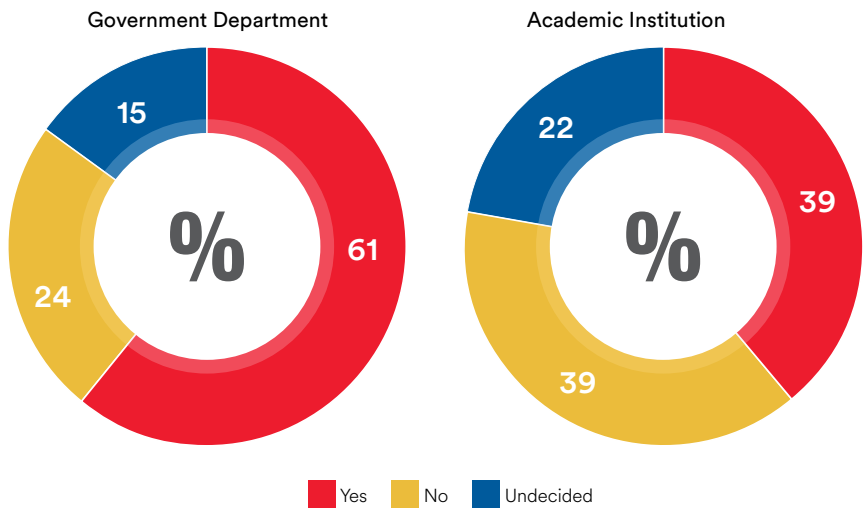
Reflecting on this practice, one respondent from a Developing Country remarked:

“I can understand the US not wanting to give SDT to Chinese or Brazilian competitors, since at the end of the day they are competitors. The countries that are weaker should benefit, that is one of the reasons we have pushed for the special category,

as we understand the need to differentiate between larger developing economies with space programs that are arguing for the same level of treatment. It is not, by any stretch of the imagination, equitable. Developed Countries are not going to want to be generous if the support they provide is offered to competitors.”

As many as 53 per cent of respondents felt that the policy space afforded by SDT was subject to abuse by some members, while only 29 per cent disagreed with this statement. As illustrated in **Figure 11**, this view was particularly strong among respondents from LDCs with 82 per cent agreeing that the policy space afforded by SDT was sometimes used to promote globally competitive industries at the expense of their competitors, compared to just 41 per cent of respondents from

Figure 12: Do you think that the policy space afforded by Special and Differential Treatment may be used by Developing Countries to promote globally competitive industries at the expense of their competitors? (Results Disaggregated by Sector)



Developing Countries and 30 per cent from Developed Countries.

When disaggregated by sector, a clear divide was evident, with as many as 61 per cent of respondents from Government agreeing with this proposition, compared to just 39 per cent of respondents from Academia (**Figure 12**).

It was apparent from the interviews that respondents from LDCs and Developing Countries did not necessarily view this as problematic, rather viewing it as means of ‘levelling the playing field’ for countries who may have achieved significant growth in particular sectors but were otherwise operating at a handicap as compared to their more developed counterparts. One respondent noted:

“...the same holds for developed countries. Agricultural subsidies have really boosted the production and export of agricultural products in the US and EU. It is wrong to call out only developing countries for abuse of such provisions, when these problems are across the board.”

Overall, from these data less, but nonetheless significant, support for more selective criteria for determining eligibility for SDT provisions on the part of LDCs and Developing Countries suggest that the conversation on differentiation has been initiated in Developing Countries. Further investigation is recommended to determine whether perceptions on these issues are shifting in Developing Countries. This could include growing receptiveness to the proposition that not all Developing Countries should be eligible for SDT and to proposals for reform of the current system, such as the US’s call for a review of self-designation criteria, the EU’s proposal for ‘case by case’ SDT, or the Canadian proposal for provision of SDT based on the ‘evidence of need’ and ‘subject to negotiations’¹⁴.

4.4 Improving Market Access Predictability and Lowering Export Barriers

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

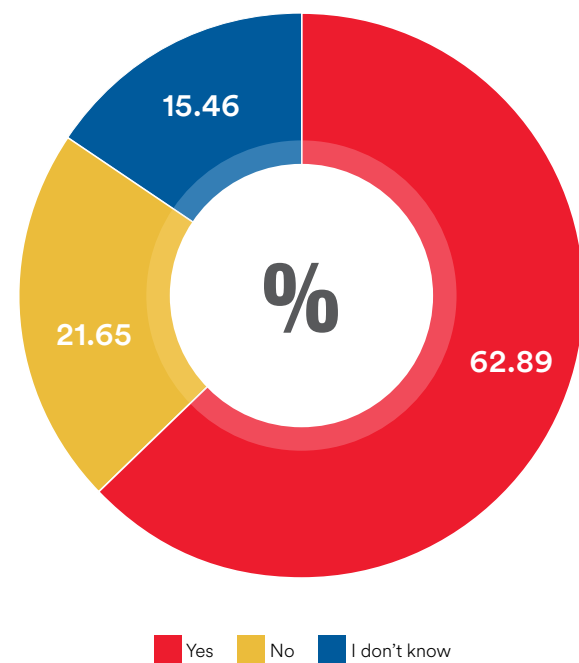
schemes found their beneficial impact on preference receiving countries is limited. Those reviewed were limited in product coverage, mostly excluded products with high Most Favoured Nation (MFN) tariffs, and had decreasing margins of preference utilisation rate¹⁵. Furthermore, the unilateral administration of these preferences means that they can be altered, in some cases through domestic pressure, with limited notification to beneficiary countries. Finally, the review revealed that it is challenging for exporters within beneficiary countries to comply with often onerous and costly rules associated with such schemes, most particularly those associated with Rules of Origin (RoO), reducing the ability of beneficiary countries to make use of these preferences.

A total of 63 per cent of survey respondents indicated that their country currently utilises GSP, while 22 per cent indicated that their country did not, and a further 15 per cent were unsure (**Figure 13**). Of those respondents who were unsure, a significant proportion were concentrated in IGOs (27 per cent) and NGOs (27 per cent).

¹⁴ WTO Document - JOB/GC/201 (24 September 2018); https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf; United States, WTO Document – WT/GC/W/757/Rev.1, 14 February 2019.

¹⁵ UNCTAD (1999)

Figure 13: Does your country currently utilise GSP?



Respondents were subsequently asked to identify those processes which they believe could be amended to increase the effectiveness of GSP. As shown in **Figure 14**, 74 per cent of survey respondents felt the effectiveness of the GSP could be improved by making changes to RoO, 57 per cent were in favour of changes to Product Coverage, 55 per cent of changes to Standards, 43 per cent suggested improving the Tariff Coverage, 39 per cent of respondents were in favour of improving the quota allocations, 34 per cent of respondents were in favour of improving the trading relationships between the beneficiaries and GSP-providers, and 30 per cent suggested that reducing qualification requirements could improve the System's effectiveness.

Figure 15 provides a breakdown of responses disaggregated by sector. From this we can see that Rules of Origin was most frequently identified by all sectors as a process which could be amended to increase the effectiveness of GSP. It was identified by as many as 86 per cent of respondents from IGOs, 80 per cent from NGOs, 76 per cent from Government, 74 per cent from Academia, and 57 per cent from Private Companies. Standards were identified as frequently as RoO by respondents from Private Companies (57 per cent) and were

the second most frequently identified process for respondents from IGOs (71 per cent) and NGOs (60 per cent), and was the third most frequently identified by respondents from Government (45 per cent) and Academia (57 per cent). After RoO, Product Coverage was most frequently identified by respondents from Government (55 per cent) and Academia (65 per cent), which was the third most frequently identified process for respondents from IGOs (57 per cent) and Private Companies (50 per cent).

While there was a high degree of commonality among the five sectors, there were nonetheless a number of statistically important exceptions. Firstly, a higher percentage of respondents from IGOs identified processes for amendment, for 6 of the 7 processes presented. This was particularly notable in the case of Trading Relationships, where 71 per cent of respondents from IGOs identified this as a process which could be amended to increase the effectiveness of GSP, compared to just 42 per cent from Government, 30 per cent from Non-Government Organisations, 29 per cent from Private Companies and only 13 per cent from Academia. The same trend held for Qualification / Conditionality with 57 per cent of respondents from IGOs

identifying this process, compared to just 30 per cent from NGOs, 29 per cent from Private Companies, 26 per cent from Government and 22 per cent from Academia.

Significantly fewer respondents from Private Companies identified Quotas, with only 21 per cent believing amending this process could increase the effectiveness of GSP, compared to 57 per cent from IGOs, 50 per cent from government, and 30 per cent from NGOs and Academia.

Figure 16 provides a breakdown of responses by development status. Although there was significant consensus among the three country categories, there were two notable outliers: Firstly, a significantly higher number of respondents from LDCs (17 per cent) identified the need to review the quota allocations related to the GSP Scheme, compared to their counterparts in Developing Countries (9 per cent) and Developed Countries (10 per cent). Secondly, significantly fewer respondents from LDCs (4 per cent) indicated that there was a need to review qualification requirements, compared to respondents from Developing Countries (9 per cent) and Developed Countries (11 per cent).

The study confirmed that RoO are viewed as problematic for all sectors, and across all country categories for Developing Countries and LDCs in accessing GSP schemes, as well as highlighting the perceived need for improved product coverage.

Standards were also viewed by all groups as a significant Non-tariff Measure (NTM) which inhibits the participation of eligible countries in such schemes. NTMs are known to reduce beneficiary exporters' preference margins through three types of costs: direct compliance costs, indirect compliance costs (associated with product testing and certification), and indirect time cost to demonstrate compliance at the border¹⁶. UNCTAD's Trade Analysis Information Systems (TRAIS) data suggests that 80 per cent of trade in developed economies and more than 90 per cent of EU trade is affected by NTMs¹⁷. Importantly, survey respondents and qualitative interviewees

Figure 14: Which of the following processes could be amended to increase the effectiveness of GSP?

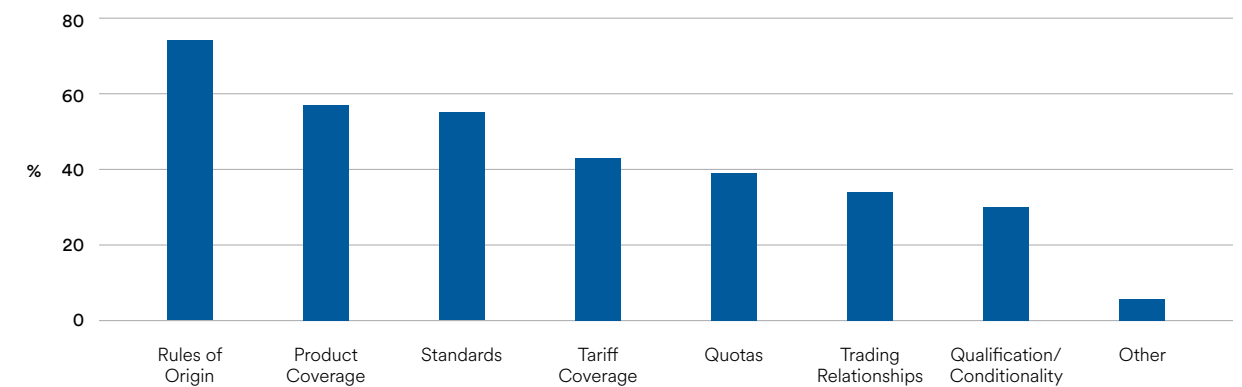


Figure 15: Which of the following processes could be amended to increase the effectiveness of GSP? (Results Disaggregated by Sector)

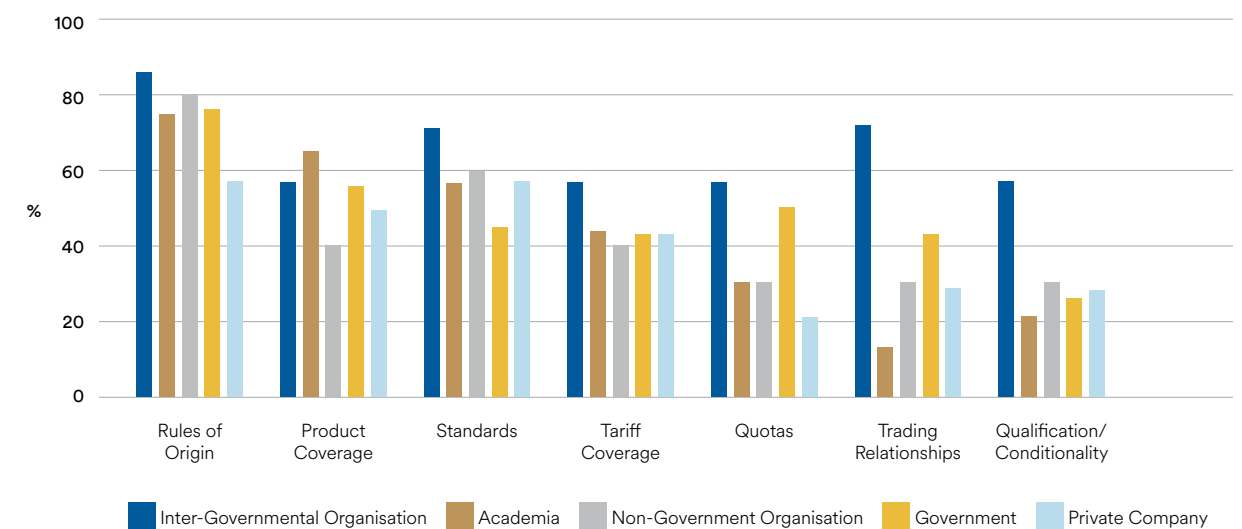
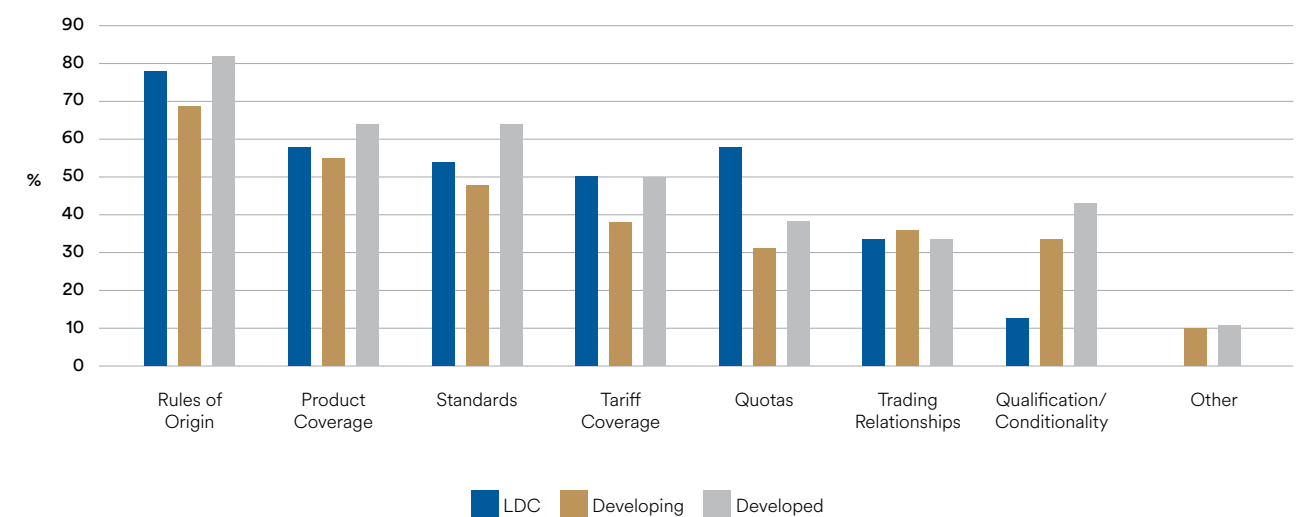


Figure 16: Which of the following processes could be amended to increase the effectiveness of GSP? (Results Disaggregated by Development Status)



¹⁶ Cipollina and Demaria (2020)

from LDCs and Developing Countries identified addressing NTMs as one of the single most important things that could be done to make the WTO system more equitable for Developing Countries.

Though qualification / conditionality was not among those processes most frequently identified for reform, it was nonetheless significant with a number of respondents who selected the “other” category referring to eligibility. This points to the need for a revision of the qualification requirements for such preferential schemes. For example, in its GSP/GSP+ schemes, the EU uses criteria such as sustainable development, human rights, and good governance to penalise or reward eligible economies. Consequently, in 2014 The Philippines was upgraded from the EU’s GSP to GSP+ programme, almost tripling the number of products eligible for zero tariffs, whereas Sri Lanka was withdrawn from the GSP+ programme in 2010, owing to the government’s human rights violations and non-compliance with UN human rights conventions¹⁸.

4.5 Flexible Provisions to Restrict Imports

The term ‘infant industry’ is used in international trade theory to refer to industries in the early stages of their development. They typically lack the experience, economies of scale, and efficiencies required to compete in the global marketplace and are highly vulnerable to sudden market changes. As such, infant industries are perceived to require protection from international competitors while they mature. This protection most commonly takes the form of tariffs and quotas imposed on imports with which the industry would need to compete in the domestic market place, or production subsidies paid by the domestic government. Such protectionist measures are regulated under WTO rules, though provisions within the Agreements allow their use in some circumstances.

In the case of import duties, GATT Article XVIII allows Developing Members to deviate from their WTO obligations and increase their tariffs or impose quotas temporarily to protect their infant industries. Prior to imposing such measures, they are required to consult with potentially affected Members, notify their measure and compensate negatively affected Members¹⁹.

4.5.1 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. The five benefits most frequently perceived by respondents are summarised in Table 5 for each of the country categories.

Interestingly, as shown in Figure 17, there was a direct correlation between development status and the benefits perceived by respondents. A significantly higher percentage of respondents from

LDCs perceived benefits associated with freedom to raise import duties, with as many as 85 per cent of respondents indicating that greater freedom to raise import duties would foster domestic industry through restricted competition, 73 per cent indicating it would increase domestic supply of critical products, and 62 per cent believing it would increase demand from domestic consumers.

Conversely, 48 per cent of respondents from Developed Countries did not believe their government would derive any of the benefits listed as a result of greater freedom to raise import duties, while only 38 per cent indicated this could foster domestic industry through restricted competition, 31 per cent indicated it could increase domestic supply of critical products, and just 24 per cent believed it would create more jobs in domestic industries.

When disaggregated by sector, the data showed that respondents from Government, IGOs and NGOs were significantly more likely to perceive benefits than their counterparts in Private Companies and Academia (See Figure 18).

