

Nepal's LDC Graduation: An Assessment of Implications for Trade Sector

POSH RAJ PANDEY

SOUTH ASIA WATCH ON TRADE ECONOMICS AND ENVIRONMENT (SAWTEE)

KATHMANDU, NEPAL

PRESENTED AT

HIGH LEVEL DISCUSSION ON MULTILATERAL TRADING SYSTEM AND LDC GRADUATION

ORGANIZED BY

MINISTRY OF INDUSTRY, COMMERCE AND SUPPLIES

GOVERNMENT OF NEPAL

7 AUGUST 2019

KATHMANDU

Structure of Presentation

- ✓ What does it mean to be an LDC?
- ✓ How international community supports LDCs?
- ✓ What are the inclusion and graduation criterion? Who are the LDCs?
- ✓ Where does Nepal stand?
- ✓ What is the graduation process?
- ✓ What would be the impact of graduation?
- ✓ How to move forward?

Meaning of Being LDC

- ✓ Low income and unstable economic growth,
- ✓ High inequality,
- ✓ Low productive capacity,
- ✓ Low human capacity,
- ✓ High vulnerabilities to economic, natural and environmental shocks and disasters,
- ✓ Low financial resources,
- ✓ Ineffective governance,
- ✓ Marginalization in global economy

How International Community Supports LDCs?

- ✓ Trade –related support measures
 - ✓ Preferential market access for goods
 - ✓ Preferential treatment for service and service suppliers
 - ✓ Special treatment regarding obligations and flexibilities under WTO rules
- ✓ Development cooperation
- ✓ Exclusive mechanism for LDCs

Trade –related support measures

Preferential Market Access for Goods (1)

Market	Description	Duty free tariff line coverage and major exclusions
Australia	Duty-free, quota-free entry (DFQF) for LDCs Entry into force: 1 July 2003	100 percent
Canada	Generalized System of Preference (GSP) Least Developed country Tariff Programme (LDCT) Entry into force: 1 January 2000 Extended until 31 December 2024	98.6 percent (Exclusion: dairy and other animal products, meat, meat preparation, cereal products)
Chile	DFQF scheme for the LDCs Entry into force: 28 Feb 2014	99.5 percent (Exclusion: cereals, sugar, milling products)
China	Duty free treatment for LDCs Entry into force: 1 July 2010	96.6 percent (Exclusion: chemicals, transport vehicles, machinery and mechanical appliances, electrical machinery, paper)

Trade –related support measures

Preferential Market Access for Goods (2)

Market	Description	Duty free tariff line coverage and major exclusions
European Union	GSP- Everything But Arms (EBA Initiative) Entry into force: 5 March 2001	99.8 percent (Exclusion: arms and ammunition)
Iceland	GSP- Tariff preference for world's poorest countries Entry into force: 29 January 2002	91.8 percent (Exclusion: meat, food preparation, vegetables, dairy and other animal products, plants and trees)
India	Duty Free Tariff Scheme (DFTP) Entry into force: 13 Aug 2008	94.1 percent (Exclusion: plastics, coffee and tea, alcoholic beverages, tobacco, food residues)
Japan	GSP- Enhanced duty and quota free market access Entry into force: 1 April 2007 Extended until 31 March 2012	97.9 percent (Exclusion: fish and crustaceans, footwear, milling products, cereal products, sugar)
Korea, Republic of	Presidential Decree on Preferential Tariff for LDCs Entry into force: 1 January 2000	89.9 percent (Exclusion: fish and crustaceans, mineral fuels, oil seeds and oleaginous fruits, wood products, vegetables)

Trade –related support measures

Preferential Market Access for Goods (3)

Market	Description	Duty free tariff line coverage and major exclusions
New Zealand	GSP- Tariff Treatment for LDCs Entry into force: 1 July 2001	100 percent
Norway	GSP- DFQF market access Entry into force: 1 July 2002	100 percent
Russian Federation	GSP scheme in the context of the Customs Union between Belarus, Kazakhstan and the Russian Federation Entry into force: 13 Aug 2008	37.1 percent (Exclusion: machinery and mechanical appliances, chemicals, electrical machinery, iron and steel products, transport vehicles)
Switzerland	GSP- Revised Preferential Tariff Ordinance Entry into force: 1 April 2007	100 percent
Chinese Taipei	Duty- free treatment for LDCs LDCs Entry into force: 17 December 2003	30.8 percent (Exclusion: machinery and mechanical appliances, chemicals, electrical machinery, fish and crustaceans, plastics)

