

**THE NATIONAL PREPARATORY WORKSHOP FOR THE 5th WTO
MINISTERIAL CONFERENCE, CANCUN, MEXICO HELD AT PAMODZI
HOTEL, LUSAKA FROM 21ST TO 22ND AUGUST 2003.**

WORKSHOP REPORT

**ZAMBIA TRADE NETWORK (ZTN),
FRIEDRICH EBERT STIFTUNG (FES) AND
CONSUMER UNITY & TRUST SOCIETY- AFRICA RESOURCE CENTRE
(CUTS- ARC)**

RAPPORTUERS

Mr. Samuel Mulenga and Ms. Maimbo Ziela

Table of Contents

- 1.0 Acronyms
- 2.0 Introduction and background
- 3.0 Paper Presentation and analyses
- 4.0 Group work and plenary session
- 5.0 Recommendations
- 6.0 Concluding Remarks
- 7.0 Appendixes

Acronyms

- . ACP: Africa, Caribbean and Pacific
- . CSO: Civil Society Organisation
- . CCJP: Catholic Commission for Justice and Peace
- . LDC: Least Developed Countries
- . IF : Integrated Framework for trade related technical assistance to Least developed countries.
- . ITC: International Trade Centre
- . MCTI: Ministry of Commerce Trade and Industry
- . GATS: General Agreement on Trade in Services
- . GMOs: Genetically Modified Organisms
- . SPS: Sanitary and phytosanitary Measures
- . TRIPS: Trade Related Intellectual Property Rights
- . WTO: World Trade Organisation
- . ZCC: Zambia Competition Commission
- . ZNFU: Zambia National Farmers Union
- . ZTN: Zambia Trade Network
- .

1.0 Introduction and background

1.1 Introduction

The WTO National preparation workshop was held at Pamodzi Hotel from the 21st – 22nd August 2003. The workshop was aimed at preparing for the fifth WTO Ministerial meeting to be held in Cancun Mexico from 10th to 14th September 2003. This is following government's invitation for civil society to input into the government's position paper. The workshop was organized by Zambia Trade Network in cooperation with the Fredrich Ebert Stiftung and the Consumer Unity & Trust Society – Africa Resource Center (CUTS-ARC).

The workshop was attended by NGOs, the media, government representatives and some representatives from donor agencies (A list of participants is attached as appendix 1).

1.2 Objectives of the workshop

The workshop was meant to provide an opportunity for civil society organizations, the business community and other private sector participants to input into the government position paper for the forthcoming Fifth WTO meeting. This was the immediate and short term objective of the workshop. It was also aimed at helping participants familiarize themselves with WTO issues and operations. This would in turn help them come up with recommendations to government on how Government should in the future attend to issues related to world trade.

1.3 Official Opening (Keynote Speech By Minister)

The workshop was officially opened by the Minister of Commerce, Trade and Industry, Honorable Dipak Patel. He thanked the Zambia Trade Network, The Consumer Unity & Trust Society – Africa Resource Center and the Friedrich Ebert Stiftung for organizing and sponsoring the workshop and inviting him to officially open the workshop. He said that government recognized the need for not making issues like WTO the preserve of government officials, political leaders and /or the MCTI. Civil society was often closer to the people and therefore are better placed to articulate the interests of the average citizen. It was therefore necessary for the government to engage civil society and the business organisations to influence the form and content of the government paper on WTO issues. The workshop provided a fora for this purpose which also allowed the monitoring of the implementation of such National Programmes.

Honorable Patel invited the Civil Society Organisation (CSO) to contribute to other negotiations going on under ACP/EU Cotonou agreement, the SADC trade protocol, COMESA Free trade area agreements and implementation of the Africa growth and opportunity Act (AGOA). He urged LDCs to become part of the world globalisation process and to understand issues as they pertain to their individual countries. He said that government was concerned with the happenings in Geneva as little development has so far been made from the Doha Development Agenda especially relating to the Singapore issues. He lamented the fact that African states were not adequately represented and was generally illprepared. He also called on South Africa to make its position clear as to whether it represented the LDCs or the Developed countries. Lastly he commended NGO's for the role they were playing in ensuring WTO issues were made known to the public.

1.4 Other Speeches

The speech from the Minister was followed by speeches from representatives from the Fredrich Ebert Stiftung and CUTS-ARC. In their remarks they both indicated the importance they placed on civil society's contribution to the position paper on the WTO issues. They mentioned that these issues affect everyone's every day life and it was for this reason that they felt the need to strengthen civil society's position onto government position.

2. PAPER PRESENTATION AND ANALYSES (KEY ISSUES ONLY)

The official opening was followed by paper presentation sessions and deliberations on key issues identified to be of great relevance to the formulation and adoption of Zambia's position (s), which should be championed at the forthcoming WTO ministerial negotiations in CANCUN. The papers presented can be divided into two categories-general and specific submissions. *(A summary of the key issues is provided below and the full papers have been appended to the report)*

General issues

- (i) Background to the WTO: History, Objectives, and activities and way forward by Ms M. Akapelwa, CCJP;
- (ii) Post Doha-Issues of concern to civil society by Mr. E Kalimukwa, ZTN;
- (iii) Competition policy in the WTO by Mr. George Lipimile, Executive Director, ZCC;
- (iv) Background paper and preparations for Cancun, Mexico by Ms L. Bwalya, Ministry of Commerce Trade and Industry, MCTI;

These four papers provided much of the needed background and insights into the operations and objectives of the WTO and the technical issues and procedures regarding previous rounds of negotiations, the opportunities, prospects, and constraints surrounding WTO negotiations.

The above papers provided platform for discussing more relevant and specific provisions and proposed issues for consideration during the forthcoming coming ministerial conference in Cancun, Mexico. The following five papers were presented and discussed at length and provided a lot of specific issues, which required further deliberation during the group sessions. These papers include;

- (v) The agriculture agreement of the WTO and its relevance to Zambia, by Mr. R Sanyikosa, ZNFU;
- (vi) TRIPS agreement and Public Health: Issues and relevance to Zambia (Dr. M . Lewanika, ZTN)
- (vii) The GATS agreement: Relevance to Zambia by Prof. M. Ndulo, UNZA;
- (viii) Market access for Non-agricultural products by Mr. C. Mbegabolawe, COMESA Secretariat.
- (ix) Integrated Framework for Trade-related Technical Assistance to Least Developed Country: Cambodia's Case Study by Mr. Stephen Muyakwa (ZTN).

From the nine papers presented and discussed, the following key issues were noted as important and form the basis for group session deliberations.

The first was the question of whether Zambia is ready to engage in specific negotiations on competition policy and in general the Singapore issues at WTO level. Although this issue was debated at length, most participants felt that Zambia was neither technically nor administratively ready to engage in such issues. However, no affirmative position was reached on competition policy and other Singapore issues, thus further

discussion was required on this set of issues. Nonetheless, some participants felt that Zambia will not benefit from competition policies at WTO level and that such issues should not be introduced in the WTO—they can best be pursued elsewhere. This was one among three options that had been presented to the participants as a way of proceeding on competition policy in general (See paper by Mr. George Lipimile).

TRIPS and Public health issues are particularly important issues that Zambia should consider lobbying at WTO ministerial conference and further deliberations are needed on this issue. In particular, what modalities should be developed to promote access to intellectual property (medicines) for public health reasons (public good aspects of TRIPS) without at the same time distorting private sector incentives to engage in active research and development activities. On compulsory licensing and the TRIPS Agreement, the paper recommended that LDCs can pursue an amendment of article 8.1 of the TRIPS Agreement to make safeguards applicable to intellectual property rights consistent with safeguards applicable to goods and services. Interim measures regarding article 31(f), article 30 and the last clause of article 8.1 might precede amendment. It was felt that LDCs of the WTO, Zambia in particular, which in most cases lacked manufacturing capacity must be enabled to meet their Public Health needs by importing Pharmaceutical and other public Health inventions under patent in countries of export.

A number of issues on GATS were highlighted and discussed. Most participants felt that Zambia is a small country and clearly stands to benefit from the WTO. However, it was noted that Zambia could enhance these benefits by developing national productive capacity and competitiveness, particularly by addressing a number of structural or sectoral obstacles/constraints to national productivity growth and trade facilitation and development.

It was felt that the services sector growth and development can be achieved, in part, by subjecting services sector operations to WTO/GATS discipline, and further services sector liberalization to WTO guidelines. Zambia should be prodded and should lobby for credit from WTO for undertaking autonomous liberalization of its services sector.

Issues regarding preferential market access (selective tariff reduction) to LDCs, global versus regional tariff reduction and regional trade development were also highlighted, especially with respect to trade in non-agricultural products. It was noted the current agreements on agriculture allows LDCs to subsidize their agricultural sectors-this is not an issue for Zambia. However, what is critical is for Zambia and other developing countries to rally together and lobby for a quota free market access of agricultural exports of great relevance to developing countries. The distorting effects of food aid on a recipient country require considerable attention and negotiation at the forth-coming ministerial conference. Specific positions and recommendations on these issues are presented in the preceding sections.

Participants felt that MCTI has been quite slow in initiating and engaging stakeholders to debate and highlight issues of concern regarding the next negotiations and especially in coming up with position(s) to guide these negotiations. In fact, the participants observed there is no comprehensive trade policy.

Lastly, on the integrated framework for trade related technical assistance to list developed countries, the participants felt that it was important to mainstream trade into national development plans. Further that it was important for Zambia to have a trade policy as it was felt that the current trade pattern which was not pro-poor was as a result of Zambia's lack of a

trade policy. It was also felt that it was necessary for the country to develop from comparative advantage to trade competitiveness. Like in all the other issues on WTO, it was felt that what the country needed was to develop capacity on for instance, how to use the now reduced aid inflows to LDCs more effectively. The participants were informed that Zambia had applied to the integrated framework (IF). However, it seemed that after the needs assessment was done, no further action was taken by government (perhaps a sign of lack of commitment on their side).

3.0 GROUP WORK AND PLENARY SESSION

Four critical thematic issues emerging from paper presentation sessions were identified for detailed reflection and deliberation. Four groups were formed, with each group assigned one thematic issue to discuss and develop precise recommendations. These recommendations were then presented during the group work plenary session, from which several positions were defined. The positions are expected to input into the formulation of National position and strategies to guide government negotiations at the WTO Ministerial Conference in Cancun.

In this section, we present and discuss each of the four thematic issues discussed during group sessions and highlight the major recommendations arising therefrom.

Thematic Issue 1: The Role of Civil Society Organizations in the WTO

Group one was assigned to discuss the role of Civil Society in WTO, and specifically to:

- (i) Identify and discuss role(s), if any, Civil Society should play in the WTO;

- (ii) Identify which activities should be undertaken, which civil society organizations should be responsible for which activities, and determine the criteria for assigning these responsibilities across the identified civil society organizations;
- (iii) set up tentative time frames within which those activities should be accomplished; and;
- (iv) set realistic targets and outputs to be accomplished.

With respect to (i), it was felt that civil society has an important role to play in the WTO issues and should participate actively in all relevant negotiations, both at national, regional and global level. Two **roles** were identified as critical to civil society involvement in WTO matters:

Firstly, civil society should lobby for greater involvement and enhanced representation of civil society interests in government's decisions, negotiations and engagements with WTO. This can be accomplished by strengthening networks with larger organizations such as the South Africa Development Community (SADC), Common Market for Eastern and Southern Africa (COMESA) and the Zambian Government among others.

The second role of civil society should be to strengthen its lobbying and advocacy work on WTO issues by strengthening linkages with other organizations. This can be accomplished by facilitating capacity building for all relevant stakeholders and local communities and community-based organizations.

Key activities

The following specific activities were identified as necessary for accomplishing the above to broader goals (roles of civil society):

- ◆ establish a committee to deal with WTO issues;
- ◆ Identify suitable institutions through which public awareness programs and campaign on WTO issues can be channeled. Media organization/institutions will be key in raising public awareness on trade issues in Zambia;
- ◆ the Zambia Trade Network (ZTN) will establish regular contacts with WTO Geneva Office;
- ◆ establish multi-sectoral working groups on various WTO issues;
- ◆ Civil society should identify and explore several options for capacity building on trade policy in general and WTO issues in particular.

It was observed during that plenary session that Civil Society has an important role to play in trade issues and it's role should be strengthened even further. To accomplish effective participation of civil society in WTO issues will require implementing capacity building programs targeting civil society groups and raising public awareness on trade related matters at the local level.