Table 5: Perceived benefits governments would derive from greater freedom to raise import duties to protect domestic industries, ranked according to frequency perceived by respondents (Results Disaggregated by Development Status)

LDC	Developing	Developed
1. Fostering domestic industry through restricted international competition (85%)	1. More jobs in domestic industries (56%)	1. None of the options provided (48%)
2. Increased domestic supply of critical products (73%)	2. Fostering domestic industry through restricted international competition (53%)	2. Fostering domestic industry through restricted international competition (38%)
3. Increased demand from domestic consumers (62%)	3. Increasing domestic supply of critical products (42%)	3. Increased domestic supply of critical products (31%)
4. More jobs in domestic industries (58%)	4. Improved skills of the local workforce (33%)	4. More jobs in domestic industries (24%)
5. Reduced costs for locally produced products, relative to those of international competitors (54%)	5. Increased demand from domestic consumers (31%)	5. Improved skills of the local workforce (17%)

Figure 17: Frequency with which respondents perceived benefits governments would derive from greater freedom to raise import duties to protect domestic industries (Results Disaggregated by Development Status)

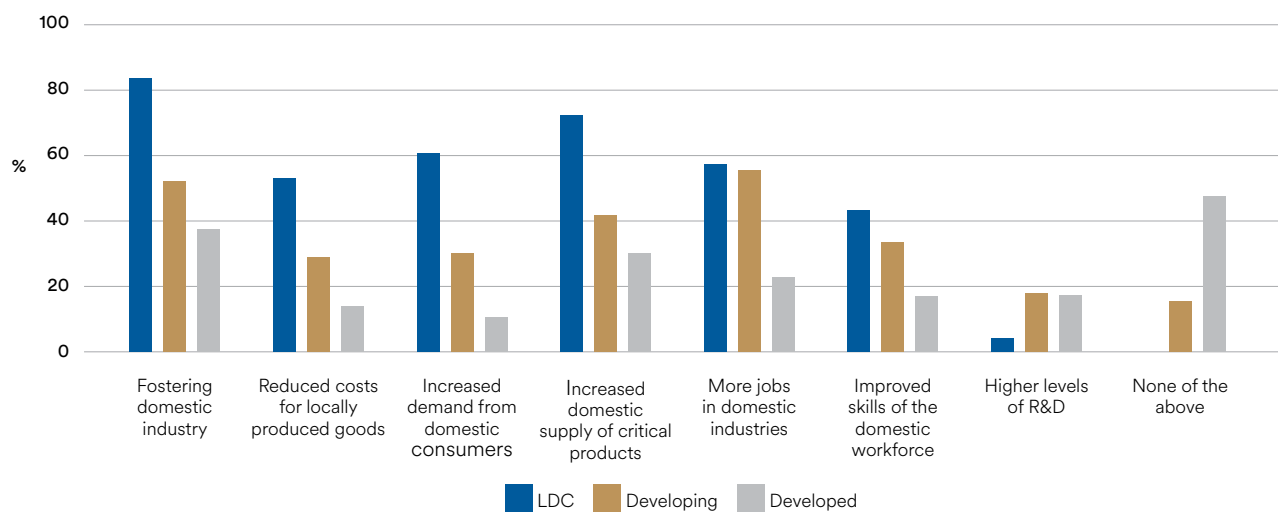
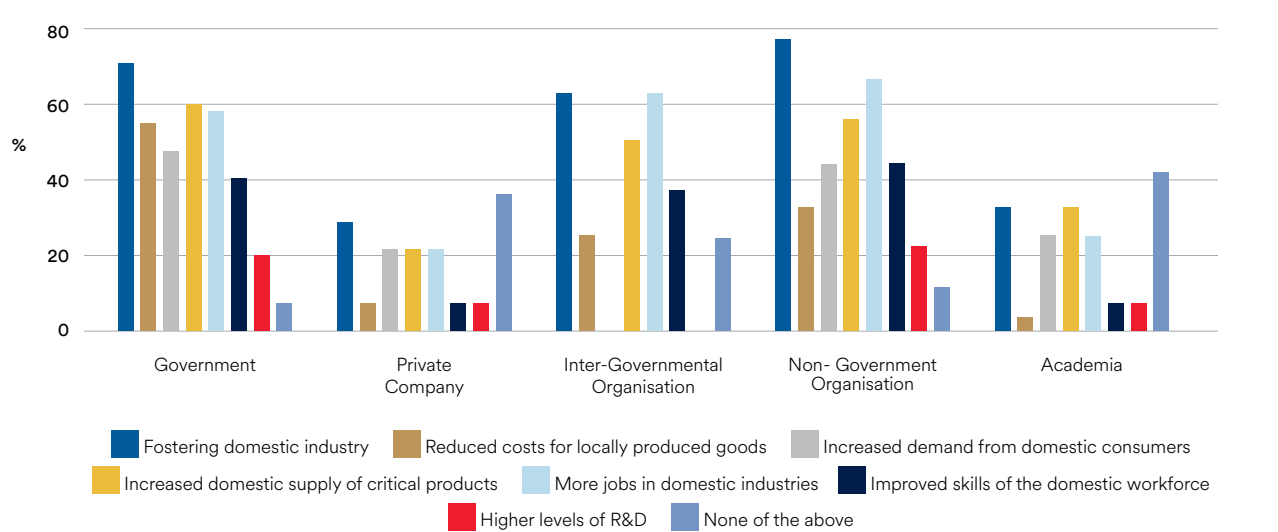


Figure 18: Frequency with which respondents perceived benefits governments would derive from greater freedom to raise import duties to protect domestic industries (Results Disaggregated by Sector)



Fostering domestic industry was the most frequently perceived benefit for all sectors, with 78 per cent of respondents from NGOs identifying this benefit, 71 per cent from Government, 63 per cent from IGOs, 33 per cent from Academia, and 20 per cent from Private Companies. Though this was the most frequently perceived benefit for Academia and Private Companies, a greater number of respondents from these sectors did not believe that any of the benefits summarised in the graph would be realised by government.

More jobs in domestic industry was the second most frequently perceived benefit for NGOs (67 per cent) and IGOs (63 per cent), and third for Government (57 per cent). This was perceived by considerably fewer respondents from Academia (25 per cent) and Private Companies (21 per cent). Increased domestic supply of critical products was the second most frequently perceived benefit by respondents from Government (60 per cent), and third for NGOs (56 per cent), IGOs (50 per cent), Academia (33 per cent) and Private Companies (21 per cent). Again, this

benefit was perceived by significantly fewer respondents from Academia and Private Companies.

Survey respondents also identified a number of risks associated with raising import duties, and a number of statistically significant patterns were again identified along development status and sectoral lines. As shown in Figure 19, there was a direct correlation between development status and the perception of risks associated with raising import duties, with respondents from LDCs perceiving risks in approximately 48 per cent of cases,

¹⁷ UNCTAD (United Nations Conference on Trade and Development). TRAINS Database: The global database on Non-Tariff Measures. <<https://trains.unctad.org/>> viewed 18 November 2020.

¹⁸ Borchert et al. (2020)

¹⁹ A limited number of Developing Country Members have invoked the provisions of GATT Article XVIII(C), whereas Article XVIII (A) has never been invoked. See WTO Document - WT/COMTD/W/77; Cuba, Haiti, India and Sri Lanka

Figure 19: Frequency with which respondents perceived risks associated with raising import duties (Results Disaggregated by Development Status)

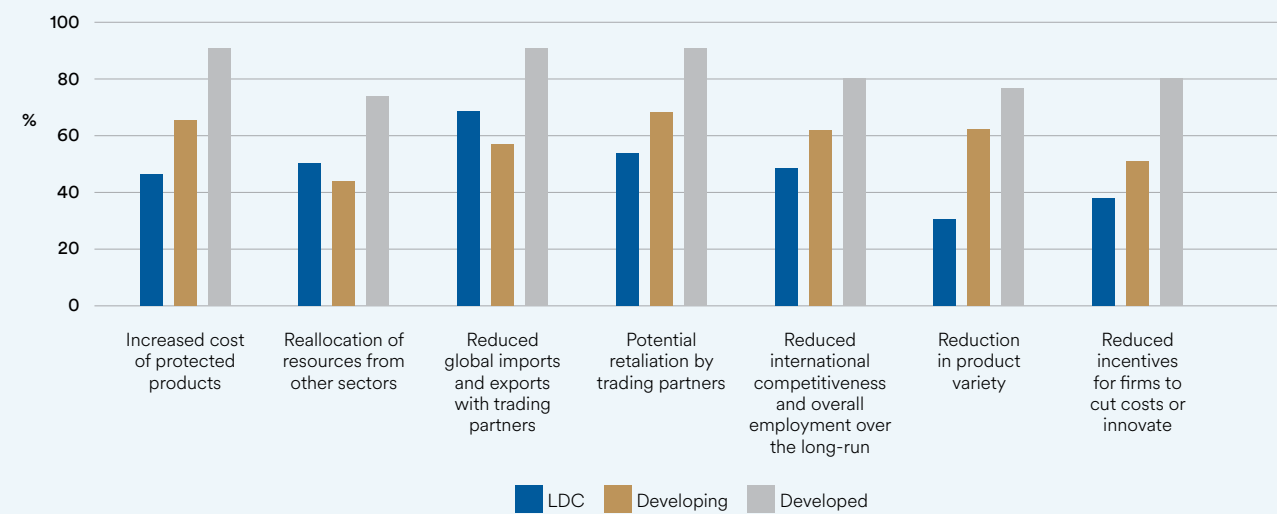


Figure 20: Frequency with which respondents perceived risks associated with raising import duties (Results Disaggregated by Sector)

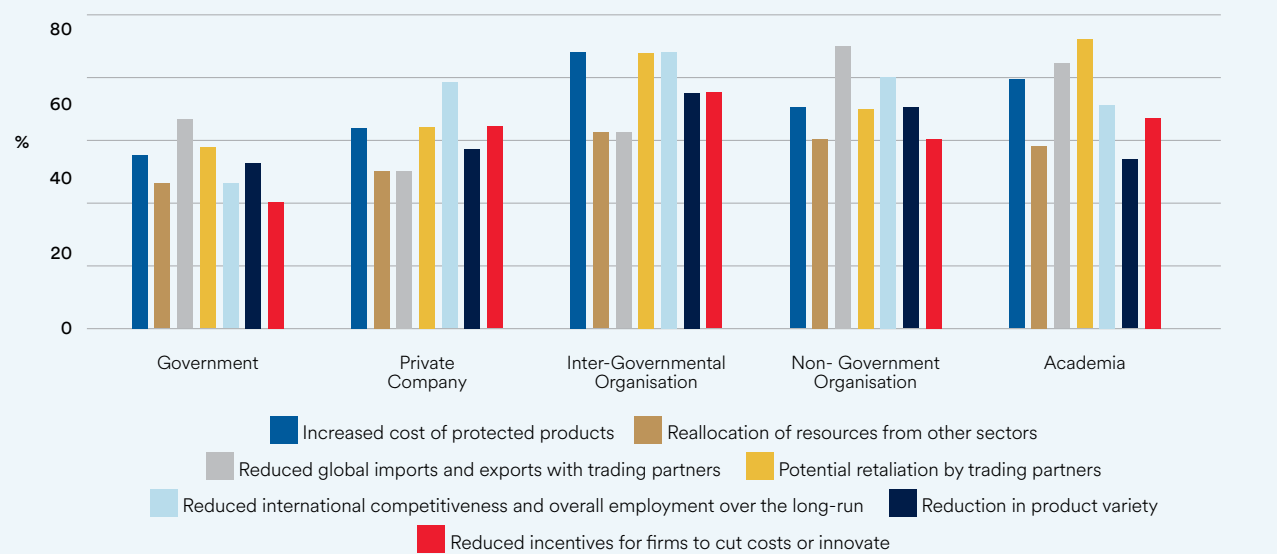
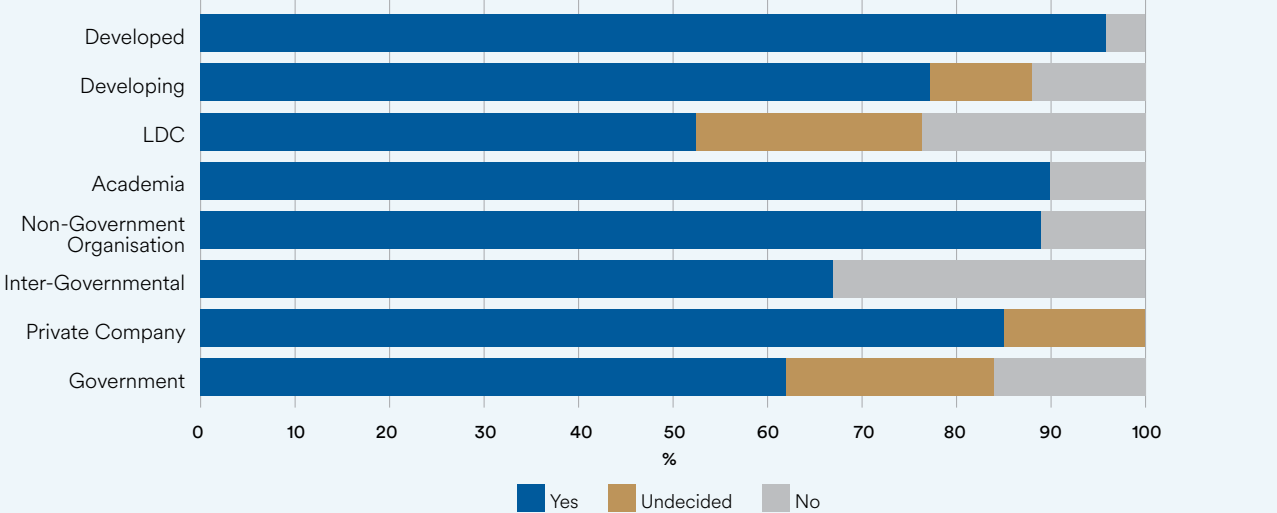


Figure 21: Does the WTO allow your government sufficient policy space in the area of import duties (Results Disaggregated by Development Status and Sector)



compared to 59 per cent of cases for respondents from Developing Countries, and 83 per cent of cases for Developed Countries.

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, though 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. The emerging mobile handset industry in Bangladesh was cited by one respondent as an example of a rapidly emerging industry which incentives both from government and public sectors have helped to grow into one of the largest industries in Bangladesh. Although the industry has not yet achieved a level of competitiveness that would enable it to effectively compete in the international marketplace, it is apparently currently experiencing high levels of growth, creating jobs and upskilling the domestic workforce, developing capacity in the production of mobile handsets, and providing affordable handsets that meet the needs of domestic consumers.

When disaggregated by sector, the data showed that respondents from Government were significantly less likely to perceive risks than those from other sectors. As illustrated in **Figure 20**, this was particularly evident in relation to the risk of reduced international competitiveness and overall employment over the long run, with just 45 per cent of respondents from Government perceiving this risk, compared to 88 per cent of respondents from IGOs, 80 per cent from NGOs, 79 per cent from Private Companies, and 71 per cent from Academia. Government respondents were also outliers in their perception of the risk of reducing incentives for firms to cut costs or innovate, with only 40 per cent perceiving this as a risk, compared to 75 per cent of respondents from IGOs, 67 per cent from Academia, 64 per cent from Private Companies and 60 per cent from NGOs.

Respondents across all country groupings and sectors agreed that the WTO allowed their governments' sufficient policy space in the area of import duties, with only 24 per cent of respondents from LDCs, 13

per cent from Developing Countries and 4 per cent from Developed Countries disagreeing with this position, though a further 24 per cent of respondents from LDCs and 10 per cent 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 per cent and 62 per cent agreeing, respectively. These results are summarised in **Figure 21**.

This is not to say that import duties are not widely utilised to protect infant industries, but that there was a perception that countries had sufficient flexibility to utilise this policy tool without compromising their commitments. By way of example, respondents from Barbados indicated that the country had "...set its bound rates for most tariffs lines at a sufficient level they are able to raise or lower the applied rate if needed to protect against a sudden surge in imports or to protect 'infant industries'...", without the need to comply with the onerous requirements of GATT Article XVIII.



