



# Trade Hot Topics

## Enhancing Access for LDC Services to the UK Post-Brexit

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### Background

Brexit will fundamentally alter the UK's trading relationship with developing countries, including the world's poorest—the least developed countries (LDCs). Underpinned by rigorous reflection and pursued with the right political commitment, the securing of meaningful post-Brexit entry to the UK market for LDC services and service providers presents a unique opportunity for the UK to reassert its leading role in maximising the scope for services trade to support LDC development aspirations, including the Sustainable Development Goals (SDGs).

With respect to trade in goods, the UK government has already committed to securing existing duty-free access to the UK market and providing new opportunities to increase trade links.<sup>1</sup> Unlike for goods, however, there is no existing preferential services regime to build upon (such as the Generalised System of Preferences or Everything But Arms).<sup>2</sup> Moreover, unlike goods market entry, which is governed primarily by readily accessible and straightforward tariffs (non-tariff measures notwithstanding), different regulations and administrative decisions intersect to determine

services market entry. As such, getting services market entry for LDCs into the UK 'right' represents a relatively more complex assignment, albeit one that should benefit significantly from the kind of fine-tuning the narrowing scope of parties and interests enables.

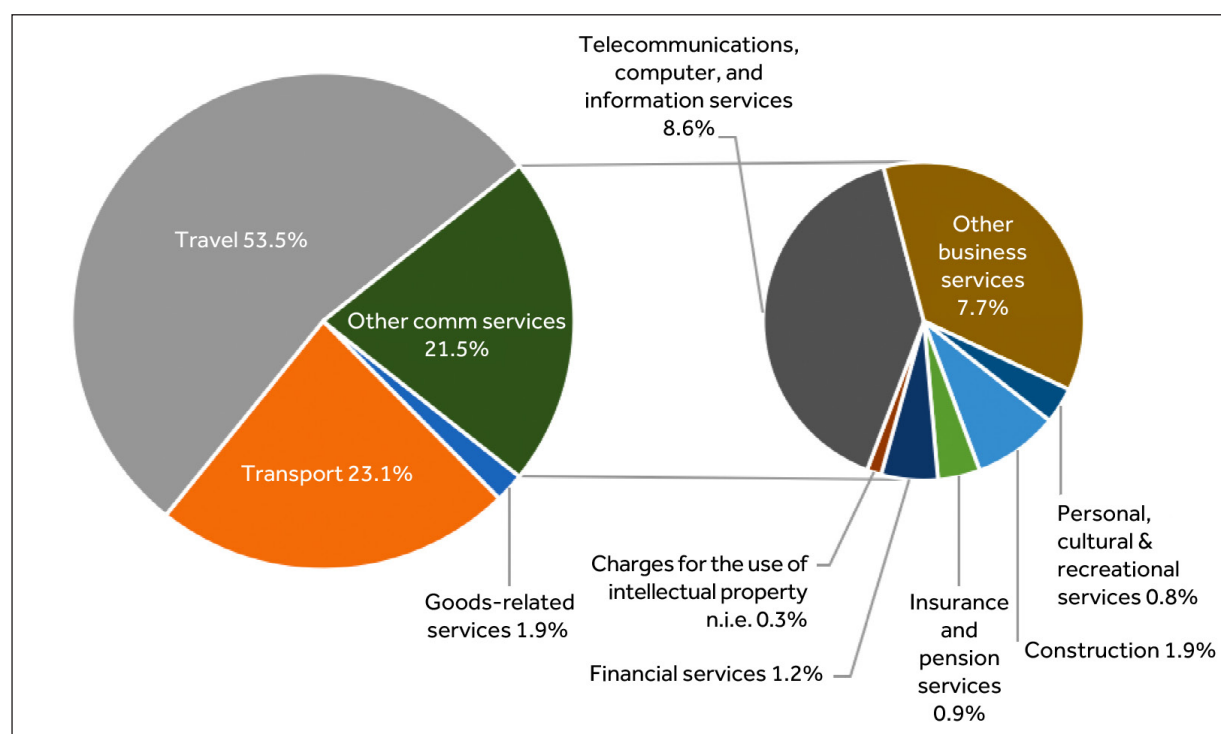
It is important to flag at the outset that services preferences for LDCs are but one piece of the complex matrix that may or may not lead to an LDC services firm exporting to the UK. Well-documented supply-side constraints that limit the productive capacity and competitiveness of LDC services firms affect this dynamic far more than the entry-related issues that a preference may influence. This in and of itself, however, is no reason to avoid dedicating the requisite resources and creativity to ensuring the waiver and resulting preferences can confer the greatest advantage possible. Indeed, putting in place commercially meaningful preferences should be an important complementary element of the UK's extensive on-going efforts to support the building of LDC services firms' productive and export capacities. Yet, while such support to building productive capacities is well established in UK trade