Thematic issue 2: Zambia's position(s) on agriculture and General Agreement on Trade in Services (GATS)

Group two was assigned to discuss what positions Zambia should adopt during WTO negotiations on agriculture and GATS. To begin with, the group welcomed and recognized the current provisions on agriculture, which allow Least Developed Countries (LDCs) to provide support in form of subsidies and/or through other support measures to the agriculture sector. These forms of support are necessary for the development of a competitive agricultural sector and to improve food security in developing countries. However, the following submission were advanced on what should be Zambia's positions on agriculture:

- ◆ Zambia should negotiate, together with other countries, for duty and quota free access to markets in developed countries for agricultural exports of great interest to developing countries;

- ◆ Lobby for the elimination of agricultural subsidies in developed countries; while encouraging agricultural subsidies in developing countries;
- ◆ Lobby to streamline and develop a fair SPS measures and standards for agricultural exports from developing countries;
- ◆ Lobby for increase flow of donor resources to support capacity building efforts in developing countries, especially those targeting the agricultural sector development and;
- ◆ Streamline guideline for procurement and distribution of food aid. In particular, government should negotiate that food aid be provided only for humanitarian purposes and must be procured locally whenever stocks are available, and that all imported food aid must be properly labeled and be in compliance with national policy on GMOs;

With regard to GATS, participants agreed that agreements on trade in services are very important for Zambia and that the on-going process of consultation must be enhanced but should not be rushed. The following two positions emerged on issues of GATS:

- ◆ The question of whether Zambia is ready for negotiations on GATS was also debated at length, and whether or not Zambia should participate in the on-going consultations. The position adopted was that Zambia is indeed ready to participate in the on-going process of consultation on GATS and that Zambia's capacity to understand issues related to the GATS must be strengthened.
- ◆ Zambia has already undertaken significant liberalization of its services sectors and should therefore lobby for credits for autonomous liberalization during the WTO ministerial conference in Cancun, Mexico.

Thematic issue 3: The Singapore Issues and TRIPS and public health.

Group three discussed what position Zambia must take on the "Singapore Issues" and on negotiations on TRIPS and Public health during the WTO Ministerial Conference in Cancun, Mexico.

It was noted that Zambia should move very cautiously on new issues, competition policy, government procurement, transparency and investment related measures. Participants felt that negotiations on these issues should only begin after a careful assessment of economic, social, political and cultural implications have been completed and fully understood.

Participants also stated that negotiations on any of these issues should be considered after all the pending issues from the Uruguay Round and the Doha Development Round have been tabled and resolved.

With respect to TRIPS and Public health, it was agreed that due to lack of manufacturing capacity in the pharmaceutical sector, Zambia is unable to take advantage of *compulsory licensing arrangement* under TRIP and Public health to produce generic drugs to respond to public health epidemics such as HIV/AIDS.

Therefore, It was advanced that for countries, which lack the necessary pharmaceutical capabilities to produce drugs under the current *compulsory licensing* provisions should be allowed to import these drugs from countries such as India and Brazil that can produce them cheaply and efficiently. It was thus resolved that Zambia should lobby vigorously for this provision during the WTO Ministerial Conference in Cancun.

Thematic issue 4 Inter-Institutional Standing Committee on Trade Policy and Strategies

This group looked at whether Zambia needs to establish an Inter-Institutional Standing Committee on Trade Policies and Strategies (ISCTPS), and if yes, to provide the terms of reference for such a committee and to recommend its compositions and reporting procedures.

It was anonymously agreed that such a committee must be established to give the important role that trade plays in the course of economic growth and development and poverty reduction. This committee will be made up of members representing key government line ministries, parliament committee dealing with trade issues, civil society organizations including academia, trade unions and the media, and the private sector and professional bodies.

The structure and organizational form and the criteria for choosing who sits on the committee, who is responsible for what and who makes what decisions and the channels of communication and reporting details remain to be developed.

It was recommended that the Inter-Institutional Committee on Trade Policy and Strategies would undertake, among others, the following four roles/functions:

- ◆ To guide government in formulation of trade policy and strategies;
- ◆ To undertake regular reviews on the implementation of trade policies;
- ◆ To monitor World Trade trends in reference to Zambia's economic circumstances;
- ◆ To monitor the impact of (pro-poor) trade policies and;
- ◆ To recommend to government (and other key stakeholders) appropriate actions to be taken to address trade imbalances and other negative impacts of national, regional and global trade regimes on the Zambian economy and subsequently on human development and poverty.

This committee must work closely with government and endeavor to promote and enhance effective representation of civil society at the WTO meetings and ensure that government deliberations and position(s) taken at such meetings is adequate and a true reflection of the Zambian situation and people.

The details of the structures, legal identity, and funding and institutional sustainability issues were highlighted during plenary but remain to be resolved at a later stage.

RECOMMENDATIONS

The following recommendations were made during the plenary sessions:

- ◆ Zambia should negotiate, together with other least developed countries, for duty and quota free access to markets in developed countries for agricultural exports of great interest to developing countries;
- ◆ *Zambia should* Lobby for the elimination of agricultural subsidies in developed countries; while encouraging agricultural subsidies in developing countries;
- ◆ *Zambia should* Lobby to streamline and develop a fair SPS measures and standards for agricultural exports from developing countries;
- ◆ *Zambia should* Lobby for increased flow of donor resources to support capacity building efforts in developing countries, especially those targeting the agricultural sector development and;
- ◆ *Zambia should* Streamline guideline for procurement and distribution of food aid. In particular, government should negotiate that food aid be provided for humanitarian purposes and must be procured locally whenever stocks are available, and that all imported food aid must be properly labeled and be in compliance with national policy on GMOs

- ◆ With regard to GATS, Zambia is ready to participate in the on-going process of consultation on GATS but should not rush into signing anything because there is still need for its capacity to be strengthened to understand issues related to the GATS.
- ◆ Zambia should lobby for credits for autonomous liberalization during the WTO ministerial conference in Cancun, Mexico.
- ◆ Negotiations on new issues, competition policy, government procurement, transparency and investment related measures should only begin after a careful assessment of economic, social, political and cultural implications have been completed and fully understood and after all the pending issues from the Uruguay Round and the Doha Development Round have been tabled and resolved.
- ◆ With respect to TRIPS and Public health, It was recommended that countries, which lack the necessary pharmaceutical capabilities to produce drugs under the current *compulsory licensing* provisions should be allowed to import these drugs from countries such as India and Brazil that can produce them cheaply and efficiently. It was thus resolved that Zambia should lobby vigorously for this provision during the WTO Ministerial Conference in Cancun.
- ◆ An Inter-Institutional Committee on Trade Policy and Strategies be established that will undertake, among others, the following roles/functions:
 1. To guide government in the formulation of trade policy and strategies;
 2. To undertake regular reviews on the implementation of trade policies;
 3. To monitor World Trade trends in reference to Zambia's economic circumstances;
 4. To monitor the impact of (pro-poor) trade policies and;
 5. To recommend to government (and other key stakeholders) appropriate actions to be taken to address trade imbalances and other negative impacts of national, regional and global trade regimes on the Zambian economy and subsequently on human development and poverty.

CONCLUDING REMARKS

In concluding the workshop, the ZTN Coordinator Mr. S. Muyakwa, assured members that government was willing to act on the given recommendations as the workshop was actually called in response to a call by government for civil society's input into their position paper. He thanked the organizations that helped sponsor the workshop and also all the participating members for their input in the workshop.

APPENDIX 1

List of participants APPENDIX 1

List of participants

NAME	ORGANISATION	BOX #/ PHONE	EMAIL
Robet Sanyikosa Chanda Tembo	ZNFU Ministry of Legal Affairs	Box 50106/ 251588	znfu@zamnet.zm chandankoloma@ hotmail.com
Henry Silwoya	Silweya and Co.	Box 34426 Lusaka	
Thula Kaira	ZCC	Box 34919 Lsk	zcomp@ zamtel.zm
Danny Kalinda	Easterly ENT	Box 50561 Lsk /096-764629	
Gregory Chikwanka	CSPR	Post Net 302/ 290154	cspr@zamnet.zm
Augustine Mukupu	-	-	gorsti@yahoo.com
Martin Kapende	Zambia Daily Mail	Box 31421	mkapende@ hotmail.com
Machova Munsanshi	Business and Leisure	Box 32295	Macova00@ yahoo.com
Janne Sivonen	KEPA Zambia	Box 36524	janne@copper.org.zm
Dorothy Tembo	Zamtie	Box 39398	dtembo@zamtie.org.zm
Maimbo Ziela	ZARD	Box 3 Lusaka/ 224536	maimboziela@ yahoo.co.uk
Huang Yanan Watson Mfula	Xinhua NYCA	Box 31859 Box 50197/ 095794708	xinhua@zamnet.zm Natyouth@yahoo.com
David Simpson	Commerce Gazette	Box 32295/ 292096	dsimpson@coppernet.zm
Abel Mambwe	NIZA	Box 32295/ 292096	abbegapix@yahoo.co.uk
Micheal Malakata	Africa View Magazine	Box 32295	Malakam2002@ yahoo.co.uk
Charlse Katongola	CUTS	Box 37113/ 224992	ckatongola@ hotmail.com
Henry Kabwe S.Mulenga	The Monitor UNZA Economics	Box 31145 Box 32379 Lsk	kabwehen@hotmail.com bwalyasamuel@ hotmail.com
B. Chisanga	Centre for Policy Research and Analysis	096-434278	odm@zamnet.zm

Stephen Kata	ZIMA	Box 30125/ 096-744702	stephenkata@ yahoo.com
Talent Ngandwe	ZIMA/MISA	Box 39570	tngandwe@ yahoo.com
Emmanuel Mulenga Mupuchi S.	Yatsani The Post	Box 320147 Lsk/ 265842 P/bag E352 Lsk	yatsani@coppernet.zm Mupuchi-s@lycos.com
F. Kasumbalesa	Zambia Watchdog	Box 32295	fkasumbalesa@ yahoo.com
Pam Mwananshiku Prof. M. Ndulo Chiwama Musonda	Ministry of Legal Affairs UNZA Export Board (z)	Box 50106 Box 32379 Box 30064	Pmwananshiku@ Yahoo.co.uk mndulo@yahoo.com ebzint@zamnet.zm
Edna Sichiyasa Sanka Chinji	ZARD Ministry of Foreign Affairs	Box 37836 Box 50096	zard@zamtel.zm sankachinji@yahoo.com
Susan Barton	DFID	C/o British High Com.	Su-barton@dfid.gov.uk
Dr. M. Lewanika Prof. V. Seshamani Elizabeth Chishimba	NISIR UNZA Rural Devel. Journalist Network	Box 31058 Box 32379/ 227193 Box PANOS- SA	sanyanda@hotmail.com sesh@zamnet.zm Lizwv2000@yahoo.co.uk
Henry Malumo	Rural Devel. Journalist Network	Box PANOS- SA	hsmalumo@yahoo.com
Nathan Chitelela	CePRA	096-434278	Nchitelela2003@ yahoo.co.uk
Calson Mbegabolawe Rodgers Mba Tommy Mumba	COMESA ZACA Africa Today Magazine	229225 097-865138 Box 33611/ 232666	calson@comesa.int zaca@zamnet.zm tommymumba@ yahoo.com
Kafula Chisanga	ZEA	Box 3/ 096- 767120	kafulac@yahoo.co.uk
Robert K. Zalati	OYV	Box 37999/ 222083	kellysalati@mailcity.com
Thomas Nsama Emmanuel Kamwi Manja Kamwi Micheal Schulteiss	The Post NYCA MS-Zambia Friedrich Ebert Stiftung	E352 Box 50195 252605 Box 30554, LSK	youthparly@yahoo.com Info@ms.zm Fes@zamnet.zm

Ngoza Yezi	ZCEA	P/bag RW239X/ 229641	zamcivic@coppernet.zm
Zuber Moosa	Action Computer	097-849600	zubermoosa@ hotmail.com
Dev Babbar	Zambia Ass. Of Manufacturers	097-845516	babbar@zamnet.zm
Francis Banda	Organisation Devel. And Community Management Trust	Box 38665/231322	odomt@microlink.zm
Nkweto Mfula	Zambia Daily Mail	Box 31421 221364	Zadama@zamnet.zm
Ernest Mwape Danstan Kaunda	CONASA M&G SA	Box 36238 Box 32295	mwape@conasa.org kaundacd@yahoo.com
Chilufya Sampa	ZCC	Box 34919	zcomp@zamtel.zm
Ben Zulu Vainola Makan Roman Mukuule Beatrice Hamusonde	ZAMSEED PANOS PANOS ZARD	Box 35441 Box 37836	zulub@zamnet.zm vainola@panos.org.zm r.mukendi@yahoo.com zard@zamtel.zm
G Tembo	Ministry of Commerce	Box 31968	stembo@mch.gov.zm
C Mitti	Ministry of Commerce	Box 31968	cmitti@mcti.gov.com
Helen I Banda	CUTS-ARC	Box 37962	nkulile@hotmail.com
M Akapelwa	CCJDP	Box 31965 261789	mkakapelwa@zec.org.zm
J Kapembwa	BEELO(SA)	Box 23395	jeffkapembwa@yahoo.com
S Mpande	Ministry of Commerce Trade& Industry	Box 31968	smpande@mct.gov.zm
L Bwalya	Min of Commerce	31968	isbwalya@mcti.gov.zm
J N Chola	Choice FM	096 431284	cholajohn@webmail.co.za
S. L. Muyakwa	ZTN/ ZARD	097-808421	Smuyakwa@coppernet.zm

Appendix 2

BACKGROUND TO THE WORLD TRADE ORGANISATION

**ZAMBIA TRADE NETWORK WORKSHOP
21 –22 AUGUST 2003**

**PRESENTED BY:
M. KUFEKISA –AKAPELWA
CATHOLIC CENTRE FOR JUSTICE, DEVELOPMENT AND PEACE
P.O. BOX 31965, LUSAKA**

mkakapelwa@zec.org.zm
zeccjp@zamnet.zm
www.ccjp.org.zm

WHERE DID THE WTO COME FROM?

