

Summary of Presentations and Policy Recommendations of
Regional Seminar
WTO Doha Ministerial and the New Trade Round:
An African Perspective

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Organised by

कट्स ✕ CUTS

**Consumer Unity & Trust Society –
Africa Resource Centre, Lusaka, Zambia**

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Regional Seminar WTO Doha Ministerial and the New Trade Round: An African Perspective

Summary and Policy Recommendations

As a follow up of the 4th Ministerial Conference of the World Trade Organisation (WTO) held at Doha in November 2001, a regional seminar was organised by Consumer Unity and Trust Society- Africa Resource Centre (CUTS-ARC) at Lusaka in March 2002 to discuss its outcome. The two-day event focused on Doha Ministerial Declaration and the work programme adopted for trade liberalisation. This is keeping in mind that, in an era of globalisation, the decisions taken at the WTO meetings have greater bearings on national economies and also well being of the people of Southern and Eastern Africa as well as other member countries of the global trade body.

This regional seminar was part of a work programme titled Fostering Equity and Accountability in the Trading System (FEATS) undertaken by CUTS- Africa Resource Centre. The objective of the project is to enhance the capacity of the civil society representatives from Eastern and Southern African countries to understand the issues and developments taking place in the international trading system so that they could intervene in their respective economic systems. The project is being implemented with the support of HIVOS, Harare.

The specific purpose of the seminar was to make an assessment of the Doha work programme and also devise strategies for future research and advocacy, especially for the non-state actors of the southern and eastern African countries. It brought together 40 trade policy experts belonging to government & inter-governmental agencies, civil society and business organisations hailing from six countries in the region viz. Mozambique, Kenya, Uganda, South Africa, Zambia and Zimbabwe.

The seminar concluded with the adoption of separate sets of recommendations for research and advocacy work in certain critical areas identified by the delegates. It was suggested that the capacity building exercise provided by the multilateral and the regional organisations should be a targeted exercise so that the policy makers, negotiators, industry and the civil society representatives should be adequately equipped to participate meaningfully in the various parleys taking place at the World Trade Organisation (WTO). There was a specific suggestion to strengthen accountability in the whole process of trade policy making and the country representatives should be held accountable for decisions they take during international negotiations that affect the people.

In order to enhance the analytical capacity of the countries in the region to effectively perform at the WTO negotiations, it was suggested that further research must be conducted in areas such as:

- supply side constraints hindering trade of poor countries
- national and regional capacity to implement WTO Agreements
- need assessment for capacity building for stake holders; and
- market access issues for agriculture such as tariff reduction, subsidy and income support schemes

The role of advocacy has been underlined in the context of bringing trade and economic development issues into the mainstream of the policy debate at national, regional and international forums. At the national level, the advocacy efforts should be targeted to policy makers, particularly Members of Parliament for increasing awareness on the WTO processes. Regarding WTO processes, the general assessment of the meeting was that the positions of poor countries have been weak in the past, because they were divided and ill prepared for the talks. Therefore, it is for correcting the past for by initiating pro-active policies by the government and civil society groups.

Inaugural

The seminar was officiated by Dr. Mbikusita Lewanika, Permanent Secretary, Ministry of Commerce and Industry, Government of the Republic of Zambia and Mr. Sindiso Ngwenya, Assistant Secretary General, Common Market for Eastern and Southern Africa (COMESA). Mr. Mwamba Makasa, Co-coordinator of CUTS-ARC welcomed the delegates, Mr. Pradeep S. Mehta, Secretary General, CUTS moderated the discussion. Mr. George K. Lipimile, Executive Director, Zambia Competition Commission felicitated the gathering.

Mbikusita Lewanika, Ministry of Commerce, Trade and Industry, Republic of Zambia

Speaking at the inaugural session the Permanent Secretary said the “seminar not only serves as the beginning of the evaluation of the outcome of the Doha Conference but also the beginning of the process of preparing for a New Round of Multilateral Trade Negotiations. I therefore wish to commend the organisers of this regional seminar for their efforts in trying to increase the level of awareness on WTO issues in the region and for contributing to on-going preparations for future negotiations”.

Many clauses of the Uruguay Round Agreements of 1995 relevant to Zambia and other poor countries have remained mere promises because of the indifferent attitude of the rich countries towards them. For instance, the poor countries were entitled for special and differential treatment in market access in the rich country markets, but these were never implemented in letter and spirit.

Further, implementation difficulties pertaining to agreements such as Trade Related Aspects of Intellectual Property Rights (TRIPS), Agriculture, Textiles and Clothing, Sanitary and Phyto-Sanitary Measures (SPS) and Technical Barriers to Trade (TBT) have been a serious concern for the poor countries. During the run up to Doha Ministerial, Zambia has worked along with other Least Developed Countries (LDCs) in an effort to get meaningful market access for Zambian products in the rich country markets.

Out of the various Agreements, TRIPs and Agreement on Agriculture (AoA) were very crucial to Zambia and other African countries, as these were closely linked to two important aspects of Africa's development: to provide public health facilities and food security to the people. As regards the Special and Differential Treatment provisions for the LDCs, there have been some initiatives at multilateral, regional and bilateral levels such as the Integrated Framework for Trade Related Technical Co-operation (IF), the European Union (EU) initiative of Everything But Arms (EBA) and the US initiative titled the Africa Growth and Opportunities Act (AGOA). But none of these initiatives seem to be comprehensive enough for bringing the poor countries into the mainstream of the multilateral trading system. This was the background in which the 4th Ministerial Conference was held.

During the run up to the ministerial conference, the poor countries had pushed hard for including several issues of their concern on the Doha agenda and hoped sincerely that those aspects would be addressed before taking up new issues and deciding on a new round of negotiations. However,

despite their opposition to the introduction of new issues and also on launching a New Round of Negotiations at the Ministerial, some of the new issues still found place on the agenda. This was done at the last moment unmindful of the suggestions of the poor countries that an assessment of the negative impacts of the Uruguay Round negotiations on their economies, would be a pre requisite for launching a new round. Succumbing to sustained pressure from the rich countries, many poor members, which had opposed the new round earlier, changed their stance, and agreed to support a new round at Doha. This change in stance was reflected in the consensus arrived at Doha on launching a new round of trade negotiations.

It is, therefore, appropriate for the trade policy makers and the civil society organisations in Africa to meet together and make an objective assessment of the outcomes of the Doha Ministerial Conference and devise strategies for the New Round of Negotiations. Further, it is timely that efforts be made towards exchanging ideas so that the stakeholders will be familiar with the issues and they have the capacity to intervene in the respective levels to safeguard their interests. It is expected that this exercise would help in drawing up a proactive agenda and make sincere endeavour to influence national, regional and international policy debate on making the world trade system work for the world's poorest countries and people. It is for this reason that Zambia took deliberate decision to include civil society representatives to be part of the Zambian delegation to Doha because of the important role they play in not only advising government but sensitizing other stakeholders on matters of trade and consumer interests. Civil society in Zambia was not only part of the Zambian delegation, but was also given a chance to provide inputs to the WTO Ministerial position paper prepared by Zambia.

Mr. Sindiso Ngwenya, Common Market for Eastern and Southern Africa

The experience of the Uruguay Round has not been inspiring to the poor countries. Commitments made by the more developed partners in this global endeavour with regard to technical assistance and capacity building efforts have consistently been fallen short of our minimum requirements. . Therefore, it is important that the delegates assess whether we have the capacity to derive benefit from new commitments and obligations, which we may undertake at the WTO. In this context, the COMESA official urged the delegates to critically look at the Doha decisions and pit them against our human and institutional capacities and resources.

Globalisation is with us today and the pace at which it is engulfing even reluctant players is supersonic. While we have heard pleas and cries for protectionism in the field of trade, there is no indication that the integration of the world's people, cultures and economies is going to slow down. In day-to-day life, globalisation translates into goods produced in China finding their way to Hawaii, Swaziland, Mauritania, Australia almost simultaneously; an investor in the USA or Europe weighing investment opportunities between Asia, Africa and South America before committing his money. E-mail and the Internet have reduced the usage of postal services and trade, customs, the banking sector and many other economic sectors have significantly reduced the cost of doing business.

Similarly, while a youth in America plays computer games on a home Personal Computer, his age-mate in Tanzania has no access to a pencil, an alphabet book or even seen a school board. While a New York youth flies to Los Angeles to see his uncle during holidays and gets good meals on the plane, his Tanzanian counterpart must walk 5 to 10 km on an empty stomach to get

to the nearest school. These graphic examples are the reality, and it is from this background that we in COMESA support globalisation but insist that all citizens of the world should equitably enjoy its benefits. In this regard, we uphold a rules-based system with an impartial and independent dispute adjudication mechanism. It is for this reason that COMESA has a functional Court of Justice to ensure equity and fairness in our integration arrangement even at regional level.