Table 6: Perceived benefits governments would derive from greater freedom to impose local content requirements on businesses, ranked according to frequency perceived by respondents (where 1 is most frequently perceived and 5 is fifth most frequently perceived) (Percentage of respondents who perceived this benefit, disaggregated by development status)

LDC	Developing	Developed
1. Promote the use of local inputs (92%)	1. Promote the use of local inputs (85%)	1. Promote the use of local inputs (92%)
2. Expanded opportunities for domestic industries to enter and upgrade within global value chains (73%)	2. More jobs in domestic industries (77%)	2. Expanded opportunities for domestic industries to enter and upgrade within global value chains (73%)
3. Increased domestic outputs/supply (69%)	3. Expanded opportunities to enter and upgrade within global value chains (66%)	3. Increased domestic outputs/supply (69%)
4. More jobs in domestic industries (62%)	4. Increased domestic outputs/supply (64%)	4. More jobs in domestic industries (62%)
5. Improved skill levels of the local workforce (10%)	5. Increased international competitiveness of domestic industries (49%)	5. Reduced costs of locally produced goods (54%)

Figure 22: Frequency with which respondents perceived benefits governments would derive from greater freedom to impose local content requirements on businesses (Results Disaggregated by Development Status)

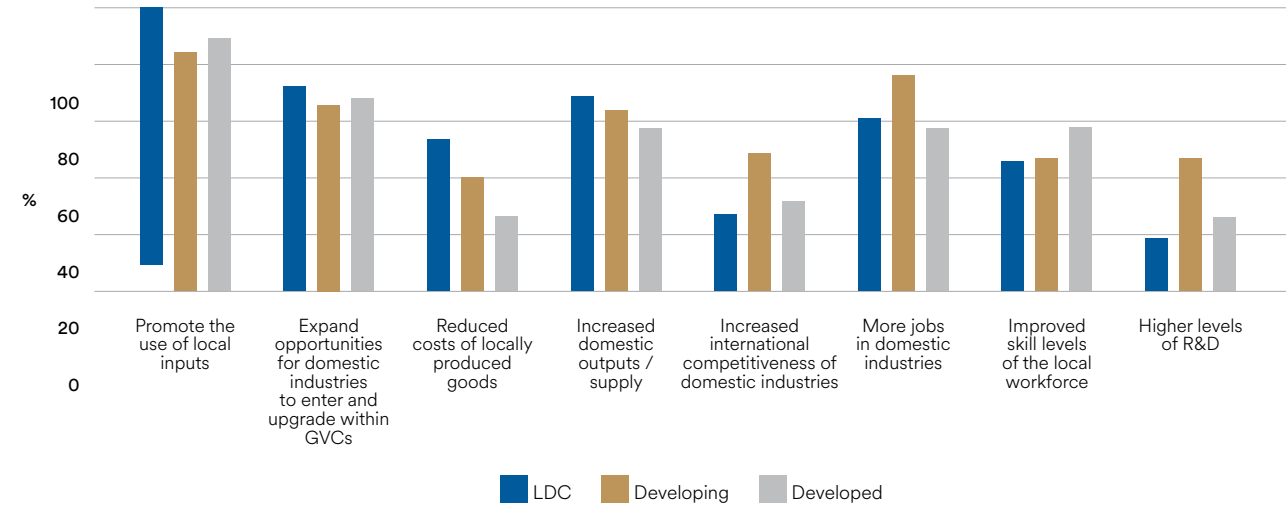
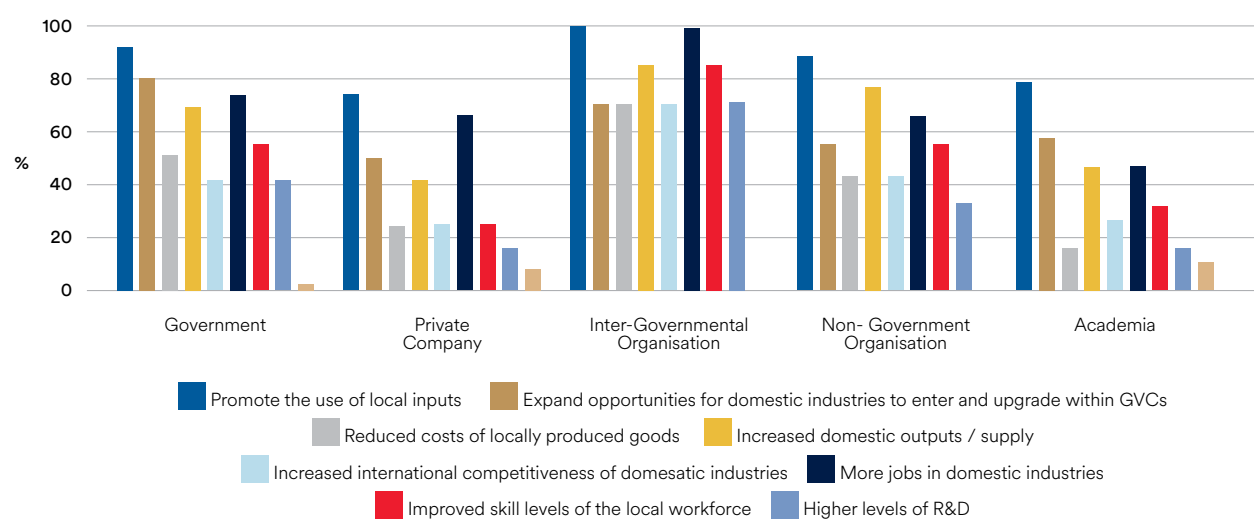


Figure 23: Frequency with which respondents perceived benefits governments would derive from greater freedom to impose local content requirements on businesses (Results Disaggregated by Sector)



4.5.2 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, and are explicitly prohibited under the Agreement on Trade Related Investment Measures (TRIMS). TRIMS are rules which facilitate Foreign Direct Investment by restricting preferential treatment of domestic firms, and explicitly prohibit the implementation of any measures requiring the purchase or use by an investing enterprise of domestic products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production.

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. The most commonly perceived benefits reported by respondents are summarised in **Table 6** for each of the country categories.

As shown in **Table 6** and **Figure 22**, there was a high degree of commonality between the country categories, with a few notable exceptions. A significantly higher percentage of respondents

from Developing Countries felt that greater freedom to impose local content requirements would result in increased international competitiveness of domestic industries, with 49 per cent of respondents perceiving this benefit, compared to just 27 per cent of respondents from LDCs and 32 per cent from Developed Countries. Similarly, 47 per cent of Developing Country respondents believed that it would result in higher levels of Research and Development (R&D), compared to just 26 per cent of respondents from Developed Countries and 19 per cent from LDCs. Finally, a significantly higher percentage of respondents from LDCs (54 per cent) felt that greater freedom to impose local content requirements would reduce the cost of locally produced goods, compared to just 40 per cent of respondents from Developing Countries and 26 per cent from Developed Countries.

When disaggregated by sector, the data showed that respondents from IGOs were significantly more likely to perceive benefits than their counterparts from Government and NGOs, with significantly fewer respondents from Academia and Private Companies identifying benefits than respondents from all other sectors (See **Figure 23**).

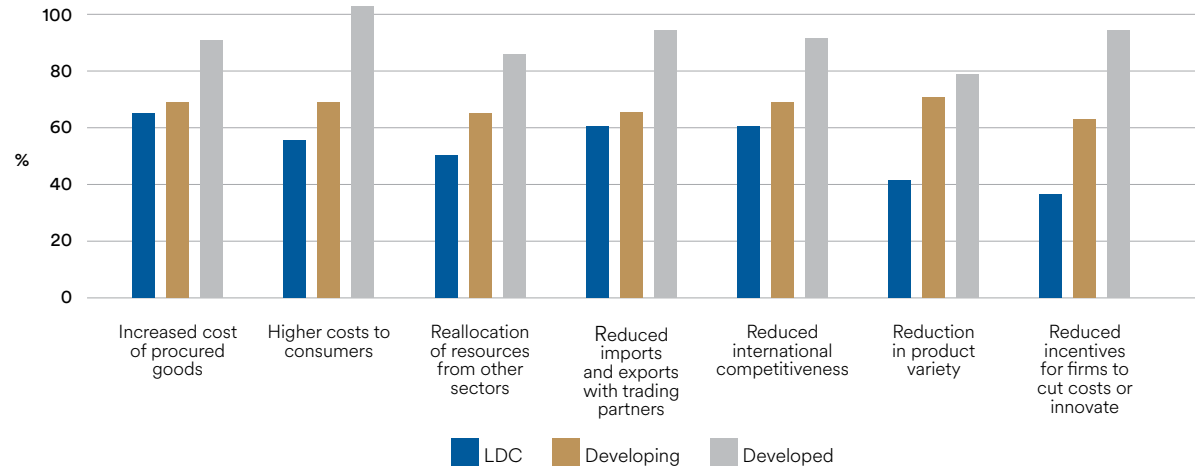
The belief that greater freedom to impose local content requirements on businesses would promote the use of local inputs was most widely held across all sectors, with 100 per cent of respondents from IGOs, 93 per cent from Government, 89 per cent from NGOs, 79 per cent from Academia and 75 per cent from

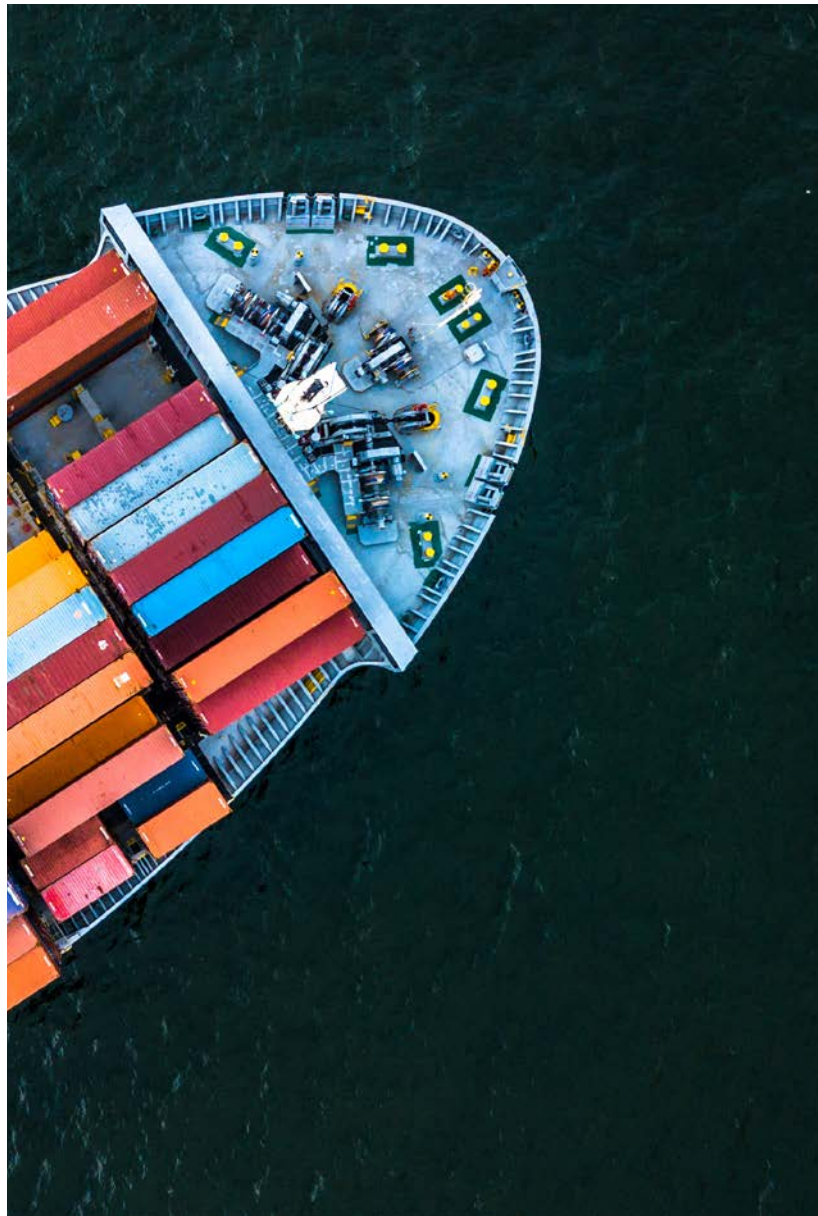
Government identifying this as a benefit. More jobs in domestic industries was the second most commonly perceived benefit for IGOs (100 per cent) and Private Companies (67 per cent), and third for Government (74 per cent), NGOs (56 per cent) and Academia (47 per cent). With expanded opportunities for domestic industries to enter and upgrade within GVCs being the second most commonly perceived benefit among respondents from Government (81 per cent) and Academia (58 per cent), and the third most common for Private Companies (50 per cent).

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.

Survey respondents also identified a number of risks associated with local content requirements, and a number of statistically significant patterns were once again identified along development status and sectoral lines. As shown in **Figure 24**, there was, once again, a direct correlation between development status and the perception of risks associated with imposing local content requirements, with LDC respondents being less concerned about all risks, while their Developed Country counterparts were most concerned.

Figure 24: Frequency with which respondents perceived risks associated with imposing local content requirements were identified by respondents (Results Disaggregated by Development Status)





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. **Figure 24** summarises the perceived risks associated with imposing local content requirements for each country category.

As shown in **Figure 25**, when disaggregated by sector, the data showed that respondents from IGOs were most likely to identify risks, with respondents from this sector identifying risks in 75 per cent of cases on average. On the other hand, respondents from Government consistently identified fewer risks than their counterparts, with respondents in this sector identifying risks in only 47 per cent of cases. The latter trend was particularly notable in the perception of risks of higher costs to consumers (48 per cent); reallocation of resources from other sectors in order to pay for more expensive

Figure 25: Frequency with which respondents perceived risks associated with imposing local content requirements (Results Disaggregated by Development Status)

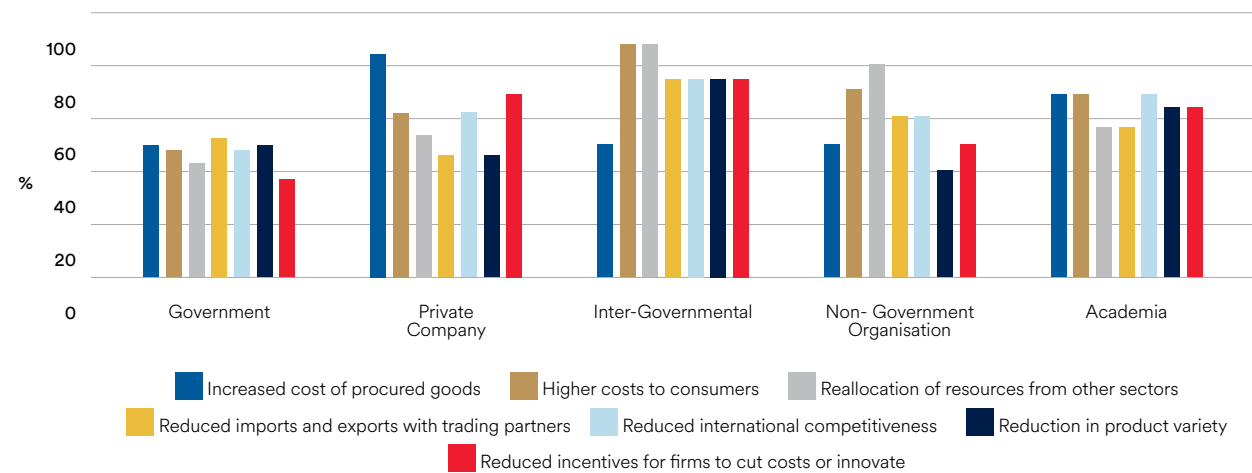
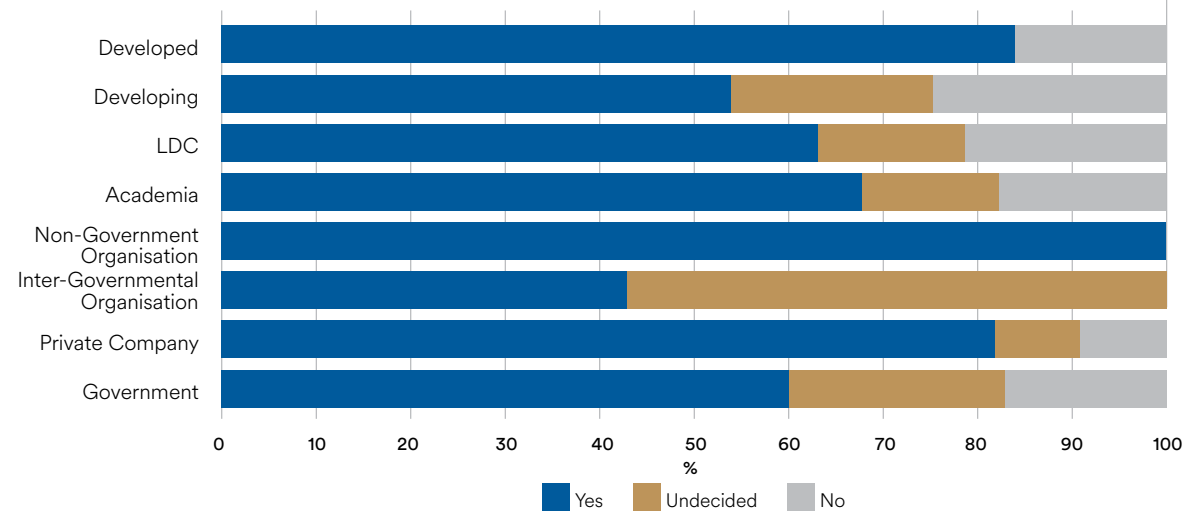


Figure 26: Do you feel that the WTO allows your government the required amount of policy space in the area of local content requirements? (Results Disaggregated by Development Status and Sector)



protected products (43 per cent); and reduced incentives for firms to cut costs or innovate, resulting in diminished quality of locally produced goods and services (35 per cent).

Respondents from Private Companies were outliers in their perception of the risk of increased costs of procured goods, with 85 per cent of respondents from Private Companies and 68 per cent from Academia identifying this risk, compared to just 50 per cent or respondents from Government, IGOs and NGOs.

As shown in **Figure 26**, there were significant differences in opinion between the three country categories and along sectoral lines, concerning the question of whether the WTO allows governments' sufficient policy space in the area of local content requirements. While as many as 84 per cent of respondents from Developed Countries felt the WTO offered sufficient policy space in this area, just 54 per cent of respondents from Developing Countries and 63 per cent from LDCs agreed with this proposition.

Forty three per cent of respondents from IGOs agreed the WTO allows their governments sufficient policy space in the area of local content requirements — although none felt it did not (the bulk being undecided), followed by 60 per cent of respondents from Government Departments, while as many as 100 per

cent of respondents from NGOs and 82 per cent from Private Companies felt this was the case. Overall, there was substantial support for the proposition that the WTO accords sufficient policy space in this area.

Reportedly in the absence of sufficient policy space to impose local content requirements, a number of Developing Country respondents indicated that their countries had implemented domestic policies to incentivise foreign companies to utilise local products and services with some success. For example, "countries like Barbados have gotten around this by encouraging (not mandating) investors use local content. This also encourages businesses to innovate or increase product quality to the extent that they would be a competitive choice for foreign investors".

One of the criticisms levelled at the GATT and TRIMS Agreements is that they unduly constrain the capacity of LDCs and Developing Countries to develop their domestic industries, using the same policy tools that Developed Country Members purportedly utilised during their own industrialisation processes. **Figure 27** shows that when asked to indicate the extent to which they agreed that WTO Agreements do not unduly constrain the development of their countries, as many as 81 per cent of respondents from Developed Countries agreed or strongly agreed with this statement. By contrast,

only 25 per cent of respondents from LDCs and 50 per cent from Developing Countries agreed with this statement.

Respondents from LDC's cited the Agreements' failure to adequately address technical barriers faced by their exports and provide sufficient access to preferential treatment. Developing Country respondents felt that the Agreements failed to adequately address SDT and indicated that they lacked the necessary capacity to meet the onerous compliance commitments associated with implementing them. Respondents from LDC's and Developing Countries also noted the imbalance of power in negotiating Agreements as an important contributing factor. While Developed Country respondents who disagreed with this statement felt that the Agreements lacked adequate provisions to deal with crisis situations, and inhibit their country's ability to limit imports from developing countries, thereby inhibiting the growth of their domestic sectors.

Interestingly, when viewed along sectoral lines, the data showed that respondents from several sectors agreed with the statement, with 67 per cent of respondents from Private Companies, 70 per cent from Academia and 58 per cent from NGOs agreeing to some extent that WTO Agreements do not inhibit their country's development (See **Figure 28**).

