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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 Development (UNCTAD)/United Nations Economic Commission for Africa (UN-ECA)/Africa Economic Research Consortium (AERC)/African Union (AU)

and

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NOTE

The views expressed in this publication are the outcome of the Workshop on issues of interest to African countries in the WTO services negotiations and the papers submitted by respective organisation for the meeting, and do not reflect the views of the UNCTAD Secretariat.

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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 transhipment 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 other services in which developed countries are in most cases the principal demanders, both developed and developing countries alike have manifested interest in achieving higher levels of liberalization during the current negotiating process.

31. There are important differences, however, between developed and developing countries in terms of their specific interests in liberalizing professional services. These differences are both with respect to the particular professional services targeted for liberalization, as well as regarding the type of movement of natural persons that they would like to see incorporated in the specific commitments.

32. In relation to Mode 4, it was observed that developed countries are principally interested in obtaining specific horizontal commitments and additional commitments under GATS Article XVIII on certain categories defined according to the purpose of the movement of the natural person, including professionals.

33. Nationality, citizenship or residency requirements in the case of professional services completely close the market for foreign suppliers. It was agreed that African countries should request the elimination of these limitations for those professional services in which they are seeking commitments from other WTO Members. They should also seek additional commitments regarding the granting of work permits to ensure that they are expeditiously granted and without a cost that could itself be an obstacle to trade in services. Economic needs tests can be used discretionally to control the supply of certain services.

CONCLUSIONS AND RECOMMENDATIONS

Issues in the formulation of requests

34. African countries should identify the modes of supply and the markets of interest to them in the provision of services. Emphasis should be on mode 4, which has been highlighted as an important mode of supply for African countries, especially in respect of semi-skilled and unskilled labourers.

35. African countries should concentrate on areas where opening up is possible to achieve developmental objectives, in particular infrastructural sectors such as telecommunications, transport and financial services that would be instrumental in the development of other sectors and the economy as a whole. This makes the issue of assessment important so as to be clear on the needs in the sectors identified. It would also then bring in the issue of assessment at the Council on Trade in Services.

36. African countries should look into areas for making requests since requests can still be submitted beyond the initial request submission date of 30 June 2002.

37. Joint African requests especially in sectors such as tourism, can be feasible so as to provide bargaining leverage, especially in areas where it would be important to ask for additional commitments. It might also be important to develop a model schedule in some sectors such as the maritime services sector.

Issues in the formulation of offers

38. African countries should develop strategies that review the economic implications of the commitments requested both upon their economy as a whole and in the concerned sectors in terms of expected benefits and/or costs of liberalization.

39. The implications of the requested commitments for the domestic regulatory framework should be analysed. The issue of assessment becomes crucial in this case, taking into consideration the sequencing of liberalization and regulation capacity.

40. The nature of existing limitations on both market access and national treatment and the feasibility of implementing specific commitments should be assessed.

41. The political and social sensitivity that commitments regarding certain services activities in the country could evoke should be taken into consideration.

42. African countries should identify conditions that they wish to maintain or establish when opening their markets, as well as additional commitments at the sectoral level, and should seek the implementation of GATS Article IV at the multilateral level.

43. Joint African offers may be problematic, but the African group could consider model offers that could then be tailored to suit the interests of each Member.

Other issues

44. The relationship between services liberalization and attraction of FDI should be analysed since there is a need for African countries to see some progress in this correlation.

45. Progress in the negotiations on credit for autonomous liberalization (which have been undertaken by most African countries through structural adjustment programmes) and the assessment of trade in services in the Council on Trade in Services should be prioritized for concrete resolution.

46. When dealing with the requests received, African countries should be clear on the issues that are still being dealt with in the subsidiary bodies at the WTO and which should not be part of the bilateral negotiations.

47. Greater coordination is needed between Geneva-based delegates and capital-based negotiators to develop national positions that take into account the issues of interest to all stakeholders in a country and also national positions in regional and multilateral negotiations.

48. Generic development issues that should be considered as multilateral benchmarks include:

- (i) Evaluation of requests received; assessment of the impact of GATS; and monitoring of the evolution of the GATS negotiations;
- (ii) Operationalization of credit for autonomous liberalization;
- (iii) Revival of Mode 4 on temporary movement of natural persons as part of the unfinished business of the Uruguay Round;
- (iv) Creation of clear boundaries between multilateral and bilateral issues, to avoid mixing them during negotiations;
- (v) Classification issues, especially in those sectors that are not fully classified in the WTO W120 document;
- (vi) Anti-competitive issues and general competition policy issues, since this will be part of the agenda for the 5th WTO Ministerial Conference in 2003;
- (vii) Technical and analytical assistance on GATS Article V on regional integration process, as it will be subjected to negotiations.

Technical assistance need

49. Assistance is required in evaluating and analysing the requests received and in formulating responses to them, taking into account the costs and benefits that could be obtained from any commitments in the sectors.

50. Advice is needed on the implementation of the S&D provisions in GATS Articles IV and XIX through requests and offers.

51. Assistance must be sought to further support the work of the African Group in Geneva on services negotiations, through *ad hoc* meetings and in the provision of direct assistance to national delegates in formulating requests.

52. Support is required to further research in specific sectors to monitor liberalization and its impact and to use the information in actual negotiations.

53. Analytical inputs will have to be provided for African countries in identifying their interests in the negotiations in outstanding areas in the GATS negotiations, particularly those that concern the work of the subsidiary bodies.

54. The links between capitals and Geneva-based trade negotiators need to be strengthened. The support and engagement of national stakeholders in preparing for services negotiations and other issues under the Doha agenda needs to be increased.

55. Assistance in addressing pressures applied during bilateral negotiations, which can undermine adequate national and joint preparations. This will include the sharing of information such as the requests received.

Annex 1

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Annex 2

Aide-Memoire

Background

Negotiations on the liberalization of trade in services that have been taking place under the "built-in agenda" agreed at the end of the Uruguay Round, were incorporated in the Doha Work Programme contained in the Ministerial Declaration adopted by the Fourth WTO Ministerial Conference. Paragraph 15 of the Declaration provides for the negotiations on trade in services to be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries.

The negotiations thus provide an opportunity for Africa and other developing countries to achieve commercially meaningful market access commitments in sectors and mode of supply of export interest to them particularly labour intensive services, as well as to devise effective benchmarks for the implementation of Article IV of GATS. At the same time, tackling supply constraints and capacity building rather than market access remains their priority. Furthermore, the need to address both the social dimension of services and objectives of economic efficiency and international competitiveness poses a complex dilemma for African countries in the negotiations.

The Doha Ministerial Declaration provides key timetable for the services negotiations within the framework of the overall negotiations. Initial requests for specific commitments should have been submitted by 30 June 2002 and initial offers by 31 March 2003. The deadline for conclusion of all the negotiations pursued under the Declaration is set for 1 January 2005 and the outcome of the negotiations on services will be treated as a part of a single undertaking.

The services negotiations are now entering a new phase where the focus will be more on bilateral market access negotiations rather than a general discussion of the proposals submitted by Members (over 150 sectoral and horizontal proposals have been tabled mostly by developed countries) at the Special Session of the WTO Council for Trade in Services. Bilateral consultations on the requests for market access commenced in July 2002. It is perceived that developed countries will be leading the process of requests as few African (and other developing) countries have identified their specific sectoral and modal interests, the barriers to their exports and the impact of requests of developed countries on their services sectors. A small number of African (and other developing) countries have already submitted requests to their trading partners. Acceding countries as full participants in the negotiations can address requests to WTO members and seek reciprocal benefits.

Against this background, the Workshop is being convened to assist the Geneva-based African trade negotiators in playing an active role in the market access negotiations on trade in services and in advising their governments on such negotiations.

Objectives

The purpose of the Workshop is to promote several interrelated objectives, linked to the underlying objective of enabling African trade negotiators to take an active part in the market access negotiations phase of the services negotiations under GATS and promote their development interests. The three main objectives are as follows:

(1) To discuss the state of play in the services negotiations under GATS and the Doha mandate, also examine links with the challenges of negotiating services liberalization agreements within regional economic integration agreements among African countries.

(2) To discuss the requests received so far and see how to respond to these requests based on analytical and policy information available from sectoral analyses and other technical reports. The responses in the form of offers (later on) and the preparation of requests will be discussed on the basis of the requests received from trading partners and from assessments made in key sectors. The possibility of drawing up common guidelines for requests and offers will be discussed.

(3) To assess the role of services negotiations in the wider Doha work programme. What is the weight of services' negotiations in the Doha agenda and the links to other negotiations such as on environment.

Draft Agenda

The Draft Agenda (attached) reflects the objectives listed above.

Participation

The Workshop is directed at the Geneva-based African trade negotiators. Participation is expected from trade representatives of some 41 Geneva-based African delegations.

The collaborating agencies are UNCTAD, AU, UNDP, UN-ECA, and AERC. Other invited organizations include Third World Network-Africa, and SATRN.

The WTO Secretariat will also be invited to participate.

The total number of participants is estimated at fifty (50).

Venue

Room XVI
5^{th} Floor, A Building, Lifts 13 and 15
Palais des Nations, Avenue de la Paix 8-14, 1211 Geneva 10

Programme

17 September 2002

10:30 – 13:00
Opening and introductions

- Welcoming by UNCTAD
- Address by the Coordinator of the African Group at WTO
- Introduction by the UNDP Africa

1. Main issues for consideration in the requests and offer phase of the services negotiations

- State of play in the GATS negotiations
  (Presentation by WTO)
  Discussion by participants

- Issues to be taken into account in the liberalization of trade in services at the sub-regional level
  (Presentation by UNCTAD and AERC)
  Discussion by participants

13:00 – 15:00 Lunch

15:00 – 18:00

2. Increasing participation of African countries in international trade in services and the effective implementation of GATS Article IV

   a. Elements for making requests and possible approaches to the bilateral and multilateral negotiations on services
   (Presentation by UNCTAD)

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

i. Telecommunication
Introduction by AERC
Exchange of views by delegations

ii. Financial services
Introductions by ECA and AERC
Exchange of views by delegations

iii. Transport services
Introduction by ECA and UNCTAD
Exchange of views by delegations

iv. Tourism services
Introduction by ECA and UNCTAD
Exchange of views by delegations

v. Professional services

Introduction by UNCTAD
Exchange of views by delegations

vi. Construction services

Introduction by UNCTAD
Exchange of views by delegations

18 September 2002

10:00 – 13:00
Continuation of Item (2)

13:00 – 15:00 Lunch

15:00 – 18:00

Facing the challenges and taking advantage of the opportunities in the request and offer stage of the services negotiations

Round Table debate: Geneva delegates, UNCTAD, ECA, UNDP, TWN-Africa
Exchange of views among delegations

Closing

Annex 3

REMARKS BY H.E. AMBASSADOR AMINA C. MOHAMED THE CHAIRPERSON OF THE AFRICAN GROUP AT THE WTO DURING THE OPENING SESSION OF THE WORKSHOP ON ISSUES OF INTEREST TO AFRICAN COUNTRIES IN THE WTO SERVICES NEGOTIATIONS: 17 – 18 SEPTEMBER 2002, GENEVA

Mr. Chairman
Resource persons
Distinguished participants
Ladies and Gentlemen

On behalf of the African Group, I would like to take this opportunity to thank the United Nations Conference on Trade and Development (UNCTAD), the African Union (AU), the United Nations Development Programme (UNDP), the UN-Economic Commission for Africa, and the African Economic Research Consortium (AERC) for organising this workshop on the issues of interest to African countries in the WTO Services Negotiations.

We consider this workshop, particularly its timing: taking place at a time when Services Negotiations in the WTO have reached a critical phase, as an important step towards fulfilling the Doha mandate. It is therefore my hope that the workshop will enable African countries not only to participate effectively in the negotiations but also reap the benefits that arise there from.

Distinguished Participants

As you may be aware this workshop will focus on among other issues:

i) The state of play in the services negotiations under the General Agreement on Trade in Services (GATS) and the Doha Mandate, including regional economic integration aspects of services liberalization;
ii) The requests received so far and how to respond to these requests based on analytical and policy information available from sectoral analyses and other technical reports and;
iii) Assessment of the role of services negotiations in the wider Doha work programme.

There is no doubt that these issues are extremely important; aimed at achieving meaningful market access commitments in sectors and modes of supply of export interest to African countries.

Ladies and Gentlemen

Trade in services is increasingly receiving more attention:

Firstly, because at the moment services have a lot of potential for growth due to technological innovations and changes in government policy towards liberalization. This is demonstrated by the fact that the share of world trade in services has been rising steadily overtime from 16% to 18% between 1980 and 1995 and currently accounts for over 20% of all international trade. In fact, it is envisaged that in the medium term, services will continue to expand faster than trade in goods.

Secondly, with increased competition as a result of liberalization of trade in goods, manufacturing industries need to have access to low cost, high quality services inputs in order for their products to be competitive in international markets.

Distinguished participants

The international rules and disciplines for liberalization of trade in services that were negotiated during the Uruguay Round marked the first step in a long-term process of liberalization of the services sector. The objective of the current services negotiations, therefore, is to promote further liberalization by extending national commitments over a broader range of services sectors and also by improving on the existing commitments.

As envisaged in the Doha Ministerial Declaration, the initial requests for specific commitments should have been by 30th June 2002 while initial offers are expected by 31st March 2003. This implies that the services negotiations have entered into a critical phase in which African countries are expected to fully participate.

Ladies and Gentlemen

An assessment of the current progress in services negotiations reveals that almost all African countries have received initial requests for specific comments mainly from developed countries. However, due to what I consider as limited technical capacity only a few African countries have so far submitted their initial requests.

In this connection, we have to continue to insist that the 30th June 2002 was an indicative deadline and this workshop should enable the entire African countries to draw up initial requests as well as to prepare for the initial offers.

Mr. Chairman

Other issues that would be of significance to African countries in this workshop are:

(a) The underlying objectives for African countries in selection of sectors and sub-sectors for undertaking liberalization commitments.
(b) The underlying objectives for African countries in undertaking liberalization or total exclusion of certain sectors or sub-sectors.
(c) The type of conditions that a African countries should attach on their commitments in order to meet certain national objectives and,
(d) Sequencing of the implementation of the commitments once negotiations are complete.

In conclusion, Mr. Chairman, I would like to once again thank the organizers of this workshop and also stress the need for continued support from the international community in addressing capacity constraints faced by African countries in fulfilling the objectives of the WTO Multilateral Trading System.

With these few remarks, I wish you fruitful discussions in the course of this workshop.

I thank you all.

UNDP STATEMENT AT THE WORKSHOP ON ISSUES OF INTEREST TO AFRICAN COUNTRIES IN THE WTO SERVICES NEGOTIATIONS 17-18 SEPTEMBER 2002, GENEVA

Lamin M. Manneh
Senior Regional Programme Advisor
Regional Bureau for Africa, UNDP, New York

Mr. Chairman, Distinguished Delegates, Colleagues from the collaborating institutions and agencies of UNDP Trade and Investment Capacity Building Project for Africa.

I feel honored and pleased to make an introductory statement on behalf of UNDP at this important workshop. Le me thank UNCTAD most sincerely for playing the key coordinating role for the meeting and substantive background papers for the deliberations. I would also like to thank all the cooperating and implementing partners for their substantive contributions. Special thanks also go to the delegates here in Geneva for their wholehearted support and enthusiasm for the meeting.

As you are all no doubt aware, enhancing Africa's participation in the globalization process and assisting them to build effective linkages between opportunities derived from that process and poverty reduction objectives have assumed increasing importance for UNDP. This constitutes the underlying rationale for our Regional Trade and Investment Capacity Building Project for Africa, through which we are co-financing this workshop.

