

**General Council**

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**PREPARATIONS FOR THE FOURTH SESSION OF THE MINISTERIAL CONFERENCE**

Issues and Proposals for the Fourth WTO Ministerial Conference

*Communication from Malawi*

The following communication, dated 3 October 2001, has been received from the Ministry of Commerce and Industry of Malawi.

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**1. The Need to Focus on Development**

1.1 Malawi believes that no new Round should be started until there has been full implementation of the agreements concluded in the last Round, and an evaluation of their effects done.

1.2 It is Malawi's view like many developing countries that the rules and disciplines that emerge from the negotiations should support efforts for strengthening supply capacities; provide flexibility in the use of appropriate policy instruments to enhance the process of structural transformation of the

1.4.5. Establishment of a trust fund to ensure that developing countries have sufficient finance to meet the costs of implementing WTO agreements and other international obligations

1.5 After considering the problems of implementation, this submission addresses the following issues considered crucial to Malawi:

- Market access for agricultural exports;
- Services;
- Intellectual property protection;
- Market access conditions for manufactures for least developed countries;
- Rules for anti-dumping actions and safeguards;
- Barriers to trade caused by Sanitary and Phytosanitary measures and Technical Barriers to Trade;
- Trade related investment measures;
- The relationship between trade and environment regulations;
- Reforms needed in the way the WTO works; and
- Needs for technical assistance.

## **2. Implementation Issues**

2.1 Malawi is concerned that developed countries have not fully complied, in letter and spirit, with the agreements made in the Uruguay Round to provide Special and Differential Treatment (S&D) to all developing countries, and especially the least developed, or to provide technical assistance to them to meet their obligations under the WTO agreement and to take advantage of the new opportunities which that agreement created. It therefore asks that a system of review and evaluation be established to consider:

- Implementation of S&D Treatment;
- Progress on technical assistance, in particular the IF and JITAP programme; and
- The impact of the agreements on least developed countries.

2.2 The provision of S&D Treatment in the WTO Agreement was a recognition of the special situation facing developing countries, and LDCs in particular, regarding their capacity to implement the Agreement and take advantage of trade opportunities arising from the Uruguay Round Agreements.

2.3 The developing and least developed countries, including Malawi, need effective and implementable S&D provisions due to low levels of industrialization, high cost of capital, lack of adequate technology, inadequate infrastructure, lack of skilled manpower, balance-of-payments problems, and high dependence on primary products for export.

2.3 Unfortunately, since the entry into force of the WTO agreements, most of the developed countries have not honoured their commitments to the S&D provisions. As a result, developing countries and least developed countries have not achieved desired access to the markets of developed countries.



least developed countries have already reduced their nominal tariffs following structural adjustment programmes.



- the Special and Differential Treatment Measures accorded to LDCs, in particular the right to regulate service sectors to meet national development policy objectives be retained;
- least developed countries have been encouraged to endeavour to strategically liberalize those services geared towards their national development policy objectives. Malawi has significantly liberalised its financial sector, but assistance is required in sequencing any liberalisation and undertaking further liberalisation;
- Malawi would also like other members to liberalise in the priority sectors such as transportation, and tourism;
- it proposes that a code be established to regulate the conditions of transit trade, under which countries would be required to offer national treatment to transit traffic;
- there is need to preserve the architecture of the GATS and to pursue the effective implementation of the provisions in favour of developing countries, notably Articles IV and XIX;
- as proposed in the last Round, a safeguard mechanism

- A provision should be incorporated to the effect that patents must not be granted without the prior informed consent of the country of origin. Further, patents inconsistent with article 15 of the Convention on Biological Diversity which recognizes the sovereign rights of States over their natural resources and further states that access to genetic resources should be subjected to prior informed consent of the contracting party providing such resources, must not be granted ;
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- all forms of unnecessarily restrictive non-tariff barriers should be removed, for instance unjustifiable packaging requirements, obstructive use of import permits, foreign exchange constraints.

## 6.2 The Agreement on Textiles and Clothing

Malawi considers that market access for textile and clothing is crucial for employment creation, foreign exchange generation and the creation of a window for industrialization.

Malawi, therefore, proposes that:

- Quota free access of LDC textiles and clothing exports be provided under special preferential trading arrangements.

## 6.3 Rules of origin

Strict, complex, and varying rules of origin are a major barrier to trade to Malawi and to other least developed countries with a high share of exports under preferential and regional agreements. Malawi therefore shares the concern of other countries that the Committee to harmonise non-preferential rules of origin has not completed its work programme within the time frame set in the agreement because of some of the following reasons:

- the complexity and amount of technical work; and
- lack of common understanding among members as to the future disciplines to “equally apply” the harmonized rules of origin for “all purpose”. etc..

