Meeting the Challenges of Graduation from LDC status in 2026.

FBCCI Submission on Sustainable Export Development, Subsidies and Incentives.

Major Challenges of Export by 2026 and beyond: Bangladesh will have to face the challenging task of exporting on MFN tariff after graduation out of the list of LDCs in 2026, as unilateral GSP schemes, 85% of our export destinations will be terminated except for EU which will be extended for three more years under the present terms.

Against predicted export shocks due loss of trade preferences Bangladesh, to protect its long term trade interests, should immediately begin negotiations with trading partners for extension of ISM, hermonaization of trade rules and deepening post GSP mutual trade relations through FTAs on reciprocal terms of respective tariff schedules.

Export Subsidy and Incentives: WTOSCM Agreement contains no provision regarding LDC graduation, graduating LDCs will no longer be able to continue to provide export subsidies for non-agricultural products after they leave the LDC category.Only two graduating LDC members — Bangladesh and Nepal — would be affected by the loss of this LDC flexibility.

The SCM Agreement prohibits the use of export subsidies for non-agricultural products. But pursuant to Article 27.2 and Annex VII(a), LDC members are exempt from the prohibition of export subsidies. In addition to the LDCs, developing country members that are listed in Annex VII (b) are also exempt from this prohibition until their GNI per capita reaches US$1,000 in constant 1990 dollars. **After graduation, countries are no longer permitted to provide export subsidies for non-agricultural products.**

GNI per capita of graduating LDC members of WTO, at constant 1990 dollars,

1990 and 2015–2017 of Graduating LDCs

WTO member		WTO member		WTO member
Bangladesh	**210**	**533**	**561**	**587**
Nepal	180	352	350	372
Lao PDR	200	644	681	710
Solomon Islands	590	954	938	947
Vanuatu	1,100	1,153	1,189	1,215

However, Bangladesh's nominal GNI per capita is expected to cross the $1000 (at constant 1990 dollars) thresholds by 2026-2029 period as such Bangladesh will not benefit from the SCM exemptions after graduation.

WTO & WCO Disciplines on Subsidy and SEZ: The World Customs Organization's Revised Kyoto Convention codifies international standards for this practice. The Convention defines "free zone" as "*a part of the territory of a Contracting Party where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the customs territory*.

The WCO's Specific Annex D, Chapter 2 state: *"Goods manufactured in a free zone are often exported. Since exports are generally exempt from duties and taxes, this facilitates and encourages the development of external trade. Domestic goods meant for export can also be admitted to free zones and become entitled to exemption from or repayment of internal duties and taxes."*

GATT Article XVI and the SCM Agreement, footnote 1, exclude national measures that exempt exported products from duties and taxes from the definition of "subsidy":*In accordance with the provisions of Article XVI of GATT 1994 (Note to Article XVI) and the provisions of Annexes I through III of this Agreement, the exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy.*

The following Measures are excluded from the definition of "subsidy" in the WTO SCM Agreement:

1. Exemption of exported products from import duties;
2. Exemption of exported products from indirect taxes;
3. Exemption of goods consumed in the production process from import duties and indirect taxes when the end products are exported;
4. Exemption of production waste from import duties and indirect taxes when the waste is exported or discarded;
5. Exemption of goods stored in SEZs from duties and indirect taxes; and
6. Non-specific subsidies, including generally applicable tax rates imposed by national, regional and local government authorities.

WTO prohibited subsidies

1. A direct subsidy contingent on export performance;
2. Currency retention schemes involving a bonus on exports;
3. Preferential transport and freight charges for export shipments;
4. Provision of domestic products and services for exports at terms more favorable than those for domestic goods;
5. Exemption, remission or deferral of direct taxes or social welfare charges if contingent on exports;
6. Allowance of special direct tax deductions for exports above those granted on goods for domestic consumption;
7. Exemption or remission of indirect taxes on exports in excess of those on goods sold for domestic consumption;
8. Exemption, remission or deferral of prior stage cumulative taxes on goods or services used in the production of exported products in excess of products sold for domestic consumption (except for the exemption, remission or deferral of such taxes on "inputs consumed" in the production process);
9. Provision of export credit guarantees or insurance programs at premium rates inadequate to cover long-term costs;
10. Grants of export credits at rates below those which they pay for the funds, or at below market rates, or payment of all or part of the costs of obtaining credit; and
11. Subsidies contingent on the use of domestic over imported goods.