Coming to the workshop specifically, we see it as particularly important given the rapid rate at which the services sector has been increasing worldwide on one hand and on the other for the African countries to devise ways and means of maximizing their benefits, probably at a faster pace than they can expect to expand their trade in goods per se. In addition, as noted in the Aide-Memoire for the workshop, formulated by UNCTAD, we are dealing with a very tight negotiating schedule for trade in services in the context of the Doha Work Programme, with the deadline for submission of initial offers set for end-March 2003.

Mr. Chairman, let me hasten to point out that, it is not my intention to make a long and philosophical statement on the opportunities and risks of globalization, particularly as they relate to African countries. We are fully aware that that route is a beaten track for all of you present here. We know your immediate concerns relate to the practical matters and challenges presented by the negotiations agenda of the trade talks. I would, therefore, confine the rest of this statement to what I would consider to be solely of practical importance to you.

Starting with corporate UNDP, for us the current debates about the globalization process is not whether it should be reversed, but rather about how it can operate optimally to impact on poverty and foster human development in all the regions of the world. An important dimension of that desired process is strengthening the capacity of weaker countries, notably those in Africa to participate more actively and equitably in global trade negotiations. As you know this in turn requires both skilled human resources and well-researched analytical works on the various focus areas. It is for this reason that activities in this area constitute an important aspect of our "Trade and Investment Capacity Building Project for Africa".

UNDP also believes fervently in partnership building to achieve much higher levels of development effectiveness. Again you are all aware of declining ODA on one hand and increasing complexities of the development process, all of which put a premium on close partnership building, pooling of resources and enhancing synergy among the development partners. Partnership building is an important strategic element of the UNDP Administrator's Business Plans for the Organization covering 2000-2003. Under our "Trade and Capacity Building Project for Africa", we faithfully pursued the principle of partnership building by adopting an integrated work plan involving the cooperating partners: ECA/OAU/AEC, UNCTAD, AFRC/SATRIN and TWN. We also actively pursued collaboration with DFID, the World Bank Institute and WTO. We intend to pursue even more vigorously strategic partnership building in the next stage of our trade programme. In addition to deepening our partnership building we would like to broaden it to include other institutions and organizations.

But our most important partner comprises the national authorities and other local stakeholders. There is consensus that national ownership of all development initiatives is key to success and sustainability of the development process. UNDP has been one of the strongest advocates of this principle. It is also critical to the trade and investment area. We believe there is much scope for assisting local policy-makers and representative negotiators to make the best possible use of existing capacities and facilities as well as to build new and sustainable capacities. This workshop, targeting primarily the African delegates here in the world's trade capital fits with this vision.

UNDP also believes that a critical dimension of making globalization work for Africa and other LDCs is assisting them to build their supply and internal institutional capacities on a long-term basis. This is what will allow them to take advantage of more open markets that is of even more immediate concern to you delegates. In this regard, a second component of UNDP Africa's trade and investment programme is long-term capacity building. We intend to start working on this second phase with effect from next month and complete it during the first quarter of 2003. That programme will cover the period 2003-2006 i.e. upto one year after the conclusion of the current round of global trade talks in 2005. We intend to involve all of you the stakeholders, directly and indirectly.

In the meantime, we expect that at the end of this workshop, we would have been well equipped to accelerate our participation in the negotiations process for the services sector.

Thank you for your attention.

Annex 4

LIST OF PAPERS PREPARED FOR THE WORKSHOP ON ISSUES OF INTEREST TO AFRICAN COUNTRIES IN THE WTO SERVICES NEGOTIATIONS

17-18 September 2002,
Palais des Nations, GENEVA, SWITZERLAND

- Note on Current Negotiations of Specific Commitments under the GATS: Initial Requests and Issues for Consideration by African Countries **(UNCTAD)**
- Regional Integration on Trade in Services: The experience of SADC **(UNCTAD)**
- African Telecommunications Commitments, Policy, Potential Offers and Requests **(James Hodge-University of Capetown and Dominique Njinkeu-AERC)**
- Trade in Transport Services and the WTO Agreements **(Economic Commission for Africa-ECA)**
- Sectoral Issues (Financial Services) of The WTO Negotiations on Trade in Services **(Luis Kasekende and Michael Atingi-Ego, Bank of Uganda) E/F**

NOTE ON CURRENT NEGOTIATIONS OF SPECIFIC COMMITMENTS UNDER THE GATS: INITIAL REQUESTS AND ISSUES FOR CONSIDERATION BY AFRICAN COUNTRIES

By

UNCTAD Sectretariat

Paper prepared for the Workshop on Issues of Interest to African Countries in the WTO Services Negotiations

Organized by United Nations Conference on Trade and Development (UNCTAD)/Economic Commission for Africa (UN-ECA)/Africa Economic Research Consortium (AERC)/African Unity (AU)

and

Supported by United Nations Development Programme (UNDP) Africa

17-18 September, 2002
Palais des Nations
Geneva, Switzerland.

I. Introduction

The Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 set the request-offer approach as the main method for negotiations of specific commitments under Article XIX of the GATS. The starting point of the negotiations should be the current national schedules without prejudice of the content of requests. In the negotiations there must be appropriate flexibility for individual developing countries for opening fewer sectors, liberalizing fewer types of transactions, for progressively extending market access in line with their development situation and, when granting market access attaching conditions aimed at achieving the objectives set for in Article IV of the GATS. The Doha Ministerial Declaration, reaffirming the guidelines and procedures for negotiations, established that participants should submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003. Some Members that submitted their initial requests of specific commitments met the June deadline, and others presented them afterwards. The majority of African countries have yet to present their initial requests to their trading partners.

The time elapsed since the Doha declaration attest to the difficulties that a significant number of developing countries are confronting in the elaboration of their initial requests. Some developing countries have highlighted (i) the lack of human resources and (ii) the complexities involved in identifying their concrete trading interests in services as the main explanation of not being able yet to table their initial requests; and also (iii) the lack of the adequate understanding of the GATS. Considering the agreed time frame for the negotiations the elaboration of initial requests of specific commitments is a priority issue for developing countries. However, countries will be able to continue making requests throughout the whole negotiating process. This suggests, that initial requests may also be revised and extended in the future by the negotiating partners. All developing countries are involved in the negotiations and negotiating is the only possible way for developing countries to promote and ensure their increasing participation in trade in services. Making request is the only way of manifesting a pro-active participation in the process.

II. Issues relevant to the management of the negotiation process

Developing countries are confronting a complex challenge. In a context in which some Members are already calling for bilateral consultations, there is the need to first carefully analyse and then react to the initial requests received, but more importantly - elaborate and submit requests by developing countries in order to effectively participate in the negotiations and to promote own trading interests**.** Two different stages can be envisaged in the current request-offer negotiating process. A period during which bilateral consultations should mainly serve the purpose of *clarifying* the content of the requests submitted by Members; and then a second stage, to begin once that Members have submitted their initial requests and offers, in which specific commitments would be negotiated.

In managing the request-offer negotiations under the GATS developing countries should take into consideration some important institutional aspects of the process. At the *national level*, special attention should be paid to domestic arrangements for intra-governmental coordination, including the strengthening coordination between the capital and the Geneva-based delegations, and for consultation with stakeholders. At the *regional level,* developing countries involved in regional schemes for services trade liberalization might which to explore coordination mechanisms in the request-offer negotiations in order to adequately manage the interface between the regional and the multilateral processes. Finally, at the *multilateral level,* as provided by paragraph 15 of the Guidelines and procedures for the Negotiations the Council for Trade in Services shall review the process of the negotiations to ensure effective implementation of Articles IV and XIX: 2. The extent to which Article IV is being implemented should be the basis of such review and the Council in Special Session shall suggest ways and means of promoting its goals. Therefore, a mechanism for collective evaluation of the initial offers of developed country Members, demanding the exchange of information, would be necessary to provide the basis for the required evaluation giving content to the review mandated by paragraph 15 of the Guidelines and Procedures for the Negotiations. Furthermore, the request-offer negotiations might be adjusted in the light of the results of the ongoing assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of the GATS and of Article IV in particular as provided by paragraph 14 of the Guidelines and Procedures for the Negotiations. The extent of the adjustment has not been clear defined, but it could even imply that initial offers by developing countries could be conditional to the results of the assessment.

III. Some elements of interest arising from the present process of requests

A preliminary analysis based on partial information of requests submitted both by developed and developing countries allows for the identification of the different approaches adopted by Members in elaborating their initial requests of specific commitments. Also for elaborating of a broad typology of the kind of demands for services trade liberalization being presented to WTO Members in the context of the current negotiations under Article XIX. The analysis of the different general approaches and the type of requests could help developing countries in analysing the initial requests received, and also in the process of elaborating their initial requests and offers. Each type of request demands a different analytical approach for its consideration and they would entail different levels of future commitments with varying implications for the economic and development needs of developing countries. It should be kept in mind, that each request should link sectoral and horizontal limitations: seeking market access at the sectoral level may be undermined by existing horizontal limitations[1].

Members have adopted differentiated approaches for the submission of their initial requests for specific commitments. Some Members have elaborated a modal initial request, adjusted in each case to address to some particular limitations inscribed in other Members National Schedules. Other Members have submitted initial requests individually tailored for targeted Members, showing however some commonalities expressing some particular trading interest. Finally, some Members have followed a dual approach, presenting tailored requests to some trading partner in which they have particular interest and a modal request has been submitted to other Members. Some Members seems to have adopted a differentiated approach towards LDC's not submitting to them the modal initial request but providing for a more flexible approach. Requests to LDCs should be viewed in the light of the future development of the modalities for the priority treatment of LDCs which has not yet been implemented. Differences can also be found in the scope of the initial requests. While some Members have submitted very ambitious requests covering a wide range of sectors and requesting deep liberalization commitments and also significant additional commitments, other Members have followed a more focus approach requesting limited and clearly identified commitments from other Members. Finally, there are differences also with respect to the number of targeted countries. In some cases, in particular developed country Members have targeted a large number of countries, and in other cases Members have submitted a limited number of initial requests focusing in those markets in which there is a identified trading interest. Developing countries in process of elaborating their initial requests should evaluate which approach would best serve their interests taking in consideration their institutional capacity constraints.

The initial requests for specific commitments reviewed cover a wide range of services activities. However, the frequency and nature of the requests allows identifying the following sectors as those to which developed country Members seems to attach particular importance: financial services, telecommunication services, energy services, environmental services, maritime transport services, construction and related engineering services and some professional services, namely legal, and also computer and related services. The limited number of initial requests submitted by developing countries reviewed show a greater frequency of requests on construction and related engineering services, tourism and professional services. The available information does not allow analysing the nature of the initial requests that have been submitted regarding mode 4 of delivery by developing country Members.

IV. How to address selected issues arising in the present process of negotiations

In reviewing the requests for specific commitments that has been received developing countries should, *inter alia*, evaluate the following elements: (i) the economic implications of the commitments requested, both on the economy as a whole and in the concerned service sector in terms of expected benefits and/or costs of liberalization. In doing so consultations with the stakeholders would significantly contribute to assess the economic impact of the requested services trade liberalization on the basis of the strengths and weakness of the domestic services suppliers, and also considering the interlinkages of those services with other sectors of the economy, and their possible positive externalities; (ii) implications of the requested commitments on the domestic regulatory framework. An assessment should be undertaken of the institutional resources to manage possible regulatory changes required by the requested commitments and the existing enforcement capabilities. Also, the sequence between liberalization and regulation should be evaluated. The economic implications of liberalization could vary significantly under different regulatory regimes. Therefore, developing countries should assess the requests for liberalization in light of the existence and nature of current regulations, or of the absence of regulations, and the need to introduce new regulations or change existing one prior to adopting specific commitments; (iii) the nature of existing limitations to MA and NT, and the feasibility of implementing specific commitments. In this regard, developing countries should assess, *inter alia*, the enforcement capabilities regarding existing limitations, and if the requested commitments will imply any real change from current market practices that circumvents existing regulation. Also, what is the political feasibility of implementing specific commitments? For example, would it be possible to have a certain law change by Congress? And if so, in what time-framework it is reasonable to expect that the legislative process would be completed? This type of evaluation could lead to adopting pre-commitments to future liberalization as some developing countries have already done under the GATS; and, (iv) the political and social sensitivity that commitments regarding certain services activities could unleashed in the country. This issue, for example, is already a matter of serious concern in many countries regarding some infrastructural and social services.

The Guidelines and Procedures for the Negotiations established that *starting point* of the negotiations shall be the current schedules without prejudice of the content of the requests, granting flexibility to Members in tabling their initial requests for specific commitments. However, the *boundaries* of the bilateral request-offer negotiating process are a highly relevant issue that should be taken into consideration by developing countries. Some of the initial requests submitted could infringe upon issues that are being considered by the subsidiary bodies to the Committee for Trade in Services, as for example subsidies, domestic regulation, and classification issues. In fact, these issues could not be resolved in those multilateral discussions and they are being transferred now to the bilateral process. These requests and their possible effect on the work being done in the subsidiary bodies should be review and some decision adopted regarding the nature of the requests that countries should consider in the bilateral negotiating process. This could be done by brining the question of boundaries to the multilateral process in the Council in a Special Session. Another related concern refers to those requests referred to adopting definitions of some important concepts used in the scheduling of commitments. It should be evaluated if these discussions should be undertaken in the bilateral process, or a multilateral approximation could best serve the interests of all participating Members.

Finally, another issue that developing countries should consider is promoting the evolution of some sectoral negotiations to a multilateral setting, where possibility for this is provided in the negotiating guidelines and procedures for the negotiations. Developing countries should take into consideration that in the bilateral process the outcome would depend on the negotiating strength of individual developing countries. Thus, the multilateral process, e.g. negotiated model draft schedule or additional commitments by developed countries in line with Article IV objectives, might enhance the possibilities for achieving the negotiating objectives of developing countries. For example, it might be the case for retaking the work that was done in the Negotiating Group on Maritime Transport services after the Uruguay Round. An area of particular importance for African and other developing countries is the temporary movement of natural persons, which is not being adequately addressed in the current requests. In that respect, developing countries should seek to re-launch negotiations under the Annex on the Temporary Movement of Natural Persons at the multilateral level. This is one of the principal ways through which objectives of the GATS Article IV could be obtained. In fact, African countries may seek to link their offers in the overall process of negotiations to the successful conclusion of the negotiations under this Annex.

V. Types of requests and possible issues for consideration by the African countries

In general terms four main types of requests have been identified in the preliminary analysis undertaken of the initial requests for specific commitments:

A. Seeking clarification and technical improvement of Scheduling and of Existing Commitments

In principle these requests would not imply any further commitment by Members beyond those already adopted during the Uruguay Round and in the different Protocols annexed to the GATS. These requests aim to improve the scheduling and clarify the content of existing commitments, and could have an overall positive effect in the sense of contributing to address some of the scheduling problems and limitations that can be identified in the National schedules. However, in some cases some requests of this type could entail the modification or deepening of existing commitments.

Under this category Members can, and have, submitted at least two different kinds of requests:

(i) Technical revision of the National Schedules requesting for adjustment of existing commitments to the Scheduling Guidelines adopted by the Council for Trade in Services on 23 March 2001 (S/L/92). Requests of this type cover, *inter alia*, the following: (i) incorporation of a clear description of remaining MA or NT limitations, (ii) adequate identification of sectors in accordance with Services the Sectoral Classification List (MTN/GNS/W/120) and/or corresponding CPC number; and, (iii) elimination of measures inscribed in the schedules that are not of a nature foreseen by Articles XVI and XVII of GATS, and MFN exemptions that do not need to be schedule. These requests in this regard should be carefully analysed in the light of the original objectives behind the sectoral definition and of the scheduled limitation. The adaptation to the sectoral classification could entail expanding the original commitments to other services activities beyond what was originally intended. It should be noted, that individual developing countries have a right to use their own classification as long as a clear description of the activity is provided. The elimination of measures from the national schedules could also entail adopting deeper commitments, as the problem could be more of scheduling than of content. Therefore, in these cases the analysis should evaluate if it is a matter of eliminating scheduled measures or of adapting them to the scheduling guidelines in view of the original objectives pursued by Members. The clarification of remaining MA and NT limitations in the initial offers probably would lead to new requests to address those limitations.