Figure 27: WTO Agreements do not unduly constrain the development of your country (Results Disaggregated by Development Status)

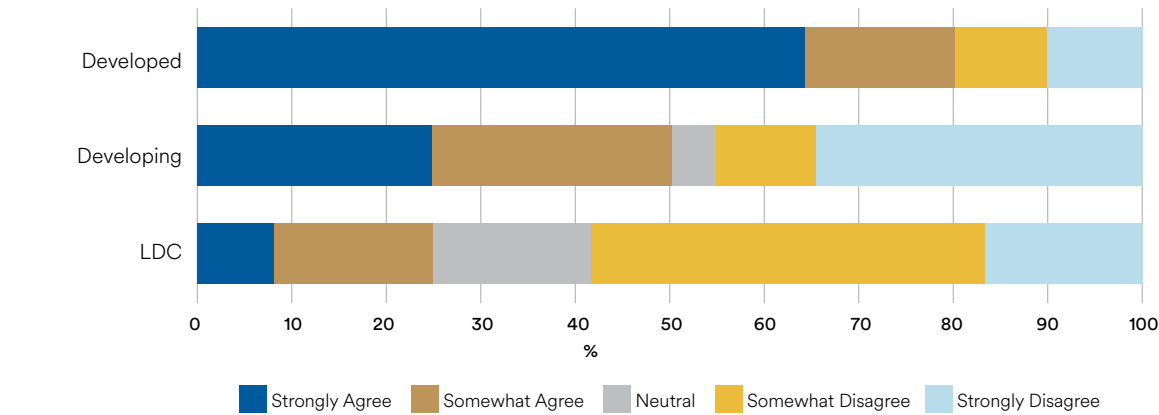
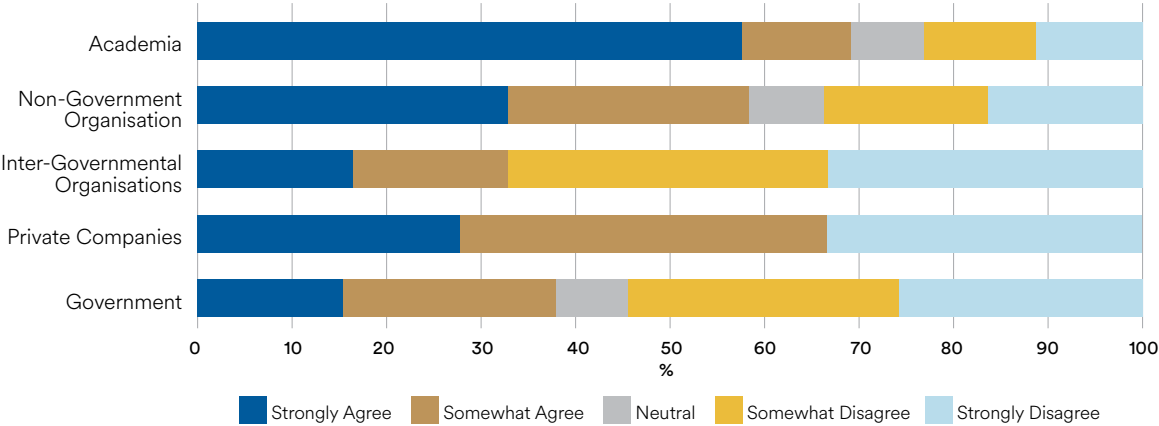


Figure 28: WTO Agreements do not unduly constrain the development of your country (Results Disaggregated by Sector)



4.6 Industrial Subsidisation Flexibilities

Another means of providing protection or support to domestic industries is through the provision of 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.

The WTO Agreement on Subsidies and Countervailing Measures (ASCM) sets out the rules for the use of government subsidies and the application of remedies to address subsidised trade

with harmful commercial effects. For example, the ASCM prohibits WTO member governments from offering subsidies which are contingent on export performance or on the use of domestic over imported goods. Article 27 of the Agreement on Subsidies and Countervailing Measures (ASCM) provides for an exemption for certain Developing Country Members from the application to their exports of Article 3 governing countervailing measures, specifically those WTO Members listed in the ASCM’s Annex VII and for other developing Members, for a limited period of time during which the eligible members are expected to phase out such subsidies²⁰.

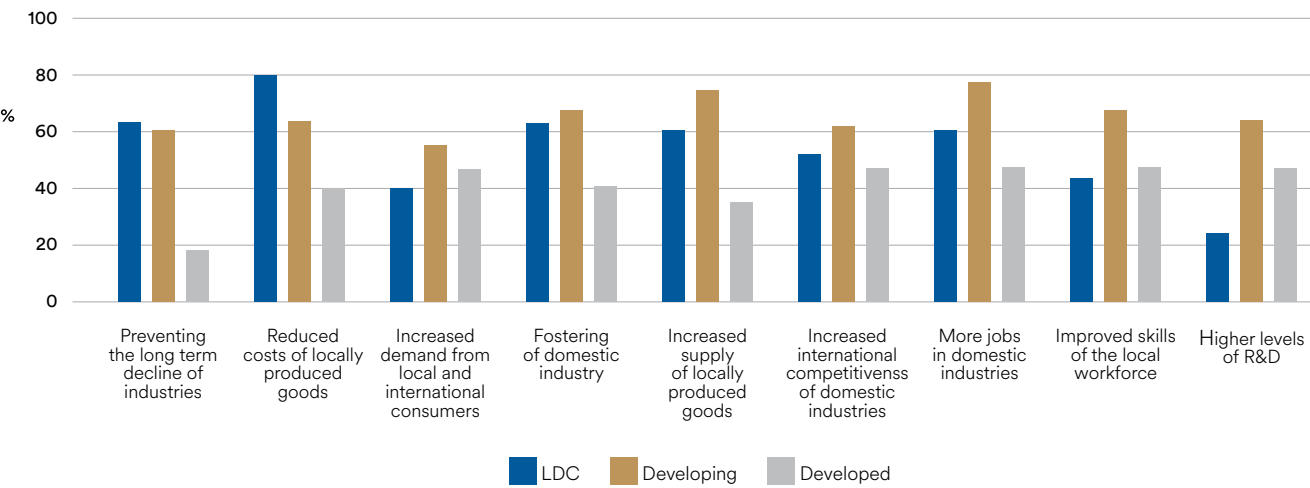
Survey respondents from LDCs and Developing Countries indicated that subsidies were widely used and identified a number of potential benefits their governments could derive from (more) subsidies being paid to industry, notably: more jobs in domestic industries, increased supply of locally produced goods, preventing the long-term decline of industries, and reduced costs of locally produced goods. Respondents from each of the country categories were largely aligned in their ranking of the benefits associated with subsidies, though it is noticed that significantly fewer respondents from Developed Countries identified benefits associated with the freedom for governments to

²⁰ Non-LDCs with a Gross National Product (GNP) per capita of \$1000

Table 7: Perceived benefits governments would derive from (more) subsidies being paid to industry, ranked according to most frequent citation (where 1 is most frequently cited and 5 is fifth most frequently cited), aggregated by development status

LDC	Developing	Developed
1. Reduced costs of locally produced goods (80%)	1. More jobs in domestic industries (77%)	1. More jobs in domestic industries (47%)
2. Preventing the long-term decline of industries (64%)	2. Increased supply of locally produced goods (74%)	2. Increased international competitiveness of domestic industries (47%)
3. Fostering of domestic industry through restricted international competition, allowing domestic industries time to grow, improve their products and find unique selling points (64%)	3. Fostering of domestic industry through restricted international competition, allowing domestic industries time to grow, improve their products and find unique selling points (68%)	3. Increased demand from local and international consumers owing to reduced costs (47%)
4. Increased supply of locally produced goods (60%)	4. More jobs in domestic industry (68%)	4. Improved skill of the local workforce (47%)
5. More jobs in domestic industry (60%)	5. Reduced costs of locally produced goods (64%)	5. Higher levels of research and development (47%)

Figure 29: Frequency with which respondents perceived benefits governments would derive from (more) subsidies being paid to industry (Results Disaggregated by Development Status)



provide more subsidies to industry. The perceived benefits are summarised in Table 7 for each of the respondent country categories.

As shown in Figure 29, there was once again a direct correlation between development status and the perception of benefits governments would derive from more subsidies being paid to industry. Respondents from Developed Countries consistently perceived fewer benefits than their counterparts from Developing Countries and LDCs, identifying them in only 41 per cent of cases on average. While respondents from Developing Countries were most likely to perceived benefits, with respondents from this country category identifying them in 66 per cent of cases on average.

Proponents of government subsidies from LDCs and Developing Countries felt that this policy tool could be utilised effectively, providing sufficient controls were in place to ensure that they were applied where they are most needed, achieve the intended outcomes, and there were mechanisms in place to ensure ensure this policy tool is not abused. There was a perception among respondents from LDCs and Developing Countries that the global pandemic had increased the need for domestic subsidies, highlighting the increased importance of domestic industries at a time when access to foreign currency, and therefore foreign goods, has been limited by the unforeseen constraints now facing exports and tourism.

By way of example, respondents from Sri Lanka noted that many of their domestic industries had been unable to compete with newer, cheaper products offered by international competitors following the opening of their economy. This resulted in the failure of a number of ‘essential’ domestic industries, including sugar, textiles, ceramics and chemicals, ultimately leaving the country dependent on trading partners for these items. Moreover, during the global pandemic slowing business and significant constraints to tourism and exports left the country without sufficient foreign currency to import essential items. Consequently, they are now re-evaluating the importance of domestic industries, and feel strongly that the government should be allowed to safeguard and support their development.

As shown in **Figure 30**, when disaggregated by sector, it was apparent that respondents from Academia and Private Companies consistently identified fewer benefits than their counterparts from Government and IGOs.

The belief that greater freedom to provide more subsidies to industry would lead to increased supply of locally produced goods was shared by the highest number of respondents, with 86 per cent of respondents from IGOs, 75 per cent from NGOs and 74 per cent from Government and 56 per cent from Private Companies perceiving this benefit. Interestingly, just 17 per cent of respondents from Academia shared this view.

Increased international competitiveness of domestic industries was one of the two most commonly perceived benefits for respondents from IGOs (86 per cent) and Private Companies (67 per cent), and the third most commonly perceived benefit for respondents from Government (74 per cent), NGOs (56 per cent) and Academia (47 per cent).

Reduced costs of locally produced goods was the benefit most frequently perceived by respondents from Private Companies and NGOs, with 78 per cent and 75 per cent of respondents identifying this benefit respectively. This was the second most frequently perceived benefit for respondents from IGOs (71 per cent), and third for respondents from Government (72 per cent), and one of the two least frequently identified benefits for respondents from Academia (17 per cent).

Expanded opportunities for domestic industries to enter and upgrade within GVCs was also frequently identified, being the second most commonly perceived benefit among respondents from Government (81 per cent) and Academia (58 per cent), and third for those from Private Companies (50 per cent).

Survey respondents also identified a number of risks associated with more subsidies being paid to industry, and once again a number of statistically significant patterns were identified along development and sectoral lines. As shown in **Figure 31**, there was, once again, a direct correlation between development status and the perception of risk, with respondents from Developed Countries perceiving risks in approximately 72 per cent of cases, compared to just 47

per cent of cases for respondents from LDCs and 45 per cent of cases from respondents from Developing Countries.

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, with this risk being perceived by 79 per cent of respondents from Developed Countries, 56 per cent from LDCs, and 44 per cent from Developing Countries. This was associated with the potential for industry to become dependent on subsidies, a risk perceived by 86 per cent of respondents from Developed Countries, 72 per cent from LDCs and just 35 per cent from Developing Countries.

Faced with imminent graduation from LDC status, a number of respondents from Bangladesh agreed their domestic industries would face significant challenges as their country transitions to Developing Country status and their right to apply subsidies without constraint is revoked. They cited high levels of dependence on government subsidies, for example in the Ready Made Garment sector, which they felt had sharpened in the context of a global pandemic.

The potential for taxes to be increased in order to cover the cost of more subsidies being paid to industry and of the opportunity cost associated with committing funds to support industrial subsidies were the most commonly perceived risks for respondents from Developing Countries, with 56 per cent of respondents identifying these risks.

As shown in **Figure 32**, when disaggregated by sector, the data showed that respondents from IGOs were, once again, the most likely to identify risks, with respondents from this sector identifying risks in 68 per cent of cases on average. Respondents from Government and Academia consistently identified fewer risks than their counterparts, identifying risks in only 50 per cent of cases. Nonetheless, there was a high degree of consensus across sectoral lines, concerning the risks associated with industrial subsidies.

The potential for industry to become dependent on subsidies was consistently perceived by a high number of respondents across all sectors, with as

many as 88 per cent of respondents from IGOs perceiving this risk, 76 per cent from Academia, 73 per cent from Government, 70 per cent from NGOs and 69 per cent from Private Companies. Similarly, the potential for subsidies to reduce incentives for businesses to cut costs and innovate was widely perceived across all sectors, with 70 per cent of respondents from NGOs perceiving this risk, 69 per cent from Private Companies, 68 per cent from Academia and 63 per cent from IGOs. Interestingly, this risk was only perceived by 34 per cent of respondents from Government.

Only 40 per cent of respondents from NGOs and Academia perceived the potential for taxes to be increased in order to cover the cost of industrial subsidies, compared to their 75 per cent of their counterparts from IGOs, 69 per cent from Private Companies and 55 per cent from Government.

Respondents from IGOs and NGOs most frequently perceived the potential for reduced consumer choices as a result of less international competition than their counterparts in Academia, Private Companies and Government, with 75 per cent of respondents from IGOs and 60 per cent from NGOs perceiving this risk, compared to just 32 per cent of respondents from Academia, 38 per cent from Private Companies and 45 per cent from Government.

As illustrated in **Figure 33**, 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 per cent of respondents from IGOs agreeing with this proposition, and a substantial number of them remaining undecided (50 per cent). Interestingly, when viewed along sectoral lines, the data showed that respondents from Private Companies were the most supportive, with 85 per cent agreeing the WTO allows sufficient policy space in this area. When viewed by development status, the results showed that respondents from Developed Countries overwhelmingly agreed that the WTO allows their governments' sufficient policy space, with 88 per cent agreeing with this position, compared to 67 per cent from LDCs and just 48 per cent from Developing Countries.

Figure 30: Frequency with which respondents perceived benefits governments would derive from (more) subsidies being paid to industry (Results Disaggregated by Sector)

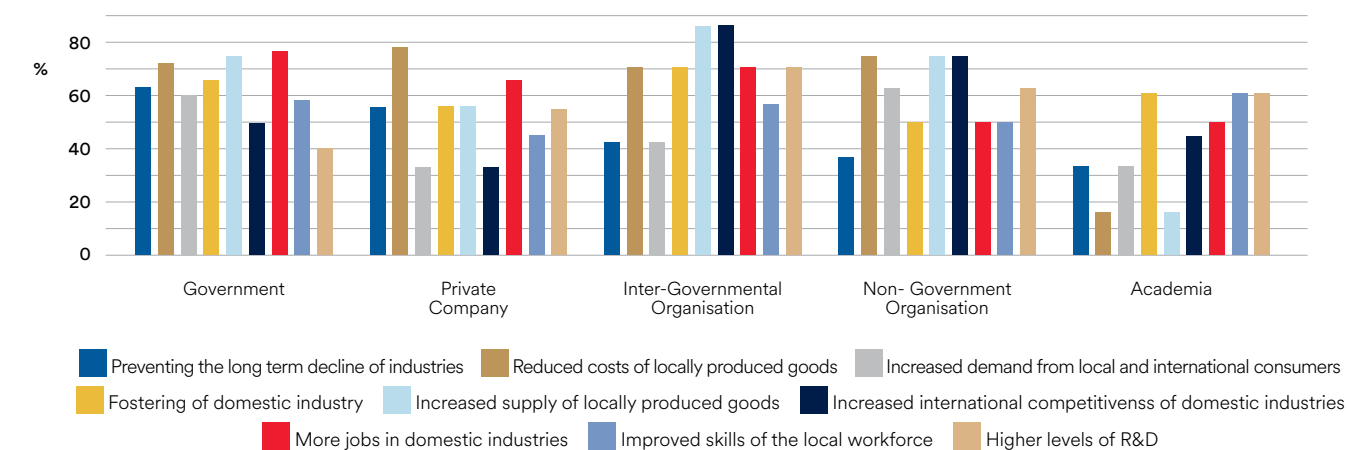


Figure 31: Frequency with which respondents perceived risks associated with (more) subsidies being paid to industry were identified by respondents (Results Disaggregated by Development Status)

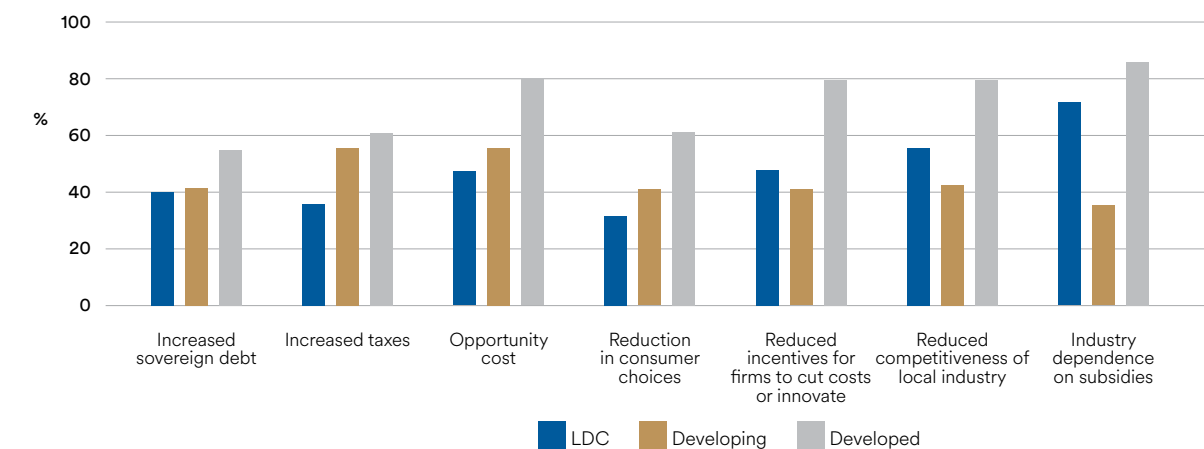


Figure 32: Frequency with which respondents perceived risks associated with (more) subsidies being paid to industry were identified by respondents (Results Disaggregated by Sector)