Trade –related support measures

Preferential Treatment for Services and Service Suppliers

- ✓ ‘Service Waiver’ of Eighth Ministerial Conference, 2011, until December 2030
- ✓ 24 notifications from 23 countries and the EU indicating preferential treatment on sectors and modes of supplies

Member	Symbol	Member	Symbol
Australia	S/C/N/805	Mexico	S/C/N/821
Brazil	S/C/N/839	New Zealand	S/C/N/813
Canada	S/C/N/792/Rev.1	Norway	S/C/N/806
Chile	S/C/N/834	Panama	S/C/N/890
China	S/C/N/809	Singapore	S/C/N/812
European Union	S/C/N/840	South Africa	S/C/N/853
Hong Kong, China	S/C/N/810	Switzerland	S/C/N/819
Iceland	S/C/N/835	Chinese Taipei	S/C/N/811
India	S/C/N/833	Thailand	S/C/N/860
Japan	S/C/N/820	Turkey	S/C/N/824/Rev.1
Korea, Rep. of	S/C/N/808	United States	S/C/N/825
Liechtenstein	S/C/N/841	Uruguay	S/C/N/857

Trade –related support measures Special Treatment Regarding Obligations and Flexibilities under WTO Rules (1)

Agreement / Decision	Flexibilities
Understanding on the Balance of Payments Provision of GATT	Simplified procedures when invoking trade restrictions for BoP reason (para 8)
Agreement on Agriculture	<p>LDCs and net food importing developing countries may provide certain export subsidies until the end of 2030 (Article 9.2, most recent extension in G/AG/5/Rev.10)</p> <p>Longer repayment for export financing support (WT/MIN(15)/45-WT/L/980)</p> <p>Less frequent notification to WTO regarding domestic support (G/AG/2)</p>

Trade –related support measures

Special Treatment Regarding Obligations and Flexibilities under WTO Rules (2)

Agreement / Decision	Flexibilities
Sanitary and Phytosanitary (SPS) Measures	<p>Priority for technical assistance (Article 9.1). The Standards and Trade Development Facility (STDF) has a target of dedicating at least 40 percent of total project financing allocated to LDCs or other low-income countries</p> <p>Lower co-financing requirement for technical assistance. Beneficiaries from LDCs and OLICs contribute at least 10 percent of the requested STDF contribution to a project, as opposed to 20 percent for lower middle-income countries and 60 percent for upper-middle income countries</p>
Agreement on Subsidies and Countervailing Measures	LDCs (and other countries with GNI per capita below US\$ 1000 in constant 1990 dollars) are exempted from the prohibition of export subsidies (Article 27.2 and Annex VII of the Agreement and paragraph 10.1 of the Doha Ministerial Decision on Implementation Related issues and Concerns (WT/MIN(0)/17)

Trade –related support measures Special Treatment Regarding Obligations and Flexibilities under WTO Rules (3)

Agreement / Decision	Flexibilities
Trade Facilitation Agreement	<p>Longer notification time frame until 22 February 2020 for Category B measures; until 22 February 2021 for indicative dates and definitive dates; by 22 August 2022 for category C measures (Article 15 and 16)</p> <p>Longer deadlines under the early warning mechanism, in case an LDC has difficulties in implementing categories B and C measures (Article 17)</p> <p>Longer time frame (4 years rather than 18 months) for new implementation dates for measures shifted from category B to category C before approval from the Trade Facilitation Committee is required (Article 19)</p> <p>Longer grace period from dispute settlement (until 22 February 2023 for category A measures, and 8 years from the date of implementation of category B or C measures (Article 20)</p>

Trade –related support measures Special Treatment Regarding Obligations and Flexibilities under WTO Rules (4)