The WTO came into being on 1 January 1995 as the successor of the General Agreement on Tariffs and Trade (GATT). The GATT, an international agreement to reduce tariffs and other barriers to trade, was born in the aftermath of World War II, as the US and Britain sought to establish a stable multilateral economic system to prevent the kind of trade wars and economic rivalry that had contributed to the Great Depression and the rise of fascism.

However, the US Congress rejected the idea of setting up an International Trade Organisation on a par with the IMF and World Bank. GATT became their poor relation, comprising a set of rules and periodic talks on further trade liberalisation. Only 50 years later was a standing body finally established.

GATT developed through a series of rounds of international trade talks, culminating in the Uruguay Round (1986-94) which agreed the creation of the WTO. Talks under the GATT were largely limited to tariff reductions on trade in manufactured goods. Until the Uruguay Round, agriculture was excluded as too socially and politically sensitive. Successive rounds steadily reduced tariffs on trade in manufactured goods from an average of 40 per cent in the 1940s to four percent today.

From the 1970s, as tariffs came down, attention turned to other issues affecting the flow of trade, such as dumping (selling goods at below the cost of production to gain market share) and what are called 'non-tariff barriers', for example blocking imports on health grounds.

The Uruguay Round took this gradual expansion of the GATT's remit a giant step further, by including for the first time agriculture, services (eg finance, telecoms) and intellectual property rights (patenting regimes). In the Doha Round, Britain and some other countries want to expand the WTO's remit still further to include agreements on international investment and competition.

WHAT IS THE WTO FOR?

The WTO has four main functions:

- to administer the implementation of the Uruguay Round agreements
- to provide a forum for further negotiations
- to administer dispute settlement
- to review member countries' performance on trade liberalisation.

The last two, and in particular the 'court' of the dispute mechanism, are what makes the WTO significantly different from the GATT. Any WTO member can take another member to the WTO court. There is also an appellate body if countries wish to appeal against the court's decisions. If a member wins a case, it is authorised to impose trade sanctions up to the amount it is adjudged to have lost. This is of little value to small countries: Ecuador was at one point given leave to impose sanctions on the EU in a dispute over bananas!

The dispute settlement mechanism means that the WTO, unlike the International Labour Organisation (ILO) or the UN, has teeth. If a country violates an ILO convention, all the ILO can do is issue a statement. If a country breaks a WTO agreement, it faces trade sanctions.

On the other hand, unlike the IMF and World Bank, the WTO does not lend money, and so has less immediate financial leverage over developing countries. In practice, the WTO, World Bank and IMF act in concert to push developing countries along the road to liberalisation. Often a WB/IMF 'structural adjustment programme' will push a country into trade liberalisation measures that are then 'locked in' through WTO agreements.

HOW DOES THE WTO WORK?

The WTO has two fundamental principles, called 'National Treatment' and 'Most Favoured Nation treatment' (MFN).

National Treatment: A foreign company or product in a member state has to be treated the same as (or better than) a comparable domestic company or product.
MFN Treatment: Trade concessions (eg lower tariffs) given by one member to another member

must be extended to all members.

Both these terms mean the opposite of what they say: 'national treatment' means governments cannot treat national producers any differently from international ones, and 'most-favoured nation' prevents any nation from being 'most favoured'!

HOW IS THE WTO STRUCTURED?

Director

General

Normally serves for six years. In 1999, members were unable to agree on the appointment, and compromised with a split term. In September 2002, Supachai Panitchapakdi from Thailand took over for a three-year term from the previous incumbent, Mike Moore, from New Zealand, (1999-2002).

Secretariat

Five hundred and fifty permanent staff (a small fraction of the numbers at the World Bank or IMF) based in Geneva, with an annual budget of \$69m. With its small secretariat, the WTO is driven by its member governments to a much greater extent than the World Bank or IMF, which have a stronger institutional role based on significant levels of internal research and policy-making.

Ministerial

Conference

The WTO's chief policy-making body, composed of government ministers from member states meeting every two years. Doha was their last outing. The next is in Canc en, Mexico in September 2003.

General Council and Trade Negotiating Committee

The General Council is the WTO's most senior permanent body. Based in Geneva, it meets several times a year. Ambassadors from all member states with delegations in Geneva can attend. The Doha round of negotiations is overseen by the Trade Negotiating Committee, which in practice has the same membership as the General Council.

Committees

Beneath the General Council are a number of specialist councils and committees of members, eg on trade in goods or Trade Related Intellectual Property Rights (TRIPs).

Voting

Unlike the IMF and World Bank, voting in the WTO is based on one member country, one vote. In practice, however, all decisions are reached without a vote through a combination of consensus, fudge and arm-twisting by the big powers. Nevertheless the system theoretically gives developing countries a majority voice.

Besides these formal structures, WTO member government delegates in Geneva are involved in a constant merry-go-round of informal meetings to discuss bilateral issues and forge joint positions in the negotiations. Joining and leaving

As of January 2002, the WTO had 144 member states. Any state or customs territory having full autonomy in the conduct of its trade policies may become a member ('accede to') the WTO, but all WTO members must agree on the terms. This is done by a working party of WTO members and through a process of bilateral negotiations. The most recent large accessions were by China and Chinese Taipei (the official name for Taiwan as a WTO member). The largest remaining non-members are Russia and the Ukraine.

Although it only requires six months' notice, no member country has left so far. To echo Oscar Wilde, the only thing worse than being in the WTO, is not being in the WTO! Withdrawal would be

very damaging for any government, potentially leading to retaliation from other members (by slapping tariffs on the departing country's exports) and a flight of foreign investment.

ISSUES OF CONCERN WITH WTO
An international body for regulating world trade is a good idea, if only to stop the rich countries bullying the poor, but the WTO, as currently constituted, is failing to do that.

Dogmatic attachment to liberalisation
The 15 agreements of the Uruguay Round were drawn up at the height of the enthusiasm for free market economics, and reflect a dogmatic attachment to liberalisation and deregulation. The world may have moved on since then, but the WTO has not and the Doha Round retains much of the traditional WTO agenda. It sees trade liberalisation as an end in itself, rather than a means to an end (such as ending poverty). There is plenty of evidence to show that while liberalisation in some circumstances can help the poor, in others it can do serious harm, for example by letting in floods of cheap food imports, which wipe out the livelihoods of small-scale farmers. Maize prices received by poor Mexican farmers have halved since Mexico opened its borders to cheap US maize, causing havoc in the countryside.

This ideological bias may explain why the WTO pays almost no attention to assessing the impact of its agreements. A recent report by the UK parliamentary international development select committee concluded: 'We are astonished at the lack of empirical study of the impact of the Uruguay Round on developing countries. Adequate resources must be provided to fund such a review.' To date, no such review has even begun.

Northern double standards
Northern governments and companies have proved adept at including loopholes in the agreements to benefit themselves. According to the UN, northern protectionism is robbing the developing world of an export income of \$2 billion a day, many times more than the total inflows of aid.

Developing countries feel cheated. Take the Agreement on Agriculture, which commits governments to reducing subsidies to farmers, arguing that these drive down prices and damage the livelihoods of farmers elsewhere. Yet the loopholes agreed in the Uruguay Round have allowed the northern governments to carry on supporting their farmers to the tune of \$310 billion a year. Added to their greater access to technology, land and bank loans, this gives northern agribusiness a massive and unfair advantage over developing country farmers.

But double standards also exist on a deeper level. With few exceptions, today's successful economies built up their national industries behind protective barriers. Today, many of those options are being closed off to developing countries by WTO agreements on issues such as investment rules. One Andean negotiator concludes: 'Because of trade liberalisation, we cannot pursue the policies developed countries used in the past.'

Mission creep
The WTO covers a lot more than trade and tariffs. Increasingly, it deals with 'behind the border' domestic issues such as investment rules and patenting regimes. If the European Union succeeds in including new areas such as investment, competition, labour standards, animal welfare and the environment in the Doha round, this 'mission creep' will extend still further. International rules on these issues are needed in some cases, but the WTO will bring to them its own agenda of liberalisation, national treatment and deregulation, and its imbalances of power. For that reason, many developing countries and NGOs oppose further extension of its field of influence.

Corporations v governments

On paper, the WTO merely deals with governments. In practice, however, transnational corporations have a large, though often invisible, presence. Pharmaceutical and life science companies drove the discussion on intellectual property rights that led to the agreement on Trade-Related Intellectual Property Rights (TRIPs) that extended corporate control of the knowledge economy. In the talks that established the agreement, 96 out of the 111 members of the US delegation negotiating on intellectual property rights were reportedly from the private sector. Closer scrutiny of the 650 'NGOs' accredited to attend the Qatar ministerial as observers revealed that at least 240 of them were in fact industry representatives, including the Motion Picture Association, the American Sugar Alliance and the United Egg Producers Association. Unlike the increasingly stringent rules in Westminster, there are no rules governing disclosure of corporate lobbying at WTO level.

Given this level of corporate influence, any WTO agreement on investment is likely to focus much more on prising open developing country markets than on curbing the power of corporations and ensuring good social and environmental behaviour.

LIKELY FLASHPOINTS IN CANCUN

Agriculture

Some 96 per cent of the world's farmers live in developing countries and more than half the world's poorest people depend on farming. The WTO's Agreement on Agriculture is seen by many developing countries as the worst example of northern double standards, as one African negotiator laments 'On agriculture, the promise was "liberalise and things will get better." The opposite has happened. Now we have food insecurity.'

The list of problems is. The source of these problems is a combination of the North's subsidies to its own farmers, (allowing them to dump produce on developing countries at below the cost of production) and the negative impact of abrupt trade liberalisation in the South.

Developing countries need new means of protecting its small-scale farmers. Until dumping ends, developing countries should not be forced to open up their markets further (although they can of course do so of their own accord). Furthermore, small-scale farmers in the developing world need particular help. The introduction of a 'development box' in the Agreement on Agriculture, which would enable developing country governments to put the interests of small-scale farmers and food security above their WTO commitments.

New issues

One of the fiercest battles in Doha was over whether the Doha Round should include talks on a set of 'new issues': investment, competition, transparency in government procurement and trade facilitation. A final decision was held over until the Cancun ministerial, to allow the Doha agreement to be signed. The most controversial issue is investment. The EU, (including the British government, one of the strongest proponents of the new issues), argues that an investment agreement will attract foreign investors to developing countries, bringing new capital and technology.

