

**WORKSHOP ON ISSUES OF INTEREST TO AFRICAN
COUNTRIES IN THE WTO SERVICES NEGOTIATIONS**

Conclusions and Recommendations

**Organized by the United Nations Conference on Trade and
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NOTE

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INTRODUCTION

1. A high-level workshop for Geneva-based African delegates on issues of interest to African countries in the WTO services negotiations was held in Geneva on 17-18 September 2002. The United Nations Conference on Trade and Development (UNCTAD), the Economic Commission for Africa (UN-ECA), the African Economic Research Consortium (AERC) and the African Union (AU) jointly organized the workshop with the support of the United Nations Development Programme (UNDP).
2. The workshop was convened to assist African countries in the request/offer phase of the ongoing WTO GATS negotiations (see Annex 2 on the *aide-memoire* and workshop programme). Representatives of 35 African countries from Geneva missions and representatives of the African, Caribbean and Pacific (ACP) Group, the World Trade Organization, the Third World Network, the South Centre and the Department for International Development (UK) attended the workshop (see List of Participants in Annex 1).
3. The workshop was chaired and closed by H.E. Mr. Bonaventure M. Bowa, Ambassador, Permanent Mission of the Republic of Zambia. It was opened by H.E. Ms Amina C. Mohamed, Ambassador, Permanent Mission of the Republic of Kenya, and Chairperson of the African Group at the WTO (see her statement in Annex 3). Mr. Lamin Manneh, representative of the Regional Bureau for Africa, delivered an introductory statement, underscoring the importance of African countries intensifying their efforts to participate in the multilateral trade talks with the ultimate objective of enhancing their participation in the globalization process.

AGENDA ITEM 1: MAIN ISSUES FOR CONSIDERATION IN THE REQUESTS AND OFFER PHASE OF THE SERVICES NEGOTIATIONS

Session 1: State of play in the GATS negotiations

4. The workshop reviewed the relevant provisions mandating the negotiations on trade in services as stated in Article XIX: 4 of GATS and in the Negotiating Guidelines, which stipulate that the main method of negotiations is to be the request-offer approach. The timeframe for the negotiations is set out in the Doha Ministerial Declaration.
5. In formulating initial requests, African countries should evaluate their trading opportunities in terms of their potential to expand services trade, taking into consideration the sectors, modes of supply and markets that are of importance to them, and then evaluate the current situation under the GATS of the markets of interest. It is important to have a clear definition of the negotiating objective of the country.
6. The indicative date for the submission of initial offers set by the Doha Ministerial Declaration is 31 March 2003. This will entail the assessment of the requests received. At this stage, African countries should evaluate their trade and developmental interests in the services sector (and other sectors linked to services), and the need for accompanying regulatory reforms that are necessary in supporting the implementing of the offers they submit. During this phase of the negotiations it is crucial to elaborate the sequence of events and reforms that should come before liberalization and commitments at the WTO. Pre-committing can be done in sectors

where reforms have already been initiated, by making commitments in line with the timeframe already established for the reforms.

Session 2: Issues to be taken into account in the liberalization of trade in services at the sub-regional level

7. The workshop noted that most African countries are members of a regional integration grouping, but not many have initiated negotiations on trade in services. However, the Southern African Development Community (SADC) has initiated trade negotiations at the regional level on trade in services.

8. UNCTAD is supporting SADC in this initiative. Data on laws and regulations affecting trade in services have been collected for selected sectors in some SADC countries. This information is used to assist the Member States in the negotiations. A draft Annex to the SADC Trade Protocol has been developed that will be used as the legal framework for the services negotiations.

9. Regional integration could facilitate a collective regional approach to GATS negotiations. This is also important in gaining the necessary political support to negotiate on trade in services and to coordinate offers to promote national and regional developmental objectives.

10. African countries can also utilize the autonomous liberalization already undertaken to seek credit for what has already been liberalized at the regional level. It would also be important to undertake a regional liberalization programme for infrastructural services that have significant externalities and regional spillover and are characterized by substantial economies of scale. In such cases, reforms of domestic regulatory liberalizing trade in services' may need to include regional policy coordination as cross-border investment, the adoption of common standards to ensure that regional joint venture projects can be implemented.

**AGENDA ITEM 2:
INCREASING PARTICIPATION OF AFRICAN COUNTRIES IN
INTERNATIONAL TRADE IN SERVICES AND THE EFFECTIVE
IMPLEMENTATION OF GATS ARTICLE IV**

Session 1: Elements for making requests and possible approaches to the bilateral and multilateral negotiations on services.

11. The workshop emphasized the need for analysis of requests before the start of the bilateral negotiations with trading partners, and for ensuring coordination between Geneva-based delegates and capital-based negotiators. In this process, consideration should also be given to developments in regional negotiations. The need for evaluation of objectives of GATS Article IV so as to make informed recommendations and links between the bilateral negotiations and the issues still pending at the WTO was emphasized.

12. From the requests received by African countries, it was observed that the trading partners had used a differentiated approach. Countries considered to be of commercial interest had received tailor-made requests, while the rest had received a model request. LDCs had received different requests from developing countries, but in some cases there was no elaboration of the

content of the bilateral negotiations. This had led to difficulties in evaluating the requests received so far. In some requests, issues that were still pending in the subsidiary bodies had been incorporated, and the issue of additional commitments under Article XVIII of GATS had also been highlighted. It was therefore stressed that the boundaries of the requests and offers had to be set from the outset.

13. A key issue to keep in mind when negotiating is the flexibility provided by the GATS to developing countries, and such flexibility should not be eroded through the bilateral negotiations.