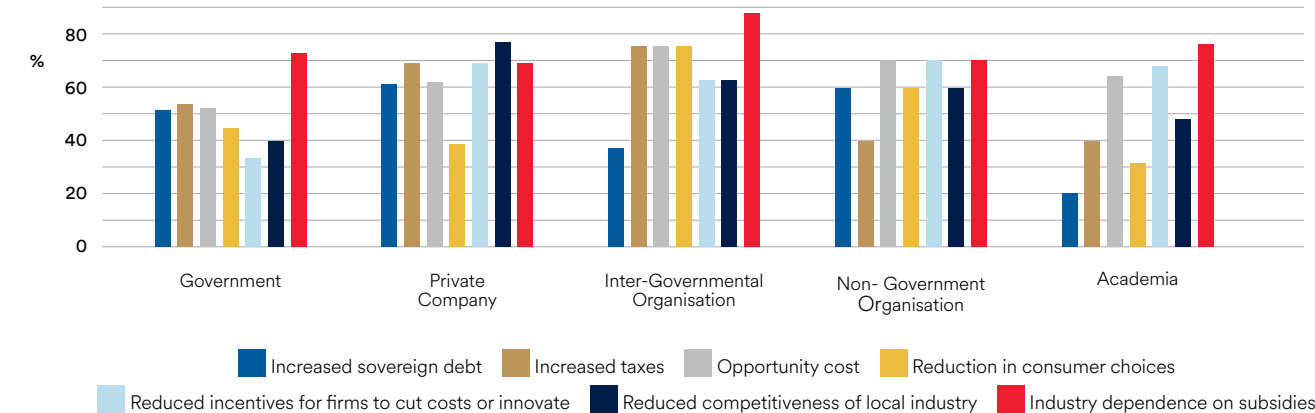


Figure 33: Do you feel that the WTO allows your government the required amount of policy space in the area of industrial subsidies? (Results Disaggregated by Development Status and Sector)

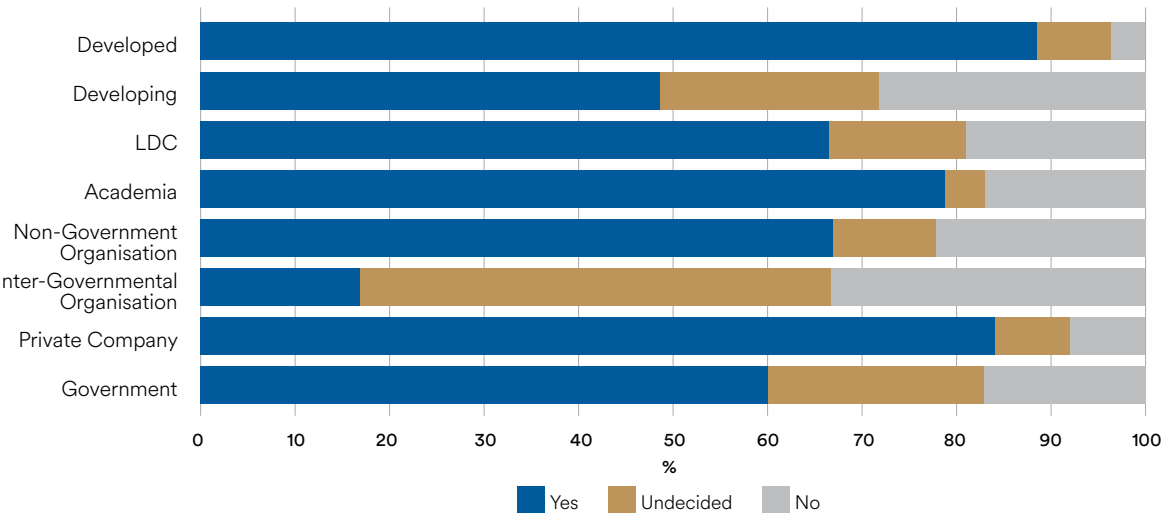
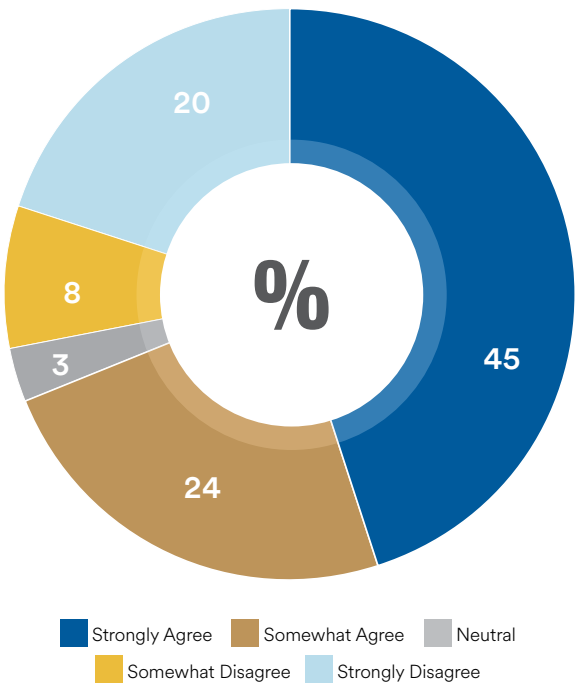


Figure 34: More tailored approaches to SDT are needed, based on a country's specific economic and trade circumstances?



4.7 Balance of Obligations and Global Economic Realities

There is an impression that WTO Members, particularly from Developing Countries, are of the view that the costs associated with obligations often outweigh the benefits gained by joining the Organization. This is especially evident in the statements made by Members that acceded after the Uruguay Round. Their contention is that they have taken on additional obligations compared to the original Members. For instance, China's average bound tariff rate is 10 per cent and its binding overhang is almost zero — similar to the US — whereas large developing economies such as Brazil and India have much higher average bound rates (respectively 31.4 per cent and 50.8 per cent)²¹. This perceived imbalance in taking on obligations manifests during current negotiations where 'Recently Acceded Members' tend to hold on to their 'policy space' and others seeking greater flexibilities find this negotiating stance to be inadequate, leading to an impasse.

Nonetheless, sacrificing efficiency of the multilateral trading system in order to boost economic growth in Developing Countries by using SDT provisions can be justified²². In principle, SDT provisions can

Figure 35: More tailored approaches to SDT are needed, based on a country's specific economic and trade circumstances (Results Disaggregated by Development Status)

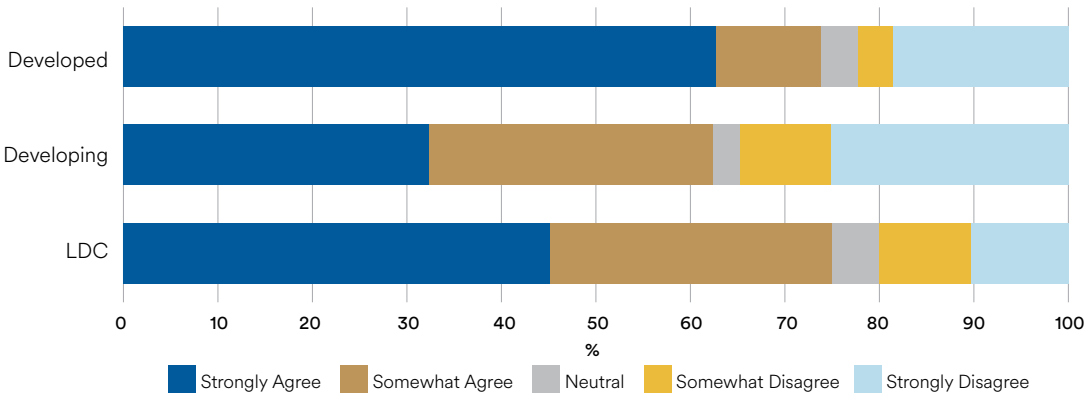
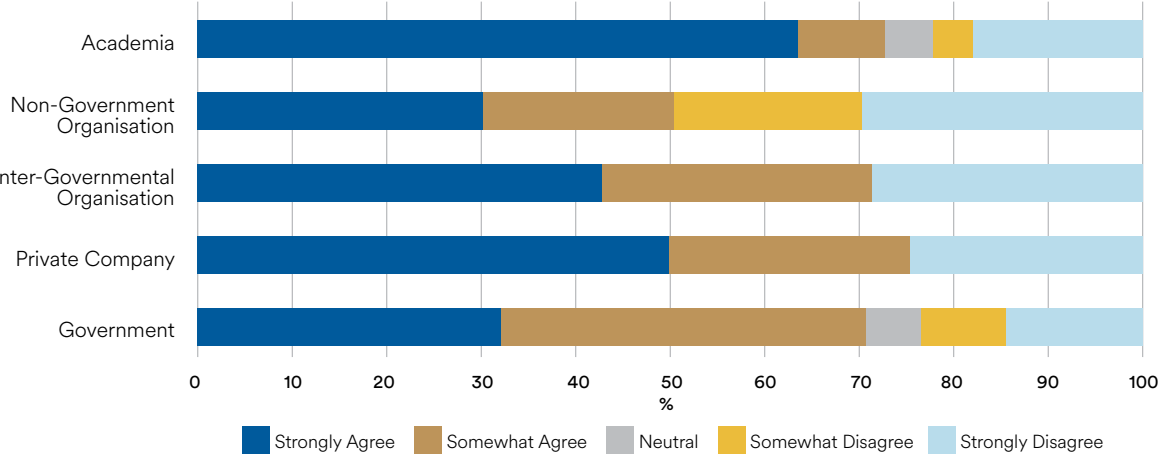


Figure 36: Q41 - More tailored approaches to SDT are needed, based on a country's specific economic and trade circumstances (Disaggregated by Sector)



potentially increase exports, however, if SDT-beneficiaries do not pursue unilateral liberalisation policies then their import-competing sectors will compete for scarce domestic resources and limit their exports. Bagwell and Staiger found that reciprocal and non-discriminatory trade agreements correct the inefficiencies created by tariffs²³. Their later study suggests that the benefits a free-rider to the WTO system accrues are curtailed owing to being excluded from the beneficial impacts to traders and investors of the negotiated rules of the system²⁴.

As shown in **Figure 34**, the survey revealed strong support for reform of the current system, with 69 per cent of respondents agreeing, and only 28 per cent disagreeing, that more tailored

approaches to SDT are needed, based on the specific economic and trade circumstances of beneficiaries.

When disaggregated by development status, the results showed strong support across all respondent groupings for reform of the current system, with 75 per cent of respondents from LDCs, 74 per cent from Developed Countries and 63 per cent from Developing Countries agreeing that more tailored approaches to SDT are needed, based on a country's specific economic and trade circumstances (See **Figure 35**).

When viewed along sectoral lines, the data showed strong support for reform across all sectors, as shown in **Figure 36**. Respondents from NGOs were least supportive of reform, with just 50 per

cent of respondents agreeing that more tailored approaches to SDT are needed, compared to 60 per cent of respondents from Government, 72 per cent from IGOs, and 73 per cent from Academia. Interestingly, respondents from Private Companies were most supportive of reforming SDT, with as many as 75 per cent of respondents agreeing that more tailored approaches to SDT are needed, based on a country's specific economic and trade circumstances.

Respondents proposed a number of solutions to address this challenge, including 'case-by-case SDT' in which the right to claim SDT would be evaluated on a case by-case basis, as well as approaches based on the 'evidence of need' and 'subject to negotiations'.

²¹ WTO Tariff Profile 2020 - <https://www.wto.org/english/res_e/booksp_e/tariff_profiles20_e.pdf>- viewed 26 November 2020

²² Ornelas (2016)

²³ Bagwell and Staiger (1999)

²⁴ Bagwell and Staiger (2013)

Several interviewees noted that while these approaches were attractive in principle, their implementation would be cumbersome and require data which is not currently available for those countries most in need of support. The need for data and other pertinent information to make the case for specific SDT is problematic for many Developing Country WTO Members, particularly LDCs, since they lack the domestic capacity to collect the required data and are unable to meet the additional demands of building a successful case to gain specific SDT concessions, with one respondent noting that it would be ‘important for Developing Countries to have the capacity to identify the areas where [they] will need SDT, and this is not always straightforward’.

Survey respondents were asked which forms of SDT they felt were most effective (Figure 37). Technical assistance to support the implementation of SDT provisions received the highest number of recorded responses, with 82 per cent of respondents identifying this as an effective form of SDT. This was followed by provisions aimed at increasing Developing Country Members’ trade opportunities (65 per cent), flexibility of commitments (63 per cent), transition time periods leading to full implementation (63 per cent), provisions aimed at safeguarding Developing Country Members’ interests (65 per cent), then provisions directly related to LDC WTO Members (50 per cent), and provisions aimed at safeguarding Developing Country Members’ interests (48 per cent).

Although when disaggregated by development status, the data showed a high degree of consensus across the country categories concerning the most effective forms of SDT, there were a number of important differences between the responses received from each of the country categories.

Most notably, significantly fewer respondents from Developed Countries selected flexibility of commitments, action and policy-instrument use, with just 31 per cent of respondents from Developed Countries considering this an effective form of SDT, compared to 75 per cent of respondents from Developing Countries and 69 per cent from LDCs. This was also the case for provisions aimed at increasing Developing Country Members’ trade opportunities, with just 54 per cent of

Figure 37: Which forms of Special and Differential Treatment are most effective? (Percentage of Respondents identifying SDT Measure as effective)

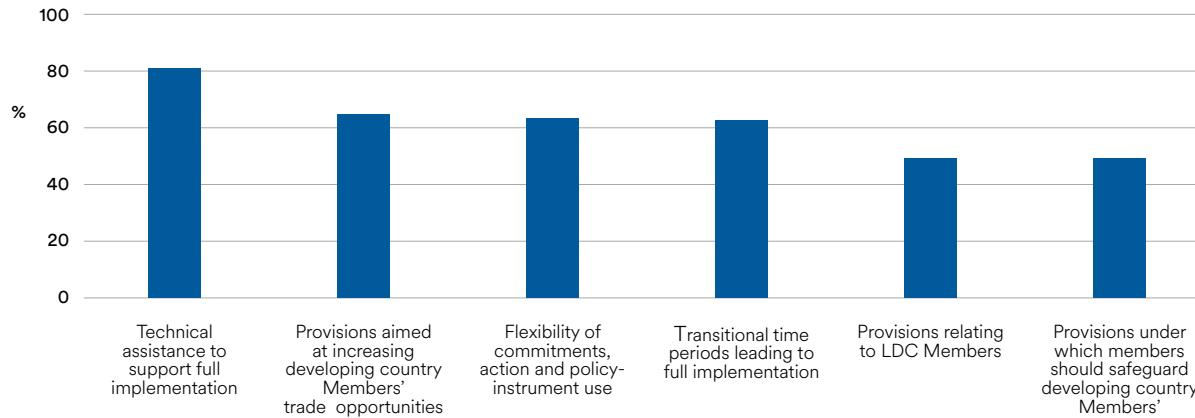
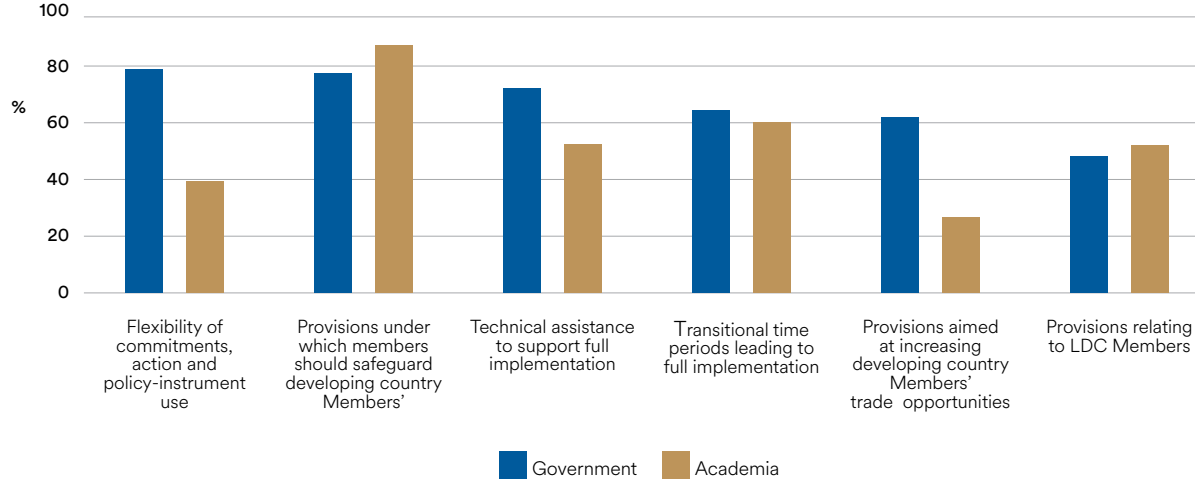


Figure 38: Which forms of Special and Differential Treatment are most effective? (Percentage of Respondents identifying SDT Measure as effective) (Results Disaggregated by Sector)



respondents from Developed Countries indicating this was an effective form of SDT, compared to 76 per cent from LDCs and 67 per cent from Developing Countries.

Significantly fewer respondents from LDCs felt that transitional time periods leading to full implementation was an effective form of SDT, with just 52 per cent identifying this as an effective form of SDT, compared to 77 per cent of respondents from Developed Countries and 71 per cent from Developing Countries.

As shown in Figure 38, a significantly higher number of respondents from government identified a number of forms of SDT as effective, compared

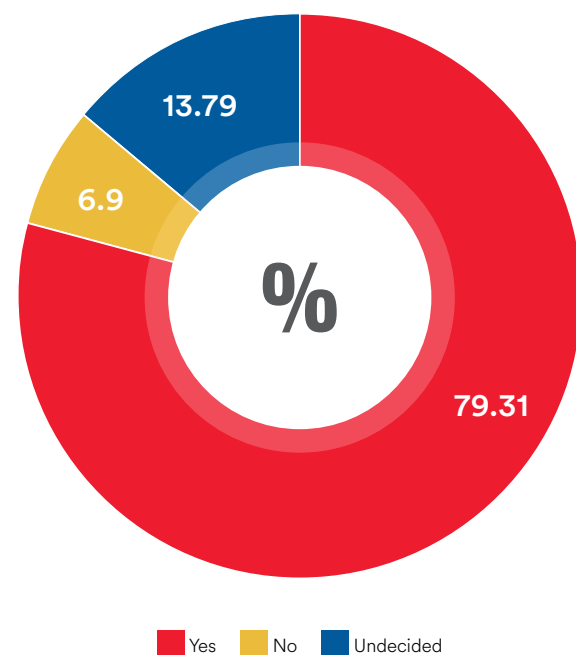
to their counterparts from Academia. As many as 78 per cent of respondents from Government identified flexibility of commitments as effective, compared to 40 per cent from Academia; 73 per cent of Government respondents identified action and policy instrument use, compared to 52 per cent from Academia; and 62 per cent of Government respondents identified provisions aimed at increasing Developing Country Members’ trade opportunities, compared to just 26 per cent from Academia.