SEZ measures that are WTO consistent (green measures)

Measure	Explanation
Measures imposed by non-governmental organizations, including incentives to businesses locating in SEZs.	WTO disciplines do not apply to measures applied by private sector organizations, such as private SEZ operators, unless they are carrying out a governmental directive or the benefit is funded by government.
Exemption of exported products from import duties	The exemption of products exported to other countries from an SEZ from duties is not a “subsidy”. SCM Agreement, footnote 1
Exemption of exported products from indirect taxes	The exemption of a product exported to other countries from an SEZ from indirect taxes is not a

	"subsidy". SCM Agreement, footnote 1. (Indirect taxes are sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes, and all taxes other than direct taxes and import charges. SCM Agreement, footnote 58.)
Exemption of goods used in the production process from duties and indirect taxes when the end products are exported (as long as indirect tax exemption does not exceed that accorded to goods produced for domestic consumption).	The exemption of production goods incorporated in end products that are subsequently exported to other countries from duties and indirect taxes is based on SCM Agreement, footnote 1 and Annex 1(h).
Exemption of production waste from duties and indirect taxes when the waste is exported to other countries.	The exemption of production waste from duties and taxes when exported is based on SCM Agreement, footnote 1 and Annex 1(h). (Exported production waste is a "product".) Production waste entered into the customs territory is subject to duty and taxes, depending on its value.
Exemption of goods stored in SEZs from duties and indirect taxes.	Zones outside the "customs territory" of the country where they are physically located are recognized by multilateral agreement (WCO Revised Kyoto Convention, Specific Annex D, chapter 2) and customary international law. Duties and indirect taxes are normally not applied in these "free areas".
Non-specific subsidies, including generally applicable tax rates imposed by national, regional and local government authorities.	Subsidies are non-specific if they are based on objective criteria or conditions and eligibility is automatic. Nation-wide programs are non-specific. National programs limited to designated regions, or a limited number of enterprises are specific. However, generally applicable tax rates are non-specific,

SEZ measures that are WTO illegal (red measures)

Measure	Explanation
Direct subsidy contingent on export performance (e.g., cash payments are given by government based upon export performance).	Prohibited by SCMA Article 3.1(a) and Annex I(a).
Currency retention schemes involving a bonus on exports (e.g., SEZ exporters are allowed to retain foreign currency based on export performance).	Prohibited by SCMA Article 3.1(a) and Annex I(b).
Internal transport and freight charges more favorable for export shipments than for domestic shipments (if mandated by government)	Prohibited by SCMA Article 3.1(a) and Annex I(c).
Provision by government of domestic products or services for use in production of exported goods on terms more favorable than for production of domestic goods (if the terms are more favorable than those commercially available on world markets) (e.g., a government provides electricity and other utilities for businesses in an SEZ at lower rates than for businesses outside the SEZ, and limits or prohibits imports from the SEZ for domestic consumption (i.e., consumption in the non-SEZ portion of the Member's territory) and/or imposes export requirements).	Prohibited by SCMA Article 3.1(a) and Annex I(d).
Full or partial exemption, remission or deferral of direct taxes or social welfare charges imposed on businesses if contingent on exports (e.g., a government provides tax incentives to businesses in an SEZ and prohibits or limits imports from the SEZ for domestic consumption and/or imposes export requirements).	Prohibited by SCMA Article 3.1(a) and Annex I(e).
Allowance of special direct tax deductions directly related to exports above those granted for domestic production (this applies Annex I(e) to tax deductions).	Prohibited by SCMA Article 3.1(a) and Annex I(f).