(ii) Definition of concepts and/or the conditions and terms contained in National Schedules. Some of the initial requests address to the problem of absence of definitions of some crucial concepts contained in the national schedules and time frames, and other requirements that are not clearly specified. Some requests, for example, emphasize these concerns in particular regarding the movement of natural persons service providers that are usually defined in the schedules in terms of the type of person involved – executive, manager, specialist, senior and specialized staff, skilled worker - or in terms of the purpose of their movement – personnel engaged in establishment, contractual service suppliers, services salespersons, intra-corporate transferees, transferences for career development, and business visitors - for which no agreed definition or precise description exist, requiring the adoption of commitments and the incorporation of clear definitions of these categories in the national schedules. Also, some requests address to the issue of temporality concerning mode 4, length of stays, prior employment requirements and degree of company affiliation in the case of intra-corporate transferees, and criteria for granting work permits, among other issues. Some of the initial requests incorporate proposed definitions, time frames, and other parameters to be adopted by Members in their commitments. In regard of these kind of requests two basic issues should be considered. First, if the proposed categories, time-frames and other parameters serve the interests of developing countries, and what counter proposals could be incorporated in the initial requests of specific commitments to be submitted. Secondly, and perhaps more important, is the question if these issues should be address through bilateral negotiations, or a preferred route would be a multilateral understanding in order to contribute to the comparability of national schedules and its user friendliness. In this context, the ILO definition of the classification of occupations would provide the basis for a common definition of skilled workers. At the same time, the market access for mode 4 should be committed at the sectoral level, provided that horizontal commitments ensure overall effective access.

B. *Seeking binding of the existing regimes*

Some requests call for the binding of the existing limitations to MA and NT. One objective pursued with this type of request is to eliminate from the national schedules existing discrepancies between bound commitments and existing regulatory frameworks. Commitments in this respect could contribute to predictability of conditions to engage in business in the country, and with transparency and user friendliness of the national schedules. However, in considering these requests developing countries should evaluate the original rationale that lead to maintaining the space for possible regulatory modifications, and any regulatory reform that could be under consideration. For example, in those areas, where developing countries have accumulated experience with services imports and the establishment of foreign service suppliers, have supporting institutions and regulatory framework binding existing limitations to MA and NT could be explored. When developing countries will be making *their own requests*, in those cases, where developed countries will not be willing to adopt further liberalization commitment, developing countries may ask them to bind the existing regime. Developing countries should also explore, *inter alia*, demanding for a clear description of the criteria and procedures guiding the granting of visas and work permits, and also some additional commitments regarding transparency and domestic regulation. For example, developed countries could be requested to bind all current restrictions to MA and NT in Mode 4 in some targeted services sectors and adopting additional commitments.

C. Requests for the adoption of further liberalization commitments

These requests constitute the core issue in the negotiations through which the objectives established in Articles IV and XIX of the GATS should be attained. Members have presented requests covering both horizontal and sectoral commitments, and also MFN exemptions. Two complementary approaches could be taken for tabling requests for further services liberalization:

(i) Elimination of scheduled limitations –terms, conditions, and qualifications- affecting Market Access or National Treatment. Taking the National Schedules as the initial base is possible to identify those limitations in effect in other Members that could be affecting the trading possibilities of domestic services suppliers. Based on such an analysis specific requests can be tabled determining the particular type of commitment expected from the other Members.

(ii) Commitments in new sectors and/or modes of delivery requesting the binding of unbound modes of supply and the scheduling of unscheduled sectors or subsectors. Some Members have presented, in some of their initial requests to certain countries, some general requests just demanding the adoption of further commitments in specified sectors. The initial offer will then will be the basis for the bilateral negotiations, during which probably further commitments would be requested. On the contrary other Members have tabled specific requests by sector and mode of delivery specifying the type of commitment expected from their trading partners. This type of request for new commitments should be based on the identification of commercial meaningful trade possibilities in the targeted market, and in the knowledge of existing limitations so that specific requests can be tabled. Finally, some initial requests contain a Model Draft Schedule, covering MA, NT and additional Commitments, to be adopted by Members, as is the case for example in some requests concerning maritime transport services. Developing countries might consider elaborating Draft Model schedules in sectors or modes of delivery of their interests, as for example the one being discussed for tourism, or a Draft schedule for Mode 4.

In some sectors as in energy and environmental services some initial requests for further liberalization commitments develop certain classification issues requiring Members to adopt such classification in tabling their initial offers. Also regarding some services, as express delivery services for example, a cluster approach involving some classification issues has been utilized as a checklist of the commitments than are being requested from Members. Classification issues are being dealt with in the Committee on Specific Commitments, and involving these issues in bilateral negotiations should be carefully evaluated.

D. Request for additional Commitments under Article XVIII

During the Uruguay round Members adopted very few additional commitments under Article XVIII. One important trait of some of the initial requests that have been submitted to

Members is that they incorporate demands for the adoption of additional commitments that could have strong implications for developing countries, and in some cases these requests would imply obligations beyond what is required by relevant GATS provisions. Requests for additional commitments have been tabled in two mayor areas: regarding transparency and in relation to domestic regulation. Some requests on transparency would generate new obligations for Members beyond current agreement, for example, provisions of Article III. This would be the case for example of commitments regarding prior notification of measures before they are put into effect and on procedures allowing participation of interested parties.

Regarding domestic regulations requests have been submitted, or have been proposed, for the adoption of sectoral additional commitments in sectors such as energy services, distribution services, legal services and financial services that deserve adequate evaluation because of the possible implications for domestic regulatory frameworks. Furthermore, requests have been tabled for the implementation of Accountancy Disciplines developed by the GATS Working Party on Professional Services and adopted in December 1998, and in the case of Members that have not subscribed Protocol IV to adopt the Basic Telecommunications Reference. Developing countries should evaluate what additional commitments could be requested from the mayor trading partners in those sectors in which would ensure the attainment of the objectives of the Article IV, and submit specific requests in this respect.

VI. Conclusions[1]

The objectives of negotiations is to achieve progressive liberalization while ensuring that flexibility is provided to developing countries and due consideration is given to the achievement of national trade and development policy objectives. Negotiations should not undermine the right of developing countries to regulate their services sectors and to introduce new regulations. Requests received should be evaluated in this light and to what extent these requests will undermine these provisions of the GATS if accepted. At the same time, African countries should ensure that pledges made by developed countries regarding the expected requests by developing countries are implemented[2].

African countries may consider addressing the following elements during the present stage of negotiations:

- The issue of "boundaries" of the bilateral process may be necessary to bring to the CTS;
- African countries should demand that procedures and benchmarks are established for the review mandated by paragraph 15 of the Guidelines;

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1 Such limitations may include, for example: Use of approval based on national or public interest consideration; Consideration whether important economic and social cultural interests are affected; Authorization subject to discretion; Appointment of local agent or use of local input conditions as article XVI or XVII measure; Approval based on 'net benefit' to host country; Conditions of citizenship, nationality, residency as article XVI or XVII measures; Granting of exclusive rights in providing financial services; Limitation on the type of legal entity in terms of treatment accorded.

2 Article 41 paragraph 3 of the ACP-EU Partnership Agreement, 23 June 2000: "…the Community undertakes to give sympathetic consideration to the ACP States' priorities for improvement in the EC schedule, with the view to meeting their specific interests." Canada proposed, S/CSS/W/46: "To explore ways to address the interests and concerns of developing

- The only way for implementing Article IV and XIX.2 provisions is being pro-active and making requests to their trading partners;
- Developing countries should seek to obtain concrete benefits and balanced results *within* services negotiations without considering services as a trade-off area with other negotiating areas. One area in which developing countries could get meaningful benefits is in mode 4.
- Identifying the conditions that developing countries should maintain or attach in opening their market access, and additional commitments at the sectoral level they should seek for the effective implementation of Article IV at the multilateral level. In evaluating different alternatives for this purpose, developing countries should consider collective efforts and joint requests.
- The request-offer negotiations should be evaluated in light of the progress of the negotiations on GATS rules, especially emergency safeguard measures.
- The evaluation of the mechanism for the regional coordination and managing the interface between regional and multilateral liberalization.
- Ways to ensure effective functioning of the domestic institutional arrangements supporting the request-offer process and strengthening the institutional coordination between their capitals and Geneva-based delegations.

Within its Bangkok Plan of Action, UNCTAD should "support capacity building in developing countries so as to progressively enable these countries to become effective players in the multilateral trading system in terms of deriving full benefits from trade liberalization, enjoying their multilateral rights and complying with their multilateral obligations." In fulfilling this mandate, UNCTAD is positioned to support the African countries in the process of services negotiations along the following lines in the immediate future:

? Provide analytical inputs and advise to developing country members in conducting the assessment of trade in services and in carrying out such assessment in line with paragraph 14 of the Guidelines;

? Provide support in the review of the process of negotiations concerning Articles IV and XIX:2 as mandated by paragraph 15 of the Guidelines;

? Provide support to individual delegations and as a group in preparing initial requests and reviewing the requests received.

? Provide analytical inputs for developing countries in identifying their interests in the negotiations in outstanding areas of the GATS, especially on the emergency safeguard measure, subsidies and domestic regulation.

REGIONAL INTEGRATION ON TRADE IN SERVICES: THE EXPERIENCE OF SADC

By

UNCTAD secretariat

Paper prepared for the Workshop on Issues of Interest to African Countries in the WTO Services Negotiations

Organized by United Nations Conference on Trade and Development (UNCTAD)/Economic Commission for Africa (UN-ECA)/Africa Economic Research Consortium (AERC)/African Unity (AU)

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REGIONAL INTEGRATION ON TRADE IN SERVICES: THE EXPERIENCE OF SADC

The Southern African Development Community (**SADC)** consists of fourteen African countries[3]. In SADC plans are underway to initiate negotiations on trade in services. The mandate for the negotiations on trade in services, issued by SADC Ministers of Industry and Trade, is contained in the Maseru Ministerial Declaration adopted in June 2000. According to the declaration, the SADC Trade Negotiating Forum (TNF) is to follow a **three-track** implementation plan utilizing the **GATS-Plus approach, SADC-Plus approach** and the **consolidation of the two approaches** to develop a regional negotiating strategy. The sectors earmarked for liberalization commitments are the following: Communication services, Transport Services, Financial Services, Tourism Services, Construction Services and services in the Energy Sector.

Under the **GATS-Plus approach**, sectors subject to commitments at the WTO level, in the six priority areas, should be the starting point of the negotiations for the Member States, this being the status quo in the country. For those countries without commitments at the WTO in these sectors, the laws and regulations in the country will be instrumental in the negotiations. The main advantage with this approach is that negotiators get to use the experience they have already acquired under the GATS negotiations and utilize the GATS guidelines and procedures, where appropriate.

The **SADC-Plus approach**, is the analysis and implementation of work already undertaken by the relevant SADC sector coordinating units dealing with services sectors. This also entails the involvement of all the stakeholders, from other relevant ministries and the private sector, in the negotiations so that the necessary expertise and particularities of a sector or country are taken into consideration during the negotiations.

The **consolidation of these two approaches**, GATS-Plus and SADC-Plus, leads to the identification of the progress already achieved and the level of binding commitments at the WTO of the countries in the region. The level of work already undertaken, at the national, regional and multilateral level, can then be used as the basis for the regional negotiations and decisions then taken at the regional level will act as a means for developing proposals, requests or offers for the multilateral negotiations.

The table below gives an example of a GATS Plus approach using the Tourism services sector. In SADC, this is the sector with the greatest participation as twelve of the members made commitments under GATS. Only Mozambique did not make a commitment in tourism and travel related services and Seychelles is not a member of the WTO. From the table, we see that only Mauritius and Botswana have some limitations in the first three modes of supply. Therefore in this sector they are the ones with the bargaining powers at the regional level since the market of the other SADC countries is already open to all WTO members.

In this case, the two countries with limitations can then liberalize their market in this sector, at the regional level, requesting for concessions from the other Member states in one or the other of the sectors under negotiation. The GATS Plus refers to the fact that the negotiations do not have to start again from scratch but take into consideration what Member States have achieved at the WTO level.

[3] The countries are: Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

To initiate discussions and comparisons data on the laws and regulations affecting trade in services at the national level has been collected and recorded in an agreed template format[4]. The templates basically give the status quo of the sector and will serve as the basis for the negotiations. Member States will also utilize the templates in developing their schedules of commitments.

During the last SADC TNF on trade in services, held in May 2002, Member States agreed to the elements for an Annex to the trade protocol on trade in services. The Annex will serve as the framework for liberalizing trade in services at the SADC level. The ultimate aim of the liberalisation process is that each Member will treat the services emanating from other Members, and the suppliers of such services, in the same way as its own services suppliers, and the services they supply.

The Annex will consist of the coverage of the negotiations; definitions of commercial presence, SADC nationals and companies, modes of supply, market access and national treatment; timeframes and mutual recognition provisions; and also other ancillary provisions such as anti-competitive practices, standstill obligation, freedom to regulate and general exceptions. The Annex will be drafted utilizing the GATS agreement to ensure compatibility. Attached to the Annex will be the schedules of commitments of each Member State. The format of the schedule is to be agreed during the next TNF on trade in services.

In this regard, it would be important for SADC Member States to review the work undertaken and that in progress at the regional level when considering the requests from other WTO Members during the request/offer stage of the negotiations.

[4] The information available is for 10 countries: Botswana, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

Example
Regional Integration and Liberalisation of Services in the SADC Region:
Examples of (Sub) Sectors for Alignment of Commitments Under the GATS-Plus Approach

Tourism and travel-related services

Hotel and restaurants including catering

Country	**Mode of supply**							
	Mode 1		Mode 2		Mode 3		Mode 4	
	MA	*NT*	*MA*	*NT*	*MA*	*NT*	*MA*	*NT*
Mauritius	L	L	N	N	L	L	U	U
Botswana	N	N	L	U	L	L	U	U
Lesotho	N*	U	N	N	U	U	U	U
Tanzania	N	N	N	N	L	U	U°	U
Angola	N	N	N	N	N	N	U”	U”
D. R. of Congo	N	N	N	N	N	N	U	U
Malawi	N	N	N	N	N	N	U	U
RSA	N*	N	N	N	N	N	U	U
Swaziland	N	N	N	N	N	N	U	U
Zambia	N	N	N	N	N	N	U	U
Zimbabwe	N	N	N	N	N	N	U	U
Namibia	N	N	N	N	N	N	N	N

MA = Market Access **L = Limitation**
NT = National Treatment U = Unbound
N = None, no limitations N* = None except for catering

U° = Unbound except for senior manager that possess skills not available locally
U“ = Unbound except for measures affecting senior manager and specialist with knowledge essential for the provision of the service.

AFRICAN TELECOMMUNICATIONS COMMITMENTS, POLICY, POTENTIAL OFFERS AND REQUESTS

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Introduction

Telecommunications are among the most dynamic services sectors covered by the General Agreement on Trade in Services (GATS). In 2001 the world telecommunication market reached US$1.14 trillion and experienced above 7% growth. Services trade represented almost 85% of that amount, of which the largest share (58.6%) comprised fixed line telecommunication services. Although mobile services represented 31.6% of this services trade, they are growing fast, with over 24% growth rate worldwide in 2001. This sector is important for Africa on its own but also because of its role in the cost of other activities. Growth effects in telecommunication have both static and dynamic innovation dimensions that in the long term could spur innovation and the adoption of modern technology. These economy-wide gains could then stimulate overall economic growth and allow faster realization of poverty reduction targets.