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1 See <https://www.gov.uk/government/news/government-pledges-to-help-improve-access-to-uk-markets-for-worlds-poorest-countries-post-brexit>

2 World Trade Organization (WTO) rules also differ regarding preferential treatment for goods vs. services, with the latter having less scope to discriminate between countries (i.e. outside a reciprocal free trade agreement covering services, a WTO Member can introduce new discriminations in services only if these apply to all, and only, LDCs).

Figure 1: Composition of LDC commercial services exports, 2016



Source: Author based on UNCTADStat 2017.

development priorities, the waiver remains a new, innovative and as-yet largely unexplored tool in the larger toolbox.

This issue of *Commonwealth Trade Hot Topics* offers some preliminary food for thought for those involved in on-going discussions regarding what the UK could do for LDCs on trade in services post-Brexit.

### Services trade in the UK and LDCs

Globally, services constitute approximately 70 per cent of gross domestic product (GDP) and 60 per cent of employment (WDI 2017), with cross-border services trade (i.e. not including services investment or the bulk of e-commerce transactions) accounting for a full quarter of world trade in 2014 (in gross value terms).<sup>3</sup> For the UK, services contributed almost 80 per cent of both GDP and employment in 2015 (WDI 2017); the economy is primarily services-based. Services are also essential to the modern economic activity taking place across the diverse countries comprising the LDC group, accounting in 2015 for approximately half of GDP (and often more), with the average services share of employment estimated at one-third (ILOSTAT 2017).

Before delving into relevant services trade statistics,<sup>4</sup> we must remember that such data must be used with caution. Notwithstanding improvements in their collection over the past 15 years, services trade data are considerably less accurate and detailed (by product and partner) than merchandise trade data. As well, being based on the balance of payments, such data exclude investment-related services trade.<sup>5</sup> Such deficiencies are pervasive globally but are particularly problematic for LDCs (e.g. most have no national bilateral services trade statistics). This dearth in the macro- and micro-level services data needed for meaningful economic analysis acts as a fundamental roadblock to using services trade policy to leverage services for inclusive growth and structural transformation.<sup>6</sup>

Caveats aside, available services trade data indicate that LDC services exports remains marginal in the global context, reaching a mere 0.8 per cent of the global total in 2015 (even though this represented an increase from 0.4 per cent in 2005, according to the WTO). As Figure 1 shows, LDC commercial services exports are dominated by low- to middle-skilled services sectors of the lesser-dynamic variety, such as travel (i.e. tourism) and transport (comprising over 75 per cent of the total). Pointing to the relative