But more importantly, the seminar should make proposals for on going negotiations, current preparations for negotiations that are likely to be launched after the Fifth Ministerial and consider the developing world's preparedness with respect to the Fifth Ministerial itself. While the Marrakesh Agreement stipulates that Ministerial Conferences shall be held at least once every two years, the timing for the Fifth Ministerial is critical as the intervening period between the Fourth and Fifth Ministerial Conferences is intended to be used to prepare for eventual negotiations in a number of areas, including the New or Singapore Issues.

While we are not opposed to a multilateral framework in competition policy per se, (we in fact support it) we have consistently pointed out that our capacity to engage in multiple negotiations simultaneously is severely limited. Therefore, we must increase our vigilance and ensure that the fourth mandate of the Working Group as given by our Ministers that of capacity building for our competition authorities is frontloaded and sufficiently delivered well before the Fifth Ministerial. We are all aware that negotiations are already going on in agriculture and services. These current, and any new negotiations, are becoming increasingly complex as the membership of the WTO increases and as the issues become more multi-faceted.

The Doha Declaration states that negotiations in a number of new areas will begin after the Fifth Ministerial Conference. These include negotiations on a multilateral framework for competition policy. The decision to launch negotiations in this area has been taken. The Fifth Ministerial will only agree on the modalities of the negotiations. In the intervening period between the Fourth and Fifth Ministerial Conference, our Ministers directed that work should continue in the WTO Working Group on the Interaction between Trade and Competition Policy. The Working Group is supposed to elaborate: core principles, including transparency and non-discrimination; provisions on hard-core cartels; modalities for co-operation, and capacity building for competition institutions in developing countries.

Pradeep S. Mehta, Consumer Unity & Trust Society

Pradeep S. Mehta underlined the need for south-south civil society cooperation in international trade policy issues. It is for this reason that the CUTS-Africa Resource Centre has been established in Lusaka. Further, there is greater scope for cooperation between South Asia and Southern and Eastern Africa as countries in this region share a common colonial heritage. CUTS has undertaken research and advocacy projects to understand competition policy and Foreign Direct Investment namely, 7Up and IFD projects covering a few countries in the region.

Though the Doha ministerial was expected to look into the progress of negotiations, but issues such as investment, competition and government procurement, apart from environment, dominated the discussion. The decisions of many poor countries at Doha were influenced by WTO waiver to Cotonou Agreement which offers “zero” tariff to exports from Africa Caribbean

and Pacific Countries (ACP) to the EU. . However, we need to look into the effectiveness of zero tariffs in helping the poor countries. The huge domestic supply side constraints which prevent the LDCs from accessing the EU markets even at “0” tariff.

In July 2001 CUTS and South Asia Watch on Trade, Economics & Environment (SAWTEE) organised a South-South workshop at Kathmandu, Nepal as a follow up to the 4th UN LDC conference held at Brussels. The workshop underlined that domestic constraints and supply side constraints are the two major issues, which need immediate attention among poor countries. Civil society need to be aware of these when we deal with these issues. In this regard, we plan to replicate the successful SAWTEE network in Africa. CUTS operations are focused on these aspects.

George K. Lipimile, Zambia Competition Commission

There is a genuine need for such type of capacity building workshops on trade and competition policy issues in the region. Since international trade policy issues are getting more and more complicated with the introduction of new themes, it is imperative that government and civil society delegates should discuss the outcome of the Doha ministerial and prepare for future negotiations.

Mwamba Makasa, Consumer Unity & Trust Society-Africa Resource Centre

The regional seminar is being held under the auspices of the project: Fostering Equity and Accountability in the Trading System (FEATS). The project envisages capacity building to civil society representatives in Southern and Eastern African countries to enable them to intervene in the policy debate on their economic systems. This is the first in a series of workshops being planned under the project for the next two years.

Proceedings of Day One

The deliberations in the day one focused on four key aspects- sharing the experiences of Doha Conference, outcome of Doha to Least Developed Countries (LDCs), identifying national and regional priorities, and devising research and advocacy strategies for the future.

Session One

What happened at Doha and what impacts will it have on the region?

Chair: Prof. Jasper A. Okelo

Speaker: Dr. M.M. Lewanika

One important part of the deliberation was sharing the experiences of the delegates from the region, who participated in the Doha Conference. The session one below devoted on the subject where Dr. M.M. Lewanika of the Zambia Trade Network (ZTN), who was a member of the Zambian Government delegation to Doha spoke on the subject, while Prof. Jasper A. Okelo who as a member of the Doha Delegation of Kenya chaired the session.

Prof. Jasper A. Okelo, University of Nairobi

At Doha, the Fourth WTO Ministerial Conference launched what it called the DOHA DEVELOPMENT ROUND. The Ministerial Declaration meant different things to different groups of countries. The developed countries considered it a success. The developing countries/least developed countries had mixed reactions to it. At Doha, the developed countries generally got most of the things they wanted: they pushed in the new issues (Singapore Issues); they succeeded in bringing about the so-called Development Round. They accepted a separate declaration on TRIPs and Public Health, which recognized the gravity of the public health problems afflicting many developing countries. It was meant to clarify the provisions of the TRIPs Agreement relating to accessibility.

Dr. M.M. Lewanika, Zambia Trade Network

Similar to many other Least Developed Countries (LDCs) in the global trading system, the capacity of Zambia to perform effectively in such large global trade gathering is grossly inadequate observed Dr. M.M. Lewanika. The question of capacity was felt at both the human resources available, their technical capacity to handle complex issues and also negotiate with well informed counterparts from the rich countries. Since several meetings were taking place simultaneously, it was impossible for Zambia and other countries in the region to represent all the meetings due to limited human and institutional capacity of their Doha delegation. The outcome of the Doha Ministerial for poor countries would have been influenced by these factors.

Discussion

The discussion focused on the power play at the WTO system, which adversely affect the poor countries even at the ministerial meetings. For instance, at Doha the rich countries adopted various arm-twisting strategies and also the so-called carrot and stick policies to win over their counterparts from the South. In certain cases, ministers representing poor countries were even intimidated through diplomatic contacts at the respective state capitals and also by threatening the governments to withdraw financial assistance, denial of access to markets, etc.

In general, the delegates felt that “Green Room Process” is still very much part of the WTO system, which need to be dismantled forthwith. To cite an example, a number of meetings at Doha were not pre-arranged and the chairperson of the Committees, who were mostly from the rich countries, arbitrarily chose members in the name of “friends of the chair”. Another reprehensible practice of the WTO, pointed out by the delegates was that the host country chairing the Ministerial Conference gets undue importance in decision making process. Further, the host chairperson has the mandate to arbitrarily select the chair for various committees.

Session Two

**Doha Declaration on Creating an Enabling Environment
for the LDCs**

Chair: Dr. Garth le Pere

Speakers: Prof. Jasper A. Okelo and Mr. Mwansa James Musonda

1. Prof. Jasper A. Okelo, University of Nairobi

There are key elements in the Doha Declaration that highlight the concerns of Least Developed Countries. Arising from the preamble to the Marrakesh Agreement, the Ministers committed the WTO to ensure those developing countries, and especially the LDCs to secure a share in the growth of world trade commensurate with the needs of their economic development.

This will only come to pass if the following are enabled to happen: Enhanced market access, balanced rules, and well-targeted, sustainably financed technical assistance and capacity-building programmes.

Vulnerability of the LDCs and the special structural difficulties they face in the global economy makes the commitment of members of WTO to address the marginalisation of the Least Developed Countries in international trade and to improving their effective participation in the multilateral trading system, a welcome undertaking. The commitments made by Ministers at Marrakesh, Singapore, Geneva and Brussels were to help LDCs secure beneficial and meaningful integration into the multilateral trading system and the global economy. The WTO secretariat was instructed to play its part in building effectively on the said commitments under the work-programme established (paragraph 12 of the Declaration).

Implementation Related Issues and Concerns: The Ministers resolved at Doha that all the Outstanding Implementation Issues shall be an integral part of the Work-Programme. Where specific negotiating mandate provided for in the Declaration, the relevant implementation issues shall be addressed under the mandate; other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies—and report to the Trade Negotiations Committee by the end of 2002 for appropriate action.