The telecommunications sector will be one of the primary targets of demands for liberalization in the Doha Round. In the world telecommunications market there is firm commitment to domestic and international competition among network operators. Industrialized markets now permit simple resale and network capacity wholesale and other markets will follow. Increasingly, alternative calling methods such as call back are recognized and liberalized and there are ample opportunities to "by-pass" public operators and gain maximum benefits of multi-operator liberalization.

This paper considers Africa's challenges created by these developments in the world telecommunications markets, with particular attention with request and offers. The primary focus is on the GATS negotiations but we also account for other negotiations that will be simultaneously undertaken, particularly the trade chapter of the Cotonou Partnership Agreement (CPA). Following a brief background, section two reviews the GATS telecommunication framework in view of highlighting the main issues. These issues have to be considered in taking into account current and proposed policy environment in general (section 3) but also salient critical issues that are at the center of efforts of getting the negotiations focused on development objectives of African countries (section 4). The negotiation proper should assess options based on the offer-request modality, with each of the two dimensions (request and offer) presenting different types of challenges, which are reviewed in the last section (section 5). In all, while we argue for deepening the liberalization process through binding in the telecommunication GATS negotiations, we also make a case for complementary measures that would ensure benefits accrue to Africa.

1. Background to this Discussion

The industrial countries are requesting that countries engage in full liberalization of the sector and sign on to the Reference Paper (RP[5]). Table A1 in the annex summarizes selected negotiation proposals. The United States is going even further by linking telecommunications to a cluster request around liberalizing electronic commerce more broadly. As telecommunications infrastructure is the backbone of e-commerce, it is a crucial component of that request[6]. There is also a drive among some member states to build on the Reference Paper to provide stricter

[5] See below for the salient features of the Reference Paper.
[6] A complementary presentation at the workshop focuses on electronic commerce.

guidelines as to what is good governance in telecommunications regulation. For instance, specifying what the independent regulator should govern.

However, it is not just industrial countries that are pushing the liberalization agenda in telecommunications. Many middle-income developing countries that have already liberalized their sectors are now asking the same from other developing countries (e.g. Mexico and Colombia). Their reasons are the same as those of industrial countries. They are looking for markets for their telecommunications companies, they are looking to lower international call rates at home by bringing down international settlement rates and they are looking to lower international calling costs for their multinationals operating in these other countries. This implies that there may be few allies for resisting major reforms in this sector, so countries that still have restrictions on trade must be prepared to make concessions or put a strong case forward for why they should not.

Developing and least developed countries, including those in Africa, have not participated to the level compatible with challenges these countries face. Accordingly the risk of their concerns being properly covered. Notable exception is the proposal by Cuba [7], that calls for growing participation of by developing countries by taking their economic, trade and financial needs into account through the strengthening of their capacity and better access to technology, distribution channels and information networks.Based on these African preparations of requests in the telecommunication negotiations should have two sets of considerations. First, such requests should enhance telecommunication services trade (export) potentials and/or mode of supply in specific export markets. The focus should be on those impediments that have restricted trade in the specific export markets. In particular, the focus would be on those barriers that fall under relevant GATS provisions, namely Articles XVI and XVII (Adlung, 2002). Secondly, African requests should consider the conditions that are necessary to maximize the benefits of overall services liberalization. Hence they should ensure that development objectives are reflected in the negotiations in order to obtain a balanced outcome (Bulkeviciene, 2002). There is a need to articulate proposals pertaining to the elimination of constraints that could otherwise create asymmetries in benefits.

This paper is based on country level research of the trade programme of the African Economic Research Consortium; see www.aercafrica.org and the Southern Africa Trade Research Network (SATRN; see www.tips.org.za/SATRN).

2. Telecommunication Negotiation Framework

An important element of telecommunication reform in the World Trade Organization (WTO) is the Reference Paper (RP), which covers such areas as competition safeguards, interconnection guarantees and transparency in licensing. Among other salient features, the RP:

- Provides rules to be followed by government regulation of major suppliers; where major suppliers comprise those that control essential facilities that for economic and/or technical reasons cannot be duplicated.

[7] See Negotiation Proposal on Telecommunications Services by Cuba (TN/S/W/2) of May 30, 2002. Available at www.wto.org

- Mandates governments to take measures to prevent major suppliers from using anticompetitive practices such as cross-subsidization, use of information obtained from competitors, and withholding of information from competitors.
- Mandates governments to ensure all competitors have adequate interconnection with major suppliers, in a nondiscriminatory manner and at reasonable price. The provision of services should be unbundled so that no supplier is compelled to pay for services that are not needed.
- Allows governments to introduce universal service provisions as long as they are administered in a transparent, nondiscriminatory and competitively neutral manner, and not more burdensome than necessary.
- Requires that the regulatory body be separate from actual suppliers and able to ensure impartial procedures vis-à-vis all market participants.
- Requires all member governments to allocate and use scarce resources (including frequencies) in a timely, transparent and nondiscriminatory manner.

One implication of the RP is the perception of high risk that would be created with respect to members that are not signatories to the Agreement. Hence the WTO telecommunication negotiations will have effects on all countries, including those that do not participate.

While most African countries are members of the WTO (or in the accession phase), only a small minority has made commitments in the WTO telecommunication negotiations. This is not due to reluctance to liberalize or privatize, however, as evidenced by our review of the state of competition below.

An interesting question would be to know why African countries did not bind or pre-commit even below the levels already committed to in their unilateral liberalization programmes. A related aspect is how and whether they could claim credits for autonomous liberalization. Finally, for their participation in the request exercise of GATS what aspects could help them capitalize on past liberalization efforts? It is important to review the genuine problems faced by adoption of the RP by a reform-minded African country.

3. <u>The Current and Proposed Policy Environment</u>

The assessment of African constraints to the adoption of the Reference Paper and the countries' full participation in telecommunications negotiation has two dimensions: the overall level of competition and selected country sector analysis.

3.1 State of competition in SSA

Less than a decade ago all African telecommunication transactions were under monopoly suppliers controlled by the government. Partly as a result of their unilateral liberalization, the situation has changed significantly, although not at the same speed in all segments and regions (see Table 1).

Table 1: State of competition in SSA in 2001

	Competition	Partial competition	Monopoly	Others
International	11	1	28	7
Long distance	1	0	46	0
Local	1	0	46	0
Digital cellular	30	2	13	2
ISPs	36	0	11	0

Source: Compiled from ITU website. www.itu.org

Competition is the norm in mobile telephony and value added services, while monopolistic configurations prevail in fixed line telephony. Competition (total or partial) in international telephony prevails in Cameroon, Central African Republic. Congo, Congo (DR), Ghana, Guinea, Madagascar, Mauritania, Nigeria, South Africa, Tanzania, Togo and Uganda. It can be seen that except for Tanzania, South Africa and Uganda, competition in fixed line telephony has been introduced either in Central/West Africa and francophone countries. While competition is the exception for fixed telephony (international, local or long distance), a completely different picture obtains in the case of cellular transactions. Monopoly in cellular telephony prevails only in Cape Verde, Equatorial Guinea, Ethiopia, Gambia, Guinea-Bissau, Liberia, Mozambique, Namibia, Sao Tome and Principe, Seychelles, Somalia, Sudan, and Swaziland. These are very small economies where probably the market is too small to allow more than one operator. Multiple operators exist in countries with average economy sizes. In sum, competition is by and large the norm in cellular telephony on the continent.

3.2 Sectoral Survey Evidence

The legacy of previous policy regimes may have an impact on the speed of liberalization followed today. Tables 2 to 4 outline some of the key current aspects of the operating environment and proposed reforms in the telecommunications subsectors for selected countries.[8] Before examining the detail for each sub-sector, it is firstly interesting to note that the current policy and proposed reforms in countries share comparable characteristics, especially within subregions or groups of countries with comparable characteristics. This is not surprising for two reasons. First, most countries still retain a public monopoly in fixed line — in most cases as part of an initial exclusive arrangement prior to introducing competition. The legal status and extent of capitalization of the incumbent plays an important role. Second, there is ongoing regional coordination of telecommunications in various parts of Africa with the most advanced being the Southern African Development Community (SADC),[9] where communications ministries and

[8] The selection of countries is based on those that participated in a SATRN-sponsored study on telecommunications policy in the SADC regions and on the AERC GATS database project.

[9] A similar process, although not as advanced as in the SADC, exists in West and Central Africa. Some coordination is also done through the African Telecommunication Union (ATU), with assistance of the International Telecommunication Union (ITU)

regulators interact closely around reforming the sector and have developed a common approach through the Telecommunications Regulators Association of Southern Africa (TRASA).

TRASA has developed a SADC model telecommunications policy and accompanying model telecommunications legislation. The model telecommunications policy recommends introducing competition in mobile and value-added services but engaging in gradual liberalization of fixed line service. Full competition is encouraged in value added services, with more limited competition advocated for mobile. For fixed line, TRASA suggests an initial exclusivity period followed by the introduction of one more competitors. The rationale given by TRASA for this gradualist approach is "first, the industry must be made more attractive to investors", and "second, some time could be required by the existing institutions (e.g., newly established regulators) and operators to adjust to new market conditions" (TRASA, 1998). Ultimately, however, the objective is to introduce a regional competitive market structure with oversight by an independent regulator. This is not to suggest that all countries are restricted to its use. For example,

Tanzania has progressed much more rapidly than TRASA would advocate (it has opened resale and local competition in Zanzibar) and the Namibian telecommunications legislation currently being reviewed goes much further than the model policy would advocate.

Table 2 examines the fixed line market. Countries impose market access restrictions for various reasons. Cameroon, Chad, Ethiopia and Sierra Leone, for example, use these restrictions to give the incumbent time to prepare for competition. Cameroon and Uganda believe exclusive rights are necessary to attract the needed strategic partners, while Cameroon, Chad and Côte d'Ivoire use market access restrictions to allow the provision of universal services. None of the 15 countries (see Table 2) considered currently has facilities-based competition (all operate public monopolies), while Tanzania and Uganda allow voice resale competition (i.e., service providers that lease circuits from the public monopoly in bulk and resell that capacity to individuals).

Table 2: Current and proposed future policies for fixed line Telecom Systems

	Facilities competition	Voice resale competition	Privatisation	Reform year	Reform plan
Botswana	No	Domestic only	0%	Not set	SNO, privatize partially
Lesotho	No	No	30%	Not set	No agenda yet
Malawi	No	No	0%	2002/3	SNO, privatize partially
Mauritius	No	No	40%	2004	SNO
Namibia	No	No	0%	2004	Full competition
South Africa	No	No	30%	2002	SNO
Tanzania	No*	Yes	35%	2004	SNO
Zambia	No	No	0%	2002	Privatize partially
Côte d'Ivoire		NO	YES	Not set	Regulations Market access
Ethiopia		No	No	Not set	Regulations
Cameroon		-	Yes	Not set	Regulations Market access
Uganda		Yes	Yes	Not set	Competition in VAS License of first cell phone operator Liberalized
Sierra Leone		No	Yes	2004 2003 2004	Privatization Independent reg. agency Market access
Chad	No restrictions	No	No	- -	Privatization-SOTELTCHAD Development Research

*Facilities competition exists on Zanzibar.

Source: SATRN Review of SADC Telecommunications (SATRN, 2002) and AERC GATS Database project (AERC, 2002)

It is interesting to note that South Africa has failed to honor its GATS commitment to liberalize resale. Cameroon opted to introduce competition but failed to get the required private operator. A minority of the countries has partially privatized the national operator, but none has fully divested. Of course, the extent of privatization is really irrelevant to negotiations, as public operators are allowed to exist in a liberalized market. In the SADC region, all countries except Lesotho have put in place reform proposals that will see the fixed line subsector partially opened to competition. These reforms are all planned for the next two years and so would fall within the proposed negotiating deadlines set for the Doha Round. For countries in the SADC region, the nature of the reform in all but three cases is the introduction of a second national operator, which clearly does not go as far as full liberalization. Lesotho and Zambia still have no agenda for opening up to competition while Namibia plans to fully open up their market.[10]

Table 3 examines the mobile telephony sector. All countries reviewed in the table, except Ethiopia, Namibia and Lesotho, have some limited competition in mobile telephony. Although spectrum limitations and market size offer a reason why the number of competitors tends to be limited in this subsector, it is only Guinea, Sierra Leone, Uganda, Tanzania and Zambia (and possibly Malawi) that seem to be at the natural thresholds for competitor numbers. All other countries are clearly restricting the number of operators below what might exist in a competitive and open market.

Most of the countries have kept restrictions on foreign ownership in the sector, which is a restriction on market access in GATS terms. However, half the SADC countries reviewed have plans to reform the sector in the next three years. The nature of reform in every case is to review the introduction of a single new operator into the market—not to fully liberalize the sector. However, it is really only Lesotho that lags behind in the reform process, given that Côte d'Ivoire, Guinea, Malawi, Tanzania, Sierra Leone, Uganda and Zambia already have a greater number of operators than the average.

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[10] Discussions are under way in several countries aiming at increasing the number of operators.

Table 3: Current and Proposed Policies for mobile in Selected SSA Countries

	No. of Operators	Foreign ownership restrictions	Reform plans	Possible reform dates
Botswana	2	49%	New operator	Review 2003
Cameroon	2	None	Market access Ownership	1998
Chad	2	None		
Côte d'Ivoire	4	None	Market access	1995 2001
Ethiopia	1	Yes	-	-
Guinea	4	None	-	-
Kenya	2	None		
Lesotho	1	None	None	
Malawi	3	None	None	
Mauritius	2	Yes	New operator	Review 2004
Namibia	1	49%	New operator	Review 2002
Sierra Leone	3	None	None	-
South Africa	3	49%	New operator	Review 2005
Tanzania	5	None	None	
Uganda	3	None		
Zambia	4	60%	None	

Source: Source: SATRN Review of SADC Telecommunications (SATRN, 2002) and AERC GATS Database project (AERC, 2002)

Table 4 examines the state-of-play and proposed reform in Internet services — a key part of the value-added services sector and representative of general policy towards value added services in these countries. The general picture is one of a relatively liberalized sector where the only restrictions in place are attempts to protect the fixed line monopoly of the national operator. Therefore, although there is open competition and no restrictions on foreign ownership, most countries exclude the use of Internet service providers (ISPs) using voice over Internet protocols (VOIPs), and/or prevent the ISPs from building their own networks. South Africa and Zambia have opened the door to restricted use of VOIPs in rural areas to bring down the cost of communications in these low-teledensity areas. Clearly these limitations are restrictions on market access to the fixed line market and would fall foul of any full liberalization in the GATS.

Most of the prevailing restrictions were introduced either as part of a country's generous investment code provisions or as incentives to attract investment in their unilateral reform programmes. An important point is how some of these, which are part of binding investment contracts or which for technological or efficiency reasons are already obsolete, can be reversed without significant cost to the country. This is only one of the issues African countries need to consider while ensuring that overall negotiations serve their long-term development objectives.

Table 4: Current and Proposed Policies on Internet Services in Selected SSA Countries

	#. of operators	Restrictions on foreign ownership	License required	Voice over Internet	Build own networks
Botswana	11	None	Yes	No	Domestic only
Cameroon	1				
Chad	1	None	Yes	Yes	No
Côte d'Ivoire	1				
Ethiopia	1				
Guinea	4	None	Yes	-	Yes
Kenya	80	None	Yes	Yes	No
Lesotho	4	None	Yes	No	No
Malawi	7	None	Yes	No	No
Mauritius	2	None	Yes	No	No
Namibia	7	None	No	No	No
Sierra Leone	1	None	-	-	-
South Africa	>100	None	Yes	Rural only	No
Tanzania	30	None	Yes	No	Yes
Uganda					
Zambia	5	None	Yes	Rural only	Yes

Source: SATRN Review of SADC Telecommunications (SATRN, 2002) and AERC GATS Database project (AERC, 2002)

4. Selected Issues for Development-Focused Negotiations

We limit our focus to three issues: pricing of telecommunication services, universal service provisions and the regulatory/competition framework.