While Foreign Direct Investment (FDI) can play a positive role in development, and multilateral rules are important in protecting the weaker players from abuse at the hands of the stronger, the WTO is the wrong place for such an agreement because:

- The historical experience both of the East and Southeast Asian 'tiger' economies, and rich countries such as the US, shows that the WTO's core principle of national treatment is particularly inappropriate for the issue of investment.
- The WTO has a narrow liberalising mandate, which will inevitably focus on prising open southern markets, rather than regulating over-powerful corporations.
- Developing countries are already unable to cope with the burden of so many parallel sets of negotiations. Adding yet more will exclude them from effective participation and increase the chances of an eventual breakdown in talks.

Implementation and Special and Differential Treatment

Developing countries stress the need to address a range of inequities and problems that have arisen in putting the Uruguay Round agreements into practice ('implementation issues'). Around 100 implementation issues were raised in the lead up to the Doha Ministerial Conference. Some of the less important ones were settled at or before Doha. The rest were included in the Doha round of negotiations, despite developing country objections that they were 'being made to pay twice' by having to offer further incentives to rich countries in order to rectify the failures of previous negotiations. The main implementation issues include:

- Textiles: developed countries that agreed to open up their markets to garment and textile imports have 'backloaded' liberalisation until the last possible date of the 10-year liberalisation process, effectively maintaining protection until 2005.
- Anti-dumping: Developed (and increasingly, large developing) countries have resorted to an increasing number of anti-dumping actions to block imports. One tactic is using back-to-back anti-dumping actions against the same country - when one action is struck down by the WTO Disputes Panel after about two years, another immediately begins in what is known as 'trade harassment'.

Many implementation issues have found their way into the becalmed waters of the Committee on Trade and Development's discussions of Special and Differential Treatment (S&D). S&D is the way the WTO recognises that developing countries cannot be treated exactly the same as rich economies.

In the Uruguay Round, the concept of S&D, which had been central to the GATT, was watered down until it meant giving most developing countries slightly longer to implement the agreements, while the poorest countries were exempted altogether from some commitments. Since the Uruguay Round, however, developing countries have tried to revive the notion of S&D and tie it more closely to their development needs.

In Doha members agreed 'that all Special and Differential Treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational'. Although this was hailed at the time as a major step in building a 'Doha Development Agenda', once back in Geneva, developing countries were unable to make progress. Despite making 85 different proposals on S&D (rich countries made none), the Committee on Trade and Development missed the deadlines set at Doha and - at the time of writing - developing countries were beginning to talk about abandoning the time-consuming and unproductive S&D talks altogether.

Negotiating

capacity

The large governments maintain permanent negotiators in Geneva, and fly in experts on particular issues from relevant ministries. Nearly half of the least-developed country members of

the WTO have no representation in Geneva and those that do have only one or two people to cover the WTO, ILO , UNCTAD and other international bodies based there. They simply can't keep up.

When the pace of negotiation steps up, the imbalance grows. One NGO attending the Doha ministerial counted 502 people in the EU delegation. This compared to the Maldives with two, St. Vincent with one and Haiti, the poorest nation in the Western hemisphere, with no delegate at all.

TRIPS

The TRIPs Agreement has been one of the WTO's most controversial agreements, since it strengthens private companies' ability to patent life forms and genetic sequences and increases corporate control over access to seeds, which is a vital issue in developing countries.

One of the most notable outcomes of the Doha ministerial was a Declaration on the TRIPs Agreement and Public Health, which sought to allay Developing countries' concerns over the pressures they were under not to use the flexibility theoretically guaranteed under the TRIPs agreement to put health needs before property rights. Since Doha, however, negotiations on TRIPs and access to medicines have struggled in the face of fierce lobbying by pharmaceutical companies and the opposition of the US administration.

ACKNOWLEDGEMENT:

CCJP papers, The World trade Organisation

CAFOD, Policy Papers.

APPENDIX 3

From Doha to Cancun: Issues of Concern to Civil Society

The WTO held its fourth Ministerial Conference in Doha, Qatar in 2001. Member states were resolute in working more constructively, than witnessed during the *'Battle of Seattle'*, to ensure a positive outcome from the discussions. The Doha Development Round was launched. The round seeks to reflect the increased number of developing countries in the WTO, and the role, which trade and liberalization have to play in their development processes.

Two years on from Doha, preparations are currently underway for the Fifth WTO Ministerial Conference due to take place in Cancun, Mexico, from 10 – 14th September. The aim of the Ministerial is *'...to take stock of progress in negotiations and other work under the Doha Declaration'*. Essentially the fifth WTO Ministerial Conference will serve as an interim progress report on the current round of negotiations of which all but two are due to be concluded by January 2005, within the Single Undertaking Framework. The Final Ministerial Declaration from Doha (14th November 2001) lists 21 subjects that would constitute the WTO Work Programme. The majority of items under this programme involve negotiations. However, other issues to be dealt with include 'implementation', referring to the problems experienced by developing countries in implementing current agreements. The 21 subjects include, *inter-alia*, the following:

- Agriculture
- Services
- Market Access for Non-Agricultural Products
- Trade Related Aspects of Intellectual Property Rights
- Dispute Settlement
- Trade and Environment
- Technical Cooperation and Capacity Building
- Special and Differential Treatment
- Relationship between Trade and Investment
- Interaction between Trade and Competition Policy
- Transparency in Government Procurement
- Trade Facilitation

To date, the Doha round has been typified by missed dead-lines. Despite the mandate for progress on all items – except the Dispute Settlement Understanding, and those on a multi-lateral register of geographical indications for wine and spirits – to be reviewed at Cancun, the majority of the negotiating groups have to date failed to have initial discussion drafts prepared for the Ministerial. There appears to be no single explanation for this, other than the complexity and litigious nature of the issues.

However, a common understanding is that with the world economy in the doldrums, and many national economies in recession, countries are adopting a state-centric, protectionist stance once again, in fear of the consequences of opening up their markets to foreign products and investment.

View-points on the importance of these missed dead-lines appear divided. At the recent launch of the European Trade Forum, an optimistic John Clarke (DG-Trade) told delegates that the trade round was in a much healthier state than the Uruguay Round was at a comparable stage, and that although a number of dead-lines had been over-shot this was inconsequential to the success of the negotiations and the completion of the trade round. Elsewhere, others have expressed concern, arguing that failure is not an alternative. They considered the state of play to be sending out negative signals to an already floundering economy.

Preparations for Cancun continue, negotiating committees continue to meet, mini-ministerial get together take place, and civil society groups continue to place pressure on governments to go further and make good on their Doha promises. It would therefore be wrong to attempt to give a snap-shot of the current state of play of negotiations, not only because of their complexity, but because reports become outdated on a daily basis. Of the most contentious issues to be discussed at Cancun are; TRIPS and Public Health, Special and Differential Treatment, Implementation Related Issues and in areas of Agriculture and Market Access for Non-Agricultural Products. Further difficulties also lie in the process being adopted by the Chairman, questions have been raised over the production of draft text, which includes statements of agreement, on which no discussion, let alone consensus has yet been reached.

That is not to say that on-going negotiations, the potential addition of the Singapore issue negotiations (and others), and the Single Undertaking concept all add up to an extremely ambitious work-load, and one that sits loaded in favour of those states with available resources to manage such an agenda. It is a very real concern that developing countries will once again find themselves lacking the capacity to engage with and influence negotiations on such complex and interrelated issues, and as such decisions will, once again conclude with their marginalization. Hypocrisy in the context of a *'Development Round'*.

To complete the workload within four days seems all but impossible, and it is already expected that the Ministerial will run over. Both time and effort will be required on those issues, which have reached an impasse or are progressing too slowly. Flexibility and heightened understandings must be found on at least some issues if the negotiations are to remain fluid, and dead-lines are to be met.

Civil Society believes that the WTO's Cancun Ministerial could advance a number of agenda items launched by the Doha Round of trade negotiations. In this regard, the following are some of the issues civil society would like to bring to the fore :

- Zambia should prioritize key areas of development issues such as :
 - (i) assistance to develop infrastructure for trade in particular inter linkages in the transport system to overcome the problem of being land locked. Further, multinational and regional financial organizations and bilateral and multilateral donors should give special attention to the building of infrastructure to enhance attractiveness of least developed countries to foreign investors;
 - (ii) debt relief to release funds to develop supply capacities to meet new market access. Civil society welcomes the HIPC initiative on condition that resources are used for social and economic (productive) development.
 - (iii) increased resources for the WTO Trust Fund to ensure that developing countries have sufficient finance to meet the costs of implementing WTO agreements and other international obligations.

STATUS OF THE CURRENT ROUND OF THE MULTILATERAL TRADE NEGOTIATIONS

- there has been slow progress in addressing the Work Programme set out in the Doha Declaration with deadlocks and missed dead-lines on a range of key negotiation issues
- This lack of progress is to a large part due to controversies emanating from different interpretations of the Doha mandates, real substantive differences in the positions of members and in other instances, simple reluctance to engage on issues, especially by developed countries.

Comment

- In this regard, civil society believes that the Fifth WTO Ministerial Conference will provide an opportunity for Zambia and members alike an opportunity to reiterate the development dimension of the Doha Agenda and resolve the current impasse and lack of progress under the Doha Work Programme.

Agriculture Negotiations

- Negotiations on agriculture are mandated by the Agreement on Agriculture (AOA) and started in 2000.
- The mandate was further enhanced at the 4th WTO Ministerial Conference in Doha.
- Agriculture has been included as part of a wider agenda of negotiations. The work programme adopted for the negotiations cover all three pillars of the Agreement on Agriculture i.e. export competition, market access and domestic support
- To date both developing and developed countries have submitted demands on all three pillars
- The Chairman of the Committee on Agriculture produced an overview paper on 18th December 2002 covering all the proposals that have been submitted
- The 1st draft of modalities contained concepts like 'strategic products' for developing countries for food security and rural development, which were proposed by the Africa Group. Export subsidies are to continue for another ten years.
- The draft was rejected by the USA and the Cairns Group, on the one hand, arguing that it did not go far enough whilst the EU, Japan, Norway and Switzerland felt that it had gone beyond the Doha mandate and did not include non trade concerns. The 2nd draft paper on modalities has just been circulated, again in the Chairman's own responsibility. Even the current assessment of the African delegations is that this too does not sufficiently address their concerns.

Comment

- Agriculture is the sector of much importance to Zambia. Besides providing food security, it is becoming the backbone of Zambia's economy for export earnings and employment creation
- Bringing down barriers to agriculture trade is the key issue of the Doha Round of Multilateral Trade Negotiations for Zambia

Civil Society, therefore, proposes that:

- all forms of trade distorting domestic support measures provided by developed countries to their farmers which eroded the competitiveness of LDCs agriculture sector should be removed to enable the development of a vibrant and competitive agriculture sector
- all forms of export subsidies should substantially and progressively be reduced with a view to phasing them out within a specified period
- tariff peaks and tariff escalation applied by developed countries should be phased out as they inhibit developing and least developed countries from adding value to their raw materials and primary products
- existing preferences that have been accorded historically to developing and least developed countries should remain and be secured under the framework of the AOA
- the 'modalities' currently being discussed in the WTO have to produce results, which should not only result in market liberalization of world agricultural markets, but also provide avenues for LDCs to increase their agro-industries
- non-tariff barriers to agriculture trade such as Sanitary and Phytosanitary (SPS) measures and Technical Barriers to Trade (TBT) should be eliminated and restraint in applying TBT and SPS measures on products from LDCs should be exercised

- there should be more simplified and transparent tariff quota regimes which should be of clear benefit to DCs and LDCs. LDCs should be fully exempted from any reduction commitments and should be given bound duty free and quota free
- Financial and Technical assistance should be provided to least developed countries for improving agricultural infrastructure, productivity and diversification and for development of facilities and systems for compliance with SPS and TBT requirements for exporting agricultural commodities and also increase local food production, value adding, capacity in marketing, storage and distribution.
- Food aid provided by members to meet emergency situations, humanitarian and development objectives and to address chronic food deficit situation in LDCs should be allowed
- Members should immediately implement the Marrakesh decision on measures concerning possible negative effect of the reform programme on LDCs and Net Food Importing Developing Countries, including through the establishment of a revolving fund to ease short term financing problems linked to import of basic foodstuffs
- The impact and implications of long-term decline of sustained real prices of primary commodities should be expedited and the General Council present a report for decision on the matter, by Ministers at the 5th WTO Ministerial Conference in Cancun; and
- The expansion of the scope of Special and Differential Treatment in the area of domestic support should allow developing countries to employ policy measures which target the viability of small-scale and subsistence farmers, rural poverty alleviation, food security as well as product diversification. Such elements should take into account the need to strengthen vulnerable producers and to improve their export competitiveness