Interaction between Trade and Competition Policy: Before the 5th Ministerial Session, the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and the support for progressive reinforcement of competition institutions in developing countries through capacity-building. On the above, full account shall be taken of the needs of the developing countries and the Least Developed Countries participants and appropriate flexibility be provided to address them.

WTO Rules: Negotiations that will aim at clarifying and improving disciplines under the Agreements on Implementation of Article VI of GATT 1994, and the ones on subsidies and countervailing measure, will be expected to preserve the basic concepts, principles and effectiveness of the Agreements, and their instruments and objectives. Furthermore they will

take into account the needs of the developing countries and those of the Least-Developed Countries. In the process, they should indicate the provisions, including disciplines on trade distorting practices, which they intend to clarify and improve in the subsequent phase of negotiations.

Trade and Environment: Technical assistance and capacity building in the field of Trade and Environment (paragraph 33) is important for developing and Least Developed Countries. This provides shared expertise and experience with members wishing to perform environmental reviews at the national level. So before the negotiations begin after the 5th Session (2003), the Least Developed Countries need to be provided with as much assistance to enable them to engage in effective negotiations.

Trade, Debt and Finance: It was directed in the declaration that a Working Group, under the auspices of the General Council, should examine the relationship between trade, debt and finance and recommend steps that might be taken with the mandate and competence of the WTO, to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and Least Developed countries, and to strengthen the coherence of international trade and financial policies. This should be done to safeguard the multilateral trading system from the effects of financial and monetary instability. There is need, therefore for the LDCs to monitor the activities of this Working Group and provide informed positions of their unique financial problems.

Paragraph 39 talks of the need for a coordinated delivery of technical assistance. The Director General was, therefore, instructed to consult with the relevant agencies, bilateral donors and beneficiaries, identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries and Joint Integrated Technical Assistance Programme (JITAP).

The delivery of WTO technical assistance designed thus would assist least-developed countries to adjust to WTO rules and disciplines, implement obligations and exercise their rights and also draw on benefits of an open, rules-based multilateral trading system. The Ministers at Doha, therefore, acknowledged the serious concerns expressed by LDCs Ministers in the Zanzibar Meeting of July 2001. They recognized that integrating LDCs into MTS requires meaningful Market access; Support for diversification of their production and export base; Trade-related technical assistance and capacity building.

They therefore felt that meaningful integration of LDCs into trading system and the global economy involves efforts by all WTO member countries. The Ministers committed themselves to the objective of duty-free, quotation-free market access for products originating from LDCs. The WTO was further instructed by the Declaration to facilitate and accelerate negotiations with acceding LDCs and also the secretariat to reflect the priority attached to LDCs' accession in the annual plans for technical assistance. A sub-committee for LDCs was asked to design Work-Programme and report to the General Council at its first meeting in 2002. The Development partners were urged to significantly increase contributions to the Integrated Framework (IF) Trust Fund. The WTO was also urged to put its extra-budgetary trust funds in favour of LDCs.

The core agencies were also urged, in coordination with development partners, to explore the enhancement of the IF with a view to addressing the supply-side constraints of LDCs and the extension of the model to all LDCs. The Director General, after coordination with heads of other agencies was asked to submit an interim report to the General Council in December, 2002, and a full report to the fifth session of the Ministerial Conference on all issues affecting LDCs.

2. Mwansa James Musonda, COMESA

Unlike the previous Ministerial Documents, the Doha declaration contained certain items, which have importance to the LDCs. For instance, the Declaration endorses more favourable treatment for developing countries. Doha Declaration has 30 references on LDCs. Further, LDCs have actively participated in the preparatory meetings of the Doha Ministerial.

During the run up to Doha LDCs have identified a capacity building and technological assistance, measures to raise standard of living of the people and reduce gap between the rich and poor countries as key elements of an enabling environment for them to participate effectively in the international trading system. Enabling environment for LDCs also mean finding solution to technological, human resource and infrastructural constraints. All these are part of a variety of supply side constraints being confronted by the poor countries. The other issues relevant to them are setting up of a Trust Fund for LDCs, capacity building and better market access.

Discussion

The discussion focused on the strategies required for overcoming the supply side constraints of poor countries in accessing the rich country markets. It was suggested that disunity among the poor countries often cause them much harm as the rich countries use divisive tactics to win over the poor countries.

The regional organisations such as COMESA and Southern African Development Community (SADC) could play a major role in helping the poor countries through training on WTO rules and regulations which exist on areas such as standards and also be providing technical inputs. One major problem identified at this discussion was that representatives of private sector in poor countries rarely get the opportunity to attend the meetings on global trade policy issues including the one on standards and related regulations. These meetings were more often than not represented by government officials and public sector delegates. As a result many of the existing capacity building training programmes rarely benefit the target groups.

Session Three

Agenda for the New Trade Round: National Priorities

Chair: Mr. Mwansa James Musonda

Speakers: Prof. Manenga Ndulo, Mr. Shaban Sserunkuma, Mr. Leonido Fonzamo, Mr. Victor Chisi, Prof. Jasper A. Okelo and Dr. Garth le Pere

In this session, experts from Kenya, Mozambique, South Africa, Uganda, Zambia and Zimbabwe outlined their national priorities for the forthcoming trade round. The purpose of this exercise was to identify the common areas where countries in the region could work together for evolving a regional agenda.

Zambia-Professor M. Ndulo, Ministry of Commerce, Trade and Industry

Identifying the national priorities, Prof. Manenga Ndulo said Zambia's views are similar views to other poor countries in the region.

The issues, which Zambia considers important are:

- Finding solutions to Implementation Concerns of the existing WTO Agreements
- Market access for Zambian products in the rich country markets
- Devise strategies to deal with non trade issues brought into the WTO system

In order to achieve its objectives Zambia should participate actively in the regional level understanding on trade issues by closely working with both COMESA and SADC. Participation in the WTO process is still important despite the fact that Zambia benefited only a little from the WTO system. Moreover, capacity building at all levels of the Zambian trading system for better participation in the WTO process is a pre-requisite for getting benefits from the rule based global trading system. Adequate consultation with stakeholders at the national level is also essential for creating a national consensus on trade issues.

Moreover, people in developed and developing countries are far apart. They are two separate worlds. Developing countries must strategically come together so that they can bring forth their agendas. Developed countries receive favoured treatment at WTO meetings and thus it was reflected at Doha also. Developing countries were opposed to new issues, as they were not primarily trade issues. African countries were not well linked to Geneva processes and as before several objections raised by them were ignored at Doha also. It is possible that African countries put themselves fervently into every debate so much so that their words get lost in their own noise.

Mozambique-Leonido Fonzamo, Pro Consumers

The priority areas of trade and economic policies of Mozambique were on agriculture, manufacturing, tourism, and minerals. In order to achieve better prices and market access of these products Mozambique worked with other developing countries at the WTO. Mozambique has immense agricultural potential, with an estimated 36 million hectares of arable land, with only nine million currently in productive use. It is the backbone of the Mozambican economy, providing employment for 80% of the workforce, and contributing 25% to the GDP. The main

exports are copra, cashew nuts, sugar cane, cotton fibre and tea. Rehabilitation of the existing agricultural - related investments including roads, rail, ports and irrigation systems is a priority for the government. This should facilitate new investments and provide viable opportunities.

Mozambique has 2500 kms. of coastline with pristine beaches, tropical islands and dream getaways. Combined with an interior offering spectacular scenery and wildlife, Mozambique is tipped to be one of the world's hottest tourism growth points. The main growth areas within the tourist industry, which have potential for growth include: sun and beach tourism, adventure/filming tourism, historical, cultural and eco-tourism. Of course, the major growth will be around the coastal tourism. The largely untouched natural amenities offer spectacular opportunities for innovative developments. There is also a need for the full spectrum of services, which accompany the industry. Tour operators, catering services, training, transport and the construction of amenities and infrastructure need to be given urgent priority. In this context, the WTO agreements on services is very relevant to Mozambique.

A vigorous privatisation programme, combined with strong foreign investment is having its impact on the manufacturing sector, which was long neglected. There is a tremendous need for the upgrading of old plants, and investment in new sectors. The low cost electricity, combined with highly competitive wage rates should act as a major catalyst for industrialisation. To support this process generous investment incentives exist and the government has introduced legislation allowing the establishment of free-zones for export oriented investments. Mozambique's preferential access to major markets in the US and EU should act as a powerful magnet for many labour intensive industries.

Priority sectors identified for development include food processing and agro-industries with high priorities - salt, sugar, copra, cotton, processed fish, processed fruits and cashew nuts, textile and clothing industries (which do not face any quota restrictions), edible oils, chemical industry, metallurgy and packaging industry.