When invited to indicate how tailored forms of SDT could be constructed, survey respondents and interviewees 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
- Ensuring SDT is needs based, derived from evidence, and established in close consultation with key stakeholders from beneficiary countries, including the private sector
- Providing greater flexibility for implementation of commitments through provision of transition periods
- Establishing strong mechanisms for monitoring, evaluation and enforcement



Figure 39: Could the TFA's phased approach to commitments be used in other agreements?



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 per cent of survey respondents agreeing that the TFA is beneficial for their country and almost 80 per cent indicating that they felt this approach could be applied to other agreements (See **Figure 39**).

Support for this approach was reflected across all three country categories with 88 per cent of respondents from Developing Countries, 78 per cent from LDCs and 69 per cent from Developed Countries agreeing with this statement. Those in agreement felt that a phased approach would allow beneficiaries the flexibility needed to gradually implement a greater number of agreements, ultimately providing increased trade opportunities for LDCs and Developing Countries. However, some concerns were expressed in interviews regarding the difficulty of obtaining aid for trade under this model, and the need to ensure a focus on achieving full compliance and avoiding

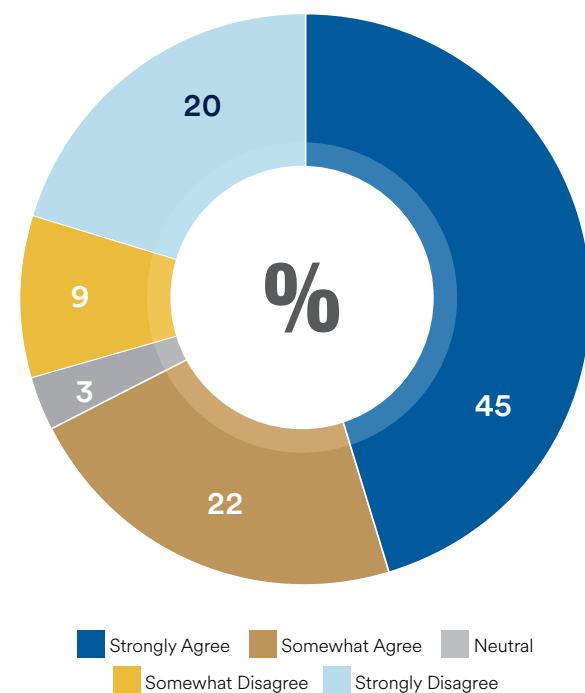
unnecessary delays in implementation was emphasised in both survey responses and interviews.

4.8 Plurilaterals and Consensus

Plurilateral agreements in the WTO allow for a subset of its "like-minded" Members to negotiate and conclude agreements in specific areas, with the provisions applying only to the signatories²⁵. They share many characteristics with Preferential Trade Agreements (PTAs) and allow for variable geometry within the WTO's Membership. With the on-going deadlock in the Doha Round, plurilateral agreements are the preferred option. At the Buenos Aires WTO Ministerial Conference in 2017, three plurilateral initiatives were commenced²⁶, in addition to the four plurilateral agreements already in force.

Survey respondents were supportive of countries pursuing their market or other interests via plurilateral negotiations, in the absence of consensus in the WTO.

Figure 40: Countries that want to progress particular rules or market access interests should be free to do so through plurilateral negotiations



As shown in **Figure 40**, there was strong support among respondents for this proposition, with 67 per cent agreeing to some extent.

When disaggregated by development status, the data showed that support was strongest among Developed Countries, with as many as 81 per cent of respondents from Developed Countries supporting this notion, while 60 per cent of respondents from LDCs and 58 per cent from Developing Countries were also in agreement (See **Figure 41**).

Perhaps unsurprisingly, the results indicate that an overwhelming majority of Developed Country respondents agreed that countries should be free to pursue market access and other interests through plurilateral negotiations. In reality, some less developed countries are reluctant to join these because of negotiating capacity constraints and negotiating power asymmetries, with the result that these negotiations are largely driven by the more advanced economies.

Figure 41: Countries that want to progress particular rules or market access interests should be free to do so through plurilateral negotiations (Results Disaggregated by Development Status)

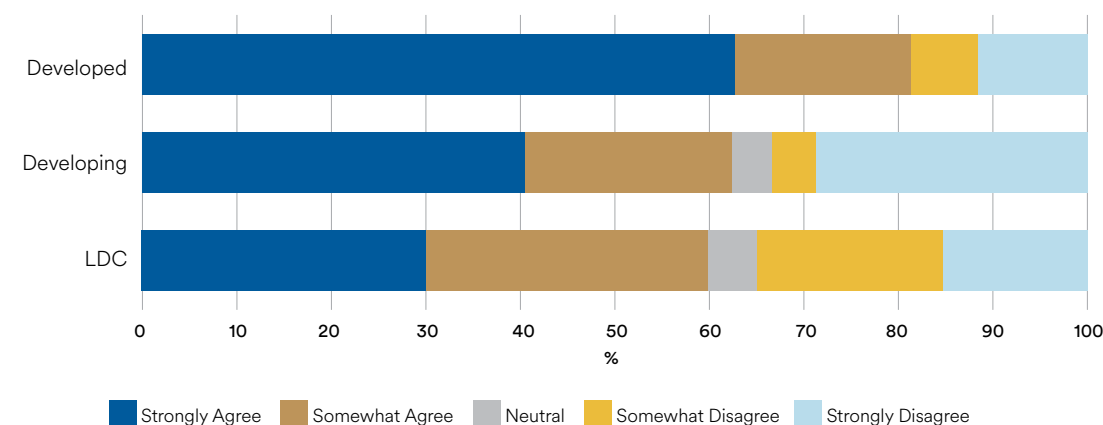
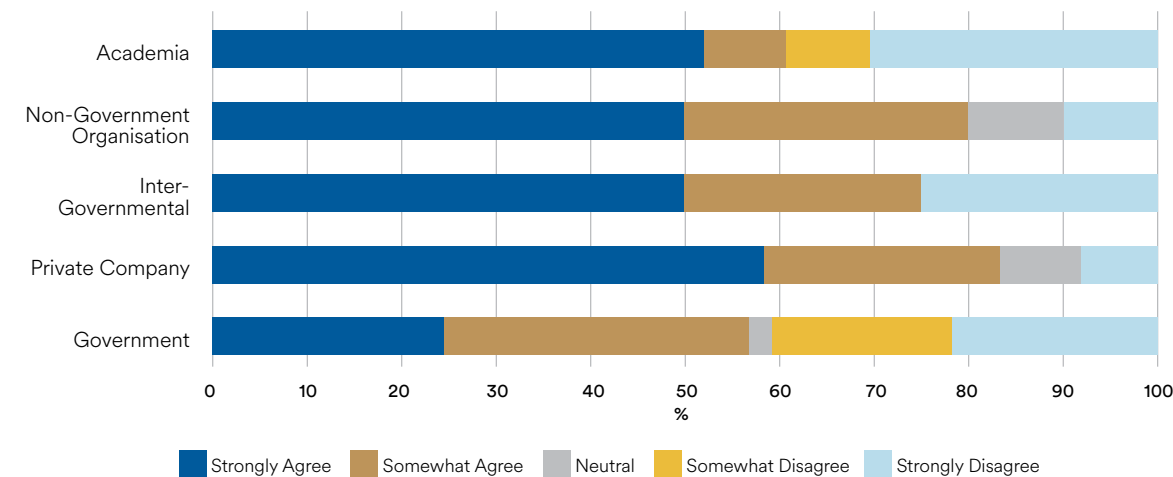


Figure 42: Countries that want to progress particular rules or market access interests should be free to do so through plurilateral negotiations (Results Disaggregated by Sector)



As shown in **Figure 42**, when viewed along sectoral lines, Private Companies were found to be most supportive of this proposition with 83 per cent of respondents agreeing to some extent, followed by IGOs (80 per cent) and NGOs (80 per cent). Respondents from Government Departments were least supportive of countries pursuing their market access and other interests via plurilateral negotiations, though 56 per cent still agreed to some extent that this should be allowed. This may reflect the preponderance of Government respondents in the LDC segment (See **Table 2**).

While respondents were generally open to countries pursuing their interests through plurilateral negotiations, Indian

interviewees and survey respondents were outliers in this regard, with only 25 per cent of respondents from India agreeing that such negotiations should be allowed and as many as 50 per cent strongly disagreeing with this proposition. Interviewees questioned the legality of the Joint Statement Initiatives and expressed strong objections to the pursuit of multilateral interests outside the formal WTO mechanisms. This reflects current Indian government official positions in Geneva.

Many respondents offered the caveat that their preference would be for countries to pursue their interests within the formal mechanisms of the WTO, but in the absence of such opportunities, felt it was reasonable for countries to pursue their interests via alternative fora.

²⁵ Hoekmann and Mavroidis, (2015)

²⁶ E-commerce, investment facilitation for development, and measures designed to help micro, small and medium sized enterprises (MSMEs).

5. Summary of key insights

As indicated in Section 2, the following policy issues were derived from the overview of systemic issues elaborated above:

- Subsidies for industrial products, specifically usage of the ASCM's SDT provisions.
- Local content requirements.
- Disciplines governing infant industry protection and related issues pertaining to services liberalization.
- The broader replicability of the TFA's SDT approach.
- The opportunities and challenges posed by GSP schemes and graduation from them.
- Developing country 'self-designation', in relation to its costs and benefits for the country so designating.

Based on 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', were 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:** 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 organisation, 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 Trade Facilitation Agreement (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 that 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 the capacity constraints of objectively qualifying Developing Country Members, respondents generally supported simplifying the way in which flexibilities granted in accordance with SDT were captured in relevant WTO Agreements, 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 they are most needed.

6. References

Bacchus, J., and Manak, I. *The Development Dimension: What to Do About Differential Treatment in Trade*. Available at SSRN 3561131 (2020).

Bagwell, K. and Staiger, R.W., 1999. An economic theory of GATT. *American Economic Review*, 89(1), pp.215-248.

Bagwell, K. and Staiger, R.W., 2013. Can the Doha Round Be a Development Round? Setting a Place at the Table. In *Globalization in an Age of Crisis: Multilateral Economic Cooperation in the TwentyFirst Century* (pp. 91-124). University of Chicago Press.

Balasubramanyam, V.N., 1991. Putting TRIMs to good use. *World Development*, 19(9), pp.1215-1224.

Baldwin, R., 2020. The Greater Trade Collapse of 2020: Learnings from the 2008-09 Great Trade Collapse. *VoxEU.org*. URL <https://voxeu.org/article/greater-trade-collapse-2020>.

Blonigen, B.A. and Ma, A.C., 2010. Please Pass the Catch-Up: The Relative Performance of Chinese and Foreign Firms in Chinese Exports. In *China's Growing Role in World Trade* (pp. 475-509). University of Chicago Press.

Bown, C.P. and Hillman, J.A., 2019. WTO'ing a Resolution to the China Subsidy Problem. *Journal of International Economic Law*, 22(4), pp.557-578.

Borchert, I., Conconi, P., Di Ubaldo, M. and Herghelegiu, C., 2020. *The Pursuit of Non-Trade Policy Objectives in EU Trade Policy* (No. 2020-09). ULB--Universite Libre de Bruxelles.

Campos, R.D.O., Haberler, G., Meade, J. and Tinbergen, J., 1958. Trends in international trade. A Report by a Panel of Experts, GATT, Geneva.

Cipollina, M. and Demaria, F., 2020. The Trade Effect of the EU's Preference Margins and Non-Tariff Barriers. *Journal of Risk and Financial Management*, 13(9), pp.1-20.

Christensen, J., 2015. Fair Trade, Formal Equality, and Preferential Treatment. *Social Theory and Practice*, 41(3), pp.505-526.

Coppens, D., 2013. How special is the Special and Differential Treatment under the SCM Agreement? A legal and normative analysis of WTO subsidy disciplines on developing countries. *World Trade Review*, 12(1), pp.79-109.

Cunningham, S., 2011. Understanding market failures in an economic development context. *Mesopartner Monograph*, 4, Edition 1, July 2011 Pretoria, South Africa.

United Nations General Assembly, 1993, Declaration, V Programme of Action. In *World conference on human rights* (Vol. 25) June.

Draper, P. and Dube, M. 2013 'Plurilaterals and the Multilateral Trading System', *e15 Expert Group on Regional Trade Agreements and Plurilateral Approaches*, ICTSD and World Economic Forum.

Draper, P., Dube, M., Cunningham, D. and Hoekman, B. 2014 *Restoring Multilateral Trade CoOperation: Reflections on Dialogues in Five Developing Countries (Diagnostic Report)*. South African Institute of International Affairs and Cordell Hull Institute.

Draper, P. 2020 Global Trade Cooperation after COVID-19: What is the WTO's Future? *Global Trends Analysis*, 2, Stiftung Entwicklung und Frieden.

Edwards, Lawrence, and Robert Z. Lawrence. 2011. AGOA Rules: The Intended and Unintended Consequences of Special Fabric Provisions. *HKS Faculty Research Working Paper Series RWP11-002*, John F. Kennedy School of Government, Harvard University

European Union, 2018. *WTO modernisation: Introduction to future EU proposals*. <https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf>viewed 22 November 2020.

Fukasaku, K., 2000. *Special and Differential Treatment for Developing Countries: Does It Help Those Who Help Themselves?* (No. wp-2000-197). World Institute for Development Economic Research (UNU-WIDER). Helsinki, Finland.

Hoekman, B.M. and Mavroidis, P.C., 2015. *World Trade Organization (WTO): Law, Economics, and Politics*. Routledge, New York.

Jensen, J. and Tarr, D., 2008. Impact of Local Content Restrictions and Barriers Against Foreign Direct Investment in Services: The Case of Kazakhstan's Accession to the World Trade Organization. *Eastern European Economics*, 46(5), pp.5-26.

Kao, M., 2019. *WTO Reform: Old Debate ... New Realities*. Friedrich-Ebert-Stiftung Library, Geneva.

Keck, A. and Low, P. (2004): Special and differential treatment in the WTO: Why, when and how? *WTO Staff Working Paper*, No. ERSD-2004-03, World Trade Organization (WTO), Geneva.

Khanna, T. & Palepu, K. G. (2010). 'The nature of institutional voids in emerging markets', in T. Khanna and K. G. Palepu (eds), *Winning in Emerging Markets: A Road Map for Strategy and Execution*: 13-26. Boston: Harvard Business Press.

Kleen, P., Page, S. (2005). *Special and Differential Treatment of Developing Countries in the World Trade Organization*. Global Development Studies No. 2, Stockholm: Ministry of Foreign Affairs, Sweden.

Kumar, N., 2003. 'Use and effectiveness of performance requirements: What can be learnt from the experiences of developed and developing countries?' in UNCTAD *The development dimension of FDI: Policy and rule-making perspectives*, pp.59-78, UNCTAD/ITE/IIA/2003/4

Long, G., 2005. China's policies on FDI: Review and evaluation. In Moran, T., Graham E., Blomstrom, M. *Does foreign direct investment promote development*, Peterson Institute for International Economics, pp.315-336.

Low, P., Hamid, M. and Rogerson, E., 2018. *Balancing Rights and Obligations in the WTO—A shared responsibility*. Government Offices of Sweden.

Mattoo, A., Roy, D. and Subramanian, A., 2003. The Africa Growth and Opportunity Act and its Rules of Origin: Generosity Undermined? *The World Economy*, 26(6), pp.829-851.

Mitchell, A.D., 2006. A legal principle of special and differential treatment for WTO disputes. *World Trade Review*, 5(3), pp.445-469.

Moran, T., 2011. *Foreign Direct Investment and Development: Launching a Second Generation of Policy Research: Avoiding the Mistakes of the First, Reevaluating Policies for Developed and Developing Countries*. Columbia University Press.

Ornelas, E., 2016. Special and differential treatment for developing countries. In *Handbook of commercial policy* (Vol. 1, pp. 369-432). North-Holland.

Qiu, L.D. and Tao, Z., 2001. Export, foreign direct investment, and local content requirement. *Journal of Development Economics*, 66(1), pp.101-125.

Reinsch W., 2020. *Plurilateral or Multilateral?* <<https://www.csis.org/analysis/plurilateral-ormultilateral>> viewed 20 November 2020.

Singh, A., 2003. Special and Differential Treatment, The Multilateral Trading System and Economic Development in the 21st Century (No. 24653). University Library of Munich, Germany.

Shukla, SP *From, G.A.T.T., 2000. to WTO and Beyond*. Wider Working Papers No. 195. UNU/WIDER, Helsinki.

South Centre, 2019. *Why the US proposal (WT/GC/W/764) will affect all developing countries and undermine the multilateral system*, <https://www.southcentre.int/wp-content/uploads/2019/02/Systemic-implications-of-US-proposal-22-Feb2019-final_EN.pdf> viewed 22 November 2020.

United Nations Conference on Environment and Development, 1992, *Rio Declaration and Agenda 21*, Rio de Janeiro, 13–14 June, UN doc. A/CONF.151/26/Rev.1 (Vols. 1-III).

UNCTAD (United Nations Conference on Trade and Development). 1999. *Quantifying the Benefits Obtained by Developing Countries from the Generalized System of Preferences*. UNCTAD/ITCD/TSB/Misc.52, 7 October. Geneva.

UNCTAD (United Nations Conference on Trade and Development). 2003. *Foreign Direct Investment and Performance Requirements: New Evidence from Selected Countries*. New York: United Nations.

UNCTAD (United Nations Conference on Trade and Development). 2007. *Elimination of Trims: The experience of Selected Developing Countries, United Nations*, New York: United Nations.

UNCTAD, G., 2014. Trade and Development Report 2014. Global governance and policy space for development, UN New York and Geneva.

UNCTAD (United Nations Conference on Trade and Development). 2019. *From development to differentiation*. UNCTAD Research Paper No.33, UNCTAD/SER. RP/2019/5/Rev.1, UN New York and Geneva.

United Nations Department of Economic and Social Affairs, 2002, March. Report of the International Conference on Financing for Development (Monterrey Consensus). In *UN Doc. A/CONF. 198* (Vol. 11).

United Nations Economic Commission for Africa (2015), *Economic Report on Africa 2015: Industrializing through Trade*. Addis Ababa: United Nations.

United Nations General Assembly, 2000. The Millennium Declaration. *UN General Assembly, report A/res/55/2, New York*.