Exemption or remission of indirect taxes on exports in excess of those levied on goods sold for domestic consumption (e.g., the VAT rate on a good sold for domestic consumption is 20%, while the exporter receives a VAT rebate of 25% when it exports the same product).	Prohibited by SCMA Article 3.1(a) and Annex I(g).
Exemption, remission or deferral of prior-stage cumulative indirect taxes on goods or services used in the production of exported products in excess of products sold for domestic consumption (e.g., exemption from sales tax on transport charges for an intermediate component used in an SEZ manufacturing process for a final product that is exported, where no such exemption is given on the transport of the same kind of component to a domestic manufacturer not located in the SEZ). Note: this provision is not applicable to products consumed in the production of exported products, consistent with Annex II	Prohibited by SCMA Article 3.1(a) and Annex I(h) and Annex II.
Provision by governments of export credit guarantee or insurance programs at premium rates inadequate to cover long-term costs	Prohibited by SCMA Article 3.1(a) and Annex I(j).
Government grants of export credits at rates below those which they pay for the funds, or at below market rates, or payment of all or part of the costs in obtaining credits. However, export credit practices in conformity with certain international agreements are exempt.	Prohibited by SCMA Article 3.1(a) and Annex I(k).
Legal provisions that allow output from the SEZs to be treated as "domestic production" based on local content or other criteria without application of national import duties and taxes when imported for domestic consumption.	Prohibited by SCMA Article 3.1(b). All exemptions have expired except for those negotiated in accessions. See Article 27.3.
Subsidy contingent on the use of domestic over imported goods.	Prohibited by SCMA Article 3.1(b) except for those negotiated for

	accessions. All exemptions have expired. See Article 27.3.
Certain countries are accorded preferential treatment by government directive. Example: Duty and sales tax exemptions on goods exported from SEZ are only granted if the goods are exported to certain Members.	Prohibited by GATT Article I, unless preference is justified pursuant to a regional trade agreement (GATT Article 24). There are no exemptions for developing countries
Domestic goods are given preference over foreign goods by government directive. Example: An SEZ is required by government to use domestic inputs when manufacturing goods for export.	Prohibited by GATT Article III. SCM Agreement, Article 3.1(b) prohibits subsidies contingent upon the use of domestic over imported goods. There are no exemptions
Fees or taxes on imports or exports exceed the cost of services provided by government. Example: A customs processing fee imposed by government in connection with SEZ operations exceeds the cost of the services rendered. .	Prohibited by GATT Article VIII(1). Fees and charges must be limited to the approximate cost of services rendered. There are no exemptions for developing countries
Import and export laws and regulations that are not published and made publicly available by Internet or otherwise. Example: An SEZ operates without published regulations and procedures.	Prohibited by GATT Article X. There are no exemptions for developing countries.
Quotas and/or export or import licenses are used to restrict trade. Example: A government imposes a quota on the importation of electronic consumer products and requires import licenses as a condition of importation.	Prohibited by GATT Article XI unless subject to the three exceptions in Article XI and the exceptions in GATT XII (balance of payments), GATT XX (general exceptions) and GATT XXI (security exceptions), and the Agreement on Safeguards. Import licenses are

	subject to the provisions of the Agreement on Import Licenses. SDT treatment may be available in “exceptional circumstances” under GATT XXV and the Enabling Clause.
Government requires purchase or use of domestic products, whether specified in terms of volume, value of products or proportion of volume or value of local production.	Prohibited by TRIMs Annex 1(a). Also prohibited by GATT Article III
Government limits enterprise’s purchases or use of imported products to an amount related to the volume or value of the local products that it exports.	Prohibited by TRIMs Annex 1(b). Also prohibited by GATT Article III.
Government quantitative restrictions for which no exemption is applicable that restrict imports used in local production based upon the value of the local production that it exports.	Prohibited by TRIMs Annex 2(a) and GATT Article XI.
Government restrictions of imports by restriction access to foreign exchange to an amount related to foreign exchange inflows attributable to the enterprise.	Prohibited by TRIMs Annex 2(b) and GATT Article XI.
Government restrictions on exports by an enterprise based upon the volume or value of its local production.	Prohibited by TRIMs Annex 2(c) and GATT Article XI.