In order to achieve the development goals international trade has been considered as a major tool and that is why participation at the WTO process has been given importance by the government. However, problem with the WTO policymaking process at Mozambique is that there was very little consultation with civil society groups. Moreover, there is hardly any discussion at national level on WTO issues.

Kenya –Jasper A. Okelo, University of Nairobi

For the developing countries, the 4th WTO Ministerial Declaration with New Development Round meant many different and difficult problems. Their major concerns about the "Implementation Related Issues" were not dealt with the way as they wanted. In the Declaration, it meant that these issues raised by developing countries prior to Doha Ministerial Conference would be addressed in the New Round. The New Issues, that caused a lot of problems even at Doha, finally were put on the Negotiating mode with the conditions spelt out by the developing countries. Even ACP-EU Cotonou WTO Waiver was given. At the Doha Ministerial, New Working Groups on Trade, Debt and Finance; Trade and Transfer of Technology were formed. To Kenya, therefore, all these meant doubling up of efforts to try and cope with the workload required for effectively engaging in the negotiations.

National Committee on WTO: Kenya realized that dealing with WTO agreements and the processes towards the same required a team of people that who would be dealing with all possible aspects of the multilateral trading system (MTS). To this effect, the Ministry of Trade and Industry which coordinates trade related matters established a National Committee on World Trade Organizations (NCWTO). This includes, as far as possible, all the stakeholders – the government Ministries, the private sector, the NGOs and civil society. This committee is divided into different Working Groups in line with the WTO Agreements related to various economic sectors. This is the body that works on and prepares Kenyan position papers for negotiations at the WTO. After the preparation, the document is taken through the coordinating Ministry for approval and transmission to WTO. It is also this Ministry that acts as the Secretariat of the Committee.

After Doha, this committee received the report from the secretariat and those who were in Doha as Kenya's Delegates. Realizing the difficulties the country would have in handling the WTO negotiations process, given the intricacies involved, it reconstituted and fine-tuned its sub-committees (Working Groups) to begin their work. Identifying the priority areas in accordance with the relevant paragraphs of the Fourth W.T.O. Ministerial Conference (Para. 13, 14, 15, 16, 22, 25, 26, 27, 33, 38, 39, 40, 42, and 43 ...) emphasizing the WTO's firm commitments on technical cooperation and capacity building programmes.

The work group identifies are on: Trade and Agriculture, Trade in Services, Trade-Related Intellectual Property Rights, Trade and Investment, Trade and Competition Policy, Trade and Labour Standards, Trade and Environment, Electronic Commerce, Trade Facilitation, Market Access for Non-Agricultural Products, Government Procurement, WTO Rules, WTO Dispute Settlement Mechanism, Trade, Debt and Finance, Technical Assistance and Capacity-Building, Cross-Cutting Issues (Like S&D treatment), Outstanding Implementation Issues and Trade and Technology Transfer.

Programme of activities of these Work Groups: Generally each of these sub-committees meet 2-3 times a month and report to the NCWTO quarterly. If at anytime there is an urgent issue to be cleared by the NCWTO, the secretariat is allowed to convene special meeting it in order to deal with the matter. In addition to this normal programme, and as a consequence of the outcome of the Doha Ministerial Conference, the NCWTO identified the challenges that the committee will have to deal with urgently and within the next two years:

The NCWTO, realizing the heavy workload involved in WTO country work programme decided to commence preparations that would enable it to actively participate in the negotiations in the round launched at Doha. This has included intensive consultations with the stakeholders in the country.

Technical Assistance and Capacity Building: In line with the 4th WTO Ministerial Declaration paragraph 41, establishing firm commitments on technical cooperation and capacity building in various paragraphs, Kenya's NCWTO prepared a document on their required technical assistance. The Kenya Government went through it before handing it over to the WTO Director General when he visited Kenya in February, 2002. This document will be needed as a basis for soliciting

technical assistance from different institutions and sources to help build Kenya's capacity to effectively undertake negotiations at the multilateral trading system.

Analytical expertise and skills (to better understand the implications of the new issues on the national economy), Legislative, Institutional, Human and Financial empowerment to enable the committee to carry out impact studies on the potential benefits and the effects of the new multilateral agreements on the economy, Implement the Uruguay Round Agreements and take up added obligations, harmonize our national laws to conform to both the Uruguay Round Agreements and the new obligations, Increase notification requirement capacity, Enhance Capacity to implement and derive full advantage from the framework of the rights and obligations, which the new agreements may create, get the private sector to participate fully in the negotiations process. The Kenyan work programme in this regard, tries to relate, strictly to the WTO programme in Geneva.

The University of Nairobi was identified to help train our international trade negotiators. The WTO Director General, when he visited Nairobi in February, 2002, intimated that the WTO Secretariat will raise funds to enable countries in the region to send their trainees to Nairobi for this programme.

The NCWTO in Kenya believes that it cannot wait until the year 2003 to start preparing for negotiations. The time to start is now. Kenya's technical assistance and capacity building needs for the coming two years were therefore spelt out. Effective technical assistance to focus on upgrading skills and capacity to negotiate on various subjects contained in the Doha Declaration, most importantly, the assistance geared towards comprehensive and integrated national studies to identify constraints and then recommending solutions and approaches necessary for improving competitiveness and quality assurance. Funds to facilitate effective participation of capital-based officials in various international trade-related meetings will improve on capacity-building and better understanding of multi lateral trading system.

Capacity Building Requirements

ACTIVITY	OBJECTIVE
(a) <u>Capacity Building</u> (i) Human Capacity Building (ii) Institutional Capacity Building	(i) To upgrade and improve on negotiating skills. (ii) Better understanding of the MTS. (iii) To address supply side constraints with the view to attaining competitiveness and quality assurance.
(b) <u>Assessment and Impact Studies</u>	(i) Identify the supply side constraints (ii) Improve competitiveness (iii) Identify positive and negative effects of WTO Agreements
(c) Funding to facilitate participation in trade related international meetings	(i) Gain better understanding of the MTS (ii) Gain experience/skills of negotiations

Kenya's NCWTO work programme in the coming two years will be very demanding. It is in this context that it became clear that it would need more funds than were allocated in the national budget. The Fourth WTO Ministerial Declaration committing WTO to assist developing countries, was therefore, seen as another vehicle that was worth the trial. We believe in challenging them to provide what they committed in the Ministerial Declaration so that we prepare ourselves thoroughly for the work ahead.

Uganda-Shaban R. Sserunkuma, Uganda Consumers Protection Association

The paper does not necessarily represent the official position of Uganda in the new round. However, it incorporates earlier positions of the government of Uganda, particularly government's position at the Doha Ministerial Conference. Essentially, the paper is a product of efforts by the Uganda Consumer Protection Association (UCPA). It incorporates views from several civil society organisations forming the unofficial coalition of non-governmental organisations interested in fomenting reforms in the WTO negotiations.

In a bid to come up with a position representative of all stakeholders in the country, government plans to form what they have called the Inter-Institutional Committee on WTO, a body that would bring government and private and non-governmental efforts together. Although the process has not taken off, partly due to financial bottlenecks, there is considerable consultation between civil society bodies and the WTO Desk in the Ministry of Tourism, Trade and Industry.

As one of the founder members of the WTO, Uganda should be in position to reap substantially when the multilateral trading system comes of age. However, given the status quo Uganda, like other Least Developed Countries.

Uganda's Priorities in the New Round: Much of the concerns and fears surrounding the WTO are largely because the organisation still bears the heavy imprint of the much smaller group of mainly northern countries, which founded the General Agreement on Tariffs and Trade (GATT). The concern is that the organisation should be more transparent, its rules easier to apply, to bring about a world where the rich don't bully the poor and under-privileged, in the marketplace. Given its economic circumstances, Uganda has laid emphasis on three broad areas: reform in the Agreement on Agriculture Trade, the Agreement on Trade Related Intellectual Property Rights (TRIPS) and General Agreement on Trade in Services (GATS).

Agreement on Agriculture: Uganda's economy is principally buoyed by the agricultural sector, and lately the services export sector locally called *Nkuba kyeyo*. Given this reality, the agreement on Agriculture is perhaps ranked at the top of the priority areas of concern. The reform programme in global agricultural trade gives the country a window of hope to correct the distortions and threats posed to its agricultural sector at large. Uganda wants to see reduction and eventual review of tariffs on agricultural products, domestic support and export subsidies on agricultural products, a pronounced feature in the agricultural sectors of mainly the developed members of the WTO. Uganda shares concern with the rest of the developing members that this causes distortions in the global marketplace.