United Nations General Assembly, 2005. *World Summit outcome document. New York: UN*.

United Nations General Assembly, 2007. *United Nations declaration on the rights of indigenous peoples. UN Wash, 12*, pp.1-18.

Whalley, J., 1999. Special and Differential Treatment in the Millennium Round. *World Economy*, 22(8), pp.1065-1093.

Woolcock, S., 2013. *Getting past the WTO deadlock: the plurilateral option?* (No. 55842). London School of Economics and Political Science, LSE Library.

WTO Tariff Profile 2020 - <https://www.wto.org/english/res_e/booksp_e/tariff_profiles20_e.pdf>- viewed 26 November 2020

World Trade Organization Working Documents:

WT/COMTD/W/77 (25 October 2000). Note by the WTO Secretariat.

TN/CTD/W/29 (9 June 2006). Kenya on behalf of African Group.

WT/DS379/AB/R (11 March 2011). United States – Definitive Anti-Dumping And Countervailing Duties On Certain Products From China, Appellate Body Report.

JOB/DEV/29; JOB/TNC/51 (30 July 2015). G-90

WT/COMTD/W219 (22 September 2016). Note by the WTO Secretariat.

JOB/DEV/48;JOB/TNC/60 (10 July 2017). African Group and LDC Group WT/GC/W/757/Rev.1 (14 February 2019). United States.

WT/GC/W/765/Rev.1 (26 February 2019) China, India, South Africa, The Bolivarian Republic of Venezuela, Lao People's Democratic Republic, Plurinational State of Bolivia, Kenya and Cuba

WT/GC/W/770/Rev.3 (8 May 2019). Norway; Canada; Hong Kong, China; Iceland; Mexico; New Zealand; Singapore and Switzerland.

Youssef, Hesham. 1999. *Special and Differential Treatment for Developing Countries in the WTO*. T.R.A.D.E Working Paper No. 2. South Centre, Geneva.

ANNEX I: Survey Questions

Special and Differential Treatment in the World Trade Organization Survey

Questionnaire Contents

1. Survey introduction and privacy statement	x
2. Respondent profiling	x
3. Your views on special and differential treatment in the WTO	x
4. End and privacy statement	x

Questionnaire Key

Q1 Normal question

[SCREEN INSTRUCTION]

[NOTE FOR REVIEWERS]

{QUESTION TYPE}

[PROGRAMMING INSTRUCTION]

1. Survey introduction and privacy statement

Thank you for taking the time to share your views on Special and Differential Treatment in the WTO.

Upon completion of the survey, all respondents will be offered the following benefits:

- Outputs and outcomes of this work.
- 20 per cent fee reduction on any of the world class academic programs or short course offered by the Institute for International Trade.

The Institute for International Trade respects your privacy. We will only use the information you provide for research purposes. We will not disclose any identifiable research information to a third party unless we have your express prior consent or are required to do so by your local economy law.

2. Respondent profiling

[SCREEN INSTRUCTION]

The following profiling questions help us to classify your answers.

Q1 What type of organisation do you represent?

[ASK ALL RESPONDENTS]

1. Government Department [SPECIFY]
2. Private Company [SPECIFY]
3. Inter-Governmental Organisation [SPECIFY]
4. Non-Government Organisation [SPECIFY]
5. Academic Institution
6. Other [SPECIFY]

[CONTINUE TO Q2]

Q2 What is your position in the organisation?

[ASK ALL RESPONDENTS]

{SINGLE - DROPDOWN}

1. Ownership level
2. Senior Management level
3. Management level
4. Technical level
5. Other [SPECIFY]

[CONTINUE TO Q3]

Q3 What is your title in the organisation?

[ASK ALL RESPONDENTS]

{OPEN-END}

[CONTINUE TO Q4]

Q4 How many years' experience do you have working within your field?

[ASK ALL RESPONDENTS]

{SINGLE - DROPDOWN}

1. 0 to 5 years' experience
2. 5 to 10 years' experience
3. 10 to 20 years' experience
4. More than 20 years' experience

[CONTINUE TO Q5]

Q5 How many employees does your organisation currently employ?

[ASK ALL RESPONDENTS]

{SINGLE - DROPDOWN}

1. 0 to less than 10
2. 10 to less than 25
3. 25 to less than 50
4. 50 to less than 100
5. 100 to less than 150
6. 150 to less than 200
7. 200 to less than 250
8. More than 250
9. Don't know

[CONTINUE TO Q6]

Q6 In which country is your organisation headquartered?

{SINGLE - DROPDOWN}

1. Afghanistan
2. Albania
3. Algeria
4. Andorra
5. Angola
6. Antigua and Barbuda
7. Argentina
8. Armenia
9. Australia

10. Austria
11. Azerbaijan
12. Bahamas
13. Bahrain
14. Bangladesh
15. Barbados
16. Belarus
17. Belgium
18. Belize
19. Benin
20. Bhutan
21. Bolivia
22. Bosnia and Herzegovina
23. Botswana
24. Brazil
25. Brunei
26. Bulgaria
27. Burkina Faso
28. Burundi
29. Cabo Verde
30. Cambodia
31. Cameroon
32. Canada
33. Central African Republic (CAR)
34. Chad
35. Chile
36. China
37. Colombia
38. Comoros
39. Congo, Democratic Republic of the
40. Congo, Republic of the
41. Costa Rica
42. Cote d'Ivoire
43. Croatia
44. Cuba
45. Cyprus
46. Czechia
47. Denmark
48. Djibouti
49. Dominica
50. Dominican Republic
51. Ecuador
52. Egypt
53. El Salvador
54. Equatorial Guinea
55. Eritrea
56. Estonia

57. Eswatini

58. Ethiopia

59. Fiji

60. Finland

61. France

62. Gabon

63. Gambia

64. Georgia

65. Germany

66. Ghana

67. Greece

68. Grenada

69. Guatemala

70. Guinea

71. Guinea-Bissau

72. Guyana

73. Haiti

74. Honduras

75. Hungary

76. Iceland

77. India

78. Indonesia

79. Iran

80. Iraq

81. Ireland

82. Israel

83. Italy

84. Jamaica

85. Japan

86. Jordan

87. Kazakhstan

88. Kenya

89. Kiribati

90. Kosovo

91. Kuwait

92. Kyrgyzstan

93. Laos

94. Latvia

95. Lebanon

96. Lesotho

97. Liberia

98. Libya

99. Liechtenstein

100. Lithuania

101. Luxembourg

102. Madagascar

103. Malawi

104. Malaysia
105. Maldives

106. Mali

107. Malta

108. Marshall Islands

109. Mauritania

110. Mauritius

111. Mexico

112. Micronesia

113. Moldova

114. Monaco

115. Mongolia

116. Montenegro

117. Morocco

118. Mozambique

119. Myanmar

120. Namibia

121. Nauru

122. Nepal

123. Netherlands

124. New Zealand

125. Nicaragua

126. Niger

127. Nigeria

128. North Korea

129. North Macedonia

130. Norway

131. Oman

132. Pakistan

133. Palau

134. Palestine

135. Panama

136. Papua New Guinea

137. Paraguay

138. Peru

139. Philippines

140. Poland

141. Portugal

142. Qatar

143. Romania

144. Russia

145. Rwanda

146. Saint Kitts and Nevis

147. Saint Lucia

148. Saint Vincent and the Grenadines

149. Samoa

150. San Marino

151. Sao Tome and Principe

152. Saudi Arabia

153. Senegal

154. Serbia

155. Seychelles

156. Sierra Leone

157. Singapore

158. Slovakia

159. Slovenia

160. Solomon Islands

161. Somalia

162. South Africa

163. South Korea

164. South Sudan

165. Spain

166. Sri Lanka

167. Sudan

168. Suriname

169. Sweden

170. Switzerland

171. Syria

172. Taiwan

173. Tajikistan

174. Tanzania

175. Thailand

176. Timor-Leste

177. Togo

178. Tonga

179. Trinidad and Tobago

180. Tunisia

181. Turkey

182. Turkmenistan

183. Tuvalu

184. Uganda

185. Ukraine

186. United Arab Emirates (UAE)

187. United Kingdom (UK)

188. United States of America (USA)

189. Uruguay

190. Uzbekistan

191. Vanuatu

192. Vatican City (Holy See)

193. Venezuela

194. Vietnam

195. Yemen

196. Zambia

197. Zimbabwe
- [IF Q1 = 1 CONTINUE TO Q7]

[IF Q1 = 2, 3, 4 OR 6 CONTINUE TO Q9]

[IF Q1 = 5 CONTINUE TO Q8]

Q7 Where do you work?

[ASK GOVERNMENT RESPONDENTS ONLY]

{SINGLE - DROPDOWN}

1. In the capital of your country of citizenship [SPECIFY]
2. In a regional location in your country of citizenship [SPECIFY]
3. Outside your country of citizenship [SPECIFY]
4. Geneva
5. Other [SPECIFY]

[IF Q1 = 1 CONTINUE TO Q9]

Q8 Is Trade Policy your main focus area?

[ASK ACADEMIC RESPONDENTS ONLY]

{SINGLE - DROPDOWN}

1. Yes
2. No [SPECIFY]

[IF Q1 = 5 CONTINUE TO Q9]

Q9 What is the percentage of women senior managers in your business?

[ASK ALL RESPONDENTS]

[INSTRUCTION: SELECT ALL THAT APPLY]

{MULTI – CHECK BOXES}

1. The head of your business is a woman
2. 0% (no women managers)
3. Less than 50%
4. 50% (around half of senior management are women)
5. More than 50%
6. 100% (all senior management are women)
7. Don’t know

[IF Q1 = 1 CONTINUE TO Q12]

[IF Q1 = 2, 3, 4 OR 6 CONTINUE TO Q10]

[IF Q1 = 5 CONTINUE TO Q14]

Q10 What are the main sector(s) in which your organisation operates?

[ASK PRIVATE COMPANY, INTER-GOVERNMENTAL ORGANISATION AND NON-GOVERNMENT ORGANISATION RESPONDENTS ONLY]

[INSTRUCTION: PLEASE RANK THE FOLLOWING SECTORS ACCORDING TO THEIR RELEVANCE TO YOUR ORGANISATION, WHERE 1 IS MOST RELEVANT AND 5 IS FIFTH MOST RELEVANT]

{ONLY FIVE CAN BE ANSWERED – DRAG AND DROP INTO 5 SPACES LABELED 1 THROUGH 5}

1. Agriculture, forestry and fishing
2. Mining and quarrying
3. Manufacturing
4. Manufacture-related services
5. Electricity, gas, steam and air conditioning supply
6. Environment; water supply; sewerage, waste management and remediation
7. Construction
8. Wholesale and retail trade; repair of motor vehicles and motorcycles
9. Transportation and storage
10. Accommodation and food service activities
11. Information and communication
12. Financial and insurance activities
13. Real estate activities
14. Professional, scientific and technical activities
15. Administrative and support service activities
16. Public administration and defence; compulsory social security
17. Education
18. Human health and social work activities
19. Arts, entertainment and recreation
20. Other service activities
21. Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use
22. Activities of extraterritorial organisations and bodies
23. Other [SPECIFY]

[CONTINUE TO Q11]

Q11 Which of the following options most accurately describes your organisation’s international business activity?

[ASK PRIVATE COMPANY, INTER-GOVERNMENTAL ORGANISATION AND NON-GOVERNMENT ORGANISATION RESPONDENTS ONLY]

[INSTRUCTION: PLEASE RANK THE FOLLOWING OPTIONS ACCORDING TO THEIR RELEVANCE TO YOUR ORGANISATION, WHERE 1 IS MOST RELEVANT AND 3 IS THIRD MOST RELEVANT]

{ONLY THREE CAN BE ANSWERED – DRAG AND DROP INTO 3 SPACES LABELED 1 THROUGH 3}

1. Primary production, extracting and mining
2. Exporting goods overseas
3. Exporting services overseas
4. Importing goods from overseas
5. Importing services from overseas
6. Making outward investments
7. Receiving inward investments
8. Research and development overseas
9. Employing temporary skilled labour from overseas
10. Manufacturing products or parts of products overseas
11. Providing temporary skilled labour to overseas
12. Licensing your intellectual property to overseas
13. Manufacturing products or parts of products
14. Other [SPECIFY]

[CONTINUE TO Q14]

Q12 At what level of government does your department operate?

[ASK GOVERNMENT RESPONDENTS ONLY]

{SINGLE - DROPDOWN}

1. National
2. State/ Regional
3. Local/ Provincial/ District

[CONTINUE TO Q13]

Q13 Which of the following best describes the main focus of your department?

[ASK GOVERNMENT RESPONDENTS ONLY]

[INSTRUCTION: PLEASE RANK THE FOLLOWING OPTIONS ACCORDING TO THEIR IMPORTANCE TO YOUR ORGANISATION, WHERE 1 IS MOST IMPORTANT AND 5 IS FIFTH MOST IMPORTANT]

{ONLY FIVE CAN BE ANSWERED – DRAG AND DROP INTO 5 SPACES LABELED 1 THROUGH 5}

1. Trade and Commerce
2. Economic Planning
3. Agriculture, forestry and fishing
4. Mining and quarrying
5. Manufacturing
6. Electricity, gas, steam and air conditioning supply

7. Environment; water supply; sewerage, waste management and remediation
8. Wholesale and retail trade; repair of motor vehicles and motorcycles
9. Transportation and storage
10. Information and communication
11. Financial and insurance activities
12. Professional, scientific and technical activities
13. Administrative and support service activities
14. Public administration and defence
15. Compulsory social security
16. Education
17. Human health and social work activities
18. Arts, entertainment and recreation
19. Cabinet Secretariat Services
20. Parliament
21. Other [\[SPECIFY\]](#)

[\[CONTINUE TO Q15\]](#)

3. Your views on special and differential treatment in the WTO

[\[SCREEN INSTRUCTION\]](#)

The following set of questions are about your views on Special and Differential Treatment in the World Trade Organization (WTO).

Q14 Is your country a member of the World Trade Organization (WTO)?

[\[ASK ALL RESPONDENTS\]](#)

{SINGLE - DROPDOWN}

1. Yes
2. No
3. I don't know

[\[IF Q14 = 1 OR 2 CONTINUE TO Q15\]](#)

[\[IF Q14 = 3 CONTINUE TO Q27\]](#)

Q15 Which of the following options best describes your country's motivation for becoming a WTO Member?

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: SELECT ALL THAT APPLY\]](#)

{MULTI – CHECK BOXES}

[\[RANDOMISE STATEMENTS\]](#)

1. Global partnership
2. Regional solidarity
3. IMF structural reform package requirement
4. Increased market access
5. Bolster economic reform
6. Improve economic governance
7. Founding Member
8. I don't know [\[EXCLUSIVE\]](#)
9. Other [\[SPECIFY\]](#)

[\[CONTINUE TO Q16\]](#)

Q16 What benefits do you expect your country to receive as a Member of the WTO?

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: SELECT ALL THAT APPLY\]](#)

{MULTI – CHECK BOXES}

[\[RANDOMISE STATEMENTS\]](#)

1. Reduced trade barriers which provide for increased trade between Members
2. Increased predictability and transparency of international trade
3. Increased competitiveness
4. Ability to defend trade interests via the WTO's Dispute Resolution System
5. Participation in the development of new rules and principles of international trade
6. Improved domestic governance
7. Ability to influence the global negotiating agenda
8. Improved international governance
9. I don't know [\[EXCLUSIVE\]](#)
10. Other [\[SPECIFY\]](#)

[\[CONTINUE TO Q17\]](#)

Q17 The multilateral trading system offers fair treatment to developing countries.

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: DRAG THE SLIDER HANDLE TO INDICATE THE EXTENT TO WHICH YOU AGREE/ DISAGREE WITH THIS STATEMENT\]](#)



[\[CONTINUE TO Q18\]](#)

Q18 What is the single most important thing that could be done to make the WTO system fairer for developing countries?

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 30 WORDS\]](#)

{OPEN-END}

[\[CONTINUE TO Q19\]](#)

Q19 WTO Agreements do not unduly constrain the development of your country (e.g. the government's right to regulate various sectors)

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: DRAG THE SLIDER HANDLE TO INDICATE THE EXTENT TO WHICH YOU AGREE/ DISAGREE WITH THIS STATEMENT\]](#)



[\[CONTINUE TO Q20\]](#)

Q20 What is the most significant way in which WTO Agreements unduly constrain the development of your country?

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 30 WORDS\]](#)

{OPEN-END}

[\[CONTINUE TO Q21\]](#)

Q21 Developing countries are constrained from fully participating in the WTO owing to their institutional and/or capacity constraints

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: DRAG THE SLIDER HANDLE TO INDICATE THE EXTENT TO WHICH YOU AGREE/ DISAGREE WITH THIS STATEMENT\]](#)



[\[CONTINUE TO Q22\]](#)

Q22 Why do you agree/ disagree that all developing countries are not constrained from fully participating in the WTO owing to their institutional and/or capacity constraints

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 30 WORDS\]](#)

{OPEN-END}

[\[CONTINUE TO Q23\]](#)

Q23 All developing countries should be entitled to claim developing country status at the WTO to secure special negotiating concessions not available to more developed countries?

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: DRAG THE SLIDER HANDLE TO INDICATE THE EXTENT TO WHICH YOU AGREE/ DISAGREE WITH THIS STATEMENT\]](#)



[\[CONTINUE TO Q24\]](#)

Q24 Why do you agree/ disagree that all developing countries should be entitled to claim developing country status at the WTO to secure special negotiating concessions not available to more developed countries?

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 30 WORDS\]](#)

{OPEN-END}

[\[CONTINUE TO Q25\]](#)

Q25 Countries that want to progress particular rules or market access interests should be free to do so through plurilateral negotiations (i.e. amongst like-minded Members only).

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: DRAG THE SLIDER HANDLE TO INDICATE THE EXTENT TO WHICH YOU AGREE/ DISAGREE WITH THIS STATEMENT\]](#)



[\[CONTINUE TO Q26\]](#)

Q26 Why do you agree/ disagree that countries wanting to progress particular rules or market access interests should be free to do so through plurilateral negotiations?

[\[ASK RESPONDENTS WHO KNOW WHETHER THEIR COUNTRY IS A MEMBER OF THE WTO ONLY\]](#)

[\[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 30 WORDS\]](#)

{OPEN-END}

[\[CONTINUE TO Q27\]](#)

Q27 A subsidy is a form of financial aid provided by governments to help an industry by paying 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.

Which of the following options best describes the benefits your country would derive from (more) subsidies being paid to industrial companies?