4.1 Pricing of Telecommunication Services

African countries have long relied on accounting rate revenues to provide the hard currency needed to fund national infrastructure development. The situation has changed and at too fast a pace for many countries[11]. At the international level operators are pushing for transition to cost-based prices to remain competitive. African governments need a soft landing mechanism through longer transition periods and negotiated benchmarks to allow time for structural changes[12]. Concerns have been raised that if the FCC benchmarks order on international settlement is implemented; more traffic will migrate to non-accounting rate based systems.

[11] One illustration o f this is the nature content of industrialized countries (Annex table A1) contrasted with the constraints facing African countries, as reviewed in this paper.
[12] See ITU (2000) and the various seminars conclusions focusing on African problems.

The swift evolution of technology makes it imperative that rate structures be sufficiently flexible. A rate structure that is negotiated without paying attention to this dimension could end up slowing down the adoption of technological innovation. A critical element is the need to align prices to costs. From the service provider's perspective, aligning prices to costs provides transparent ground for competition. In particular it allows market based expansion to new market segments and as such is a more sustainable base for investment decisions and technology acquisition. A challenge facing most government is the need to raise the price of local calls and lower those for long distance and international calls and data-related services (ITU, 2000).

If the same prices are used for urban and rural areas, the market for telecommunications services and investment could be seriously distorted. Such distortions would be costly in terms of economic efficiency and could limit the possibilities of providing universal access to telecommunications services. Furthermore, a policy that tries to keep local rates artificially low could also create incentives to inflate the prices of domestic and international long distance services. These inflated prices would constitute a significant tax on business. In particular the high cost of international calling constitutes a constraint to exports, particularly for the small-scale enterprises. The most important step is to move to cost-based rates for all services. Making this change requires significant rate rebalancing across classes of service.

The combination of these has kept overall prices of telecommunications high and this constitutes a hindrance to competitiveness. Development-focused proposals that could lower these costs are necessary.

4.2 Interconnection

Interconnection is a key element of telecommunication policy. The main role of the interconnection policy is to ensure that the major suppliers that have control over the main infrastructure do not use their privileged position to deny access to competitors. As such the interconnection policy ensures that incumbents share network economies with new entrants in economically efficient terms and conditions, with respect to both price and non-price measures.

The interconnecting service provider must be allowed access to the unbundled elements of the network that it requires, and not be charged for facilities that it does not require. For any particular interconnection service, the same interconnection charge should apply to any service provider irrespective of the service provided. This would require, for example, that a cellular service provider be given the possibility to link its network directly to that of the other service provider in the same service area. The result is likely to be reduced costs for the end-user, and a more efficient use of the networks.

4.3 Credibility Issues

The main problems facing African telecommunications sectors are access to investment capital and ability to enter into joint-ventures that allow proper access to technology, distribution channels and information networks. An important bottleneck for that is policy credibility and a business friendly environment. It is therefore crucial to ensure that the policy framework inspires the confidence of the marketplace. Unfortunately, African countries face a variety of conditions that limit the credibility of their telecommunications reforms.

Furthermore, because of the sunk investment nature in this sector, telecommunication networks are vulnerable to ex-post changes of regulations with major consequences for the return to investment. As such a major requirement from investors is commitment to a certain reward structure for the firm. If the telecommunication regulatory system cannot credibly commit to such a reward structure, investors could scale down their investment or concentrate on components of the networks with highest short-term returns. Too many African investment code incentive schemes have not attracted the right type of investors because of this, and it poses problems in current attempts to introduce competition.

A typical African government also faces another dilemma. What is given out to get credibility may turn out to be a constraint to competition. The framework in which this commitment is obtained becomes important. An African government can commit through World Bank/IMF unilateral programmes or multilaterally in the WTO, with WTO commitments even consisting of a gradual phase-in of stronger commitments on market access. National treatment liberalization would thus provide minimum protection to national operators as well as it prevents interest groups from perpetuating the rent situation enjoyed by the incumbent operators. In all, it would enhance the ability of an African country to attract more investment in its telecommunication sector.

Meaningful market access is not possible without adequate property rights or rights-of-way that can protect against abuse of market power. This is particularly the case because the ability to provide telephony services competitively depends on proper access to the existing network, which in most cases continues to be owned by the former monopoly. Overall, although the situation has improved in recent years, Africa is still perceived as risky. Creating a conducive business environment is overdue. There is a need to combine in a coherent manner the unilateral WB/IMF liberalization programmes with multilateral (WTO) and bilateral trade negotiations such as the Cotonou Partnership Agreement.

4.4 Universal Service

Development-focused market regulation in a typical African country should pursue a twin objective: profitability goals and social goals, with the latter usually expressed in terms of universal service provision (USP). An illustrative USP is provided by the objectives of South African telecommunications, which are to (see Hodge 2000):

- Promote the universal and affordable provision of telecommunication services.
- Ensure that in relation to the provision of telecommunication services, the needs of the local communities and areas are duly taken into account.
- Encourage ownership and control of telecommunication services by persons from historically disadvantaged groups.
- Encourage the development of human resources in the telecommunications industry.
- Promote small, medium and micro enterprises within the telecommunications industry.

Possible modalities for USP include a universal service fund and the granting of a regulated monopoly for a specified time period along with adequate licensing conditions and penalties for network and services providers. Another important mechanism would be infrastructure rollout to under-serviced areas usually consisting of low-income or rural zones. The sustainability of these protection mechanisms depends on overall economic performances and the ability of residents of under-served areas to afford to pay for the services provided on market incentives alone.

USP requirements in the case of South African telecommunication have been in terms of the number of new lines, both overall and in under-serviced areas over the license period. The Botswana universal service provision is based on a subsidy paid by the government to the telecommunication commission, with a stipulated village size required to be provided, with a specified number of lines to be placed at strategic points in the village. In the case of Cameroon requirements are in terms of geographic coverage and are as follows. Within the year the concession is granted, major urban centres, international airports and main connecting roads are to be covered. Secondary towns, including the capitals of all the ten provinces, are to be covered by the third year. During the fourth year the roads connecting secondary cities must be interconnected and by the fifth year all cities with at least 50,000 inhabitants are to be covered. There are also specific service quality requirements complementing the Cameroon universal service provisions, such as a maximum grade of service (inbound and outbound) at the switch; a maximum grade of service (inbound and outbound) quality of transmission; a maximum call drop rate; listening quality (signal to noise ratio); and automatic hand-over between all neighboring cells in the network. The provision also limits the number of waiting days between a service request and the delivery of the service to a maximum of three business days.

The objective of universal service provision is hard to attain in most African countries. One fundamental reason is the nature of telecommunication industry itself. Convergence of both markets and technology would require frequent revision in license agreements, making it difficult to sustain a regulated monopoly for the stipulated period while also ensuring world-class quality of services. Regulation therefore needs to follow convergence. A second group of difficulties is associated with the funding and management of a special telecommunication development fund and the reluctance of the private operators to invest in unprofitable areas. In all, African countries need to keep pace with developments worldwide in telecommunication services and technology. Accessing the related technologies and promoting needed investments in a competitive environment with incentives to invest in under-serviced regions raise important policy concerns that most governments have not been able to address. Despite these USPs between and within African countries there is an important digital divide between rural and urban areas, between rich and poor neighborhood and households. Deepening overall reform to accelerate the rate of economic growth and reduce poverty is necessary to realize the USP goals.

4.5 Effective Telecommunications Regulatory Board (TRB)

The nature and effectiveness of regulation is crucial for benefiting from telecommunications liberalization (Fink et. Al., 2002)

The TRB is required to perform a wide range of functions: operator licensing, spectrum management, and promotion of competition and technical approval of equipment. An important area where there are lingering constraints is in sector regulation. Regulatory institutions have been created in 28 of the 47 countries in SSA. The Ministry of Post and Telecommunications has regulatory functions in 16 countries, but these are all very small or post conflict economies: Angola, Benin, Botswana, CAR, Comoros, Congo (DR), Equatorial Guinea, Eritrea, Guinea, Liberia, Rwanda, Sao Tome and Principe, Seychelles, Sierra Leone, Somalia, and Swaziland. During the first years of operation, the African TRBs have shown a mixed profile in addressing the sector's major issues. Regulatory responsibilities are exercised by the operator, the Ministry or the regulator (see Tables 5a–b) .

Table 5a: Regulatory responsibilities for fixed line telephony

	Operator	Ministry	Regulator
Botswana	2		1,3,4
Cameroon	2	2	All
Côte d'Ivoire	2	1	3,4,5
Ethiopia	3	4	1,3
Lesotho	2		1,3,4
Malawi	2		1,2,3,4
Mauritius	2		1,3,4
Sierra Leone		1	
South Africa	2		1,2,3,4
Uganda	2		1,3
Zambia	2		1,3,4

Note: Licensing = 1; interconnection = 2; retail tariffs = 3; dispute settlement and arbitration = 4; regulation of cable televisions = 5. There is no cable TV industry at present.

Source: SATRN Review of SADC Telecommunications (SATRN, 2002) and AERC GATS Database project (AERC, 2002)

Table 5b: Regulatory responsibilities for Mobile Telephony

Country	Operator	Ministry	Regulator
Botswana	2		1,3,4,5
Cameroon	2, 3	1	1, 2, 3, 4, 5
Chad	2, 3	1, 4,5	1, 2, 3, 4, 5
Cote d'Ivoire	2,3	1	4,5
Ethiopia			1,3
Guinea		1,4,5	
Kenya	2,3		1,2,4,5
Lesotho	2		1, 3, 4, 5
Malawi	2	1	1, 3, 4, 5
Mauritius	2		1, 3, 4, 5
South Africa	2		1, 2, 3, 4, 5
Zambia	2, 3		1, 4, 5

Note: Licensing = 1; interconnection = 2; retail tariffs = 3; dispute settlement and arbitration = 4; spectrum allocation = 5

Source: SATRN Review of SADC Telecommunications (SATRN, 2002) and AERC GATS Database project (AERC, 2002)

The African TRBs face stringent constraints that could limit the benefits of liberalization accruing to African countries. A selected list follows:

- Technical aspects such as direct and indirect connection compatibility of switches and equipment.
- Legal aspects, especially related to dispute settlement.
- Economic aspects associated with tariff regulation, access to relevant information on carriers' or operators' cost structure; and equity and transparency in pricing.
- Lack of expertise required for implementing and facilitating the change in the accounting principles that would be compatible with long-term development.
- Poor state of basic infrastructure and limited capacity of obsolete equipment.
- Inefficient interconnection services.
- Conflicts between the universal service objective and adequate access.
- Weak capacity on issues related to standardization of new technologies, governance and policy implementation.
- Lack of expertise in certain crucial areas such as management of regulatory institutions, design of regulatory frameworks and design and implementation of an appropriate pro-competitive interconnection regime.
- Incomplete institutional reform—several TRB created at the same time as entry of network operators.

5. Formulating African Requests and Offers

The current commitments in the GATS by African countries do not The formulation of African requests should take into account their interests, as well as emerging views. 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 that now exist. Areas covered include the reduction of limits on foreign equity and number of suppliers; expansion of coverage of market segments and means of supply (e.g., resale vs. facilities); increased cross border access such as moving forward the phase-in dates or committing on dates where these are lacking; and increased commitment in segments where levels were so far very low (e.g., value added, transport capacity, satellite services). A third group is on increased commitments to the regulatory principles of the Reference Paper (RP).Talways reflect the current state of barriers to trade in the sector in Africa, and reflect even less the concrete country proposals on the future liberalization of the sector. The current and future regulation of the sector could provide the basis for the negotiation strategy. The current policy environment is an easy commitment to concede to other countries. There is probably little danger of significant backtracking on the main aspects of market structure and regulation in telecommunications because firms have made sunk investments. Therefore there is little reason to hold back. Proposed policy reforms offer the possibility of conceding to a more liberal environment in the WTO. Most often these reforms will fall within the time frame of the negotiations and so can be committed to. In cases where they are due to be implemented after the end of negotiations, the country can either rely on an implementation period or pre-commit to the reform in its schedule instead. Of course, proposed policy changes are more easily sidelined because they have yet to go through the political process of approving policy directions and devising appropriate legislation. However, WTO binding without addressing some of the lingering problems of African telecommunications sectors may not yield balanced outcome, especially to the benefit of Africa.

5.1 Current Commitments on Telecommunications

Only four SADC[13] countries made any GATS commitments in the telecommunications sector during the previous round of talks. These are Lesotho, Mauritius, South Africa and Zimbabwe. However, the commitments offered little in terms of liberalization of the sector and are more a binding of monopolistic market structures. These will be worth very little in the upcoming negotiations and these countries will face pressures similar to those on SADC countries that have made no commitments.

Table 6 summarizes the GATS commitments by these four SADC countries. The table examines the three main groups of services—fixed line, mobile and value added services—as well as commitment to the Reference Paper. In fixed line, all commitments have bound the monopoly status. South Africa goes furthest by pre-committing to at least one new entrant (a second national operator, SNO), while Mauritius pre-commits to an unspecified reform of the sector. Only Mauritius and South Africa made commitments on mobile communications, and both committed only to the limited liberalization of a duopoly status. South Africa again used the pre-commit device to include one additional operator in the future. In value added services, only Lesotho offered full liberalization (mode 2 is infeasible[14]), while South Africa and Zimbabwe offered a limited liberalization where all value added service providers had to make use of the monopoly facilities to provide their service (use of leased data facilities only). South Africa was the only country to commit to the Reference Paper in full while Mauritius' schedule

[13] Although this subsection uses SADC, the issues are applicable to other SSA regions.
[14] The four modes of supply are: 1) cross-border supply; 2) consumption abroad, 3) commercial presence and 4) movement of natural person

committed them to reforms that would satisfy the Reference Paper. South Africa also committed itself to opening up resale of fixed line services.

Table 6: Summary of current GATS commitments by Selected African countries

	Fixed line	**Mobile**	**Value-added services**	**Additional commitments**
Lesotho			Liberalized except unbound mode 2	
Mauritius	Bound monopoly; pre-commit reform	Bound duopoly		Pre-commit to adopt reference paper
South Africa	Bound monopoly; Pre-commit to second operator and resale	Bound duopoly Pre-commit to one new operator	Liberalized except for bypass of the fixed line operator	Commitment to reference paper
Zimbabwe	Bound monopoly		Liberalized except for bypass of the fixed line operator	

Source: WTO schedules for SADC Countries.

Table 7 reviews aspects of the current regulatory institutional framework that receives attention in the WTO Reference Paper. Currently all counties except Namibia have an independent regulator that is separate from the ministry and the national operator. Namibia intends to establish one with the current reform programme. This satisfies a component of the Reference Paper. Some of the regulatory tasks are still performed by the national operator, however, in particular the setting of interconnection rates. Given the centrality of interconnection policy to the workability of competition, this would fall foul of the Reference Paper. Both Malawi and Namibia currently have no price regulation in place, which is also a concern as it provides scope for the national operator to engage in anti-competitive pricing strategies.

Table 7: Current institutional framework for telecommunications regulation in Selected African Countries

	Independent Regulator	Regulatory Coverage of National Operator	Licencing	Price regulation	Universal service Obligations
Botswana	Yes	None	Beauty contest *	Price cap	Rollout conditions Fund contribution
Lesotho	Yes	Interconnection rates	Beauty contest	Price cap	Rollout conditions Fund contribution
Malawi	Yes	None	Beauty contest	None	Rollout conditions Fund contribution
Mauritius	Yes	Interconnection rates	Beauty contest	Price cap	Rollout conditions Fund contribution
Namibia	No	Self-regulated	Beauty contest	Price cap (mobile only)	Rollout conditions
South Africa	Yes	None	Beauty contest	Price cap	Rollout conditions Fund contribution
Tanzania	Yes	Numbering plans and interconnection rates	Beauty contest	Price cap	Fund contribution
Zambia	Yes	Interconnection rates	Beauty contest	None	Rollout conditions Fund contribution

Source: SATRN (2002).