Uganda believes that there should be commitment by all member states to make this a reality by making reductions agreed upon during the last round: 35 % by the developed members and 24 %

by the developing members. Price support can only be sustained by developed economies and it grossly distorts the global marketplace and falsifies the true value of products and is cited as a major cause for price fluctuations which hurt developing countries considerably, condemning them to donor dependency and chronic foreign debt.

However, we are also concerned about the plight of the Net Food Importing Countries (NFICs) like Eritrea, Ethiopia, Somalia and others in the event of global increase in food prices occasioned by considerable review of tariffs and subsidies. Uganda, therefore, supports the setting up of the mooted special fund to support NFICs meet their food budget requirements. It is envisaged that some action in line with the Agreement on Agriculture will emerge during the implementation of the so-called Plan for Modernisation of Agriculture (PMA), a kind of blueprint for broad transformation of the country's agricultural sector from the predominantly peasantry base today to a more competitive and progressive economic sector. Other actions are expected in the form of a requisite legal and legislative regime to comply with the multilateral framework.

Agreement on Trade Related Intellectual Property Rights: In Uganda, TRIPS is perhaps the most known agreement under the WTO largely owing to the debate it has touched-off in public forums and the mass media. Popular consensus is heading towards concern and fears related to patenting of life forms. Uganda stands for a substantive review process of the relevant sections of TRIPs, particularly Article 27 (3 b). There is need to review the article to allow the farming communities in developing countries like Uganda to save, exchange, replant and select planting materials. We are of the view that giving prospective patent holders (or is it counterfeiter) blanket monopoly over planting materials kills the traditional setup. Uganda recognises that the extension of IPR protection to pharmaceuticals by the TRIPs agreement has become very critical due to its implications for public health.

Until the Doha Declaration on Trips and Public Health, Uganda was concerned about the then apparently elusive and vague safeguards within the TRIPs agreement (compulsory licensing and parallel importation) that would guarantee access to affordable drugs. The challenge, however, lays in how Uganda incorporates the leeway given under Doha into the national legislation to protect public health.

Uganda is currently engaged in the process of formulating its national intellectual legal regime. In fact, draft bills related to Intellectual Property Rights and TRIPs in general are about to be tabled before Uganda's cabinet. Concern, however, has arisen over the timing. Given that developing countries have up to 2001 and 2016 for pharmaceuticals to comply with TRIPs under the Doha initiative, people are pessimistic about the outcome of the Government move to operationalise the Agreement because it could put the country in a TRIPs Plus situation. UCPA feel it is too early. There is need for care during the process of crafting TRIPs-related legislation. It is understood that government is doing this with the hope that the legislation will help bolster foreign direct investments. However, we are of the view that the interrelationship between Foreign Direct Investment (FDI) and TRIPs is so vague, making it unjustifiable for government to rush with legislation.

General Agreement on Trade in Services: The implications of GATS on Uganda's economy can not be fully appreciated at present: the significance of the services sectors is only beginning to be felt which if added to the country's liberal economic policies leaves few areas of contention as seen by several stakeholders in the country. UCPA feels, a deeper study and analysis of the situation should precede any conclusions.

Government is preparing proposals to be input into the negotiation process before the deadline elapses at the end of 2003. In Uganda, stakeholders feel that GATS gives autonomy and discretion to developing countries to choose which areas to liberalise. However, Uganda joins the other developing countries that are opposed to curtailing of freedom of movement of natural persons (labour) to markets of their choice. As mentioned earlier, Nkuba Kyeyo in Uganda is a magic economic phenomenon that came to be observed only two years, albeit by default. There was no deliberate policy stimulus. In fact, it was the biggest 'fortune' Uganda got out of nearly two decades of political and by extension economic turmoil.

Given this background, rules for safeguard measures should be crafted on the basis of guidance from Article 19 of GATS, which provides for development needs of developing countries. However, Uganda remains with the challenge of winning reciprocal liberalisation for its trading counterparts to match its spontaneous liberalisation that has attracted both local investments and FDI in its services sectors like Banking, Insurance, telecommunications, Information Technology, etc. UCPA expects Uganda to proactively tackle this market imbalance.

Others Areas: There is need for the developed world to make a commitment for duty-free access to exports from the Least Developed Countries (LDCs) by the end of the new round. Given that the 48 LDCs represent the poorest on earth, and only account for a paltry 0.4 percent of world trade, it is only fair to demand that they get the best possible from the developed world. And, that is market access in areas where they enjoy considerable comparative and to some extent, competitive advantages - textiles and clothing and a host of processed agricultural products. However, developing countries should also open up among themselves, clean up their houses and clear both tariff and non-tariff barriers to trade amongst themselves. This is because 40 percent of developing countries trade with other developing countries - so while we talk about barricades from the developed world, they represent 60 percent of the barriers to free trade.

Capacity building: Uganda badly needs technical assistance to build capacity in the country's quest for compliance and soft fusion into the multilateral trading system. Given that technical assistance is demand-driven, it should be rendered where it is not only needed but should also be tailored to the needs of the country.

To conclude, the Doha Ministerial Declaration breathed new life into the multilateral trade framework and should enable Uganda to reinvent itself so as to adjust to demands in the changing marketplace. Particularly, there is need for both internal and cross border consultations during the grace periods that developing countries have won to enable them comply. The technical nature of the process demands that care must be taken to safeguard whole generations of people whose livelihoods are at stake in case of any oversight or omission.

Zimbabwe-Victor T. Chisi, Consumer Council of Zimbabwe

Consumer protection in Zimbabwe like in other countries is broadly guided by the UN Guidelines on Consumer Protection. Consumer Council of Zimbabwe (CCZ) covers the following: Consumer Education and Awareness Programmes, Legislative protection, Lobbying and Advocacy. In this effort CCZ deals with basic awareness of consumer rights and responsibilities. We also deal with topical issues that may arise from time to time. The CCZ uses existing legislation to reinforce the protection of consumers.

Given the diversity of the consumer protection laws it has not been easy to develop one comprehensive consumer protection. The CCZ is lobbying for the privatisation in Zimbabwe to ensure that the Privatisation of public enterprises is done within a framework that protects consumers. CCZ recognises that the push for privatisation comes from both national and international sources. Cross border legal consumer protection is not feasible in many cases.

WTO Doha Ministerial and New Trade Round: Like other developing Countries Zimbabwe is worried about the new round of talks at WTO. Our major worry is that the developed world would like to proceed to new issues without assessing the impact of earlier WTO agreements. Zimbabwe as a country made this position clear at Doha. Our second worry as a consumer organisation is that the whole set of agreements now in place do not make very little reference to consumers protection. Productive capacities of communities are in some cases totally dismantled due to the setting of new standards, new technologies which are expensive and new trade measures.

Zimbabwe is devastated by the Aids pandemic. TRIPs has further complicated our situation. Doha has to have a human face. Zimbabwe has technical expertise to comprehend WTO issues. However the general population and the business sector have very little information and therefore cannot contribute meaningfully to WTO issues. Shrewd International business has taken advantage of this environment.

In conjunction with Consumers International, CCZ has embarked on consumer awareness programme in communities on Doha and other trade issue. The CCZ lobbied for a seat on the National Multi-sectoral Committee on Trade and now that CCZ is a member and therefore able to contribute to the national position when government delegates go to these meetings. At the national level we continue to lobby that there be a consumer protection legal framework before implementation of WTO rules.

The new round of talks and introduction of new issues can only be meaningful following a thorough assessment and remedy of the impact of existing WTO issues. Consumer organisations are not anti-development but development and trade that does not put the consumers at its centre is meaningless.

To sum up, CCZ's call to fellow consumer organisations and other stakeholders is that we should strive towards solidarity and common action at the sub-regional (SADC) and regional (Africa) levels. This process should be backed by strong participatory consultation of our people and consensus built on WTO matters.

South Africa -Garth le Pere, Institute for Global Dialogue

The priorities of South Africa are TRIPS negotiations due to its link to public health and medicines, negotiations on industrial tariffs, support to sensitive issues vis-à-vis anti-dumping, support to Singapore issues. The essential challenge for South Africa is to promote its development. Critical areas for South Africa are the implementation concerns, agriculture and farm subsidies, tariff peaks, tariff escalation and support for development concerns of developing countries.

South Africa has been pushing for negotiations on industrial tariffs and also works with Cairns Groups on Agricultural negotiations. The other negotiating objectives are extend provisions for discipline in global economy, defend balance in WTO, TRIPs should not stop people from access to medicines, remove domestic and export subsidies on agriculture in rich countries especially in the US and European Union.