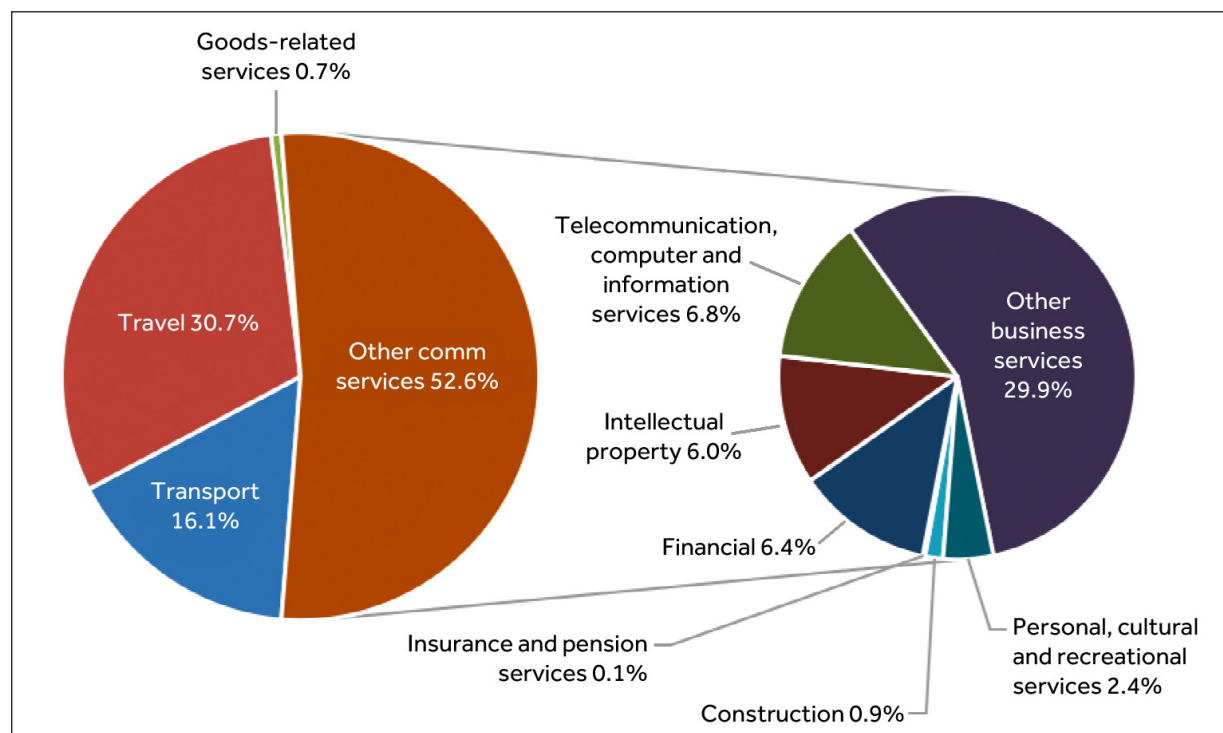
3 Loungani, P., Mishra, S. and Papageorgiou, C. (2017) *World Trade in Services: Evidence from a New Dataset*. Washington, DC: IMF.

4 As elaborated in Primack, D. (2016) *Services Trade Data: A Fundamental Roadblock to Negotiations and Policy-Making to Support Structural Transformation*. London: SET Programme, ODI.

5 Estimated by the WTO at half of all global services flows.

6 As such, a key message for DFID and other development cooperation agencies being the need for serious attention to support LDC services trade data collection systems (for more details see Holmes, P., Rollo, J. and Shingal, A. (2016) *A Toolkit for Improving Services Data Collection*. Toronto, Geneva and Brighton: ILEAP, CUTS International Geneva and CARIS.)

Figure 2: Composition of UK commercial services imports, 2015



Source: Author based on ONS (2016) UK Balance of Payments, *The Pink Book: 2016*. London: ONS.

absence of structural transformation in LDCs, this composition has remained largely unchanged over the past decade (if not more). Other, more dynamic, 'modern services', such as other business services<sup>7</sup> (for LDCs primarily technical, trade-related and other business services),<sup>8</sup> make up the bulk of the remaining flows.<sup>9</sup>

Unfortunately, owing to the aforementioned data issues, outside of what their (advanced country) trading partners report (i.e. 'mirror data'), LDCs do not collect and/or report bilateral services trade flows. In other words, they have no systematic way of knowing what services they are trading with whom.

Turning to the UK, although it is not without its own data challenges in this realm, the Office for National Statistics (ONS) collects and disseminates extensive international services trade data. This is unsurprising, considering the UK is the second largest exporter of services globally and the fifth largest importer. Indeed, of all recorded services imports globally in 2015, a full 4.5 per cent went to the UK (UNCTADStat 2017).