All countries have some form of universal service policy as permitted under GATS, made up of rollout conditions and contributions to a universal service fund. Although fund contributions are necessarily non-discriminatory, rollout conditions may differ and can be construed as discriminatory. Finally, the licensing process chosen by all countries is the "beauty contest"[15]. This is a far more discretionary process and some of the selection criteria used can often be discriminatory against foreign providers. For instance, although the formal policy may rule that there is no discrimination against foreign ownership, the licensing criteria may rank those with significant local ownership higher in the bidding process. These unlegislated discriminatory policies may come under focus within the WTO.

Some countries currently have a less than satisfactory regulatory regime in part because of the lack of competition in the fixed line market. This makes certain regulations less relevant at this point in time, e.g., numbering plans and interconnection rates. As competition is introduced,

[15] "Beauty contest" is the term used for a selection process using specified selection criteria rather than an auction where the highest bidder wins.

however, these will need to evolve. Assuming that the regulators will adopt the TRASA recommendations, all should be able to meet the WTO telecommunications Reference Paper requirements. However, one has to differentiate between regulatory powers on paper and the capacity of the regulator to adequately perform these functions come implementation. Differences between *de facto* and *de jure* regulatory power could, at least partially due to weak capacity.

5.2 Elements of Offer: A Defensive Strategy

The current policy and reforms planned for the duration of the negotiations would give African countries a baseline schedule similar to that in Table 8 that they could commit to relatively easily (i.e., without having to go back home and negotiate domestically for further liberalization). Table 8 represents an "average" schedule for African countries but clearly some countries may differ. For example, Tanzania will permit resale and Namibia will not restrict competition to a duopoly. It shows that the restrictions Africa is left with under GATS will be limited to cross-border supply and commercial presence. Cross-border supply concerns international services. All countries reserve international services for the national fixed line operator—even mobile and value added service companies must send their traffic through the national operator. The introduction of a second operator is likely only to change the restriction to the duopoly and not open it up to full competition.

Under commercial presence, the main restrictions that remain are on entry and foreign ownership. The African approach has been one of gradual introduction of competition, which means that these restrictions would need to remain in the schedule. The foreign investment criteria are not always explicit but often lurk in the selection criteria of the licensing process. As such, they would have to be scheduled. All countries should be able to make the commitment to the Reference Paper as it currently stands. Finally, in mode 4 (movement of labour) there is the generic referral to the horizontal commitments. Mode 4 is not a big issue beyond corporate transferees in the telecommunications sector and so is unlikely to be contentious.

Table 8: Schedule for "average" African country commitment

Sub sector	Market Access	National Treatment	Additional Commitments
Fixed Line voice telephony	1. Supply through duopoly 2. None 3. Supply through duopoly Foreign investment up to a maximum of X% 4. Resale is/is not permitted 5. Unbound, except as indicated in the horizontal section	1. None 2. None 3. None 4. Unbound, except as indicated in the horizontal section	Reference paper in full
Mobile cellular	1. Supply through duopoly 2. None 3. Supply limited to X number of firms **Foreign ownership limited to X%** 4. Unbound, except as indicated in the horizontal section	1. None 2. None 3. None 4. Unbound, except as indicated in the horizontal section	Review additional license in 200?
Value added services	1. No bypass of the duopoly 2. None 3. No bypass of duopoly 4. Unbound, except as indicated in the horizontal section	1. None 2. None 3. None 4. Unbound, except as indicated in the horizontal section	

Source: Authors' construction.

Clearly the African reforms do not go far enough to satisfy the likely demands of the industrial countries and some middle-income developing countries, although tabling these would be an improvement on existing commitments. Given that there is likely to be considerable pressure to make more far-reaching commitments in telecommunications, African countries need a strategy to deal with these demands. At this stage tactics that attempt to stall negotiations are unlikely to be fruitful.

It is apparent that in negotiations, industrial countries are more likely to accept a more gradual liberalization programme for developing economies in a particular sector if there is a clear development justification for such policies. After all, GATS includes provisions for developing countries to embark on liberalization at a slower pace to support development and that card can be played in negotiations. However, if the hidden rationale for a particular gradualist approach is mere rent creation to buy political favor from pressure groups at home, then industrial countries are unlikely to be sympathetic and will retain their pressure for liberalization.

In the case of telecommunications reform in Africa, there appears to be genuine development justification for the gradualist reform process that is being adopted. This being the case, probably the best strategy for African countries that do not want to fully liberalize the sector over the next three or four years will be to put negotiating effort into pulling together a solid development justification for such a position. The next step will be to gain acceptance of this approach by countries that want them to liberalize. Gaining this acceptance is unlikely to be straightforward; the reason being that opinions differ widely on what is the optimal approach. There are those who claim that the gradualist approach through exclusivity periods and limited competition performs significantly worse than opening to competition (e.g., Mattoo, 1999; Wallsten, 2000). The argument about creating an attractive investment climate is often dismissed as investment pessimism and an attempt by the state to increase the asset value of the national operator for later sale. However, even this group would acknowledge that the quality of regulation is crucial for the success of liberalization, a rationale put forward by TRASA. The implication is that putting together a development justification is more complex than merely reciting a few individual cases where rapid liberalization has gone wrong[16]. It is in this circumstance that there are clear benefits to putting forward a united African Group position to ensure acceptance from industrial countries. Even if some countries wish to proceed faster than others, their support for a gradualist reform process grounded in clear development goals will lend weight to the negotiating efforts of those wishing to proceed slowly.

A clear gradualist development strategy is also likely to be more easily sold to other countries in negotiations if African countries pre-commit to such reform in their schedules. This lends weight to the economic justification and dispels fears from industrial countries that African countries will not push forward with reforms in the gradualist manner that they advocate. How much of the reform process Africans need to pre-commit to and the time frame for implementation will depend on the negotiating pressure they come under. However, to prepare adequately for such eventualities, it is wise for African countries to discuss back home what time frames would be acceptable and what the ultimate vision for the sector is. Such a timeframe ought to be accompanied by proper articulation of actions and modalities for addressing supply constraints. Time frames may differ by country, so a region or the Africa Group may also want to lend its negotiating weight to putting in a baseline time frame that they feel is reasonable.

By actively engaging with industrial countries around the demands for liberalization and putting forward a clear development justification, a timetable for reform and a pre-commitment to this in the schedules, African countries are more likely to be able to reduce negotiating pressure in telecommunications and emerge with their current policy approach intact.

5.3 Elements of African Requests: Offensive Strategy

African countries have limited interests in the export of telecommunications services. The majority of trade in telecommunications services takes place through commercial presence.

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[16] This paper has just begun that exercise which is continuing at the country levels. The AERC and SATRN research programs together are carrying out this country-level analysis in above 20 countries.

Although there are a number of Africa-based companies that are active in other countries, they have restricted their focus exclusively to the African continent. Examples of such companies include Mauritius Telecom (Mauritius), Econet (Zimbabwe), MTN (South Africa), Vodacom (South Africa) and Eskom (South Africa). If these companies' export activities are likely to remain restricted to the African continent (for whatever reasons), then it is not altogether clear that the WTO is the best forum for pushing these interests because they threaten to destroy any common front on the defensive strategy. Regional agreements on the continent may be a better place for countries to exert pressure on their neighbors. The exact location of where to put negotiating pressure may in fact be irrelevant anyway, for the simple reason that it is inadvisable for countries to push others to liberalize faster than they are willing to liberalize themselves. There is a more or less common pace of reform in the African Group and so it is unlikely that countries will want to pursue export interests aggressively.

The movement of labor (mode 4) is often cited as an important means of supply for developing countries. In the case of telecommunications, however, there is little scope for mode 4 supply. Most of it is linked directly to commercial presence, and so falls under the intra-corporate transfer of employees, a component of mode 4 that is relatively open already.

An aspect of the offensive strategy that African countries can pursue relatively aggressively is getting firm commitments for technical support. It is apparent that regulatory capacity is limited in Africa. Given that a lack of regulatory capacity is commonly seen to impede 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 industrial countries. This will ensure that any failure on the part of industrial countries to deliver on promises to build developing country capacity (as in GATS, Article IV) will be met by failure to stick to a liberalization process.

If this strategy is adopted, then it is crucial for African countries to sit down and determine the type and level of technical support they require to build adequate capacity in their regulators. This exercise should also bear in mind that there is already a degree of regulatory capacity building going on.

An initial examination of the types of technical capacity that are needed would suggest the following:

- ***Ongoing support for core functions:*** There are certain functions that are core to the regulatory oversight exercise that occur on a repetitive basis. These would include setting price controls, monitoring adherence to legislation, assessing anti-competitive behavior and resolving disputes. These types of functions need to be conducted by regulatory staff and require the building of in-house capacity. By implication, the type of technical support would include training and some in-house support to ensure that staff is able to support the application of the theory to the practical case of their country. This type of support must be ongoing because of the turnover of staff that many regional regulators experience. It is no good to have once-off programmes.

- ***Once-off technical support:*** There are also a number of regulatory functions that are only performed sporadically and do not necessarily require specific in-house regulatory capacity. These include the issuing of a cellular license or development of a numbering plan. In most cases regulators contract aspects of these functions out to consultants, for example, the assessment of competing bids for a cellular license. In these cases, the regulators in essence need financial resources for contracting consultants and an in-house capacity for absorbing the consultant's report. This type of technical support is very different from what is usually given and from that required in the circumstances outlined above.[17]

- Development oriented technical assistance. This could focus on infrastructural development. Because of poor quality and insufficient quantity of telecommunications infrastructure African countries face constrains in reducing cost of telecommunication to international levels.

Another option for the African countries' offensive agenda would be to raise the issue of creating adequate safeguard measures in GATS to ensure that development goals are not destroyed by liberalization. This is unlikely to be a fruitful line of attack, mostly because as soon as a service is mainly delivered through commercial firms presence, it becomes impossible to stop such firms from producing without doing serious damage to your reputation as an investment location. The only real scope for such measures lies in the international settlement rates. Although these fall outside the scope of GATS for now, the ITU and FCC are dealing with the issue, and the introduction of competition in international services is likely to bring pressure on these rates. Countries that are particularly reliant on this source of income may wish to keep open the option to control this rate in the event of competition pushing it to levels that adversely affect development policy.

Article XIX.3 of GATS suggests that Members could get credit for unilateral/autonomous liberalization, and such a process has taken place in most African countries since the adoption of the Reference Paper. There will be a need to articulate proposals to bring these at the negotiation table.

[17] For example, the primary reason the Namibian telecom regulator did not issue a cellular license in a particular year was the lack of funds to contract a consultant to assess the bids.

It will also be important to coordinate actions in the WTO and other negotiations, particularly the ACP–EU Cotonou Partnership Agreement (CPA). Various elements of the CPA would be useful in achieving the development-focused negotiations articulated in this paper. Article 36 of the CPA calls for WTO compatible trading arrangements, which would progressively remove barriers in all areas relevant to trade. In CPA Article 41(3), pursuant to GATS Article XIX, the EU committed to give sympathetic considerations to ACP priorities for improvement in EU's schedule, with a view to meeting ACP's specific interests. Furthermore, the EU commits to Article 41(5) to support ACP's efforts to strengthen their capacity to supply services. Articles 74–78 commit assistance for investment and private sector developments. These and other aspects of the CPA should be properly exploited to build the necessary capacity, which may not be directly GATS issues but would ensure that participation in telecommunication negotiations yields concrete benefits to Africa.

As illustrated by the SADC case on regulation the are large potential benefits to the regional dimensions of telecommunication reform. African countries should take advantage of the negotiations of the trade chapter o f the CPA and the development elements of that Agreement to complement their WTO undertakings. Some ITU initiatives will also be relevant e.g. the African Telecommunications Regulators' Network (ATRN), nascent regional initiatives such as the West African Telecommunications Regulators Association (WATRA).[18]

[18] Other regional initiatives include those pertaining to maintenance e.g. the West African Regional Telecommunication Maintenance Center and the Central West African Regional Telecommunication Maintenance Center. Problems have also been reviewed in the context of the Istanbul conference of March 2002. See ITU/WTD (2002a, b).

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Table A1: Synopsis of Selected Telecommunications Proposals

PROPOSALS	AUSTRALIA S/CSS/W/17	US S/CSS/W/3O	EC S/CSS/W/35	JAPAN S/CSS/W/42	MEXICO (S/CSS/W/101)	COLOMBIA S/CSS/W/119
PROPOSALS/ OBJECTIVES	Remove limitations on market access All members should adopt in full the Reference Paper (RP) Members need to fully implement RP transparency obligations on interconnection arrangements and licensing requirements	- Bind further liberalization of basic services commit on full range of value added services - Full adherence to RP - Enhance telecom commitments by full commitments in complementary services such as distribution; computer services; advertising; express delivery; and certain financial services	Commit modes 1,2 and 3 all sub-sectors and all modes without restrictions (i.e. schedules should read “none” for market access and national treatment) Include as additional commitments the whole RP	Improvements expected in a number of areas (further specified below) Members that have not yet committed on the RP are highly encouraged to do	-Reducing or removing barriers -Greater market access with a view to promoting national development, -Due respect for national policy objectives and the level of development of Members. -Developed countries to give special consideration to developing countries, when making their respective requests -All to adopt RP.	-Since many developing countries have autonomously liberalized both basic and valued-added services, their schedule of open markets in telecom; especially commercial presence, could be furthered by granting better market access in other sectors of interest. -Liberalization accompanied by a policy that extend the coverage of basic services and access to information networks whose quality, capacity and cost meet the need of the users -Include in the Annex on Telecommunications some principles of RP.

[redacted]

PROPOSALS	AUSTRALIA S/CSS/W/17	US S/CSS/W/3O	EC S/CSS/W/35	JAPAN S/CSS/W/42	MEXICO (S/CSS/W/101)	COLOMBIA S/CSS/W/119
BARRIERS	- Requirements for Joint ventures with local partners - Restrictions on the type of technology, esp. for satellites	- Full privatization of telecommunications operators and networks	All	- Restrictions on the participation of foreign capital - Quantitative limitations on new entrants - Monopoly of business by state owned enterprises - Nationality and residency requirements for board members and other management personnel - Different regulations in sub-central governments - Domestic procurement requirements		

PROPOSALS	AUSTRALIA S/CSS/W/17	US S/CSS/W/3O	EC S/CSS/W/35	JAPAN S/CSS/W/42	MEXICO (S/CSS/W/101)	COLOMBIA S/CSS/W/119
REGULATORY ISSUES	- Strengthen RP with an understanding on more comprehensive and precise application of existing principles - Recognize Internet delivery services as basic telecom covered by the RP dominant provider provisions and interconnection disciplines - Clarify Article 5 criteria on independence of regulators - Clarify allocation of scarce resources as regards spectrum used and standards applied - Work on licensing requirements and technical standards under Art. VI work program.	Avoid regulation of value-added services, but explore impact of major suppliers of telephone services expanding into value-added sectors that rely on local networks and services – risks of operators extending market power from those telephone networks into new competitive networks.	Reduce restrictions to the minimum necessary to ensure quality of service, including universal service and to address the issue of scarce resources.	Address unreasonably high licensing charges.	Competitive principles not subject of negotiations on market access for services; should form part of much more far-reaching and wide-ranging negotiations which take the interests of all parties and their different levels of development into account. Need for principles for developing international Internet networks, which fulfill the objectives of making information technology available to all countries with a view to promoting their economic development. Similar work e.g. the APEC principles on "International Charging Arrangements for Internet Services", of May 2000 to be used.	-Include in the Annex on Telecommunications some principles of the RP such as competition safeguards, universal services, the public availability of the procedures for interconnection negotiations, transparency of the interconnection arrangements, the public availability of licensing criteria, and the allocation and use of scarce resources -Universal services should concern not only coverage, but also satisfactory connectivity in terms of users' needs -Management of the spectrum is not a measure that can be included in the Schedules of Specific Commitments.