WTO DSB Report WT/DS541/R : 31 October 2019 ruled the following measures as illegal:-

1. the Export Oriented Units (EOU) Scheme and Sector-Specific Schemes, including the Electronics Hardware Technology Parks (EHTP) Scheme and the Bio-Technology Parks (BTP) Scheme (the EOU/EHTP/BTP Schemes);
2. the Merchandise Exports from India Scheme (MEIS);
3. the Export Promotion Capital Goods (EPCG) Scheme;
4. the Special Economic Zones (SEZ) Scheme; and
5. the Duty-Free Imports for Exporters Scheme (DFIS).

Sustainable Export Facilitation: Harmonization of Mutual Trade Regulations & Facilitation Measures:

Establishment of Mutual Institutional Cooperation: Bangladesh should take up joint action plan for harmonization of mutual trade rules, regulatory measures and streamline bilateral institutional cooperation in the respective fields including the Central Banks, Customs Authority, Quality and Standards Body and others;

Harmonization of TBT and SPS Measures: Bangladesh should actively engage with the trading partners to ensure harmonization of TBT and SPS measures and signing of MRA to streamline flow of traded goods and services so that Certificates on Technical Regulations & Standards issued by the respective accredited national bodies are accepted on basis of MRA mutually agreed upon**.**

Mutual Trade Facilitation: Bangladesh should take up a proactive joint action plan with the trading partners for respective Customs Cooperation Agreement to facilitate mutual trade as envisaged in the WTO Trade Facilitation Agreement and WCO protocols and annexes including gradual harmonization of customs documentation and clearance procedure.

Sectoral Accredited Certification Bodies preferably on PPP basis should be established to expedite global recognition of our certificates on standards and quality of products, services, educational and professional qualifications ; and Setting up common testing laboratories in each economic zone and clusters assigned to specific sectors.

Integration of CMSMEs with Global Value Chain: To boost the process of integration of CMSMEs with the global market and compete with global e-commerce, Bangladesh, Like China, India and Vietnam and others, should take up PPP pilot projects to set up warehouses and distribution network in destination markets for easy and regular delivery of products to the wholesalers, retailers and consumers.

Domestic Measures: To achieve our trade and economic development agenda Vision 2021-2041, SDG-2030 goals and mitigate the challenges of graduation out of the UN list of LDCs it is imperative for Bangladesh to reform and streamline its supply and demand-side trade and economic policies and business friendly regulatory regimes along with hard and soft Infrastructure.

The following global practices for export promotion, compatible with the WTO agreements and practiced worldwide, should also be followed by Bangladesh. The next Budget should provide necessary financial allocation and appropriate regulatory procedures for the purpose.

Integrated Import and Export Policy: The existing Import and Export policy regimes 2015-June 30, 2018 are required to be updated to meet the challenges of time and should be formulated as an **integrated import and export** regulations under section 3 (1) of the Imports and Exports (Control) Act, 1950 to provide for simplification, reduction and removal of red-tape and discrimination, unnecessary costs and time to facilitate a business-friendly legally-binding policy regime for import and export in a sustainable and predictable manner (not for 3-5Years).

Major Strategies of the new Export Policy, among others, should be Incremental growth of exports beyond $ 100 billion by 2026 by expediting and implementing appropriate administrative support and facilitation measures as may be specified in the Export Policy Order;

Formation of Services Export Promotion Council (SEPC) for promoting and overseeing the sustainable expansion of exports in Services Sectors. Diversification of export markets under an appropriate and effective foreign trade policy to ensure predictable and sustainable destinations of our export products in goods and services.