Agreement / Decision	Flexibilities
Trade-Related Aspects of Intellectual Property Rights (TRIPS)	<p>Exemption from applying all substantive TRIPS standards until 1 July 2021. (Article 66.1, latest extension IP/C/64)</p> <p>Exemption from providing protection for pharmaceutical patents, from providing the possibility of filing mailbox applications and from granting exclusive marketing rights until 1 January 2033. (IP/C/73 and WT/L/971)</p> <p>Waiver from notification requirements for issuing compulsory licenses for exports of pharmaceutical products to LDCs or other countries with insufficient manufacturing capacities in the pharmaceutical sector (Article 31 bis)</p>

Trade –related support measures

Special Treatment Regarding Obligations and Flexibilities under WTO Rules (5)

Agreement / Decision	Flexibilities
Dispute Settlement Understanding	<p>LDCs can request the Director-General of the WTO or the Chairman of the Dispute Settlement Body to provide their good offices, conciliation and mediation for settling disputes (Article 24)</p> <p>Free legal advice from the Advisory Center on WTO Law (ACWL) (article 27.7)</p>
Trade Policy Review Mechanism	<p>LDCs may have a longer period between trade policy reviews than other countries (Annex 3)</p>

Development Cooperation

- ✓ Commitment in bilateral ODA flows to LDCs
- ✓ Multilateral development cooperation

LDC-Specific Mechanisms

- ✓ Access to technology: LDC Technology Bank
- ✓ Climate change: work programme for LDCs and LDC Fund
- ✓ Aid for Trade: Enhanced Integrated Framework
- ✓ Investment Support Programme: UNCDF, IDLO and UN-OHRLLS
- ✓ Support to participation in the United Nations and other international forum

Flexibilities in Regional Groups

- ✓ **South Asian Free Trade Agreement (SAFTA)**
 - ✓ Nepal has maintained long sensitive list as an LDC member,
 - ✓ Members have smaller sensitive lists for LDCs and India provides DFQF market access,
 - ✓ There are less stringent rules of origin for LDCs
 - ✓ There are special considerations on the application of anti-dumping and/or countervailing measures against LDCs
 - ✓ There are special provision not to be applied special safeguard measures against products originating in LDC contracting states,
- ✓ **The BIMSTEC Free Trade Area** (yet to come into force)
 - ✓ It has less stringent rules of origin for LDCs. The rules of origin applicable to LDC will be 30 per cent plus a change in tariff sub-heading (CTSH), while as a non-LDC the requirement will be 40 per cent,

LDC Criterion: Inclusion and Graduation

GNI per capita

Human assets index (HAI)

- Percentage of population undernourished
- Under-five mortality rate
- Maternal mortality ratio

- Gross secondary school enrolment ratio
- Adult literacy rate

Economic vulnerability index (EVI)

- Population
- Remoteness
- Merchandise export concentration
- Share of agriculture, forestry and fisheries in GDP
- Share of population in low elevated costal zones

- Victims of natural disasters
- Instability of agriculture production
- Instability of exports of goods and services

LDC Criterion: Inclusion and Graduation

✓ Income

- The inclusion threshold is set at the three-year average of the level of GNI per capita, which the World Bank defines for identifying low-income countries. At the 2018 review it was \$ 1,025.
- The graduation threshold is set at 20 per cent above the inclusion threshold. At the 2018 review it was \$ 1,230.
- The income-only graduation threshold is twice the graduation threshold. At the 2018 review it was \$ 2,460.

LDC Criterion: Inclusion and Graduation

✓ Human Assets Index (HAI)