Considering that rules of origin have a bearing on market access, Malawi proposes that

- the above issues should be re-looked at with speed in order to achieve harmonisation and simplification of the rules of origin and documentation procedures;
- the Committee should complete its work and be authorised to start consideration of preferential rules of origin, with a view to setting a code for rules of origin that take regional trade agreements into account. For instance, based on the COMESA rules of origin; and
- the rules of origin on textiles and clothing should be harmonised and simplified to ensure effective and full utilisation of preferences.

## 7. **Anti-Dumping, Safeguards and the Agreement on Subsidies**

### 7.1 Anti-dumping

The Agreement on Anti-Dumping is complex and costly to use, and can be misused to amount to harassment of exporters. The process of initiation and application is very burdensome.

- the process of investigation on dumping which is expensive, complex and cumbersome should be simplified to enable least developed countries to undertake thorough investigations;
- LDC exports, in particular textiles and clothing, should be exempted from anti-



## **10. The New Issues of Environment, Competition Policy, Labour Standards, Investment, and Electronic Commerce**

10.1 Malawi just like other least-developed countries is concerned about the inclusion of new issues in the future negotiations. Currently, the existing issues have not been fully understood and implemented. It is, therefore, important that more studies and exploratory work be done on the new issues before positions are undertaken.

### 10.1.1 Trade and Environment.

Malawi is a keen advocate of environmental conservation, and recognises the right of countries to protect themselves from the risks which can be posed by new plants or processes. It encourages the regulation of environmental concerns through multilateral environmental agreements. However, Malawi objects to any move to use environmental measures as a barrier to trade, and supports the requirement that any measures taken by individual countries do not discriminate between national production and imports of the same product.

Malawi's view is that before going further and "mainstreaming" environment into the WTO, more analytical work should be done.

In this regard, Malawi proposes that:

- environmental circumstances should never be used for protectionist purposes against LDCs' products; and
- more studies should be done on the relationship between trade and environment, and trade and development and also on trade, environment and poverty.

### 10.1.2 Trade and Competition Policy

Malawi recognises that restrictive business practices may impede the realization of the

completed its work. In this regard, Malawi proposes that the group should continue its study process and that the outcome should contribute to facilitating investment flows to least developed countries.

#### 10.1.5 Electronic Commerce

The growing importance of Electronic Commerce in global trade led to the Ministerial Declaration on global Electronic Commerce in May, 1998. Although Malawi has not fully developed the capacity to effectively participate in e-commerce, there is need to consider E- Commerce issues in relation to the economic, financial and development implications and therefore, there should be a careful evaluation of any proposals before bringing in these issues into the WTO mainstream agenda.

### **11. Reforms to the WTO System**

11.1 Malawi believes that the WTO needs to review the way in which the WTO operates to make participation easier for developing countries and to increase transparency. The staffing and resource constraints of developing and least developed countries should be taken into account in setting the number and timing of, and in calling, meetings of the WTO.

11.2 The WTO Secretariat and Director General should be de facto and de jure neutral in preparing for possible negotiations. This will be in the spirit of Article IV(4) of the Marrakesh Agreement Establishing the World Trade Organization.

### **12. Capacity Building and Technical Assistance**

12.1 Malawi attaches a lot of importance on technical assistance provided under the various WTO agreements. Further, Malawi welcomes the Integrated Initiatives for Trade-Related Technical Assistance which was adopted at a High Level Meeting (HLM) in October, 1997 pursuant to the decision taken at the WTO First Ministerial Conference in Singapore in 1996. The initiative provides

- the JITAP programme should be extended to more developing countries, including Malawi.

12.3.2 Support for increasing trade capacity

- More support should be provided to least developed countries as they develop and mainstream their trade policies into their national development agenda of poverty reduction;
- Negotiating capacities of LDCs should be strengthened as an essential element in integrating LDCs into the multilateral trading system; and
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- LDCs should be provided with technical and legal assistance for the initiation of safeguard actions.

#### 12.3.8 SPS and TBT

- Technical assistance for SPS compliance should include, among other things , building-up capacity in the fields of accreditation and certification, provision of laboratory equipment and training of personnel; and
- Provision of technical assistance, such as technology transfer, establishment of laboratories, human resource development, building capacity in the fields of