Discussion on Country Presentations

The objective of the country presentation was to identify the common areas of concern among countries in the region so that there could be better understanding and coordination on the approaches to the new round. The discussion focused on the following issues:

- Possible benefits of new round of negotiations for the countries in the region
- Measures to improve institutional capacity of countries in the region to face the WTO negotiations
- Priority among the implementation concerns for targeted approach
- Measures for countries in the region to organise themselves in terms of preparations for the new round
- Need for strengthening regional cooperation and burden sharing for WTO negotiations

Group Work

There were two group work sessions which examined the two core aspects of the Doha Ministerial Declaration viz. (a) Enabling Environment for Market Access for Least Developed Countries and (b) Regional Priorities for the new Round. The groups examined the problems and recommended follow up actions. Some of the recommendations pertain to domestic environment whereas others deal with external environment. The recommendations have been given at the end of the document.

Proceedings of Day Two

Proceedings of the day two contained two working sessions and a group work. The working sessions were on (1) new issues in the WTO and (2) identifying civil society priorities for the new trade round. The tasks for the group were to suggest policy recommendations and set the way forward by identifying further research and advocacy themes.

Session 4

New issues at the WTO: Implications for the Poor Countries

Chair: Dr. Sanyanda Mbikusita Lewanika

Speakers: Mr. David Ongo'lo and Mr. George K. Lipimile

Environment at the WTO: Implications for Poor Countries

Mr. David Ongo'lo, CUTS-CITEE, Nairobi

Work on trade and environment in the GATT/WTO dates back 30 years. As early as 1972, the international trading system recognized the relationship between trade and environment through GATT's participation in the 1972 United Nations-organized Conference on the Human Environment in Stockholm, where it even presented a paper entitled 'Industrial Pollution Control and International Trade.' During the Tokyo Round that ensued between 1973 and 1979, contracting parties debated the extent to which environmental measures in the form of technical regulations and standards could frustrate trade. These deliberations led to the adoption of the Agreement on Technical Barriers to Trade (TBT). The "Standards Codes," as alternatively referred to, called for the transparency and non-discrimination 'in the preparation, adoption and application of TBT measures. In addition, GATT introduced a General Exception clause, Article XX, whereby signatories were at liberty to take measures necessary to protect human, animal and plant life or health.

Therefore, WTO predecessor did not evade trade-related environmental issues, but acknowledged the link between environment and trade, a stand that resulted in the adoption of sustainable development as guiding beacon to a considerate international trade policy. This position constitutes the bedrock for GATT 1994 sustainable economic development policies. Since the relationship between trade and environment had become irrefutable, the preamble of the WTO founding Charter, The Marrakesh Agreement establishing the WTO spells out environment protection, conservation and sustainable development, among others, as objectives of the organization. Environment is one of the seven post Doha WTO Ministerial Conference areas for immediate discussion.

WTO Committee on Environment and Trade and Areas of Concern to the South

Two broad themes consistently appear in the discourse on trade and the environment. Does trade damage the environment, and do the WTO rules prevent environmental protection? These are, of course concerned with the broader relationship between trade liberalization and the environment" and more specifically how the trade relates environmental protection policies and to international environmental agreements.

Since its establishment at the beginning of 1995, the WTO Committee on Trade and Environment (CTE) has discussed pertinent issues covering the subject of trade and environment, reaching a number of

conclusions, which were presented to the WTO Ministerial Conferences of December 1996 and November 2001. There are nine broad issues of interest, which are items of deliberation by the Committee, These are:

- a) *Trade rules, environmental agreements, and disputes:* The relationship between the rules of the multilateral trading system and the trade measures contained in multilateral environmental agreements (MEAs), and between their dispute settlement mechanisms. An area of concern for Developing and Less Developed Countries (herein-after referred to as poor countries") in dispute settlement mechanisms of WTO are the large expenses involved in the process for lodging cases, leave alone deliberate in the settlement discussions.
- b) *Environmental protection and the trading system:* The relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system.
- c) *Taxes and other environmental requirements:* The relationship between the provisions of the multilateral trading system and: (a) charges and taxes for environmental purposes-, an A III requirements for environmental purposes relating to products, such as standards and technical regulations, and packaging, labelling and recycling requirements. (Particularly the issue of "product" versus "process" method).
- d) *Transparency of environmental trade actions:* The provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes.
- e) *Environment and trade liberalization:* Environment and trade liberalization is one issue that arouses (arguably) the greatest concern is. How does implementation of environmental measures affect market access, especially in relation to developing countries, in particular to the least developed among them, and the environmental benefits of removing trade restrictions and distortions?
- f) *Domestically prohibited goods:* The issue of exports of domestically prohibited goods (DPGs), in particular, hazardous waste. Please dump, but not in my poor country backyard!
- g) *Intellectual property:* The relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).
- h) *Services:* The work programme envisaged in the Decision on Trade in Services and the Environment.
- i) *The WTO and other organizations:* Input to the relevant bodies in respect of appropriate arrangements for relations with intergovernmental and non governmental organizations (NGOs).

3. Three Main Areas of Concern:

From the perspective of the rather quick turnabout of the EU in agreeing to certain concessions on the Agreement of Agriculture in return for the three main elements that it felt needed to be pushed for immediate discussions under environment, it is useful to interrogate how these issues would manifest themselves from the perspective of the poor countries. These are, Multilateral Environment Agreements (MEAs), precautionary principle, and ecolabelling.

3.1. MEAs

The main issue for discussion here is examination of the relationship between existing WTO rules and trade related obligations set out in the MEAs. It seems that most of the MEAs have been working rather well, and in any case less than 10% of the MEAs do really tie up the environment and trade interface.

Another area of concern would be that where there are failures by the Southern exporters to comply with environmental obligations, the main reason is lack of technical and financial capacity. Therefore it is positive measures e.g. transfer of technology, financial assistance and capacity building that should be the focus of discussions.

3.2. Precautionary Principle

The Precautionary Principle justifies trade bans on health grounds even where there is as yet no clear evidence of any risk arising from the consumption of that product. The recent bans (e.g. hormone treated beef) following this principle not only undermines rich country consumers confidence in such imported foods, but also provides a ready excuse for importing countries to impose often-unjustified bans. Poor countries have reason to worry that allowing such practices would create further barriers to trade even over and above already difficult problems faced from SPS and TBT agreement measures. More fundamentally, one would argue that in areas where such precautionary principles need to principally apply are already covered by specific international agreements, e.g. in the area of biotechnology (imports of living modified organisms).

3.3. Eco-labelling

Labelling requirements for environmental purposes aims to ensure that exports are harmless to humans and the environment in the importing country. A critical concern of the poor countries is that eco labelling places an extra cost to their exports since it is both an expensive undertaking and it is the exporting country that has to contend with it for the benefit of the importing country consumers. From a domestic market discrimination perspective one can argue that insistence on eco-labelling for imports is discriminatory and would create a market barrier for foreign competing producers.

Observations

Safety Concerns or Protectionist Device? :It is important to note that it is unlikely that proposed measures by importing countries could be said to be solely protectionist devices, to provide protection for home producers and suppliers, since in many cases no main competition threat was posed to them by the produce under import. That is not to say, however, that a developed country will not employ these measures as protectionist devices or by way of restraint of trade.

Previous SPS cases: SPS measures can and do impede trade in agricultural and food products since in many instances they are incompatible with prevailing systems of production and marketing in developing countries with insufficient account taken of the needs, constraints and problems faced by them. The manner in which the SPS Agreement has been implemented in the interests of the developed countries is a cause for concern. An acute problem is the lack of appropriate scientific and technical expertise with little technical assistance being given to poor countries. Given the above experience to date, are not the poor countries justified in suspecting that bringing environment into trade would be used as additional trade barriers?

Recommendations: There is need to exhaustively discuss both sides to the eco-labelling issue in detail within the CTE in order to fully address and incorporate poor country concerns.

2. MEAs issues should not be rushed into WTO, MEA provisions should be carefully examined separately and a decision should be taken if there is need to include them in future WTO deliberations.
3. Poor countries should lobby for special support from their trading partners in relation to transfer of environmentally friendly technologies.
4. Poor countries should call for firm commitment from developed countries to provide technical assistance (capacity building of officials in charge of 'entry points', upgrade technical skills of personnel working in laboratories, certification bodies, and accreditation institutions) to help them meet SPS requirements.

5. Technical co-operation should be broad based and include financial support. Agreements should include strong language and put clear obligations on developed country members to provide technical and financial support to developing country members in the various fields in the agenda of the CTE.