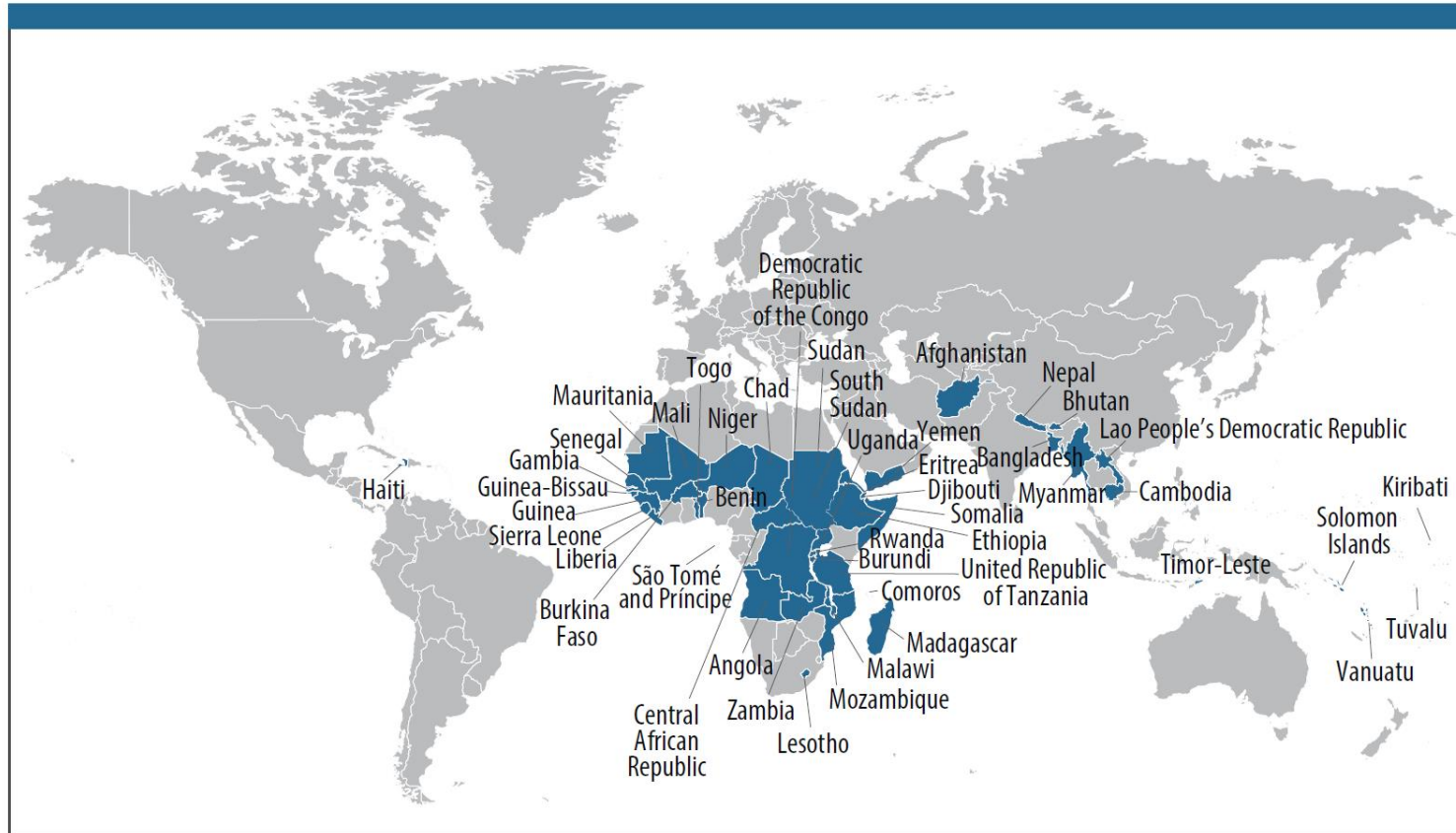
- The inclusion threshold has been set at 60.
- The graduation threshold has been set at 10 per cent above the inclusion threshold at 66.

LDC Criterion: Inclusion and Graduation

- ✓ **Economic Vulnerability Index (EVI)**
 - The inclusion threshold has been set at 36
 - The graduation threshold has been set at 10 per cent below the inclusion threshold at 32