TRADE IN SERVICES

- Negotiations under Article XIX of the GATS started in the year 2000 as mandated. On 28th March 2001, the Council of Trade in Services adopted Guidelines and Procedures for these negotiations
- To date us in the civil society do not have access to information regarding requests for market access on Zambia (agreed deadline was 30th June 2002)
- Civil society submits that, Zambia, like many developing and least developed countries lacks resources, both human and institutional to submit requests
- Because of the complexity of the services subject, thorough knowledge of the laws and regulations in member countries is needed before a request/offer is made
- The deadline for submitting initial offers was set at end of March 2003

Comment

- While it is necessary that Zambia participates actively in the 'request – offer' exercise, there are a number of constraints that hinder her participation
- These include human and financial. In fact, Zambia is experiencing difficulties to effectively prepare and submit 'requests' in order to effectively promote her own trading interests in the negotiations
- Further, Zambia is experiencing difficulties in elaborating the requests due to their complexity in nature and also due to limited understanding of GATS

In view of the complexity of the issues, Civil Society proposes the following:

- Services negotiations should only proceed after independent and reliable impact assessment studies have been carried out and that our local research institutions should conduct such studies

- Financial and technical assistance should be provided for the 'request – offer' exercise and for building domestic services capacity, efficiency and competitiveness of our services sectors
- Zambia should be able present requests which are compatible with the developmental, economic and financial needs and that which are limited in terms of sectors and modes of supply and scope of commitments
- WTO members should assist LDCs like Zambia in obtaining training and transfer of technology, and under other specific measures

TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS)

With regards to TRIPS negotiations, Civil society proposes the following;

- The flexibility contained in the TRIPS agreements and the Doha mandate that the TRIPS Agreement does not preclude the right of members to take actions that will allow for easy access to medicines to combat communicable diseases in particular HIV/AIDS, tuberculosis and malaria, and other epidemics should be upheld
- The 16th December 2002 draft decision on implementation Paragraph 6 of the Doha Declaration on the TRIPS and Public Health should be adopted as it remains the most acceptable solution
- Work on the review of Article 27.3(b) as well as examining the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and protection of Traditional Knowledge should continue
- Protection of geographical indications should be extended to include other products of commercial interest to LDCs and developing countries
- Traditional knowledge and folklore be protected

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Civil society's proposal with regards to market access for non-agricultural products relate to the following;

- studies should be conducted to determine the effects of each tariff reduction proposal on trade, taking into account the effects on imports, exports, tariff revenue, economic welfare and output as well as long term and short term costs and benefits
- least developed countries should be exempted from these negotiations
- LDCs must be given maximum credit for unilateral liberalization
- Targeted technical assistance should be provided to LDCs and address supply side constraints
- Erosion of preferential margins due to MFN tariff reductions should be offset by establishing compensatory and other appropriate mechanisms to fully address the impact of erosion of preferences including measures that promote exports of LDCs
- Developed countries should eliminate tariff peaks, high tariffs and escalation as well as non-tariff barriers in particular to products of export interest to developing and least developed countries
- Developed countries should provide duty free and quota free market access for all products of LDCs before the 5th Ministerial Conference along with harmonized, flexible and simplified rules of origin that take into account the industrial capacity of developing and least developed countries; and
- Developed countries should commit themselves to deeper reduction while providing flexibility for gradual reduction of tariffs by developing countries

IMPLEMENTATION RELATED ISSUES

Progress on the negotiations on implementation issues has also proven slow. The Doha mandate set a deadline of December 2002 at which time, the various WTO bodies had not reached consensus on the various issues and, as such, could not submit recommendations to the General Council for 'appropriate action'.

Comment

Civil society is concerned that despite a clear mandate by the Doha Ministerial Conference that the implementation related issues and concerns shall be an integral part of the Work Programme, most of the issues remain unresolved

Civil society therefore proposes the following;

- All outstanding issues be addressed on a priority basis
- The key being Special and Differential Treatment for developing and least developed countries
- Transfer of technology under TRIPS
- Provision of financial and technical assistance to address supply capacities and review of the agreements which have an impact on developing and least developed countries

NEGOTIATIONS ON RULES

- Negotiations are aimed at clarifying and improving disciplines on Agreements on Anti-dumping, Subsidies and Countervailing Measures (including Fisheries subsidies) and on rules regarding the relationship between multilateralism and regionalism. Negotiations on regional trade agreements are still at an early stage and as such have been limited mainly to the issue of transparency.

Civil society's proposals on WTO rules are as follows;

- A simplified procedure for investigation for anti-dumping and countervailing measures should be devised; and
- Recognizing that subsidies may play an important role in economic development and poverty alleviation programmes, subsidies required for development, diversification and upgrading infant industries and in particular industries with substantial poverty alleviation potential in LDCs should be treated as non-actionable

SPECIAL AND DIFFERENTIAL TREATMENT

- Issues on S & DT are dealt with in the special session of the Committee on Trade and Development
- The task at hand is to identify those S&DT provisions that are mandatory, and to consider the implications of making mandatory those that are non-binding.
- Deliberations on these issues were spearheaded by proposals from the Africa Group, the LDCs and India
- After a year of deliberating very little progress has been made

Comment

- Civil society is concerned with the slow progress in this area especially on the apparent lack of interest and response from developed countries

In this regard, civil society has submits the following proposals;

- All S&DT proposals submitted by Zambia and other LDCs alike should be addressed, without priori exclusions, with a view to making them precise, effective, and operational and thereby converting them as binding commitments of member states; and
- All S&DT treatment that facilitate the development efforts of LDCs, expansion of trade and investment opportunities and integration into the multilateral trading

TECHNICAL ASSISTANCE AND CAPACITY BUILDING

- Technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system
- Trade related technical assistance is vital for LDCs to increase their trade related supply capacities, and to effectively participate in multilateral trade negotiations
- In the Doha Ministerial Declaration, technical assistance runs throughout the text as a recurrent theme
- In particular at paragraph 42 of the Doha Ministerial Declaration, members recognized that integration of LDCs into the multilateral trading system requires, inter alia trade related technical assistance and capacity
- Civil society welcomes the Integrated Framework (IF) and the Joint Integrated Technical Assistance Programmes to assist the LDCs enhance their trade opportunities, develop supply capacities for raising exports, and effectively integrate LDCs into the global economy
- Civil society also welcomes bilateral technical assistance provided by some developed donor countries in the area of trade and poverty reduction

In light of the commitments on technical cooperation and capacity building in the Doha Declaration, civil society proposes the following;

- Technical assistance programmes for LDCs should be substantially increased, be demand driven and emphasize country specific programmes
- Institutional capacity of LDCs like Zambia, including development of human resources should be strengthened
- The follow-up to the Diagnostic Trade Integration Studies (DTIS) should be made sustainable, predictable with adequate resources
- Access to financial resources for funding for projects identified in the DTIS should be facilitated through simplified procedures and modalities
- Developed countries should provide increased resources to the Global Trust Fund to enable the WTO impart adequate technical assistance to LDCs
- Developed countries should enhance support that is aimed at improving the participation of the private sector, civil society and other stakeholders in the IF/programmes so that supply side constraints are appropriately addressed

NEW ISSUES (SINGAPORE ISSUES)

- These issues are called 'New or Singapore Issues' because they were introduced for the first time at the first WTO Ministerial Conference in Singapore in 1996
- These issues include 'trade and investment', 'trade and competition policy', 'transparency in government procurement' and 'trade facilitation'.
- Many developing and least developed countries have expressed reservations to the inclusion of these new issues in the programme of work of the WTO and the current round of multilateral trade negotiations
- Before Doha, DCs and LDCs were of the opinion that the WTO should mainly concentrate on resolving problems arising from the Uruguay Round
- However, the developed countries presses hard to have the WTO incorporate these new issues

Civil society proposes that in view of the overwhelming workload generated by the Doha Development Agenda, Zambia like most LDCs has limited resources to follow negotiations and evaluate the implications of negotiations on Singapore issues on the economy. Therefore ;

- Working Groups should continue work on the process of clarifying these issues; and
- Effective technical assistance and capacity building should be provided to DCs and LDCs to conduct assessment studies on the implication of these issues on their economies

WAY FORWARD

- There is need for government to put in place a mechanism that would ensure a continuous process of dialogue with all the stakeholders on trade related matters
- The establishment of an ad hoc consultative body on trade policy is a priority here. The Kenyan authorities have set up one and so far it is working very well
- Whereas national interests should take precedence, Zambia should also continue the path of advancing her position within the context of various regional groupings namely COMESA, SADC, AU, LDCs and the ACP Group.
- There is need for the Zambian government (through the Ministry of Commerce, Trade and Industry) to seriously consider the design and formulation of an all inclusive trade policy. At present one can positively argue the fact that the country virtually has no trade policy at all.

END OF PRESENTATION

APPENDIX 4



ZAMBIA COMPETITION COMMISSION

WTO MULTILATERAL AGREEMENT ON COMPETITION

DEVELOPING COUNTRY NEEDS FOR FLEXIBILITY AND PROGRESSIVITY IN A POSSIBLE
MULTILATERAL FRAMEWORK ON COMPETITION

By George K. Lipimile
Executive Director
Zambia Competition Commission

21 August, 2003.

Overview

1. The Doha agenda has been termed as `development agenda`. A possible reason for this could be the recognition by the Ministers about the need for technical assistance and capacity building by Members on a number of issues and the agreement among Ministers to provide such support. Such commitment on the part of the Ministers is all the more pronounced in the case of the four Singapore issues, especially trade and Investment and Trade and Competition Policy. In respect of Competition Policy Ministers recognised :

“ the need for enhanced technical assistance and capacity-building in this area as referred to in para 24”

2. In para 24 Ministers recognised:

“ (the) needs of developing countries and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end work shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, AND through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs”

3. In para 25 Ministers agreed that:

“ full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them”

- The Doha WTO Ministerial declaration addresses a possible multilateral framework on competition (MFC).
- In paragraphs 23-25, Ministers instructed the Working Group on the Interaction between Trade and Competition Policy (WGTCP) to focus on clarifying six issues in relation to further negotiations on competition before the Fifty Ministerial Conference to be held in Cancun in September 2003.
- These six issues are: the core principles of:
 - 1) transparency,
 - 2) non-discrimination and
 - 3) procedural fairness, plus
 - 4) provisions on hard core cartels,

- 5) modalities for voluntary cooperation, and
 - 6) support for progressive reinforcement of competition institutions in developing countries through capacity building.
- In clarifying these issues, full account is to be taken of developing country needs and the “appropriate flexibility” needed to address them.

This paper explains each of the six main issues as they relate to the current debate on the interaction between trade and competition policy at the WTO.

Transparency

- The core principle of transparency in the multilateral trading system encompasses two broad obligations:
 - (i) to publish, or at least to make publicly available, all relevant laws, regulations, and decisions; and
 - (ii) to notify various forms of governmental action to the WTO Secretariat and WTO Members. Transparency obligation will require publication and notification of laws, regulations and general guidelines relevant to competition, and that any future MFC will allow latitude as to the specific way in which WTO Members are to carry out these obligations.
- Some developing countries have noted that they cannot be expected to adhere to the same standards as developed countries in terms of transparency. Obligations may entail certain costs, both in terms on the actual publication and notification and in terms of the personnel skills and resources required to comply with those obligations.
- This argument is also driven by the fact that the precise scope of the transparency requirement has yet to be agreed upon.
- Developing countries may not have in place the procedures for publishing or notifying the information on competition laws, regulations and guidelines that the transparency principle would require.

Non-Discrimination

- There are two components to the core principle of non-discrimination as they are embodied in the multilateral trading system: national treatment and most-favoured-nation treatment (MFN).
- National treatment requires that a WTO member not put the goods, services or persons of other WTO members at a competitive disadvantage vis -à-vis its own goods, services or nationals.
- MFN requires that any advantage conferred by one member upon the goods, services or persons of another member shall be automatically granted to all other members.
- In the course of competition law enforcement, there are many situations in which discrimination issues could arise. Violations of the national treatment principle could be classified as either *de jure* or *de facto*.
- *De jure* discrimination would exist when competition laws, or ancillary laws such as those creating exemptions, draw an express distinction on the basis of national origin which places foreign firms at a competitive disadvantage.
- *De facto* discrimination could be said to exist in the case of laws or law enforcement bodies, neutral on their face, that in application discriminate against foreign firms. Laws implementing various aspects of industrial or other public policy can have discriminatory effect. The same may be true of exclusions/exemptions from competition laws.
- Every country has such laws, of course, but developing countries may consider it necessary for their own national needs to have relatively more of them.