In conclusion, the approach in current negotiations before the next Conference should be to strike a balance between two fears: that trade and environmental protection might be in conflict, and that environmental concerns could turn into trade protectionism.

WTO and Competition Policy at the National Level

George K. Lipimile, Zambia Competition Commission

The subject matter of the topic of this presentation, viz; “WTO and Competition Policy at the National Level” continues to be of central concern to many developing countries. On competition policy, the EU have addressed a number of specific issues as they arise in relation to a possible WTO framework agreement on competition, including the development dimension of competition law and policy. In their submission, the EU presented its idea on possible elements that could be included in such a framework agreement and offered its views as to why an agreement on competition policy would be in the interest of all WTO members, whether developed or developing. The main potential benefits of a WTO Competition agreement can be summarized as follows:

- A reinforcement of the commitment by WTO members to transparent and non-discriminatory domestic competition policies, including a commitment to deal with “hard-core cartels” as a serious breach of domestic competition laws. By supporting effective domestic competition institutions, a WTO agreement would contribute towards ensuring that the benefits of the process of trade and investment liberalisation are not negated or distorted by anti-competitive business practices.
- The establishment of an effective framework for cooperation among competition authorities to better address anti-competitive practices which impact on international trade. In view of the growth of domestic competition regimes and the global nature of an increasing number of competition cases, it is essential to establish a framework that facilitates both case-specific cooperation and a more general exchange of information and experiences among the competition authorities of WTO members. Bilateral and regional agreements – while useful – are too limited in membership and scope to provide a sufficient response to the internationalisation of competition policies.
- Reducing the scope for conflicts arising from the application of domestic competition laws to international transactions. Agreement on core principles and the establishment of cooperative relationships among competition authorities would go a long way towards reinforcing mutual trust, which – according to our experience – is the essential requirement to ensure that divergences in substantive law (or on the analysis of a case) can be managed in a way which avoids potential conflicts.
- Promoting a more coherent approach in WTO to competition policy issues, which currently are only addressed in a limited manner and at the sectoral level (notably, in the context, of GATS and TRIPS). In addition, a horizontal agreement on competition,

within the WTO system, would contribute towards enhanced cooperation between trade and competition authorities, which is of increasing importance in the light of the internationalisation of competition policies, the increased WTO focus on regulatory issues and important synergies between competition policies and policies relating to foreign investment and intellectual property rights.

Such benefits can be best achieved through a WTO agreement on competition policy based on core principles, co-operation modalities and support for the progressive reinforcement of competition laws and institutions in developing countries. The main objective of such an agreement would be to strengthen the ability of WTO Members to address anti-competitive practices of an international dimension which impact on trade. A WTO agreement in Competition would not imply harmonisation of laws of member countries but would accommodate and respect diversity of national regimes in terms of policy, law and enforcement. The agreement would in the long run contribute towards gradual convergence and enhanced international cooperation.

As developing countries, there is always the need for caution when negotiating and concluding these types of agreements. It is important that as developing countries, we decide on the new issues based on their assessment of the gain and loss. It is important that the developing countries examine whether there is anything beneficial for them in these proposed negotiations and also the possible risks.

Most developing countries are skeptical in supporting a multilateral agreement on competition – at least for now. They perceive the objective of the major developed countries in bringing competition policy into the folds of the WTO with the aim of ensuring free and unhindered operation of their firms in developing countries, which may be adverse to the interests of developing countries. The Third World Network (TWN) warned developing countries as regards agreeing to a multilateral agreement on competition. “An agreement on competition is likely to curb the role of the developing countries in guiding the entry and operation of foreign trading firms. This may: (i) expose their domestic firms to competition with powerful multinational firms, and (ii) put constraints on governments’ discretion to give preference to domestic firms. Obviously, this will have adverse effect on the emergence, operation and growth of the domestic firms.

The proposal for negotiations in this area appears to be aimed at having a uniform minimum standard of competition policy in different countries. Competition policy standards in a large number of developing countries may not be similar to those in the major developed countries. An appropriate competition policy for a developing country should be able to help the process of development. It should encourage the operation and growth of firms and at the same time benefit the consumers. A developing country should continue to be able to choose and adopt the competition policy suited to its conditions and development objectives. Drawing up some uniform multilateral standards does not appear necessary. It may, in fact, curtail the options of the developing countries in evolving their own appropriate competition policies”.

It is important to mention that the European Commission (EC) is not seeking the establishment of some global competition authority at the expense of national authorities. To the contrary,

strong and effective national authorities will be a necessary condition and the backbone of the successful implementation and operation of a multilateral agreement. Further, the EC is not proposing a harmonisation of substantive competition laws. The binding character of the agreement goes to the undertaking to have a domestic competition law based on the core principles, as opposed to a domestic competition law with specific substantive elements such as vertical restraints, mergers, etc. Finally, there is no suggestion that individual decisions of national competition authorities should be subject to dispute settlement under the WTO.

It is evident that the concerns of developing countries were not fully addressed at Doha. Instead, the Doha Ministerial declaration adopted on 14th November, 2001 set up a WTO programme on interaction between Trade and Competition Policy. Several interpretations have been given to paragraph 24 of the declaration.

What are the major constraints likely to affect domestic level negotiation preparation?

Firstly, there is need to build institutional capacities, namely:-

- Assisting in drafting domestic competition legislation and related implementation legislation in most developing countries,
- Need to strengthen competition authorities where they exist,
- Lack of both financial and human resources to enable developing countries to participate effectively in multilateral negotiations and cooperation.

Secondly, there is need to facilitate dialogue and exchange of experiences and expertise:-

- Need to establish and strengthen regional competition networks and fora.
- Identification and promotion of bilateral and regional cooperation between competition authorities of developing countries.
- Participation in the work of other relevant international organisations, including WTO, Organisation for Economic Cooperation and Development (OECD), United Nations Conference on Trade and Development (UNCTAD), etc.

Session Five

Priorities of civil society groups in the New Trade Round

Chair: Stiaan van de Merwe

Speaker: Garth le Pere

While setting the pace for discussion on the priorities for new round of negotiations Mr. Merwe identified the three possible options before the civil society. They are:

- to follow a reformist approach of the WTO and the global trading system;
- To be part of the WTO system and have some control over destiny and
- Reject the WTO and the new round.

There are civil society groups on all these three groups. But our priorities should be identified by looking in to the welfare of the majority. In this regard the civil society and the government should come together for the general welfare of the people. In order to achieve the objectives, we need to keep the house in order by understanding the fact that the WTO accords priorities to trade and commercial issues over all other issues. LDCs must use every resource available to promote their countries goals.

Dr Garth le Pere

The priorities of the civil society groups can be around three areas of discussion.

1. Firstly, it involves the question of principle –i.e. accommodation, rejection and reform the WTO system. These three are not mutually exclusive.
2. Question of substances-what exactly are the areas of research and analysis
3. Question of strategy and tactics vis-à-vis advocacy, lobbying etc.

Discussion

The discussion on civil society priorities were focused on the following issues:

Is there a need for paradigm shift in terms of our thinking and strategies on the WTO away from the US and EU? The reason for this thinking is that the poor countries do not have the strength to change the direction of the WTO. Do the poor countries focus on strengthening the UN agencies such as UNCTAD? It was suggested that the most feasible option is not pulling out of the WTO but to be part of the system to make sure that WTO takes care of the interests of the majority. The issue is how could the WTO take on board the interest of the majority of people in the world while framing global trade rules?

Group Work

The participants divided into two groups and they were entrusted with the task of identifying research and advocacy agenda for the new trade round. The agenda identified by them were finalised after a detailed discussion. They are given below:

Policy Recommendations and Agenda for Follow up

The working group sessions of the seminar came out with policy recommendations on two areas viz. Enabling Environment for Market Access for Least Developed Countries; and Regional Priorities for New Trade Round. The participants also identified areas for further research and advocacy. They are in the form of a research and advocacy agenda for follow up for the stakeholders.