Geography of LDCs

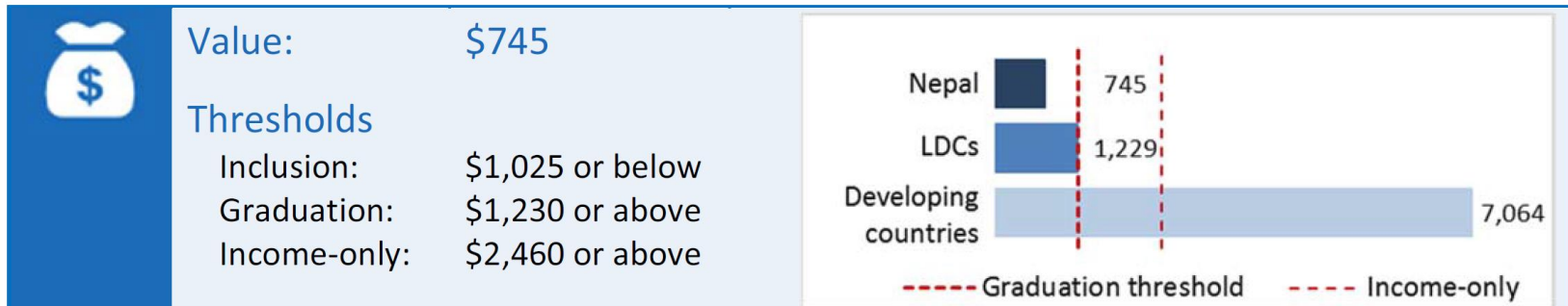
Map of least developed countries in 2018



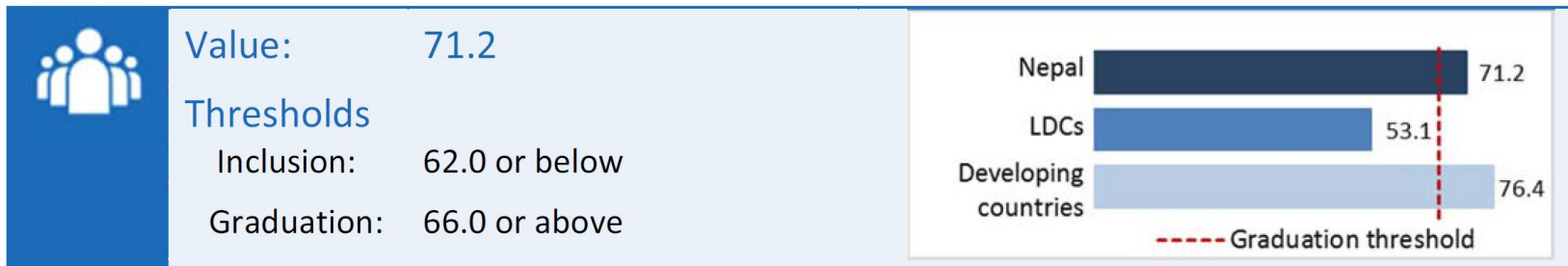
Source: United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS).

Where does Nepal Stand?

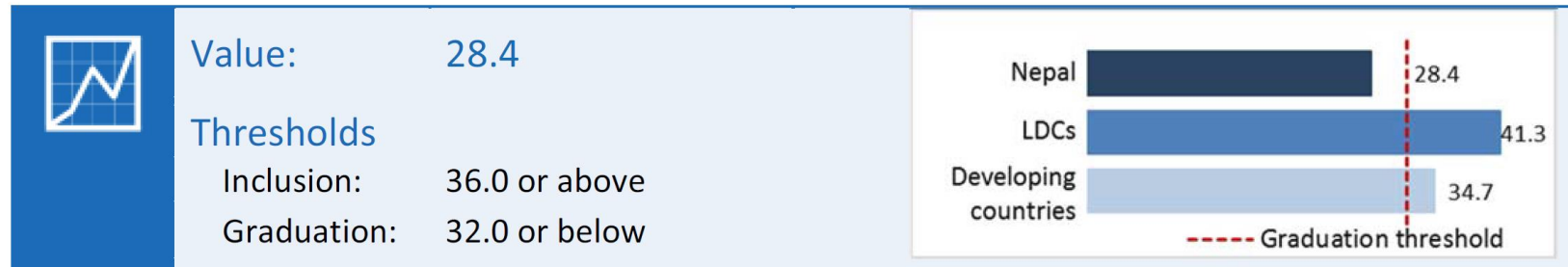
Gross national income (GNI) per capita*



Human assets index (HAI)*



Economic vulnerability index (EVI)*



Some Facts on LDC Graduation

<u>Graduated Countries</u>	<u>Year Of Graduation</u>
- Botswana	1994
- Cabo Verde	2007
- Maldives	2011
- Samoa	2014
- Equitorial Guinea	2017