Procedural Fairness

- The different competition law enforcement constituencies have varying interests with respect to procedural fairness (or “due process”). Respondents or subjects of investigations and proceedings face possible sanctions for violating the law, and thus have strong “due process” interests.
- Victims of anticompetitive conduct and private claimants should have the right to petition the competition agency to ask the agency to undertake an investigation of the allegedly harmful practice and to present evidence supporting the petition, and to pursue, either through the agency or independently in court, remedies for unlawful conduct.

- Third party witnesses and public interest and consumer groups, need access to the competition agency to submit complaints, for confidentiality protection and for access to the public record in investigations and proceedings, consistent with the protection of confidential information.
- Protection of confidential information from unwarranted disclosure is also a fundamental part of procedural fairness.
- The difficulty with fashioning standards relating to procedural fairness is that administrative and judicial procedures vary substantially across countries.
- The issues for developing countries in this area are similar to those found in transparency. The required institutions and procedures tend not to exist in these countries, so creating and staffing them may impose special burdens. Some developing countries might require extra time to meet the requirements of this core principle.

Effective action against Hard Core Cartels

- The existence of hardcore cartels has serious consequences for consumers and governments. Bid rigging in government contracts reduces the amount of money that governments can allocate to social welfare and important infrastructure projects.
- Higher prices mean that consumers are forced to pay more for cartelised goods, potentially leaving them with less money to spend on food and essential services.
- Cartels reduce the pace of technological innovation and reduce efficiency in the industries in which they operate by dampening competition in those sectors.
- International cartels affect all countries, developed and developing alike. They harm consumers in developing countries by raising the prices of products that those countries import.
- International cartels can also have another, equally pernicious effect on developing economies: by a variety of means, they can inhibit new entry of both foreign and domestic firms into the cartelised markets.
- Most countries have condemned hardcore cartels as the most egregious form of anti-competitive practice and agree they should be banned. Debate in the WTO Working Group has centred on the definition of a hardcore cartel and coverage of a proposed ban, and the obligations incumbent upon domestic law enforcers and competition agencies.

- Developing countries that do not have competition laws have little power to prevent or punish these international cartels. But it is difficult even for those that do have competition laws to take action against international cartels.
- The obligation to take action against hardcore cartels implies the existence of domestic enforcement procedures and institutions sufficient to permit the investigation, adjudication, and remedy of cartel activities.
- Some WTO Members have suggested that developing countries should be given a transition period to be in a position to carry out the investigation and prosecution of hardcore cartels.
- If developing countries are to prosecute international cartels successfully they must co-operate with other countries.
- The proponents of a multilateral framework on competition point out that such an agreement would provide for strengthened co-operation to combat hardcore cartels.
- Developing Members have also spoken about mutual legal assistance to be provided through an agreement on hard core cartels and mandatory notification, consultation, and assistance should a cartel be discovered in a Member's territory.

Modalities for Voluntary Cooperation

There are two general types of international "*voluntary cooperation*" in competition law enforcement:

- *Institutional cooperation* includes exchanges of information and experiences on a variety of policy matters, including content and form of competition laws and regulations, institutional design of a competition agency, analysis of competition issues, case handling techniques and the like. It takes place in international organisations, including OECD, UNCTAD and the WTO. It also occurs in regional settings through organisations such as the European Union, APEC, NAFTA, COMESA and CARICOM. The benefits of institutional cooperation at the most general level, help to build working relationships among competition enforcement officials and between national competition agencies. They also help to build consensus on best practices in competition law enforcement, and over time they bring about convergence in competition policy.
- *Case-specific cooperation* takes place when information is exchanged and assistance rendered between competition agencies in specific competition cases or investigations. This cooperation is

normally the result of two or more countries sharing an interest in closer cooperation. A growing phenomenon in international cooperation in competition law enforcement is the creation of formal cooperation agreements between countries. Most are bilateral agreements between countries that have important trade or geopolitical ties. Some are plurilateral, such as NAFTA or MERCOSUR. There are now dozens of such agreements, and more are created each year. They involve OECD and non-OECD countries alike. They provide for notification of investigations or proceedings affecting the other party, for exchange of information, for co-ordination of investigations and proceedings, for positive comity and for consultations.

- Cooperation in cartel investigations is growing. It most often takes the form of “informal” cooperation – exchanges of deliberative process information among case handlers, such as case theories, affected markets, and witness evaluations; and it occurs most frequently between countries that have developed close working relationships over time. It is widely perceived that the incidence of transnational (or “cross-border”) mergers – mergers that have effects in more than one country – has increased significantly in the past decade, though it is difficult to quantify this trend.
- Hardcore cartels and transnational mergers are two areas which have been proposed by MFC proponents as subjects requiring coverage by provisions on voluntary cooperation at the multilateral level.
- Discussions in the WGTCF have shown that while some countries advocate the creation of a Competition Policy Committee in the WTO to oversee cooperation between countries, others would prefer cooperation to take place between competition agencies using informal networks of information exchange.
- Some countries regard the voluntary cooperation requirement to be case-specific, others to be a more general framework of information exchange.
- Some developing countries have asserted that there is little incentive for large developed countries to cooperate with small developing ones and that, as a result, consultation and assistance should be mandatory under any proposed MFC.

Support for progressive reinforcement of competition institutions in developing countries through capacity building

- Capacity building implies no direct obligations *per se* for developing countries.

- The aim of capacity building is to boost and upgrade the human and institutional framework of competition law and enforcement in developing countries.
- There are three broad components to building an effective competition policy for developing countries:
 - 1) creating a competition culture,
 - 2) remedying structural and institutional distortions, and
 - 3) putting in place an effective mechanism for dealing with private anti-competitive conduct.
- The most detailed proposals call for an integrated approach between donors (bilateral and multilateral) that addresses developing country needs on an individual basis.
- Developing countries have asked for long-term commitments from donors to meet the requirements of a possible MFC.

Flexibility

- Flexibility refers to the degree of discretion allowed to Members with regard to the extent, limitations and timing of any commitments they make.
- One approach to flexibility asks Members subscribing to a core set of obligations to allow exclusions and exemptions, of a sectoral or non-sectoral nature, for developing countries.
- Another approach to flexibility would entail the imposition of a greater number or deeper degree of obligations upon a developed country than on a developing country.
- Unlike progressivity, flexibility is not necessarily linked to a specific time period.

Progressivity

- Progressivity refers to allowing different categories of Members to adopt commitments over varying time periods.
- For example, certain developing countries may wish to benefit from a transition period to implement commitments under an MFC. Commitments might be linked to a fixed period of time or to the receipt of increased technical assistance or the attainment of certain minimum standards.
- Progressivity in commitments may also be linked to the review and eventual phasing-out of exclusions.

Appendix 5

Zambia Trade Network (ZTN)/CUTS-ARC and FES

■ Preparatory Workshop on the WTO

■ Pamodzi Hotel, Lusaka

■ Integrated Framework for Trade-related Technical Assistance to Least Developed Countries. Cambodia's Case

■ Date: 21st and 22nd August 2003

■ By: Stephen L. Muyakwa (ZTN Interim Co-ordinator)

Table of Contents

■ 1. Introduction to Integrated Framework

■ 2. Objectives

■ 3. Integrated Framework Steering Committee

■ 4. Integrated Framework Trust Fund

■ 5. Cambodia's Experience

■ 6. Lessons for Zambia

■ 7. Role of CSOs in trade

1. Introduction to IF

■ The IF was discussed at the WTO 1996 Ministerial meeting in Singapore and inaugurated in October 1997

■ As a response to LDCs Trade Related Problems

■ The six core agencies of the IF are:

■ i) IMF, ii) ITC, iii) UNCTAD, iv) UNDP, v) World Bank and vi) WTO

■ The IF was reviewed in July 2000

2. Objectives of IF

■ To mainstream trade into national development plans (PRSPs)

■ To assist in the co-ordinated delivery of trade related technical assistance

■ "Country ownership and partnerships"

3. The IF Steering Committee (IFSC)

■ The IFSC oversees and governs the IF process

■ Current IF Chair is Denmark (Mr. Hendrik Ree Iversen)

■ The IFSC is composed of core agencies, donors and LDCs

■ The IF is run on daily basis by the Integrated Framework Working Group (IFWG)

IF Steering Committee (continued)

- The IFWG is chaired by the WTO with membership from core agencies, LDCs and donors (two representatives each)
- The WTO houses the IF Secretariat which services both the IFSC and IFWG

4. Integrated Framework Trust Fund (IFTF)

- The IF has a Trust Fund managed by the UNDP
- The IF Trust Fund has two windows: a) the first window is for un-earmarked contributions (general fund) and b) the second window is for contributions to specific programmes

5. Cambodia's Experience with IF(preparatory stage)

- In September 1997, Cambodia sent a needs assessment report to the WTO
- In September 1998, Core agencies responded to Cambodia's request
- In February 2001, the Cambodian MoC tabled a pro-poor Trade Strategy for poverty alleviation to government
- In March 2001, first meeting of IF Steering Committee led by Minister.

Cambodia's Experience (cont'd)

- In May 2001, Cambodia, Madagascar and Mauritania become pilot countries for the "new" IF out of 49 LDCs
- Continuous consultations with CG members on Cambodia's economy!
- In May 2001, preparation of the "Cambodia: Integration and Competitiveness Study", the diagnostic trade integration study "DTIS"

Cambodia's Experience (cont'd)

(Some assumptions)

- The country believes that trade and liberalisation can stimulate economic growth
- The idea is to replace official development assistance "ODA" with trade earnings
- However Cambodia recognises that trade liberalisation and reform alone has never worked!

Cambodia's Experience (cont'd)

(Beliefs)

- Cambodia believes that trade "should be properly mainstreamed into national development plans and strategies"
- A case in point are export processing zones "EPZ" in Cambodia which have been a) strategically located at borders to "richer" neighbours and b) investors given strict labour, gender, environmental and other regulations!

Cambodia's Experience (cont'd)

"Outcomes"

- The pro-poor trade strategy has been incorporated into the 5 year development plan

- The pro-poor strategy is being incorporated into the poverty reduction strategy paper (PRSP)
 - Use of the pro-poor trade strategy in e.g. a) “corridor development” and b) regional integration efforts
- Cambodia’s Experience (cont’d)

“More outcomes”

- The results of the IF process are that gross domestic product (GDP) is growing at 5% and above
- Inflation has been kept at 5% per annum
- The Exchange rate has been stable for three consecutive years
- Exports are rising (garments exports)

6. Lessons for Zambia

- Strong and sustained political will to maketrade work for the poor (district, provincial and national)
- Putting in place policies, structures and resources to manage trade integration
- Developing and harnessing partnerships for pro-poor trade strategy
- Creating awareness and national ownership of pro-poor trade strategy.

7. Role of CSO in Pro-poor trade

- Encourage and prod government to develop pro-poor trade strategy
- Provide government with information on pro -poor trade strategies
- Sensitisation and mobilisation of communities to develop and own pro-poor trade strategies
- Develop linkages with international partners to identify trade models

Acronyms

- CSO: Civil Society Organisation
- DTIS: Diagnostic Trade Integration Study
- LDC: Least Developed Country
- IF: Integrated Framework for trade related technical assistance to Least Developed Countries
- IFSC: Integrated Framework Steering Committee
- ITC: International Trade Centre
- IFWG: Integrated Framework Working Group
- IMF: International Monetary Fund
- MoC: Ministry of Commerce
- UNCTAD: United Nations Conference on Trade and development
- UNDP: United Nations Development Programme
- PRSP: Poverty Reduction Strategy Paper
- WTO: World Trade Organisation

Literature

- [Http://www.integratedframework.org/about.htm](http://www.integratedframework.org/about.htm)

■Royal Government of Cambodia, (2002) “Integration and Competitiveness Study”, Phnom Penh, Cambodia

■Prasidh C, (2002) Presentation on “Cambodia’s Experience with the Integrated Framework for Trade - related Technical Assistance to the LDCs”, Monterrey, Mexico.