Figure 2 offers a snapshot of the composition of UK services imports, which include a significant travel component (i.e. tourists going abroad) but

are dominated by other commercial services and in particular other business services (led by research and development (R&D) services; business management and management consulting services; and advertising and market research services, alongside other business services including those imported by security dealers and between affiliated enterprises). Such services have underpinned the explosion of fragmented production networks that have changed the face of international trade over the past decade.

Based on the available data, we cannot ascertain specifically what services the UK is importing from LDCs (though the ONS may have unpublished information). However, we can assume travel/tourism makes up a leading component (at least in aggregate among all LDCs), as likely does IT-enabled services and related other business services. Lending credence to the possibility of unpublished bilateral data, ONS (2016) does rank all services trading partners (with flows over £1 million); the top five LDCs with services imports into the UK in 2015 were (in descending order) Bangladesh, Nepal, Afghanistan, The Gambia and Uganda. Significant concentration is observed among the LDCs, with Bangladesh and Nepal alone accounting for 35 per cent of reported LDC services

7 Other business services include research and development (R&D) services; professional and management consulting services; and technical, trade-related and other business services.

8 These include architectural, engineering, scientific and other technical services; waste treatment and de-pollution; agricultural and mining services; operating leasing services; trade-related services; and other business services not included elsewhere.

9 While the telecommunication figures appear to indicate relative LDC competitiveness in the sector, they are driven primarily by the rates LDC telecom providers charge on international traffic.

imports into the UK and the top five accounting for a full two-thirds. A word of caution again on such information: the mere availability (or lack thereof) of bilateral data may be introducing significant bias.

Overall, the top five countries/regions from which the UK imports services are (in descending order) the EU, the USA, Switzerland, Japan and India.

### The LDC services waiver

At the 8th World Trade Organization (WTO) Ministerial Conference in December 2011, WTO Members adopted a most-favoured nation waiver that enables any Member to provide preferential treatment to LDC services and service suppliers (i.e. to discriminate in their favour). Subsequent 'LDC packages' emanating from WTO Ministerial Conferences in 2013 and 2015 have sought to elicit a more robust response for putting in place truly preferential opportunities. However, almost six years later, little real progress has been achieved.

Depending on the preferred definition of a preference, assessments of the 24 preferences notified under the waiver vary. Those seeing preferences in terms of improvements over General Agreement on Trade in Services (GATS) schedules or Doha Development Agenda (DDA) offers and/or being on par with best-offered PTAs lean towards a relatively more positive outlook (of the 'important steps in the right direction' variety). As alluded to above, however, those who defines a preference as something that confers access, which is better than that available to all other countries (in applied or real terms), struggle to find much value in what has been offered to-date.

UNCTAD<sup>10</sup> undertakes a review of the first 23 notifications under the waiver.<sup>11</sup> Though complex and rather subjective in nature (and as such, per the explicit caveat included in this *Trade Hot Topic*, to be taken with due caution), this exercise provides the first detailed review of what has been offered to LDCs to date. Salient features include the following:

- A total of 48 per cent of notified preferences go beyond the almost 15-year-old offers under the DDA's GATS negotiations. A surprising 12 per cent offer access below these offers.
- A total of 68 per cent of notified preferences were assessed as being equal to the recent/best access offered to trading partners under preferential trade agreements (PTAs), with 25 per cent going

beyond that level. However, selectivity bias in the PTAs used for comparison in the exercise could lead to an overstating of these figures.