<u>Countries Expected To Graduate In 2021</u>
- Bhutan
- Kimbati
- Sao Tome & Principe
- Soloman Islands

<u>Countries Recommended For Graduating</u>	<u>Year Of Graduation</u>
- Angola	2020
- Vanuatu	2021
- Tuvalu*	

<u>Countries Expected To Graduate In 2024</u>
- Bangladesh
- Lao PDR
- Myanmar
- Nepal
- Timor-Leste

Nepal in Graduation Process

Timeline	LDC graduation procedure
The 2015 CDP review in March 2015	CPD found Nepal eligible for graduation from the LDC category for the first time. UN-DESA notify GoN its initial findings.
Between 2015 CDP review and 2018 CDP review	UNCTAD prepared a vulnerability profile and handed over the report to GoN. UN-DESA prepared an ex-ante impact assessment and handed over the findings to GoN. GoN (NPC) provided comments on the findings.
The 2018 CDP review	CPD found Nepal eligible for graduation from the LDC category for the second time. Nepal requested CDP to withhold graduation process and not to recommend.

Nepal in Graduation Process

Timeline	LDC graduation procedure
The 2021 CDP review	<p>UN-DESA to confirm Nepal's eligibility for graduation from the LDC category and to submit the CDP recommendations to UN ECOSOC.</p> <p>UN ECOSOC likely to endorse the CDP recommendations.</p> <p>UN General Assembly to take note of CDP recommendations.</p>
Between subsequent two CDP reviews (2021-24)	<p>Nepal to set up a consultative mechanism and prepare a transition strategy.</p> <p>UNDP expected to facilitate the consultative group and provide support upon request. UN system expected to provide targeted assistance and capacity building upon GoN request.</p> <p>Development and trading partners expected to participate in the consultative mechanism with Nepalese policy makers.</p> <p>CDP to continue monitoring Nepal's development progress during the interim period and report annually to UN ECOSOC</p>

Nepal in Graduation Process

Timeline	LDC graduation procedure
The 2024 CDP review	Graduation becomes effective and Nepal graduates out of the LDC category.
Following graduation (2024-2027)	<p>Nepal expected to implement and monitor the transition strategy. Nepal to volunteer to submit the CDP progress reports on the implementation of the strategy on an annual basis for the first three years after graduation and at the two subsequent triennial reviews.</p> <p>CDP to monitor Nepal's socio-economic progress. Nepal to report to UN ECOSOC annually for the first three years after graduation and the two subsequent triennial reviews.</p>

Implications of Graduation (1)

✓ Preference erosion

Country	Preferential exports in total exports (percent)	Total export value Rs. million
Australia	99.7	734
Canada	81.4	895
Chile	0	9
China	35.6	2109
EU	93.5	7832
Japan	94.2	1061
Korea	69.9	226
Switzerland	69.3	453
USA	91.2	10,848