Session 2: Areas of special interest in the services negotiations for Africa: identification of possible ways for implementing GATS Article IV and XIX.2 at the specific level

1. Telecommunication Services

14. The workshop noted that the formulation of African requests should take into account their developmental interests in the sector. The proposals currently on the table can be put in three categories. The first group of proposals covers new commitments from members that do not yet have any. The second group is by members that offer better commitments than those presently committed at the WTO. A third group is on increased commitments to the regulatory principles of the Reference Paper (RP).

15. It was observed that, in the negotiations, developed countries are more likely to accept a more gradual liberalization programme for African countries if they have formulated a clear development justification for their policies as provided in the GATS. African countries should keep in mind that the nature and effectiveness of regulation is crucial for benefiting from telecommunications liberalization.

16. How much of the reform process Africans need to pre-commit to and the timeframe for implementation will depend on the negotiating pressure they come under. To prepare adequately for such eventualities, it is important for African countries to have national consultations and come up with appropriate timeframes that would be acceptable and promote the ultimate development objective for the sector. Such a timeframe ought to be accompanied by proper articulation of actions and modalities for addressing supply constraints. Timeframes may differ by country, so a region or the African Group may also want to lend its negotiating weight to putting in a baseline timeframe that they feel is reasonable.

17. It was further noted that an aspect of the offensive strategy that African countries can pursue relatively aggressively is getting firm commitments for technical support, especially for improving regulatory systems. It is apparent that regulatory capacity is limited in Africa. Given that a lack of regulatory capacity is commonly regarded as impeding the benefits of liberalization and is one reason for a gradualist approach, getting a commitment to support regulatory capacity should be easy enough to justify. It may also be strategic to specifically link any pre-commitment to reform in the GATS to targets in capacity building by developed countries. This will ensure that the delivery by developed countries on promises to build developing country capacity (as in GATS Article IV) is directly related to the capacity of developing countries to implement services liberalization in a sustainable manner.

2. Transport Services

18. The workshop noted that African countries are not demanders in the negotiations on maritime transport. African countries suffer from high transport costs, which on average are three times as high as those of developed countries. Negotiations in the field of maritime transport centred around the three pillars identified by the NGMTS (Negotiating Group on Maritime Transport Services), that is blue-water services, auxiliary services and “access to and use of” services generally available in ports. In addition to these, it could be anticipated that future negotiations would include multimode transport services, either as a fourth pillar or as a minimal option as an issue of “access to and use of” in the context of the third pillar. Attention was drawn to the fact that some countries had actually gone beyond multimode transport and had raised the possibility of scheduling logistics services, which included door-to-door transport, as well as value-added services.

19. With regard to requests for commitments, it could be expected that African countries would receive requests with regard to all pillars presently contained in the model schedule. Requests for access to blue-water services would be mainly forthcoming in the area of cabotage, whenever part of an international transport transaction. Major shipping lines were pushing for the inclusion of such operations, as it increased their possibilities for transshipment in hub ports.

20. In the area of auxiliary services, it was noted that requests were particularly imminent in the fields of agency and freight-forwarding services, as both generated commercial control over cargo flows. Finally, with regard to the third pillar, it was expected that requests would amount to inclusion of the wording of the model schedule in individual country’s commitments. It was noted that responses to requests would have to take into account the particular situation of maritime and auxiliary services in any given country. Nevertheless, commitments should be formulated in such a way as to ensure the maintenance or the attainment of maritime know-how and capacities.

3. Financial Services

21. The workshop noted that the liberalization of financial services requires a stable macroeconomic environment in order to yield full benefits. Therefore it is important to provide improvements in macroeconomic policies and stabilization before embarking on liberalization.

22. Financial regulation and supervision is crucial, and this calls for African countries to strengthen their regulatory institutions and fill in the supply gap in terms of control and regulation of financial inflows, ensuring that the regulations are strong so as to be able to monitor the financial sector and also speeding the regulatory reforms necessary to streamline the sector and strengthen data collection in financial services and the monitoring of capital flows.

23. It was observed that this is a sector where African countries can benefit from liberalization, but with reservations that will enable growth and development of the sector. However, when making commitments, there is need to take into consideration the sequencing of events; strong regulatory institutions should be developed first before undertaking liberalization. At the international level, there is need to have regulations that take into consideration African conditions, characterized by weak regulatory capacities.

4. Tourism Services

24. The workshop noted that development of concrete national policies is important for growth in the tourism sector, and it is thus important to look at the areas needed to develop the sector. The tourism sector depends on the capacity of the country to have investment agreements that allow possibilities of retaining value-added services. This is crucial in focusing spillover effects on the small-scale service providers in the sector.

25. It was further noted that the link between negotiators and policy makers in the tourism sector should be improved. African countries should try to make a common offer in this sector. The development of a model request could be considered since this is a sector where most African countries have already made binding commitments under the GATS.

26. African countries should consider addressing the issue of anti-competitive practices in the tourism sector by making requests to developed countries with attached additional commitments under Article XVIII of GATS.

5. Construction Services

27. The workshop noted that the construction sector is important to developing countries for commercial, social, economic and general developmental reasons. Some 60% of the market for architectural design and physical construction is found in developing countries.

28. African countries should wield this market power in the request/offer phase of the negotiations to attain their key objectives. At this stage an important goal is for firms of developing countries to secure greater access to the construction markets available in their own countries and even in a regional context.

29. Specific issues to focus on generally in the request/offer phase include the elimination of export subsidies by developed countries, abolishing discriminatory taxes, untying aid, and reserving a certain portion of the local market for locals, for example by way of joint ventures.

6. Professional Services

30. The workshop observed that concerning professional services, contrary to the case of

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