[\[ASK ALL RESPONDENTS\]](#)

[\[INSTRUCTION: SELECT ALL THAT APPLY"\]](#)

{MULTI – CHECK BOXES}

[\[RANDOMISE STATEMENTS\]](#)

1. Preventing the long-term decline of industries
2. Reduced costs of locally produced goods
3. Increased demand from local and international consumers owing to reduced costs
4. Fostering of domestic industry through restricted international competition, allowing domestic industries time to grow, improve their products and find unique selling points
5. Increased supply of locally produced goods
6. Increased international competitiveness of domestic industries
7. More jobs in domestic industries
8. Improved skills of the local workforce
9. Higher levels of research and development
10. Other [\[SPECIFY\]](#)
11. None of the above [\[EXCLUSIVE\]](#)

[\[CONTINUE TO Q28\]](#)

Q28 Do you foresee any risks, resulting from more subsidies being paid to industrial companies in your country?

[\[ASK ALL RESPONDENTS\]](#)

[\[INSTRUCTION: SELECT ALL THAT APPLY"\]](#)

{MULTI – CHECK BOXES}

[\[RANDOMISE STATEMENTS\]](#)

1. Increased sovereign debt
2. Increased taxes to cover the cost of subsidies
3. Opportunity cost, as money used to subsidise industry cannot be invested elsewhere
4. Reduction in consumer choices, as a result of reduced international competition
5. Reduced incentives for firms to cut costs or innovate
6. Reduced competitiveness of local industry
7. Industry dependence on subsidies
8. Other [\[SPECIFY\]](#)
9. None of the above [\[EXCLUSIVE\]](#)

[\[CONTINUE TO Q29\]](#)

Q29 Do you feel that the WTO allows your government the required amount of policy space in the area of subsidies?

[\[ASK ALL RESPONDENTS\]](#)

{SINGLE - DROPDOWN}

1. Yes
2. No
3. Undecided
4. I don't know

[\[IF Q29 = 1 OR 2 CONTINUE TO Q30\]](#)

[\[IF Q29 = 3 OR 4 CONTINUE TO Q31\]](#)

Q30 In what manner does the WTO unduly constrain your government's policy space in the area of subsidies?

[\[ASK RESPONDENTS WHO ANSWERED YES OR NO TO THE PREVIOUS QUESTION ONLY\]](#)

[\[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 30 WORDS\]](#)

{OPEN-END}

[\[CONTINUE TO Q31\]](#)

Q31 Local content requirements require businesses to use domestically-manufactured goods or domestically-supplied services as a condition of operating within a country.

Which of the following options best describe the benefits governments would derive from greater freedom to impose local content requirements on businesses?

[ASK ALL RESPONDENTS]

[INSTRUCTION: SELECT ALL THAT APPLY]

{MULTI – CHECK BOXES}

[RANDOMISE STATEMENTS]

- 1. Promote the use of local inputs
- 2. Expanded opportunities for domestic industries to enter and upgrade within global value chains
- 3. Reduced costs of locally produced goods
- 4. Increased domestic outputs/supply
- 5. Increased international competitiveness of domestic industries
- 6. More jobs in domestic industries
- 7. Improved skills levels of the local workforce
- 8. Higher levels of research and development
- 9. Other [SPECIFY]
- 10. None of the above [EXCLUSIVE]

[CONTINUE TO Q32]

Q32 Which of the following risks could be realised if governments had greater freedom to impose local content requirements on businesses?

[ASK ALL RESPONDENTS]

[INSTRUCTION: SELECT ALL THAT APPLY”]

{MULTI – CHECK BOXES}

[RANDOMISE STATEMENTS]

- 1. Increased costs of procured goods
- 2. Decreasing sales and outputs in other industries owing to higher costs
- 3. Higher costs to consumers
- 4. Reallocation of resources from other sectors in order to pay for more expensive protected products
- 5. Reduced imports and exports with trading partners
- 6. Reduced international competitiveness
- 7. Reduced overall employment over the long-run
- 8. Reduction in product variety, as a result of reduced international competition

- 9. Reduced incentives for firms to cut costs or innovate, resulting in diminished quality of locally produced goods and services
- 10. Other [SPECIFY]
- 11. None of the above [EXCLUSIVE]

[CONTINUE TO Q33]

Q33 Do you feel that the WTO allows your government the required amount of policy space in the area of local content requirements?

[ASK ALL RESPONDENTS]

{SINGLE - DROPDOWN}

- 1. Yes
- 2. No
- 3. Undecided
- 4. I don’t know

[IF Q33 = 1 OR 2 CONTINUE TO Q34]

[IF Q33 = 3 OR 4 CONTINUE TO Q35]

Q34 In what manner does the WTO unduly constrain your government’s policy space in the area of local content requirements?

[ASK RESPONDENTS WHO ANSWERED YES OR NO TO THE PREVIOUS QUESTION ONLY]

[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 30 WORDS]

{OPEN-END}

[CONTINUE TO Q35]

Q35 An import duty is a tax collected on imports by a country’s customs authorities.

Which of the following options best describes the benefits governments would derive from greater freedom to raise import duties to protect domestic industries?

[ASK ALL RESPONDENTS]

[INSTRUCTION: SELECT ALL THAT APPLY]

{MULTI – CHECK BOXES}

[RANDOMISE STATEMENTS]

- 1. Fostering of domestic industry through restricted international competition
- 2. Reduced costs for locally produced goods, relative to those of international competitors
- 3. Increased demand from domestic consumers

- 4. Increased domestic supply of critical products
- 5. More jobs in domestic industries
- 6. Improved skills of the local workforce
- 7. Higher levels of research and development
- 8. Other [SPECIFY]

[CONTINUE TO Q36]

Q36 Which of the following risks could be realised if governments had greater freedom to impose import duties on businesses?

[ASK ALL RESPONDENTS]

[INSTRUCTION: SELECT ALL THAT APPLY]

{MULTI – CHECK BOXES}

[RANDOMISE STATEMENTS]

- 1. Increased cost of protected products, resulting in higher costs to consumers and depressing sales and outputs in other industries
- 2. Reallocation of resources from other sectors in order to pay for more expensive protected products
- 3. Reduced global imports and exports with trading partners, and for the imposing economy
- 4. Potential retaliation by trading partners, resulting in higher costs to industry in protected and other sectors
- 5. Reduced international competitiveness and overall employment over the long-run
- 6. Reduction in product variety, as a result of reduced international competition
- 7. Reduced incentives for firms to cut costs or innovate, resulting in diminished quality of locally produced goods and services
- 8. Other [SPECIFY]
- 9. None of the above [EXCLUSIVE]

[CONTINUE TO Q37]

Q37 Do you feel that the WTO allows your government the required amount of policy space in the area of import duties?

[ASK ALL RESPONDENTS]

{SINGLE - DROPDOWN}

- 1. Yes [SPECIFY]
- 2. No [SPECIFY]
- 3. Undecided
- 4. I don’t know

[IF Q37 = 1 OR 2 CONTINUE TO Q38]

[IF Q37 = 3 OR 4 CONTINUE TO Q39]

Q38 In what manner does the WTO unduly constrain your government’s policy space in the area of import duties?

[ASK RESPONDENTS WHO ANSWERED YES OR NO TO THE PREVIOUS QUESTION ONLY]

[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 30 WORDS]

{OPEN-END}

[CONTINUE TO Q39]

Q39 The Generalized System of Preferences (GSP) provides duty-free treatment to goods of designated beneficiary countries. Does your country currently utilise GSP?

[ASK ALL RESPONDENTS]

{SINGLE - DROPDOWN}

- 1. Yes
- 2. No
- 3. I don’t know

[CONTINUE TO Q40]

Q40 Which of the following processes could be amended to increase the effectiveness of GSP?

[ASK RESPONDENTS]

[INSTRUCTION: SELECT ALL THAT APPLY]

{MULTI – CHECK BOXES}

[RANDOMISE STATEMENTS]

- 1. Rules of Origin
- 2. Product Coverage
- 3. Standards
- 4. Tariff Coverage
- 5. Quotas
- 6. Trading Relationships
- 7. Qualification/ Conditionality (e.g. signatories to international conventions)
- 8. Other [SPECIFY]
- 9. None of the above [EXCLUSIVE]

[CONTINUE TO Q41]

Q41 Special and Differential Treatment (S&DT) is a set of provisions that allows developing countries to take on fewer, and less ambitious, commitments in WTO negotiations than more developed countries. More tailored approaches to Special and Differential Treatment are needed,

based on a country’s specific economic and trade circumstances?

[ASK ALL RESPONDENTS]

[INSTRUCTION: DRAG THE SLIDER HANDLE TO INDICATE THE EXTENT TO WHICH YOU AGREE/ DISAGREE WITH THIS STATEMENT]

STRONGLY AGREE

STRONGLY DISAGREE

[IF Q41 = STRONGLY AGREE CONTINUE TO Q42]

[IF Q41 = STRONGLY DISAGREE CONTINUE TO Q43]

Q42 How could a more tailored approach to Special and Differential Treatment be constructed?

[ASK RESPONDENTS WHO ANSWERED STRONGLY AGREE TO THE PREVIOUS QUESTION ONLY]

[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 100 WORDS]

[CONTINUE TO Q43]

Q43 The Trade Facilitation Agreement (TFA) is intended to reduce red tape, reduce costs and make it easier for businesses to enter overseas markets. It contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues.

Is the Trade Facilitation Agreement beneficial for your country?

[ASK ALL RESPONDENTS]

{SINGLE - DROPDOWN}

- 1. Yes
- 2. No
- 3. Undecided
- 4. I don’t know

[IF Q1 = 1 OR 5 CONTINUE TO Q44]

[IF Q1 = 2, 3, 4 OR 6 CONTINUE TO END PRIVACY STATEMENT]

Q44 Special and Differential Treatment (SDT) provisions allow Least Developed Countries to determine when they will implement each of the individual provisions of the Trade Facilitation Agreement (TFA), as well as those

provisions for which they will need technical assistance and support for capacity building.

Members with LDC status who want to take advantage of the SDT provisions place each provision of the Agreement into one of three categories:

- A) those to be implemented within one year of entering into force;
- B) those for implementation after a transitional period; and
- C) those for implementation after a transitional period and the provision of assistance and support for capacity building.

They are then required to provide indicative, and later definitive, dates for implementation of the provisions they have designated in categories B and C.

Could this phased approach to commitments be used in other agreements?

[ASK GOVERNMENT AND ACADEMIC RESPONDENTS ONLY]

{SINGLE}

- 1. Yes [SPECIFY]
- 2.No [SPECIFY]
- 3.Undecided
- 4.I don’t know

[IF Q44 = 1 OR 2 CONTINUE TO Q45]

[IF Q44 = 3 OR 4 CONTINUE TO Q46]

Q45 How could this phased approach to commitments be used in other agreements?

[ASK RESPONDENTS WHO ANSWERED YES OR NO TO THE PREVIOUS QUESTION ONLY]

[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 30 WORDS]

{OPEN-END}

[CONTINUE TO Q46]

Q46 In your opinion, which forms of Special and Differential Treatment are most effective?

[ASK GOVERNMENT AND ACADEMIC RESPONDENTS ONLY]

[INSTRUCTION: ‘PLEASE RANK THE FOLLOWING FORMS OF SPECIAL AND DIFFERENTIAL TREATMENT ACCORDING TO THEIR EFFECTIVENESS, WHERE 1 IS MOST EFFECTIVE AND 5 IS LEAST EFFECTIVE’]

{DRAG AND DROP INTO 5 SPACES LABELED 1 THROUGH 6}

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

[CONTINUE TO Q47]

Q47 Why do you feel that these forms of Special and Differential Treatment are more effective than others?

[ASK GOVERNMENT AND ACADEMIC RESPONDENTS ONLY]

[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 100 WORDS]

{OPEN-END}

[CONTINUE TO Q48]

Q48 Special and Differential Treatment should enable beneficiaries to participate more fully in trade or exempt them from certain provisions.

[ASK GOVERNMENT AND ACADEMIC RESPONDENTS ONLY]

[INSTRUCTION: DRAG THE SLIDER HANDLE TO INDICATE THE EXTENT TO WHICH YOU AGREE/ DISAGREE WITH THIS STATEMENT]

STRONGLY AGREE

STRONGLY DISAGREE

[CONTINUE TO Q49]

Q49 Why should/ shouldn’t Special and Differential Treatment enable beneficiaries to participate more fully in trade or exempt them from certain provisions?

[ASK GOVERNMENT AND ACADEMIC RESPONDENTS ONLY]

[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 100 WORDS]

{OPEN-END}

[CONTINUE TO Q50]

Q50 Do you agree that invoking Special and Differential Treatment disincentivises some countries from pursuing domestic economic reforms?

[ASK GOVERNMENT AND ACADEMIC RESPONDENTS ONLY]

{SINGLE}

1. Yes
2. No
3. Undecided
4. I don’t know

[IF Q50 = 1 OR 2 CONTINUE TO Q51]

[IF Q50 = 3 OR 4 CONTINUE TO Q52]

Q51 Why do you believe that invoking Special and Differential Treatment disincentivises some countries from pursuing domestic economic reforms?

[ASK RESPONDENTS WHO ANSWERED YES OR NO TO THE PREVIOUS QUESTION ONLY]

[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 100 WORDS]

{OPEN-END}

[CONTINUE TO Q49]

Q52 Do you believe that the policy space afforded by Special and Differential Treatment may be used by Developing Countries to promote globally competitive industries at the expense of their competitors?

[ASK GOVERNMENT AND ACADEMIC RESPONDENTS ONLY]

{SINGLE}

1. Yes
2. No
3. Undecided
4. I don’t know

[IF Q52 = 1 OR 2 CONTINUE TO Q53]

[IF Q52 = 3 OR 4 CONTINUE TO END PRIVACY STATEMENT]

Q53 Why do you agree/ disagree with this criticism?

[ASK RESPONDENTS WHO ANSWERED YES OR NO TO THE PREVIOUS QUESTION ONLY]

[INSTRUCTION: PLEASE TYPE YOUR RESPONSE IN LESS THAN 100 WORDS]

{OPEN-END}

[CONTINUE TO END PRIVACY STATEMENT]

4. END AND PRIVACY STATEMENT

[SCREEN INSTRUCTION] Thank you for completing the survey. We appreciate you taking the time to assist us in better understanding your views on Special and Differential Treatment in the WTO.

Q54 Would you like to receive a copy of the survey report?

[ASK ALL RESPONDENTS]

{SINGLE}

1. Yes [ANCHOR]
2. No

[CONTINUE TO Q55]

Q55 Please provide your contact details below (this is not compulsory). In doing so, you give consent for this information to be shared with the Institute for International Trade. In doing so you will be in the running to receive a prize for completing the survey, and we may also be able to follow-up with your organisation.

[ASK ALL RESPONDENTS]

{OPEN-ENDER – CAN BE LEFT BLANK}

Business Name

Name

Telephone

Email address

The Institute for International Trade respects your privacy. We will only use the information you provide for research purposes. We will not disclose any identifiable research information to a third party unless we have your express prior consent or are required to do so by your local economy law.

[CONTINUE TO Q56]

Q56 Would you be willing to participate in a 30 minute phone interview?

[ASK ALL RESPONDENTS]

{SINGLE}

1. Yes [ANCHOR]
2. No

[END MESSAGE] Thank you for your contribution. The survey is now over.

[‘NEXT’ BUTTON TO REDIRECT TO IIT WEBSITE]

[closing statement]

Thank you for completing the survey.

For taking the time to share your view with us, the Institute for International Trade is pleased to offer you access to the following benefits:

- The Institute for International Trade will share outputs and outcomes of this work with participants.
- 20% fee reduction on any academic program or short course offered by the Institute for International Trade.

ANNEX II: Guiding questions for qualitative interviews

1. Basic biographical data on the interviewee/organization.
2. Why is your country a **Member** of the WTO? What do you expect from your country's membership of the Organization?
3. Do you feel that the multilateral trading system offers **fair treatment** to developing countries like yours? What could be done to make the system fairer to developing countries? Briefly elaborate.
4. Do WTO Agreements unduly **constrain** the development of your country, for example the government's right to regulate various sectors? To what extent are developing countries constrained from fully participating in the WTO owing to their institutional and/or capacity constraints? Provide examples.
5. Do you think your country should claim '**developing country**' status at the WTO to secure special negotiating concessions not available to more developed countries? Why?
6. Do you think countries that want to progress particular rules or market access interests should be free to do so through **plurilateral negotiations**, notably the Joint Statement Initiatives? Explain.
7. Do you think your country would benefit from (more) **subsidies** being paid to industrial companies? Do you foresee any risks should your country take that route, and if so, what risks? Do you think the WTO unduly constrains your government's policy space in this area?
8. Do you think your government should have more leeway to impose **local content requirements** on companies? Do you foresee any risks should your country take that route, and if so, what risks? Do you think the WTO unduly constrains your government's policy space in this area?
9. Do you think your government should be free to raise **import duties** to protect 'infant industries'? Do you foresee any risks should your country take that route, and if so, what risks? Do you think the WTO unduly constrains your government's policy space in this area?
10. Are you open to more **tailored approaches** to SDT based on a country's specific economic and trade circumstances? Explain.
11. Is the **Trade Facilitation Agreement** beneficial to your country? How can its approach of a 'ladder of commitments' linked to increasing levels of aid for trade be used in other regulatory agreements? Could the GATS (services) positive list approach work for market access negotiations? Explain.
12. In your opinion, which **forms of SDT** are more effective than others? Should SDT enable beneficiaries to participate more fully in trade or be exempt from certain provisions? Why?
13. Critics of SDT argue that invoking it retards the desire to pursue domestic **economic reforms**. Do you agree with this? Why?
14. Critics of SDT also argue that it enables developing countries with globally competitive industries to hide behind developing country status whilst promoting those industries using the policy space afforded by SDT – at their competitors' expense. Do you agree with this criticism? Why?
15. Do WTO rules, for example on intellectual property rights, constrain your country's **COVID-19** containment strategy? Are those constraints the same for developed and developing countries? Elaborate.

Kaurna acknowledgement

We acknowledge and pay our respects to the Kaurna people, the original custodians of the Adelaide Plains and the land on which the University of Adelaide's campuses at North Terrace, Waite, and Roseworthy are built. We acknowledge the deep feelings of attachment and relationship of the Kaurna people to country and we respect and value their past, present and ongoing connection to the land and cultural beliefs. The University continues to develop respectful and reciprocal relationships with all Indigenous peoples in Australia, and with other Indigenous peoples throughout the world.

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