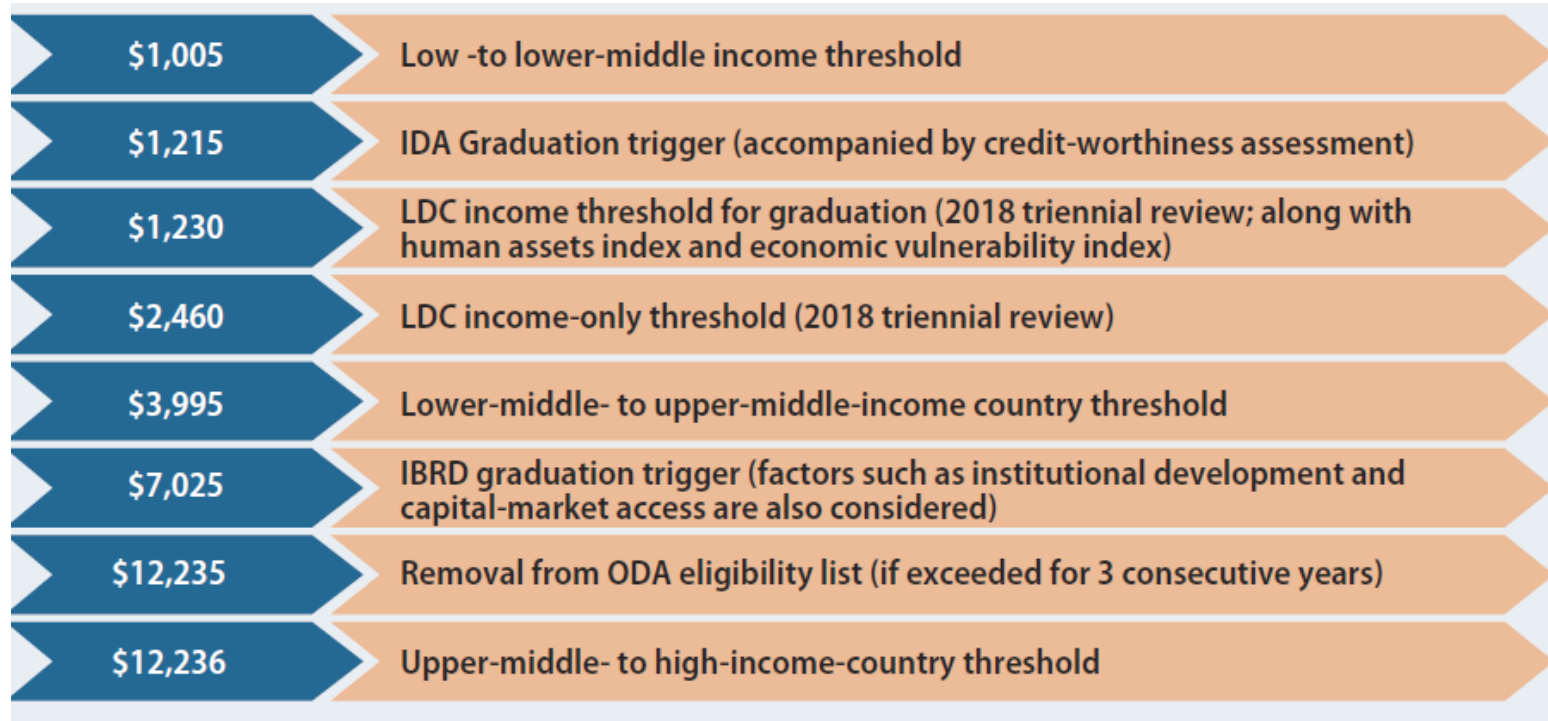
✓ Rules of origin

Implications of Graduation (2)

- ✓ No preferences in rules of origin: issues for value addition and transformation,
- ✓ Upon graduation, Nepal would no longer have access to preferential treatment under the services waiver,
- ✓ Special treatment and flexibilities under WTO rules
 - ✓ TRIPs Agreement: Technology transfer, transition period, public health
 - ✓ AoA and Agreement on Subsidies and Countervailing Measures : Certain export subsidies
 - ✓ Dispute Settlement Understanding: due restraints
 - ✓ Trade-Related Investment Measures (TRIMS): TRIMS-inconsistent measures
 - ✓ Future negotiations,
 - ✓ Capacity-building, training, etc

Moving Forward (1)

- ✓ Realize and internalize LDC graduation is a milestone not a winning post, there are other graduation thresholds



Moving Forward (2)

- ✓ Ensure national ownership of graduation: constitute inter-ministerial LDC graduation task force, rope in all relevant constituencies,
- ✓ Make sure private sector is consulted in all major decisions, after all it is private sector that manufactures and trades and is most affected,
- ✓ Assess the implication of graduation on each of the sectors individually,
- ✓ Prepare smooth transition strategies identifying requirements of further concessions, preferences flexibilities in market access, development finance, regional and multilateral trade rules, technical assistance and capacity building

Thank you

for

your kind attention.

comments/suggestions

at

posh.pandey@sawtee.org



Sources: Various publications of UN-DESA, UNCTAD, WTO, World Bank, NPC/GoN, DoC/GoN and NRB.