- By sector, notified preferences are most common in business services (including professional services), followed by transport and logistics services; recreational, cultural and sporting services; and distribution services. Other areas of LDC competitiveness, such as tourism, travel and construction services, are underrepresented.
- In terms of modes, it is no surprise that mode 4 constitutes the primary interest of LDCs. A full one-third of notified preferences touch on mode 4. However, in that mode 4 commitments (and preferences) are generally undertaken horizontally (i.e. across all or multiple sectors), the methodology of the review will lead to each mode 4 preference counting multiple times (and hence the one-third figure is an overstatement). Distribution across modes 1–3 are relatively even (though slightly higher in mode 3).
- In terms of the types of preference notified, market access issues (as defined under GATS Article XVI) dominate, at over 86 per cent of the total. The remaining 14 per cent largely extend national treatment to LDC services, with few offering more in-depth preferential regulatory treatment or support in conforming with domestic regulations or in meeting quality standards in foreign markets for LDCs. Select notifications include measures on capacity-building, including the construction of infrastructure for tourism and other services.

Looking beyond the mere existence of preferences notified and considering the extent of the preferences in modes 1, 3 and 4,<sup>12</sup> roughly 70 per cent of the preferences notified to-date remain qualified by limitations. Importantly, these are often related to regulatory and administrative matters. With this in mind, alongside the concentration of preferences in market access and the relative absence of some key sectors of LDC export interest, it is clear that there remains significant scope for greater ambition and targeting amongst potential preference-granting countries such as the UK.

### Notifications under the waiver: The UK

With an already relatively liberal GATS schedule, the UK's notified 'preferences' (as contained in the

10 UNCTAD (2016) *The LDC Waiver Operationalized?* Geneva: UNCTAD.

11 Panama has since notified preferences under the waiver.

12 This factors out mode 2 preferences, which were not an LDC priority and generally do not face significant market entry barriers.



EU's 96-page notification)<sup>13</sup> by and large align with its GATS/DDA commitments in most instances. As touched on above, however, *in most cases, this does not provide LDCs with better access than that which is available to other trading partners in applied terms.*<sup>14</sup> From this perspective, what has been notified by the UK to-date are not considered preferences in any true sense.

Looking only at modes 1, 2 and 3 (i.e. this does not apply to mode 4 commitments), the UK's notified preferences exceed its GATS commitments and/or its DDA offers in some material way in the following services sectors:

- Banking services
- Business services
- Construction services
- Cosmetic treatment, manicuring and pedicuring services
- Courier services
- Credit reporting services
- Duplicating services
- Hairdressing services
- Investigation services
- Leasing or rental services concerning personal and household goods
- Maritime agency services, maritime freight forwarding services, supporting services for maritime transport and other supporting and auxiliary services
- Maritime passenger and freight transportation (excluding national cabotage transport)
- Model agency services
- Other beauty treatment services (not elsewhere classified)
- Photographic and packaging services
- Postal and communication services
- Postal services
- Services auxiliary to rail transport (except where pushing and towing services)
- Services auxiliary to road transport
- Spa services and non-therapeutical massages
- Storage and warehousing services
- Veterinary laboratory and technical services supplied to veterinary surgeons, general advice, guidance and information
- Washing, cleaning and dyeing services

A seemingly impressive list, but in many of the above sectors the 'preference' is exclusively in mode 2,

where there are fewer barriers, and/or mode 3, wherein LDC suppliers are less able to undertake investments in the UK. More importantly, it would seem that none of the above offers LDC service suppliers a true preference vis-à-vis the applied regime facing all UK trading partners.

In the following sectors, the UK's notified preferences fall below its GATS/DDA offers:

- R&D services on social sciences and humanities;
- Placement services;
- Commission agents' services;
- Primary, secondary, higher and adult education services;
- Insurance and insurance-related services;
- Banking and other non-insurance financial services;
- Services auxiliary to air transport services (sales and marketing and computer reservation systems).

As is the case generally for the WTO membership, the above analysis confirms that the UK could do much more for LDC services firms under the waiver.

### Updating the UK's services preferences for LDCs

The advancement of Brexit presents a unique opportunity for the UK to reassert its leading role in maximising the scope for services trade to support LDC development aspirations, including the SDGs. Designing new and meaningful preferences for LDC services and service suppliers—preferences that confer tangible commercial advantages—would serve as an excellent starting point.