Appendix 6

WTO Preparatory Workshop: 21-22 Aug 2003, Pamodzi Hotel

Market Access for Non-Agricultural Products

Calson Mbegabolawe, COMESA Secretariat

Non-agricultural market access

- country's own tariff policy objectives and strategy: eg identify strategic exports and markets, market access barriers, import and industrial policies, sensitive products/sectors, etc

- multilateral, plurilateral and regional trade dimensions

- Doha mandate: “ we agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular of export interest to developing countries.

Doha mandate ctd

- Product coverage shall be comprehensive and without *apriori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least country participants, including through less than full reciprocity in reduction commitments..(S&DT)..To this end modalities to be agreed will include appropriate studies and capacity building measures to assist least developed countries to participate effectively in the negotiations”

Defining the scope

- NAMA is traditional *raison d'etre* of WTO 's predecessor: GATT ie liberalisation of on the border barriers in the form of tariffs and related measures on goods or merchandise sector

- Excludes agriculture but includes textiles and clothing

- = trade liberalisation for industrial products or manufactures

Obligations/Rights of WTO members in post Doha and Cancun agreements?

- Reduction commitments: tariffs, tariff peaks, escalation, etc and NTBs in their various forms: complex food safety, technical and other standards which unreasonably restrict exports

- For developing countries: space or flexibility to address their “special needs and interests”

History of tariff reductions

- Developed countries: appr.4% post UR average trade-weighted tariffs; Developing countries: appr. 30%

- OECD countries cut average tariffs by almost 1/2 for OECD imports but less than 1/3 for developing country imports

- Developing countries have reduced tariffs faster and under other programmes, with severe consequences

Status of negotiations

- Failed deadline for agreement on modalities was 31 May 2003

- NGMA Chair text Elements:

- harmonising tariff cutting formula: higher cuts for tariffs above average bound tariff rates, lower cuts for average bindings and an unspecified B coefficient

- a sectoral elimination(electronics,fish,leather goods, etc

- Possible low duty elimination and voluntary sectoral liberalisation

- S&D: longer implementation periods for developing countries and no reduction commitments for LDCs except bindings

- less than full reciprocity for newly acceding members

- a framework for negotiations on NTBs

- Assessment: Industrial countries want modalities to be ambitious, aggressive in attacking high tariffs, peaks, etc, ie developing markets

■Developing countries: flexibility to use tariffs for policy manouver: infant industries, revenue, preferential m/a ie: “how to make trade work for development”

■cross-linkage to other areas: agric, TRIPS, S&D, implementation

■Question of preferences and long term strategies of beneficiaries: diversification, investements, taxes

■role of south-south trade: regional trade, other developing markets,

■Non-tariff barriers: rules of origin, standards

■Country-specific special and differential treatment?

Conclusion

■Need to analyse, assess the implications of the proposals for each country’s needs, interests

Define

Appendix 7

The Multilateral Negotiations in Services Trade and their Relevance to Zambia

Manenga Ndulo
University of Zambia

1. Introduction:

Members of WTO are currently preparing for the fifth WTO Ministerial Conference to be held in early September in Cancun, Mexico. The Ministerial Conference is the highest WTO authority and meets at least once every two years. The last Ministerial Conference was in Doha, Qatar in November 2001. At the Doha meeting the trade ministers set up a work programme in Agriculture, Services, Market Access for Non-Agricultural Products, Trips and Public Health, Implementation Issues and Non-trade Issues. (WTO, 2001). Currently many preparatory meetings and "mini - ministerial" have been held both at the national and regional levels to support the Geneva process and to prepare for the Cancun Conference. Our concern in this paper is over the negotiations in services trade. Negotiations in services trade is one of the negotiating mandate at WTO. We would like to talk about GATS, its relevance to Zambia, and the current state of play in the negotiations on trade in services and, in conclusion, suggest the way forward.

2. GATS

Since the end of the Second World War the world has had one multilateral agreement concerned with global trade rule making. This is the GATT 1947. This was established in 1947. It was concerned mainly with trade in goods. The GATT was an agreement to reduce tariffs on goods through negotiations. This was done through trade rounds. There were eight such rounds including the Uruguay Round that took place between 1986 and 1993. During this time, there was a substantial reduction in tariffs on goods especially in the trade among the developed countries such that over time tariffs were not a major barrier to trade. Because of the substantial reduction in tariffs, non-tariff barriers increasingly became an important barrier to trade. Furthermore, with advances in technology, the global economy was completely transformed by the end of the 80s. The supply of services became increasingly important in the domestic economy and in world trade. Services were the fastest growing sector of the world economy. Services trade and foreign direct investment in services were growing faster than in goods (World Bank, 2002, 69). With the growing importance of global services, there was a search to bring the new phenomena of trade in services under a multilateral discipline. It therefore became part of the negotiations under the Uruguay Round. In the conclusions to the Uruguay Round, it was decided to bring the trade in services under the discipline of a multilateral framework. The Agreement is called GATS. There were three major agreements concluded at the end of the Uruguay Round. These were GATT 1994, GATS and TRIPS. GATS and TRIPS have been very controversial. There was a long drawn out debate on whether to bring services trade under a multilateral framework or not. Some developing countries were initially totally opposed to the idea, but eventually gave in, in the give and take of multilateral negotiations. Some economists, such as Professor Baghwati, have argued that it was a mistake to have brought services trade under a multilateral discipline. The agreement came into effect in January 1, 1995. The agreement has now been accepted as part of the multilateral framework of trade rules. Zambia is part of this agreement. The country can use

it to create capacity in the domestic services sector and to define its participation in the global trade in services.

The GATS covers substantially all services sectors. It establishes a common framework of basic rules, initiates a liberalization process and set up a dispute settlement mechanism. But opening up under GATS is by conscious decision of the individual Member country. Then each Member is allowed to bind through specific commitments and put limitations on liberalization. Liberalization under GATS is not the same as autonomous liberalization and liberalization under the IMF and World Bank structural adjustment programmes.

It is important to realize that liberalization under GATS is done in terms of making specific commitments in various service sectors in terms of Market Access, National Treatment and any other additional commitments. Both the Market Access and National Treatment commitments are negotiated and thereafter bound. WTO Member countries can claim compensation for the violation of the commitments by a trading partner. The GATS framework allows the country to take account of its national objectives and the level of development in the negotiations. Furthermore, as a least developed country, Zambia, does not need to open up any service sector if that is in its national interest and relevant to its development objectives.

3. Relevance to Zambia

Is GATS of any relevance to Zambia? We ask this question because the popular opinion is that it has no relevance. Yet once you have agreed that there will be global trade in services, that trade must be defined and rules must be set on how to conduct it. When we really look at it, when we talk about the relevance of GATS to Zambia, we are really taking about the relevance of the WTO as a global trade rule-making institution to Zambia.

One point should, of course, be clear. You cannot use the WTO or GATS to promote development prospects unless the policy makers, civil society and all the stakeholders in the society see its relevance to resolving the country's development problems. You must first know what you want and what problems you want to resolve. Then the WTO will provide a framework within which those problems can be solved.

The current situation is that Zambia has no national policy on the services sector. This is why it has failed to come up with a Negotiation Proposal under the current services negotiations under way at WTO. Furthermore, there is no institutional mechanism to address the WTO issues at the national level. Except for the loose alliances that exist both in the government and private sector which are often donor driven and spring up when there is some conference of some sort. The government structure lacks understanding of WTO issues. The Zambian civil society is wholesomely hostile to WTO as an institution.

The private sector erroneously sees it as an institution that imposes conditionalities such as privatization.

Some of the problems in the discussions of GATS and WTO have to do with the lack of awareness of the negotiation aspect of WTO, the bad experience of trade reform and privatization and the incapacity to identify the export interest.

To talk about the relevance of GATS to Zambia is also to talk about how important services trade is in the Zambia n economy. The capacity of the domestic services sector plays an important role in the process of growth and development. The services sector contributes significantly to the creation of employment opportunities, foreign exchange earnings and most importantly, through the reduction of the cost of producer services, such as communications, energy, transport and financial services, increases the competitiveness of the country's merchandise and services exports. Thus, an efficiently run and organized domestic services sector can be used to make Zambia produce efficiently and thus expand consumer welfare and overall export earnings. This should be basic to the understanding and Zambia's participation in the current WTO multilateral negotiations in services.

In Zambia, the domestic services sector contributes about 60 per cent of value-added to real GDP; real services sector growth is double that of real GDP growth. It contributes about 63 per cent of formal sector employment and contributes very little to export earnings. Furthermore, it is high cost and inefficiently organized.

Zambia has failed to take advantage of the significant changes taking place globally in services trade. Much of this failure can be attributed to procrastination, lack of realization of the importance of the services sector and the inability to agree on a national policy on services trade. The recent bad experience of the privatization programme of the goods sector under SAP has stalled the modernization and the deepening of crucial services in Zambia. This has made it difficult to build a broad domestic support and advance the major and relevant issues in services sector liberalization.

Zambia can use the current services trade negotiations and the GATS framework to its advantage and promote its development needs. Given that GATS is part of the multilateral framework for trade, one has to stand-up and strive to make use of it to one's own advantage. There is a developmental aspect of GATS. The GATS framework is potentially developmental, especially Article IV, V and XIX.

Of course, the GATS framework on its own cannot solve the development problems facing Zambia. It can only create incentives for their resolution. The challenge of the Zambian policy makers is to articulate and make full use of the developmental aspects of Articles XIX.2, IV and V. Article XIX.2 mandates the liberalization process to be consciously organized and to respect the national policy objectives and the level of development of individual Members in the negotiation process. Article IV is about the increasing participation of developing countries and Article V is about regional integration. Zambia's policymakers should study and understand these articles and see how they can relate them to the developmental concerns of Zambia.

4. The Current State of Play in the Negotiations on Trade in Services

The current negotiations on trade in services are mandated under Article XIX of the GATS. The work started in earnest in Geneva in January 2000. The initial work was to set up Guidelines and Procedures for the negotiations. This was done in March 2001. The Fourth Ministerial Conference held in Doha, Qatar agreed to continue with the work on services trade negotiations already underway in Geneva (WTO, 2001). The Fourth Ministerial also set a time frame for the current negotiations in Services Trade. These were as follows:

1. The deadline for the submission of initial requests was June 30, 2002
2. The deadline for submission of initial offers was March 31, 2003
3. The conclusion of the services trade negotiations is not later than January 1, 2005.

There were also certain key understandings to the negotiations. The major ones are that:

1. Negotiations on Safeguards under Article X shall be completed by March 15, 2002
2. The Assessment of Trade in Services should be carried out before the actual negotiations take place.
3. There will be credit for autonomous liberalization.

How has this process fared?

The Deadlines

Developed Countries have been very active in the process. Many Developed Countries made Negotiating Proposals and made Initial Requests in time. Nearly all sectors have been covered by

the Initial Requests. Some countries have made general requests; others have made specific requests. Few African countries have made Initial Requests. Nearly all have failed to meet the June 30 2002 deadline for Initial Requests. Many countries look stranded on how to go about the process. This is mainly because of the lack of a formal structure at the national level to go about negotiations on services, although this is a common problem for all WTO Members. Some have made serious efforts to create such structures. Issues and Policy on services trade is interdisciplinary involving several ministries and stakeholders. A formal structure has to be organized at the national level that is different from the traditional structure of running government.

Zambia failed to make Initial Requests. It has, however, received Initial Requests from five WTO Member countries. These are Mauritius, Egypt, USA, Japan and the European Union. Nevertheless, Zambia can still go ahead and formulate offers since the absolute deadline is that of January 1, 2005.

The services trade negotiations have now moved into bilateral negotiations. Bilateral consultations on the requests for Market Access began in July 2002. The Developed countries will certainly lead the process as few developing countries, like Zambia, have identified their specific sectoral and modal interests, the barriers to their services exports and the impact of requests from developed countries on their services sectors. The bilateral stage of negotiations is very demanding and African countries have little power and capacity. The evaluation of requests and formulation of their own requests and offers is likely to be a particularly complex task. One needs to determine national policy objectives and the status of competitiveness of each sector, has to sequence the liberalization, determine the capacity of domestic service firms, among other things.