PROPOSALS	AUSTRALIA S/CSS/W/17	US S/CSS/W/3O	EC S/CSS/W/35	JAPAN S/CSS/W/42	MEXICO (S/CSS/W/101)	COLOMBIA S/CSS/W/119
MFN EXEMPTIONS			Members should, at least, consider eliminating their MFN exemptions on satellites services and accounting rates	All registered MFN exemptions should be eliminated by the end of 2004 or the conclusion of current negotiations.		
Other Issues	Terminate the moratorium on accounting rates with the onset of negotiations				"Understanding on Accounting Rates (AR)" in force unless, as stated in its own mandate, Conditions that lead to creation of AR still apply. Review of AR Understanding to be complete and Members should agree upon a new review date.	-Broad coverage and efficient provision of the service using modern technologies is key to economic productivity and reducing the digital divide in developing countries. However, barriers to expanding access to Internet include high costs incurred by national Internet service providers for connection to the international networks.

Source: Based on Job (01)/63, Synopsis of Negotiating Proposals Prepared by the WTO Secretariat

TRADE IN TRANPORT SERVICES
AND THE WTO AGREEMENTS

By

Economic Commission for Africa (ECA)

Paper prepared for the Workshop on Issues of Interest to African Countries in the WTO Services Negotiations

Organized by United Nations Conference on Trade and Development (UNCTAD)/Economic Commission for Africa (UN-ECA)/Africa Economic Research Consortium (AERC)/African Unity (AU)

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I. Background

The Uruguay Round negotiations led to WTO Members commitment under GATS Article XIX. Transport services are among the 12 service categories covered by GATS in setting the basic trade rules for 130 countries. GATS which can be considered as a historical watershed in the development of global free trade, focused on further reduction of obstacles to trade in services in line with the principle of progressive liberalization. Each member state was then to commit on a part/or parts of the sector of its service market, it wishes to open for foreign business. It was clearly noted that, Progressive liberalization should base itself on a mutual respect of interest of all contracting countries as an obligation. In particular, the situation of developing country members was given due consideration. This was a big diversion from the GATT 1947, which focused mainly on rules governing merchandise trade between industrial countries.

The above commitment was then integrated into the declaration of the 4th WTO Ministerial Conference held in Doha, Qatar, on 9-13 November 2001. This committee endorsed the work already done, reaffirmed the negotiating guidelines and procedures, as well as established some key elements of the timetable including, most importantly, the deadline of 1 January 2005 for the conclusion of all except two items on the negotiations. The negotiation is planned to take place in the Trade Negotiations Committee and its subsidiaries. A consensus was also reached for negotiations on a range of subjects and other works, including issues concerning the implementation of the present agreements.

Conceptual Issues on Trade in Transport Services

A study by the World Bank claims that developing countries are among the beneficiaries from liberalization of trade in services, since as much as US$ 6 trillion in additional income can be gained from liberalization, i.e. four times the gain from trade in goods liberalization [19]. But one should note that Africa's share of this bulk figure is minimal, at about 2% annually.

The imbalance between developing and developed countries is due to unequal production capacity, concentrating on sectors, whose growth of domestic earnings (from their mono-product) has been declining. However, it can be noted that Transport services, is a sector that still contributes to the overall growth of the economy i.e. value added by transport sector is 3-5% of GDP.

[19] World Bank: World Development Indicators 2001

It is important to understand and appreciate the terminology and definitions employed in transport Services. There are many transport service sectors, amongst which are**: -Maritime Transport Services, Internal Water ways transport services, Air Transport Services, Rail Transport Services, Road Transport and e.t.c.** This paper will try to give definition to three sectors,

Road Transport: includes, passenger & freight transportation, rental of commercial vehicles with operator, maintenance repair of road equipment, supporting services for road transport services. Road Transport accounts for 25-30% of the world's passenger transport, representing 2-6% of the countries GDP & employment

Rail Transport: It includes passenger & freight transportation, pushing & towing services, maintenance & repair of rail transport equipment & supporting services for rail transport services. In most countries, rail transport is characterized by classic public monopolies, thus GATS received only few commitments in this sector. Globally, the trend is toward deregulation, privatisation & granting of concessions. Generally it has high infrastructure cost. In developing countries, railways provide the main form of mass passenger transport at price affordable by the majority. Africa has 3.33% of the total rail transport.

Maritime Transport: includes passenger & freight transport, rental of vessels with crew, maritime auxiliary services, port services, services auxiliary to all modes of transport and supporting services for maritime transport. World seabourne transport also recorded 23 billion tones in 1999.

Contribution of Trade in Transport services: Growth and Development

In most countries where the services sector is dealt with well, the service sector is growing at a faster pace than that of the agricultural sector. Between 1990 & 2000, world services output doubled that of agriculture, which was at 1.4%.[20]. Tourism is a sector where countries in Africa, such as Kenya, South Africa and Zimbabwe, with effective transport systems can benefit significantly and earn foreign exchange. Transport also plays a major role in Benin, Côte d'Ivoire and Tanzania in earning revenue from transiting shipments into neighboring landlocked countries. But in-order to facilitate these activities, improvement in transport services play a prominent role.

One should note that transport services serve as intermediary into many other sectors of the economy, i.e. Mining, agriculture, manufacturing, tourism and e.t.c, thus it would be right to say that "transport is an enabling industry, one which exist not only to meet goals inherent to transport, but also to meet pressing national and social objectives". It can therefore serve as an incentive for rural development. At regional level, this infrastructure also unbolts the economic potential of countries.

[20] World Bank: World Development Indicators" 2001.

III. The DOHA Mandate on Negotiations on Trade in Transport Services

GATS has established legal framework that each member country should oblige to, by clearly identifying the open markets for foreign services providers and bound this commitments so that they remain open and liberal in the future.

In most of the World Bank documents, it is stated that, liberalization of services under the GATS, can speed up and lend credibility to increasing market access in developing countries. But it is believed that the mechanism for progressive liberalization of market access should be based on the prevailing development situation i.e. enabling developing countries and LDCs to liberalize in line with their developmental objectives to assist in increasing their participation in trade in services.

Article XIX (3) of the GATS, required members to formulate guidelines and procedures for the negotiations by assessing the impact of liberalization of trade in services. The WTO was to run a comprehensive survey on the benefits that have been derived by Member countries after liberalization of trade in services, however this has not been done so far. Trade in services is also included in the Doha Development Agenda, which states that members would submit initial requests for specific commitments by 30 June 2002 and initial responses to the requests by 31 March 2003.

A group of developing countries have expressed their dissatisfaction with the WTO on the unsatisfactory results in securing meaningful gains from liberalization of trade in services since 1995 and significant market access for service providers from industrialized countries. Members of this group from Africa are Kenya, Nigeria, Senegal and Zambia. They stated that services exports are subjected to various entry barriers in industrialized countries. They claimed that the fundamental objectives of GATS, i.e. mutual gain for all contracting parties of WTO, have not been attained. Studies undertaken by the United Nations Conference on Trade and Development (UNCTAD), show that, the share of developing countries' global trade in services increased only by 6% since the adoption of GATS on 1 January 1995 to 1999. This growth is offset by developing countries' imports of service.

In 1998 about 40% of world trade in services occurred through cross boarder trade. In this case the importance of the transport sector cannot be over emphasised.[21] Developing countries should undertake measures aimed at improving their transport infrastructure and transport services capacity, in so doing improve their international competitiveness. Capacity can be build through several ways. i.e. using institutions such as the Center for Economic Policy Research, at the level of promoting; -independent analysis and public discussion of open economies.

Countries should utilize the work undertaken by regional as well as international institutions as inputs in their capacity building exercise. APEC's working group for instance, in

[21] GATS 2000, New Directions in Service Liberalization, Accessing Trade in Services by Modes of Supply.(Washington D.C.: Brookings institution).

the area of maritime transport, has established a virtual center for transport research development and education website, a program *inter alia* among its future projects is on developing case studies on maritime trade liberalization, regulatory issues and other institutional changes and how they would benefit the sector.

II. Requests and Offers in Transport Services: Challenges for Africa

Schedule of negotiations on trade in services as agreed at Doha are as follows:

- An exchange of requests planned for June 2002.
- An exchange of offers to take place in March 2003
- WTO Ministerial Conference will take place in December 2003 as a form of mid-term review; and
- The Doha round to be completed by January 2005.

Table 1: **Commitments by African Countries On Transport Services**

Country	Maritime Transport Services	Internal Water ways transport	Air Transport Services	Rail Transport Services	Road Transport Services	Services Auxiliary to all Modes of Transport	Other Transport Services
Benin	**X**					**X**	
Cote d'Ivoire		**X**			**X**		**X**
Egypt	**X**						
Gambia	**X**	**X**	**X**		**X**		
Ghana	**X**					**X**	
Guinea					**X**		
Kenya			**X**		**X**		
Lesotho					**X**		
Morocco			**X**		**X**		
Niger		**X**			**X**		**X**
Nigeria	**X**			**X**			
Senegal	**X**						
Sierra Leone	**X**	**X**	**X**	**X**		**X**	
South Africa					**X**		
Total	**7**	**4**	**4**	**2**	**8**	**3**	**2**

Table 1 shows GATS commitments made by African countries in the Transport sub-sectors. 7 African countries made commitments on Maritime Transport services (which are not endorsable due to the collapse of the negotiations in 1997), 4 countries made commitments on internal water ways transport and Air transport, 2 countries on Rail transport services, 8 countries committed on Road transport services, on Services Auxiliary to all Modes of Transpot-3 countries committed and finally 2 countries committed to other transport services.

In the case of European Union & the United States, proposals are presented for trade in various sectors liberalization, based on which, both trading partners would submit requests to WTO members on special market access commitments. The EU alone came up with proposals in 9 areas of trade in services of desire in market access commitments, including transport (maritime) services.

To improve on transport services, countries should commit to efficient and effective production delivery of such services.

(i) Output data on transport services to be compiled based on surveys;
(ii) Disaggregating of transport services -to obtain data on each sub-sector for GATS;
(iii) Statistics on all sectors of transport;
(iv) Balance of payment data for exports and imports of transport services;
(v) Data on transportation cost;
(vi) Data on logistical operation,

When looking into transport services of a country; one has to focus on; -

- Identifying the comparative advantage of the country in the specific transport sector,
- Extent of liberalization,
- Identifying the barriers to exports etc.

Land transport was not given much attention during Uruguay Round negotiation. The liberalization of passenger and freight transport by road is only of interest to GATS members, which are geographically neighbours and have diverted the sector to be dealt through bilateral route or at a regional level.

The impact of the Uruguay round agreements, particularly in the areas of services, on Africa countries should be closely analyzed. This is due to the fact that, they imply new legislation and procedures, new institutions and the purging of domestic trade measures which are regarded inconsistent with the new system. According to the outcome of a SEATINI workshop, the existence of disparity regarding the interest and objective of developing countries. This needs to be rectified before African countries can move into new issues.

Africa accounts for about 10% of the world’s population, though its share in international trade declined from 2.5% of world export in 1970 to about 1% or less in the 1990s. This is caused mainly by the region’s dependency on primary products, which account for 86% of all exported goods. This can be considered to be the effect of the inelastic nature of export of developing countries, as well as, the fact that prices of primary products decrease significantly from time to time, i.e. export purchasing power declined by 40% between 1980 and 1990, while export purchasing power for industrial countries rose by some 70% during 1980s and 1990s (SSATP 1/3). In addition, among the major problems faced by sub-Saharan Africa are inter alia market access, lack of transportation facilities and when available high pricing as well as delays.

Poorly managed public transport services also impose a heavy burden on public finance, for example the transport sector deficit in Zambia absorb 12% of government's total current revenue. Thus it is clear that sustaining and at the same time modernizing transport infrastructure is not an easy endeavour, especially since road spending alone accounts for 10-20% of a government's development budget.

V. What should be Africa's Agenda in the Negotiations on Transport Services?

African Countries need to play a pro-active role in WTO negotiations. Until now they have been confined to the role of reacting to proposals and initiatives from developing countries, since inter alia African countries lack capacity in the area of human and institutional resources, trade policies, poor institutional capacity, effective consultative mechanism and poor representation in Geneva, to harvest the benefits from the Uruguay Round Agreements.

Instead of each single African country, trying to bring issues on the WTO-agenda for new or renewed negotiations, it would be beneficial for African countries to form alliances according to those issues where they have a common interest or according to to their regional integration groupings, since groups of countries can easily be recognized as important strategic partners for negotiations. Also one has to diversify productive capacities to strengthen the region and create a collective base to engage more effectively in the negotiating processes.

During the negotiations on transport services, African countries could consider emphasizing on the following issues: -

- The patterns of ownership and demand,
- Institutionalised cartels that dominate the industry,
- Pricing,
- Develop an analytical model, illustrating basic issues at stake with the liberalization of services if need be, involving;
    - Implication for profit in the industry,
    - Implication for levels of trade and national gains
- Interest of consumer;
    - Protection from competition on domestic routes,
    - National preference scheme.

When looking into the experience of other countries, - For example, England, where a tonnage tax (tax based on tonnage, rather than on profit) was introduced and support policies targeted at seafarers directly were introduced. To shrink labour cost, Ireland instituted in 1998 a special 5,000-pound tax allowance for seafarers and amended its foreign earning deduction scheme with the same intention [22].

[22] http://docsonline.wto.org/GEN_viewerwindow.asp?D:/DDFDOCUME…/W106

VI. THE CHALLENGES OF NEGOTIATING SERVICE LIBERALIZATION

African governments are increasingly embracing policies promoting private ownership of transport sector, with strong encouragement from the World Bank and International Monetary Fund (IMF).

Developing countries' genuine interest in these negotiations is reflected by the strong demand for technical assistance. In 2002 alone, the WTO's Trade in Services Division received more than 60 requests for seminars and workshops from developing countries and least developed countries. In addition, studies by the UN body show that many countries in Africa do not possess the necessary conditions to build competitive service sectors. These conditions are made worse by the backwardness of transport infrastructure that that would otherwise play a significant role in enhancing competition.

The objective of transport policy programme in the case of SSA should be: -

- Smoothening the progress of trade and transport transactions,
- Forming stronger trade and transport relationships among neighbouring countries,
- Attracting foreign direct investment in SSA economies.

If implemented, this would reinforce international trade competitiveness, which is a critical building force for all sectors of the economy. This will eventually lead towards poverty alleviation, thereby introducing effective benefit distribution through increased wealth creation. All this can be achieved through the design and implementation of systematic regional/corridor data collection systems that enable the production and dissemination of reliable statistics in an efficient and effective way.

African countries should keep the following points in mind when preparing the liberalization of services sectors:

- Specific country standards of technicality
- the state of services sectors in other countries providing the service as well as providing adequate information on competition policies and to contemplate organs within a specific country,
- Market access issues in the sectors,
- Promotion of the sector at the highest capacity.

All in all the pace of development in services areas of export interest to developing countries, e.g. transport sector, computer services, health sector, and education sector and audiovisual services should be should be focused upon. The Air Transport Annex should be reviewed to enhance participation by developing countries. Consideration of commitments made by developing countries in the post-Uruguay Round negotiations on transport and other basic services should be the starting point of bilateral negotiations. Negotiations on trade in services should ensure that results of the negotiations be completed on a timeframe that gives enough time for all countries to ensure a balanced outcome.