In this regard, it is essential that any UK effort to offer preferences to LDC firms starts from the understanding that a true preference must give LDC services and service suppliers better treatment than that which is available to other trading partners. A so-called 'preference' that represents an improvement only on paper is of no value. Moreover, any future preference notifications must be clear in demarcating the precise nature of the preference (i.e. how does it improve on what is available to anyone else).<sup>15</sup>

A useful ground-up approach for designing meaningful preferences would be to take on the perspective of (medium, small and micro) LDC service providers and attempt to understand the relevant real-world constraints they may face in trying to access the UK market (or in even contemplating

<sup>13</sup> S/C/N/840.

<sup>14</sup> A detailed comparison of the UK's notified 'preferences' relative to current applied services regimes would be a worthwhile (if extensive) exercise, however it lies outside the scope of the current analysis.

<sup>15</sup> A key LDC concern has been the format of preference notifications. The MC10 Waiver Decision (WT/L/982) offers additional guidance in this regard.

doing so). For example, a simulation exercise could be undertaken across a selection of key services sectors to assess the varying substantive requirements LDC services providers confront when trying to export to the UK. Having derived more detailed business insights, consideration could then be given to whether (and in what way) real preferential treatment could be provided.

Keeping this LDC service provider perspective, it is important to appreciate that even the smallest intervention, targeted appropriately, may be sufficient to induce risk-taking behaviour that might otherwise have been avoided. What may seem negligible to UK officialdom (e.g. a non-refundable application fee for securing recognition of qualifications) may be of paramount importance to the specific situation of an LDC services firm contemplating exporting to the UK.

Lastly, keep in mind that the waiver is but one (new and as-yet unexplored) tool in the market entry toolbox. To help catalyse longer-term structural transformation in LDCs, such efforts must be supported by extensive complementary measures, including through more services-oriented Aid for Trade initiatives that better target capacity weaknesses.<sup>16</sup>

In advancing on the design of UK services preferences for LDCs, the UK should establish a better baseline of preferences. First and foremost, to ensure at a minimum that LDCs receive treatment on par with the best offered elsewhere, any GATS or PTA commitment on services should be extended to LDCs under the waiver. Where possible, remove all but the most necessary market access restrictions in key sectors of LDC export interest. In addition, the UK should consider how it can similarly provide preferences in areas related to helping LDC suppliers overcome regulatory and administrative challenges. If a substantive preference is not feasible in a particular sub-sector or mode, consideration should be given to options for process facilitation. The UK may also wish to consider extending to LDCs the services commitments it has made under the WTO's Government Procurement Agreement.

The cornerstone of any UK preferential services regime (and as part of an enhanced effort to support LDC services trade more generally) should be the establishment of an LDC import facilitation mechanism (along the lines of CBI<sup>17</sup>). This has often been referred to in the waiver discussions as an

LDC 'Services Help Desk'. Such a mechanism could serve to enhance the relationship between the UK government, the UK business community and LDC service providers. It could also serve as an intake point for the kind of information needed to fine-tune existing and/or design future preferences. It could also serve as an essential conduit for informing and improving the UK's Aid for Trade in the services realm.

Such a help desk should be user-friendly and easily accessible (online and by phone) and provide straightforward information (i.e. structured with the needs of LDC providers in mind). It should also be a single interlocutor for LDC providers on all regulatory and administrative matters and questions pertaining to market access. For example, it could provide information on mode 4 matters most pertinent to LDC providers (including visa issues). It could also proactively inform LDC providers and their governments, and try to coordinate with them on their interests and ensure these are taken into account, in the context of proposed reforms, new laws and regulatory changes/developments; evolving standards (including voluntary industry standards); and compliance with regulatory developments regarding, among other things, the prevention of online fraud and data protection.