Negotiations on Safeguards

The deadline for the negotiations on Safeguards was March 15, 2002. This was not met and progress has been little. Disappointment has been expressed by developing countries at the lack of consensus on the negotiations on Emergency Safeguard Measures. Developing countries believe that without such a mechanism their ability or willingness to make concessions would be limited. The WTO members agreed to delay a decision on whether or not to establish an Emergency Safeguard Mechanism for trade in services to March 2004.

Assessment of Trade in Services

Disagreement has continued on how to handle the Assessment for Trade in Services. There seems to be an understanding that Assessment of Trade in Services can take place concurrently with the Doha program in services trade negotiations. Some Developing countries have put forward proposals. A number of themes have emerged from the developing country submissions. These are as follows:

1. the unique situation in each country will dictate the pace and the path of liberalization most suitable to the circumstances
2. government should have flexibility in redressing the problems that they had not anticipated when undertaking liberalization commitments
3. Benefits from privatization and liberalization are not automatic without appropriate preconditions including appropriate regulatory framework, entrepreneurial and technological capacity building and complimentary policies.

4. Liberalization entails adjustment costs and priority attention should be given to ensuring access to universal and essential service.

Modalities for Credit for Autonomous Liberalization

There has been no consensus on how to credit autonomous services liberalization in the current negotiations. One of the major issues is whether all WTO Members or only Developing countries would be entitled to such credits.

Overall the negotiations in trade in services have not moved as fast as initially anticipated, especially that the negotiations are not as controversial as those in Agriculture and TRIPS. Most of the deadlines have not been met. However, it has now been generally accepted that the deadlines are merely guidelines and the process is on track provided that the ultimate deadline of January 1, 2005 is met. In this respect, the Cancun meeting is likely to be a stocktaking exercise in the current negotiations on trade in services. Zambia's position in this exercise would be to support the common position of the like-minded stakeholders, the African group, SADC, COMESA, and the Group of Least Developed Countries. This is necessary because whatever position Zambia has can only be effective if it is synchronized with a common position of a larger grouping. On the sectoral negotiations, Zambia might want to work on the intermediate services sectors such as telecommunications, finance, transport and energy. In terms of modal interest Zambia might want to work on commercial presence and the movement of natural persons.

5. Conclusions

We briefly reviewed GATS; its relevance to Zambia and the state of play in the current services trade negotiations. In the global economy and given the small size of our economy, there are benefits for us to bring our domestic services sector under international discipline. This will make it competitive and reduce costs. This is likely to increase both merchandise and services exports and thus ultimately contribute to increasing incomes and the quality of life. The multilateral framework for participating in services trade is GATS. It is possible for Zambia to take advantage of GATS by taking advantage of the development aspects of GATS. This aspect should feed the negotiating stance for Zambian policymakers.

6. References

Ndulo, Manenga (2002) SADC and the Post –Doha Negotiations on Trade in Services. Paper presented at the Workshop on the “New WTO Round-The Challenges for Southern Africa: Post Mortem of the WTO Doha Ministerial Conference” Leopard Rock Hotel, Vumba, Mutare, Zimbabwe May 9- 10.

World Bank (2002) Global Economic Prospects, World Bank, Washington D.C.

WTO (2001) Doha Declarations. Doha Development Agenda

----- (2001) Ministerial Declaration, WTO Ministerial Conference, Fourth Session, Doha, (-14, November WT/MIN901) DEC/1

WTO (1994) General Agreement on Trade in Services.

August 21, 2003

Appendix 8

Background Document

Prepared by Department of Trade
Ministry of Commerce, Trade and Industry

Presented by: Ms. Lillian Bwalya (Abridged version)

July 2003

1. Introduction

The Doha Ministerial Conference held in Qatar, Doha in November 2001 culminated into the adoption of two declarations, namely, the Doha Ministerial Declaration and the Declaration on TRIPS and Public Health. Ministers also adopted three decisions namely, the Decision on Implementation related issues and concerns; the decision on the accession of China; and the decision on ACP-EU waiver extension. The two declarations and the Decision on implementation related issues spell out the work programme for the WTO Member countries to engage in negotiations on mandated issues from 2002 to 2005.

II. Negotiating Mandates

The Following are specific mandates for negotiations

- a. **Agriculture:** The mandate as contained in Article 20 of the Agreement on Agriculture and paragraphs 13 and 14 of the Doha Ministerial Declaration, calls for further liberalization of trade in agriculture products. This entails market access commitments; phasing out of export subsidies with a view to eliminating them; substantial reduction of domestic support measures; and addressing food security concerns and non-trade concerns.
- b. **Services** the mandate as contained in Article XIX of the General Agreement on Trade in Services (GATS) and paragraph 15 of the Doha Ministerial Declaration calls for further liberalization in the area of Services.
- c. **Trade Related Aspects of Intellectual Property Rights (TRIPS):** The mandate on TRIPS and Public health is contained in a separate declaration on TRIPS and Public Health. Paragraph 6 of this Declaration calls for the need to find an expeditious solution to public health problems relating to

AIDS/HIV, Malaria, tuberculosis and other epidemic, for countries with no or limited manufacturing capacity in the area of pharmaceuticals.

Ministers also mandated negotiations in paragraph 18 of the Doha Ministerial Declaration to establish a multilateral system for registration and notification of geographical indications for wines and spirits.

Furthermore, the Ministers also mandated that outstanding implementation issues should be addressed, as contained in paragraph 12 of the Ministerial Declaration. This mandate includes the extension of the protection of geographical indications of products other than wines and spirits.

- d. **Market Access for Non-Agriculture Products:** As contained in paragraph 16 of the Doha Ministerial Declaration, Ministers agreed to commence negotiations, based on modalities to be agreed, aimed at reducing or eliminating tariffs, including the elimination of tariff peaks and escalations, and non-tariff barrier particularly on products of export interest to developing countries. The modalities would include appropriate studies and capacity building measures to assist least developed countries to participate effectively in the negotiations.

- e. **Special and Differential Treatment (S&D):** The mandate on S&D treatment as contained in paragraph 44 of the Doha Ministerial Declaration and the work programme spelt out in paragraph 12 of the Decision on Implementation Related Issues and Concerns calls upon WTO Members to *inter alia* identify all S&D treatment provisions in the WTO Agreements with the view to strengthening them by making them precise, effective and operational. Furthermore, Ministers mandated that Members should find additional means of making S&D treatment provisions effective.

- f. **WTO rules:** As contained in paragraph 28 of the Doha Ministerial Declaration, negotiations on rules are aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of GATT 1994 (Anti-dumping) and on subsidies and Countervailing measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their participants. Furthermore, ministers agreed to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. In addition, Members are expected to clarify disciplines on fisheries subsidies.
- g. **Dispute Settlement Understanding:** Ministers agreed, in paragraph 30 of the Doha Ministerial Declaration, to negotiations on the improvement and clarification of the Dispute Settlement Understanding.
- h. **Trade and Environment:** As contained in paragraph 31 of the Doha Ministerial Declaration, Ministers agreed to negotiations, without prejudging their outcome on; the relationship between existing WTO rules and specific trade obligations set out in multilateral environment agreements (MEAs); procedure for regular information exchange between the MEA Secretariats and relevant WTO committees; and the reduction or as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

Other areas where Ministers agreed that negotiations will take place after the Fifth Session of the Ministerial Conference¹ on the basis of a decision to be taken by explicit consensus, at that Session on modalities of negotiations include:

¹ The Ministerial Conference is the apex body of the WTO. Ministers meet biennially to take decision on various issues considered by the General Council and various WTO Bodies. The first Ministerial Conference took place in 1996 in Singapore. The Second was held in Geneva in 1999. The third was held in Seattle in 1999 and the fourth was held in Doha, Qatar in 2001. The Fifth Ministerial Conference will take place from 10-14 September 2003

- i. Relationship between **Trade and Investment** (paragraphs 20 – 22 of the Doha Ministerial Declaration).
 - j. Interaction between **Trade and Competition Policy** (paragraphs 23 – 25 of the Doha Ministerial Declaration).
 - k. Transparency in **Government Procurement** (paragraph 26 of the Doha Ministerial Declaration).
- l. Trade Facilitation** (paragraph 27)

These four issues are popularly known as ‘Singapore’ or ‘New’ issues.

Furthermore, Ministers agreed to examination of work under various WTO bodies either:

- a. In pursuant of their work programme. This includes:
 - The examination of the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore in relation to the review process of Article 27.3(b) of the TRIPS Agreement (paragraph 19 of the Ministerial Declaration)
 - Work under the Committee on trade and Environment, giving particular attention to the effect of environmental measures on market access; the relevant provisions of the TRIPS agreement; and labeling requirements for environment purposes, with the view to clarifying relevant WTO rules.

Or

- b. With the view to reporting on progress or recommend action to the Fifth Session of the Ministerial Conference. This includes:
- The work on electronic commerce to demonstrate that electronic commerce creates new challenges and opportunities for trade for Members at all states of development (paragraph 34 of the Ministerial Declaration).
 - The work of the Working Group on Trade, Debt and Finance on steps that could be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to the problem of external indebtedness of developing and least developed countries and to strengthen the coherence of international trade and financial policies, with the view to safeguarding the multilateral trading system from the effects of financial and monetary instability (Paragraph 36 of the Ministerial Declaration).
 - The work of the Working Group on Trade and Transfer of Technology to examine the relationship between trade and transfer of technology and make any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries (Paragraph 37 of the Ministerial Declaration).
 - The implementation and adequacy of commitments on technical cooperation and capacity building (Paragraphs 38 to 41 of the Ministerial Declaration).
 - Issues affecting Least Developed countries (Paragraphs 42 and 43 of the Ministerial Declaration).

III. Status of Progress on Negotiating Issues

Negotiations under the Doha work programme commenced in 2002 soon after the formation of the Trade Negotiations Committee (TNC) and Special negotiating bodies popularly known as (Special Sessions' under various committees.

The process has involved the submission of negotiating position either as an individual country or as part of a larger group. Zambia's negotiating position is part of the submissions of the Africa Group or the Group of LDCs. The demands of these two groups in these negotiations include:

1. The need for the mandate on TRIPS and Public health to be honored so that countries with no or insufficient manufacturing capacity may use the provisions of the TRIPS Agreement to address health programmes related to AIDS/HIV, Malaria, TB and other epidemics in emergency situations.
2. the need for the mandate on Special and differential treatment to be met so that these provisions could be strengthened by making them precise, effective and operational through *inter alia* making such provisions mandatory where necessary.
3. The need to take less onerous or no reduction commitments in the area of Agriculture, Services and market access for non-agriculture products.
4. The need for improved and assured market access and the need to have provisions or measure that would allow LDCs to maintain food security and rural develop their agriculture sector, including rural development.
5. The need to address non-tariff barrier concerns and the need to provide adequate financial and technical support to address supply capacity

problems, institutional and human constraints in order to take full advantage of opportunities emerging from the multilateral trading system.

So far, negotiations have been characterized by missed deadlines especially in areas of interest to least developed countries.

The deadline set for December 2002 to find a solution to the public health problems of countries with no or insufficient manufacturing capacity was missed. Efforts by the chairman of the TRIPS Council to bridge differences and help Members reach consensus have failed, as not all members are ready to join in consensus on the chairman's text of 16 December 2003. This text has been accepted by the African group in a spirit of compromise on condition that nothing is changed.

The deadline of July 2002 to come up with recommendations on special and differential treatment was missed. The new deadline set for December 2002 could not be honored either. In an effort to expedite the process to come up with a solution, the chairman produced a text, which categorized member's submission into three; proposals where agreement was possible; proposals which could be referred to respective technical bodies to handle; and those where agreement was far fetched. This categorization however does not prioritize the importance of S&D provisions to LDCs and is therefore flawed. The work on S&D has since been taken over by the chairman of the TNC and issues have been referred to various negotiating bodies. This is contrary to the mandate given by Ministers at Doha. Furthermore, LDCs will find difficulties to keep track on each issue due to their limited human resource capacity. This remains an issue of major concerns to LDCs including Zambia.

The deadline to establish modalities for agriculture set for 31 March was missed. However, draft modalities were circulated on 8 March 2003 and revised text

tabled on 18 March 2003. There is disagreement on a number of issues contained in the modalities hence their lack of adoption.

Modalities on market access for non-agriculture products were circulated on 15th May 2003 but have not been finalized.

Furthermore, the process seems to pay little attention to implementation related issues and concerns expressed by developing countries. Addressing these concerns is critical to the effective participation and integration of LDCs into the global economy.