1. Enabling Environment for Market Access for Least Developed Countries

Recommendations

- 1) Credit availability to LDCs needs to be improved for broadening the production base.
- 2) Technological access for LDCs should be enhanced
- 3) Diversification of export products base.
- 4) Supply side constraints are to be identified as integral component of market access issues
- 5) Prices of export products from LDCs needs to be examined to see that they get reasonable terms of trade and the price fluctuations are under control.
- 6) Lower Sanitary and Phyto sanitary (SPS) and Technical Barriers to Trade (TBT) standards for products originating from LDCs
- 7) There is need for the committee on trade development to ensure that LDCs are assisted to make the best use of special and differential treatment provisions.
- 8) More targeted capacity building should be directed towards the productive sector.
- 9) Given that the Trust Fund for LDCs (IF) only has 30m Swiss- Francs, there is need for clarification on who and which sectors can qualify for assistance under this scheme.
- 10) There should be a separate mandatory provision for LDCs under cross- cutting issues identified by the WTO
- 11) Production subsidies should be addressed within the EU over and above just relying on preferential trade arrangements such as AGOA, Lome`l the Cotonou agreement.
- 12) Measures to help to set 'right' the macro-economic fundamentals of LDCs by stimulating domestic savings by international financial institutions
- 13) There should be provision for debt cancellation proceeds to go into social sectors or the productive sectors or both for enhancing the production base of the poor countries.

2 Regional priorities for the WTO New Trade Round

Recommendations

The working group identified the following priorities for the countries in the region to peruse during the new round of WTO negotiations:

1. Better access to markets for the products of the region
2. Agreed reduction of tariffs to exports from the region should not be hindered by new rules and regulations
3. Work for subsidy reduction in EU countries especially on farm products so that countries could benefit under Cotonou Agreement.
4. Demand the promised technical support from the rich countries

Short term requirements:

5. Need enlightened negotiators for WTO process
6. Improved negotiation skills for delegates from the region

Long term requirements:

7. Improve national and regional capacity to implement WTO initiatives
8. Better involvement of stakeholders in trade policy making process at national and regional level through establishment of regional WTO committees
9. Study on impact of past agreements and the effects of trade liberalization on productivity and exports at national and regional level
10. Encourage interregional trade and demand advanced developing countries to open up their market for the poor ones.

3. Research Agenda on New Trade Round

Agriculture

Establishing developmental impact of northern subsidies so that this information can be used in trade negotiations.

Modeling the effects of northern subsidies on the economies of southern countries preferably on a regional basis.

Market Access of Non Agricultural Products

Scenario bidding for alternative tariffs and their effects on the economies of LDCs and Developing Countries (DCs).

General Agreement on Trade in Services

Optimal sequencing of trade liberalization in services and best approach for LDCs and DCs in service negotiations.

Determination of sectors where LDCs and DCs have comparative advantage and how to make use of regional arrangements in provision of services.

Trade Related Aspects of Intellectual Property Rights

Determination of implementation problems with regard to adoption of African model Law on access to genetic resources.

Simplification of procedures for embedding TRIPS issues into national legislation

Establishment of a data bank on traditional knowledge

Determination of TRIPS and its ramifications in terms of broader public health issues

Trade and Investment

Impact of trade related investment issues on the economies of LDCs and DCs

Trade and Competition Policy

Impact of hardcore cartels on the economies of LDCs and DCs.

Determination of regional arrangements for competition policy and law.

Government Procurement

Differential interpretation of “Transparency” vs. “Access”. Their meaning and relevance for LDCs and DCs.

Trade Facilitation

Determination of priorities for African countries in terms of trade facilitation and identification of implementation of problem areas

WTO Rules

Packaging and simplification of trade rules for the benefit of African governments and civil society

Case studies on ‘Double standards’ in an application of WTO rules by the North.

Dispute Settlement Understanding (DSU)

Simplification of the mechanisms for DSU and making it easier for African countries to understand its applications.

Trade and Environment

Identification of multilateral environmental agreements (MEAs) and their relevance to African countries.

Determination of the optimal mix (based on sectoral/national and regional considerations) between conservation and trade in view of the need to reduce poverty in African countries.

Other Issues

Optimal and developmental strategy in negotiating with the north with regard to moving from “best endeavour” to “mandatory provisions”

General research on understanding and appreciating the remaining issues, i.e,

- ◆ Electronic Commerce
- ◆ Small Economies
- ◆ Trade, Debt and Finance
- ◆ Trade and Technology Transfer
- ◆ Technical Cooperation and Capacity Building
- ◆ Least Developed Countries
- ◆ Special and Differential Treatment

4 Advocacy Agenda on New Trade Round

Urgent need to set up a WTO Committee to look at implementation status of past agreements, for instance, Agreement on Subsidies and Tariffs.

Special and Differential Treatment requires proper definition. The poor countries need to actively participate in these meetings on S&D process.

Transparency at the WTO decision making process

Consultation at national level on WTO policy making

Education on the possible impact of agreements on new issues to the poor countries

Ensure that poor countries will draw up proactive policies for the WTO negotiations rather than reactive

Advocacy at national level targeting parliamentarians on the WTO agreements and negotiations.

The purpose is to have informed and meaningful debate on national decision making on WTO issues.

Advocate for south –south and north- south civil society cooperation on crucial developmental issues.

Country delegates to the WTO should be held accountable for the agreements which they sign on behalf of the people and government.

Advocate for African governments to focus on the various Geneva processes which is a crucial part of the WTO negotiations

Valedictory and the way forward

The Seminar concluded with the adoption of separate set of recommendations on future research and advocacy work on the existing and proposed WTO agreements. One of the objectives of the exercise is to prepare the stakeholders to draw up pro active and informed policies on the WTO so they gain maximum benefit out of the system. In this regard, the participants underlined the need for follow up work so that the momentum can be maintained in preparing for a new round of negotiations based on the Doha Ministerial Declaration.

Sajeev K.S. Nair proposed vote thanks on behalf of the CUTS family to the resource persons, participants for their valued contributions; and the HIVOS, Harare its resource support for this initiative.

Annexure i

Seminar Agenda

March 25, 2002

- 0900 to 09:30 hrs. **Registration**
09:30 to 10:15 hrs. **Inaugural**
Chair: Pradeep S. Mehta, CUTS, India
Speakers: Mbikusita Lewanika, Ministry of Commerce, Trade and Industry, Zambia,
Sindiso Ngwenya, COMESA, Lusaka
George Lipimile, Zambia Competition Commission
Mwamba Makasa, CUTS-ARC, Zambia
- 10:15 to 11:15 hrs. **Session 1: What happened at Doha and what impact will it have on the region?**

Chair: Jasper A. Okelo, University of Nairobi, Kenya
Speakers: Sanyanda M. Lewanika, Zambia Trade Network
- 11:15 to 11:30 hrs. Floor Discussion
Tea/Coffee
- 11:30 to 13:00 hrs. **Session 2: Doha Declaration on Creating an Enabling Environment for the LDCs**

Chair: Garth le Pere, Institute for Global Dialogue, South Africa
Speakers: Jasper A. Okelo, University of Nairobi, Kenya
Mwansa James Musonda, COMESA
- Floor Discussion
- 13:00 to 14:00 hrs. **Lunch**
- 14:00 to 15:15 hrs. **Session 3 Agenda for the New Trade Round: National Priorities**
(Presentation from Zambia, Uganda, Mozambique, Kenya, & South Africa)

Chair: Mwansa James Musonda, COMESA
Speakers: Leonido Fonzamo, Pro-Consumers, Mozambique
Jasper A. Okelo, University of Nairobi
Manenga Ndulo, Ministry of Commerce, Trade and Industry, Zambia
Victor Chisi, Consumer Council of Zimbabwe

Garth le Pere, Institute for Global Dialogue, South Africa
Shaban Sserumkuma, Uganda Consumer Protection Association

Floor Discussion

15:15 to 15:30 hrs.

Tea/Coffee

15:30 to 17:00 hrs.

Break out-groups/Discussion

17:00 to 17:45 hrs.

Recommendations/Sum up of the day

March 26, 2002

07:30 to 08:45 hrs.

Breakfast

09:00 to 11:00 hrs.

Session 4: New Issues at the WTO - Environment and Competition Policy: Implications for the Poor Countries

Chair: Sanyanda M. Lewanika, Zambia Trade Network

Speakers: David Ong'olo, CUTS, Kenya

George K. Lipimile, Zambia Competition Commission

11:00 to 11:15 hrs.

Floor Discussion

Tea/Coffee

11:15 to 13:00 hrs.

Session 4: Priorities of civil society groups in the New Trade Round

Chair: Stian de van Merwe, National Consumer Forum, South Africa

Speaker: Garth le Pere, Institute for Global Dialogue, South Africa

13:00 to 14:00 hrs.

Lunch

14:00 to 15:15 hrs.

Break out-Groups/Discussion

15:15 to 15:30 hrs.

Tea/Coffee

15:30 to 16:30 hrs.

Recommendations/the way forward

16:30 to 17:00 hrs.

Closing Session and Vote of Thanks

Sajeev K.S. Nair, CUTS-ARC, Zambia

Annexure-ii
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