In terms of actual preferences (both horizontal and sector-specific) the UK will need to address constraints related to work permits and visas (in the context of mode 4 but also other modes of supply) as well as in the context of education and recognition of qualifications in various professional services sectors; accessing financial services; and providing other support measures. In this case, as in others, meaningful preferences could be substantive or procedural (so long as they help LDC providers better access the UK market). Specific steps could also be envisaged with respect to healthcare service suppliers, including nurses and midwives, communication services, education services, and tourism and travel-related services. Particular attention (for preferences and the help desk-mechanism) should be given to services sectors where enhanced LDC exports to the UK could have knock-on effects for enhanced participation in regional and global value chains (e.g. technical testing and analysis services, advertising, R&D, marketing, and aftermarket services).

16 See, for example, Hoekman, B. and Shingal, A. (2017) 'Aid for Trade and trade in services'. At: <http://voxeu.org/article/aid-trade-and-trade-services>

17 See <https://www.cbi.eu/about/>

# International Trade Policy Section at the Commonwealth Secretariat

This Trade Hot Topic is brought out by the International Trade Policy (ITP) Section of the Trade Division of the Commonwealth Secretariat, which is the main intergovernmental agency of the Commonwealth – an association of 52 independent states, comprising large and small, developed and developing, landlocked and island economies – facilitating consultation and co-operation among member governments and countries in the common interest of their peoples and in the promotion of international consensus-building.

ITP is entrusted with the responsibilities of undertaking policy-oriented research and advocacy on trade and development issues and providing informed inputs into the related discourses involving Commonwealth members. The ITP approach is to scan the trade and development landscape for areas where orthodox approaches are ineffective or where there are public policy failures or gaps, and to seek heterodox approaches to address those. Its work plan is flexible to enable quick response to emerging issues in the international trading environment that impact particularly on highly vulnerable Commonwealth constituencies – least developed countries (LDCs), small states and sub-Saharan Africa.

## Scope of ITP Work

ITP undertakes activities principally in three broad areas:

- It supports Commonwealth developing members in their negotiation of multilateral and regional trade agreements that promote development friendly outcomes, notably their economic growth through expanded trade.
- It conducts policy research, consultations and advocacy to increase understanding of the changing international trading environment and of policy options for successful adaptation.
- It contributes to the processes involving the multilateral and bilateral trade regimes that advance more beneficial participation of Commonwealth developing country members, particularly, small states and LDCs and sub-Saharan Africa.

## ITP Recent Activities

ITPs most recent activities focus on assisting member states in their negotiations under the WTO's Doha Round and various regional trading arrangements, undertaking analytical research on a range of trade policy, emerging trade-related development issues, and supporting workshops/ dialogues for facilitating exchange of ideas, disseminating informed inputs, and consensus-building on issues of interest to Commonwealth members.

## Selected Recent Meetings/Workshops Supported by ITP

23-24 October 2017: Inaugural Meeting of the Commonwealth African Trade Negotiators Network held in Cape Town, South Africa.

26 - 29 September 2017: Commonwealth Working Group on Trade and Investment, held in London, United Kingdom.

12 July 2017: Enhancing Connectivity to Enable Graduation with Momentum in LDCs, Global Aid for Trade Review held in Geneva, Switzerland in collaboration with UNCTAD.

26-27 June 2017: Emerging Global and Regional Trade Issues for the Caribbean, St. Lucia.

6 June 2017: Trade in Fish Related Aspects of SDG 14: What Next?, held in New York, United States in collaboration with UNCTAD and WTO.

25 - 26 May 2017: African Regional Consultation on Multilateral, Regional and Emerging Trade Issues, held in Port Louis, Mauritius.

5 May 2017: Making UK Trade Work for Development Post-Brexit, Expert Group Workshop held in Oxford, United Kingdom in collaboration with the Blavatnik School of Government.

21 - 22 March 2017: Ad Hoc Intergovernmental Expert Meeting: Trade-related Fisheries Targets under Sustainable Development Goal 14, held in Geneva, Switzerland in partnership with UNCTAD, FAO, UNEP, ACP, IOI.

10 March 2017: Commonwealth Trade Ministers' Roundtable Meeting held in London, United Kingdom.

10 - 12 November 2016: Workshop on Productive Capacity and LDC Graduation, held in Beijing, China in partnership with UN DESA and Peking University.



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