Policy Cohesion for Exports: More and more manufacturing sectors in Bangladesh are now linked with export chain as finished products as well as backward linkage of various items of exports. Therefore policy bias to promote only 80% export production units should be discarded by expediting policy cohesion on manufacturing for export and domestic markets by integrating them to global supply & value chain with sectoral cluster based bonded warehouses and other fiscal facilities like:-

- Tax Registration should be the license for investments instead of Trade License issued by the local government bodies.
- Facilitating investment abroad to establish warehouses, distribution network and after Sales Service Centres in target markets.
- Technical and Financial support for participation in International Exhibitions and market promotion.
- Central Bonded Warehouse facilities for CMSMEs and rural entrepreneurs at home and abroad.
- Withdrawal of indirect taxes from the utility bills (Electricity, Gas, water and digital services) of the productive sectors.
- Withdrawal of all duty, VAT and SD if any from all export products and services including all inputs thereof whether imported or locally produced.
- VAT registered Manufacturing units should be exempted from payment of AT;
- Discontinue double taxation through TDS and VDS which are finally adjusted;
- Technical and Financial support for obtaining accredited certificates for exported and imported goods and services.

- Technical and Financial support for obtaining global registration of IPR for our products and services.

Reduction of time and cost of doing business in the productive sectors for expediting exports by rationalizing Tax and Tariff measures: Single Window: To set up online single window customs clearance, payments of duty along with duty draw back on exports and deemed exports including all refunds on AIT, AT, VDS as and when applicable.

1. Each duty draw back applicant during the process of carrying out procurement, production, export and payments of revenues of each export product has obtained authenticated documents issued by the respective NBR agencies, Bangladesh Bank and respective financial institutions.

All these Agencies should coordinate mutually by signing a MOU to exchange respective documents with the related agencies by networking in digital block-chain and or by jpg/PDF document sharing sparing the cost and time for undertaking unnecessary tasks of submitting documents back to the agency which must be verified again by the issuing agencies.

2. An application duly filed by an applicant with **assessed *duty draw back particulars as applicable*** before or after export shall be treated as valid from the date of filing unless found otherwise on examination by DEDO **under the risk management process.**

3. The respective product specific Input Output Co-efficient (Shohog) shall remain valid until re-set by the exporter or reviewed by DEDO for reasons given in writing and extending the right of a hearing to the exporter.

4. The authenticated list of respective inputs and machineries as contained in VAT Forms, Customs list of allocated bonded products and the comprehensive list of products authenticated by BIDA shall be treated, as applicable, as the list of inputs and machineries.

5. Drawbacks in general are not allowed to cases against which cash incentives are taken except some selected goods which are simultaneously allowed drawback and cash incentive. Discriminatory treatment in favour of some specific export products granting them tax exemptions and incentives simultaneously is frivolous application of law without legal validity. Tax exemptions and incentives on Exports are not mutually exclusive anywhere in the world. Tax exemptions on exports and incentives in various forms are simultaneously granted world-wide for facilitating competitive exports.

6. Tax-deduction under section 52Q of Income tax Ordinance on receipt of payment from abroad of IT Enabled exports of services should be abolished;

Registration & Certification process: To establish single window system with prudent SoP of the respective line agencies and the sponsoring and promotional sectoral bodies for reducing the cost of doing business by simplifying the existing costly and cumbersome at least 30 different registration and certification requirements and processes under a binding Mutual Memorandum of Understanding (BMMoU).

To streamline cost effective import and export transactions of Bangladesh around the world the following measures should be adopted:-

1. Bangladesh in parallel with US SWIFT should also use alternative network of financial transactions like ECB and Russian SPFS and others on the basis of cost efficiency, risks of transactions and avoid sanctions.

2. The existing mutual banking relations mostly via costly third bank guarantee should be streamlined by opening direct correspondent accounts by using convenient and agreed-upon financial messaging System(s) between the transacting banks for the purpose of facilitation of bilateral settlements in mutually agreed currencies.

Bangladesh Bank should sign Currency SWAP Agreements with trading partners specially ECB, Bank of Russia, Bank of China and others on USD and EUR and other strategically selected currencies to facilitate efficient and cost effective mutual transactions offsetting the volatility of exchange rate fluctuations.

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