SECTORAL ISSUES (FINANCIAL SERVICES) OF THE WTO NEGOTIATIONS ON TRADE IN SERVICES

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1. Introduction

The Uruguay Round (UR) effectively brought trade in services, including financial services within the disciplines of international trade rules under the General Agreement on Trade in Services (GATS). By this undertaking, all member governments of the WTO are obliged to undertake successive negotiations on market access provisions in respect of services trade. The underlying objective is that of achieving progressively higher levels of liberalization, while promoting the interests of all members on a mutually advantageous and secure balance of rights and obligations. Furthermore, because the issue of trade in services was by no means a very contentious issue at the World Trade Organisation's (WTO) Doha Ministerial trade negotiations, the Doha Declaration therefore reaffirmed the related services negotiating guidelines and procedures. The Declaration also established key elements of the timetable of negotiations including, most importantly, relevant deadlines for the conclusion of negotiations of GATS on the basis of a single undertaking.

The role of the financial sector in facilitating economic activity is obviously a fundamental one. Consequently, a healthy and stable financial sector underpinned by sound macroeconomic management and prudential regulation is an important ingredient for sustained economic growth. As international economic activities become more global through increased trade and investment flows, the need for internationalized intermediation and risk management also grows. The continuing globalization of economic activity and the challenge of attracting productive investment in a competitive international environment accentuate the need to maintain a healthy and efficient financial sector.

GATS schedules of commitments are complex documents, containing for each member the market access, national treatment and additional commitments on up to 16 subsectors of financial services with respect to the form of modes of supply. The GATS negotiation in the financial services sector covers all financial services including banking, securities and insurance. Given that the nature of financial services is complex,[23] a number of confusions and misconceptions have arisen about the consequences of liberalization and obligations assumed by members negotiating under GATS. To the extent that there is a strong interdependence among macroeconomic management, financial regulation and supervision, and the trade regime, many countries have been very careful about making commitments to their liberalization under GATS. This is because certain countries may well have not attained a level of development in their respective financial services sectors that would allow them to bind commitments at the WTO. However, some of the hesitations for not entering into firm commitments have been entirely without basis.

This paper looks specifically at the levels of commitments made by African WTO member countries in the provision of financial services as required by GATS and identifies reasons for the differences in the levels. It also attempts to identify why some African WTO member countries have not made any commitments to the liberalization of financial services as required by GATS. It finally proposes a way forward in encouraging further liberalization of financial services and commitments under GATS. To do this, Section 2 of the paper discusses the role of GATS in financial services liberalization while Section 3 analyses the commitments made by

[23] at least from the point of view of the participation of developing countries in the negotiations

African WTO member countries. In sections 4 and 5, the paper attempts to point out why few commitments have been made by African WTO member countries by discussing the challenges faced by these countries in liberalizing financial services. Section 6 proposes a way forward for increasing the commitment by African WTO members to further liberalization of financial their services.

2. The Role of GATS in Financial Services Liberalization

The creation of GATS was a turning point in the achievements of the Uruguay Round, whose results became operational in January 1995. The motivation for creating GATS centred on establishing a credible and reliable system of international trade rules; ensuring fair and equitable treatment for all participants; stimulating economic activity through guaranteed policy bindings; and promoting trade and development through progressive liberalization. The motivations are much the same as those surrounding merchandise trade within the General Agreement on Tariffs and Trade (GATT).

Trade liberalization in financial services has potential for achieving the following:

- Inducing governments to improve macroeconomic management and to review policy interventions in credit and financial sector regulation and supervision.
- Enhancing competition and improving of sectoral efficiency, thus lowering costs, improving quality and more choices of financial services.
- Improving financial intermediation and investment opportunities through improved resource allocation across sectors and countries and through better means of managing risks and absorbing shocks.

2.1 Financial Sector Liberalization

Financial sector reforms can be broken down into three types. First is the domestic financial sector liberalization, which allows market forces to work in order to improve efficiency in the allocation of resources. Second is the capital account liberalization, which removes controls on the movement of capital in and out of the country and also restrictions on the convertibility of the currency. Third is the internationalization of financial services to eliminate discrimination in treatment between foreign and domestic financial service providers consistent with the most favoured nation (MFN) and national treatment principles. In addition, internationalization also involves removing barriers to cross border provision of financial services.

Though not limited to internationalization of financial services, the process of financial sector reforms has to date raised many fears including the threat to the survival of local banks and financial companies, the loss of monetary autonomy, and the macroeconomic implications of volatile capital flows. The costs and benefits of financial internationalization to a great extent depend on how it is phased with the other two types of reforms in addition to the existing regulatory and supervisory framework. Experience shows that it is important to strengthen the supporting institutional framework in parallel with domestic deregulation and internationalization.

Having a strong regulatory and supervisory framework becomes more pronounced when it comes to opening up the capital account. The Southeast Asian experiences bear testimony to the importance of strong domestic institutions and prudential authorities in minimizing risks created by opening up the capital account. Volatile capital inflows could also complicate macroeconomic management, particularly where instruments and markets are lacking to hedge against risks and exposure linked to capital flows.

Financial sector reforms in Africa have been undertaken mainly in the framework of structural adjustment programmes supported by the International Monetary Fund (IMF) and the World Bank. With the exception of making commitments, the reforms undertaken by some countries have even been deeper than those provided under the gradual liberalization strategy suggested by GATS. In all there are several markets where access is more liberal in countries with IMF/World Bank programmes than those bound under GATS. The question, then, is why can't these countries bind their status quo or at least below status quo?

2.2 Financial Services in the WTO

GATS aims at negotiating a legally binding set of commitments that would enhance credibility and provide transparency under the principle of progressive liberalization. The framework consists of:

- Rules and obligations specified in the Articles of Agreement.
- Annexes on specific sector and subjects including financial services.
- National schedules of market access and national treatment (NT) and a list of most favoured nations (MFN) exemptions.

Important among the GATS obligations are the MFN and transparency provisions, which apply across the services sectors, although exemptions to the MFN obligations in specific sectors are permitted.

2.3 Market Access Commitment

The structure of GATS and scheduling practices show that the extent of guaranteed liberalization depends mostly on the commitment to provide market access. The commitments determine whether cross border supply and consumption are assured of the right to enter the market. Limitations or measures inconsistent with Articles XVI and XVII for market access and national treatment, respectively, are inscribed in the schedules of commitments. These are either across sectors or are sector specific and are listed for each group of the four modes of supply.

Specific commitments under financial services are made in accordance with the Annex on Financial Services, which complements the basic rules of GATS and creates some special rules for the financial sector. The annex recognizes that countries may take measures for prudential reasons. Such measures cannot, however, be used for avoiding a country's commitments or obligations under GATS. The measures do not have to be inscribed in the schedules of specific commitments of a country regardless of whether they are in conformity with any provision of

GATS. Member countries could, for example, introduce a restriction of a temporary nature in the event of a serious balance of payments crisis or external financial difficulties.

The sectoral and subsectoral coverage of the GATS schedule of financial services allows members to choose the service sector and subsector in which to make commitments. In examining the levels of commitment, three distinctions are made: full binding,[24] partial binding and no binding. All relate to entry against a particular mode of supply in the schedule.

The supply of many services in most cases is only possible through the simultaneous physical presence of the producer and consumer. For purposes of commercial viability and trade commitments, a need arises for cross border movement of the consumer, the establishment of a commercial presence within a market, or the temporary movement of the service provider. Consequently, GATS distinguishes among four modes of supplying services; cross border, consumption abroad, commercial presence, and the presence and movement of natural persons.

Four main reasons can be adduced for undertaking market access and national treatment under GATS:

- A multilateral commitment that ties the degree of liberalization attained under existing policy regimes or future liberalization commitment. This makes national policies more predictable and certain and weakens the power of interest groups.
- Commitments on future financial services, which could help shape and underpin essential macroeconomic and regulatory reform.
- Commitments that could also provide signals of policy stability and enhance the credibility of government. This has the effect of offering additional security to foreign investors.
- Tying down future liberalization plans in a legal sense.

3. Commitments Made by African Countries.

The number of WTO member countries that had made commitments by 2000 had risen to 187, well up from 97 in mid 1998. Some countries have taken the MFN exemption while a number of limitations have been listed under both market access and national treatment. Among the developing countries, the banking sector has seen more commitments than the insurance and security related service sectors. To date, 36 African countries have made commitments on financial services. Of these, 19 countries made commitments in banking, 14 in insurance and 3 in other financial services (see tables A1–A5 in the annex) .

A number of African countries have liberalized their financial systems because they believe that a healthy and efficient financial system helps in improving the functioning of the economy. Liberalization of the financial system could therefore become a catalyst for progress given the benefits that could stem from such a policy. These include enhanced competition, reduced intermediation margins, technological innovation, better services, increased investment, introduction of new financial products and greater coverage. When it comes to commitments to

[24] ***Full binding*—**no entry against a particular mode of supply, signifying the absence of any limitation; ***no binding*—**unbound against the relevant mode; ***partial binding***—entries conditioned by some way of limitation.

GATS liberalization, however, few countries have done so, largely because of the sensitivity of the economic system to financial sector imbalances thus the differences in the pace and commitments.

African countries have made more commitments in the financial services sector than in any other sector except tourism. However, the number of limitations on market access and national treatment is higher in financial services than it is in any other sector. Levels of commitment undertaken vary considerably among members and subsectors of the industry. In developing countries, including Africa, more commitments in banking and financial services have been made under supply modes 1 and 2 when compared with other sectors. This basically reflects the priority placed on increasing the supply and consumption of financial services. To analyse these developments, we break down the financial services sector into insurance and banking services.

3.1 Insurance Services

In terms of liberalizing the insurance subsectors, African countries have been much more open compared with other developing countries. This is reflected in Table A5 in the annex. This is largely attributed to their willingness to increase the provisions of insurance under the first three modes. However, there are differences when it comes to the level of measures and limitations contained in their commitments. Table A2 shows that Gabon and Gambia are fully bound under mode 1[25] in as far as market access is concerned, while five countries (Egypt, Kenya, Nigeria, Ghana and Tunisia) have some limitation under mode 1.

Under mode 2, consumption abroad, five countries have guaranteed absence on restrictions (Egypt, Gabon, Gambia, Lesotho and South Africa), while three others (Kenya, Ghana and Tunisia) have limitations on consumption abroad.

Openness, proxied by restrictions in the form of commercial presence shows that six countries (Gambia, Lesotho, Nigeria, Malawi, Sierra Leone and South Africa) have imposed no restriction other than legal form of commercial presence. South Africa requires local incorporation, while Egypt, Gabon and Mauritius apply economic needs or discretionary tests in allowing new entry. Morocco has a reciprocity condition inscribed on its schedule. The limitations on commercial presence in Kenya, Ghana and Tunisia mainly stem from the imposition of equity limits. Egypt currently limits foreign equity to 49%, although it has committed to raising this to 51% in 2002, while Ghana and Kenya allow majority share holding in this subsector.

To date, 14 African countries have made commitments, although Table A1 shows 13; of these, 13 have done so on re-insurance and retrocession, 9 on insurance intermediation, and another 9 on service auxiliary to insurance. On other financial services, 11 African countries have made commitments on transferable securities, 10 on money market instruments, 9 on foreign exchange dealings, and 8 on other negotiable instruments and financial assets.

[25] Modes 1, 2, 3 and 4 are, respectively, cross border supply of financial services, consumption of financial services abroad, market access to financial services and presence of natural persons to provide services.

It is also seen that the African countries that have made commitments in the areas of insurance are those with relatively strong private sectors. It could then be the case that private sector development in a highly risky African environment as perceived by the rest of the world requires instruments and markets to hedge against exposure, risks and uncertainty. Provision of insurance services therefore serves to mitigate such risks faced by the private sector and those countries geared to private sector led development have gone a long way in providing these services in addition to making commitments under GATS as a signal to attracting foreign direct investment (FDI).

3.1 Banking Services and Related Subsector

When compared with other developing countries, Africa as a region leads in terms of openness for the acceptance of deposits and is second to Eastern Europe in terms of lending. Table A1 shows that with respect to provision of banking services under the first two modes, nearly 50% of the WTO members in Africa have guaranteed unrestricted market access. As at December 2000, some 19 countries had made commitments on banking services. Of these, Gambia, Malawi and Mozambique covered all banking services except insurance, while Sierra Leone covered all financial services.

Table A1 shows that 9 out of 18 African countries that have made commitments have guaranteed unlimited access of commercial presence (mode 3). In the same table it is shown that five countries (Ghana, Kenya, Malawi, Mozambique and Sierra Leone) have placed no restriction under any of the modes 1, 2 and 3. In addition to these countries, four others (Egypt, Lesotho, Nigeria and South Africa) are fully open to investment. The less open ones use economic needs tests or discretionary measures in allowing new entrants into the banking sector; these are Benin, Gabon, Mauritius and Tanzania. Others like Zimbabwe impose a 60% limit on foreign equity, while Morocco applies a reciprocity condition to commercial presence.

The schedules contain a large number of limitations on foreign capital participation and the type of legal entity financial service providers may establish. In a sector as regulated and potentially sensitive as this, the number of countries ready to make commitments is much more striking. Region-wide, it is worth noting that the proportion of countries that have made commitments to no limitation of market access and national treatment in the provision of banking and other financial services under supply modes 1 and 2 is highest in the least developed country group. For the provision of insurance and related services, the proportion of countries that have not made any commitment to market access and national treatment is above the average for all countries.

Under supply mode 3, a number of restrictions exist. However, the percentage of countries in the developing category group who have not made commitments is again lowest in the provision of banking and other services for both market access and national treatment. The opposite is true for insurance services. Under the six types of limitations listed in Article XVI:2,[26] the limitation on the type of legal entity and participation of foreign capital shows that

[26] The six limitations are: (a) on the number of service suppliers, e.g., only a fixed number of bank licences granted per year;
(b) on the value of transaction assets, e.g., only a fixed amount of loans can be made to residents by foreign banks;

developing countries were leading the rest of the world in imposing restrictions. This could be reflecting policies to promote joint ventures in the region.

On liberalization[27] of both insurance and banking services, which is reported in tables A4 and A5, we see that Africa is fairly more liberalized in both of these services. In terms of the simple averages reported in tables A4 and A5, Africa scores above all regional averages for both insurance and banking services. However, in terms of the GDP weighted average it scores less than the regional average.

Data on commitments in financial services by African countries are not readily available for mode 4. Regionally, however, it is the least developed countries, where Africa falls, that the proportion of countries who have made full commitment to market access and national treatment in banking and other financial services exceeded the average for all countries. The proportion of those who had not made any commitment in these areas was lower than the average for all countries. Again, in terms of insurance and related services, the proportion of countries that had made no commitment was higher in terms of market access and national treatment under supply mode 4.

In summary, as at the close of the year 2000, there were 19 countries in Africa that had made commitments in banking services on lending of all types. Of these, 18 had done so on acceptance of deposits and other repayable funds and 17 had made commitments on money transmission services. On guarantees, 13 African countries had made commitments, while another 13 had done so on trading for own account and account of customers.

4. Why So Few Commitments by African Countries?

The total number of African WTO member countries is currently put at 41, of which only 14 have made commitments on insurance and 19 on banking services. The issue raised is why so few have done so. Currently, there are three ways member countries can bind themselves to GATS schedules: *status quo*, *below status quo* and *pre-commitment to liberalization*. These are defined as follows:

- ***Binding the status quo:*** This is basically to signal that the existing market conditions in a given country are guaranteed. Many African countries that have made commitments to date have done so under this. The status quo was reached after recent domestic financial liberalization efforts by a number of countries. However, there have been no immediate benefits in terms of improved access to foreign markets and arguably the motive for liberalization has been fundamentally based on domestic policy consideration rather than on GATS liberalization of trade in financial services.

(c) on the number of operations or on the total quantity of service output, e.g, only a fixed number of bank branches or fixed total amount of bank lending in local currency allowed;
(d) on the number of natural persons that may be employed, e.g., only twenty foreign personnel allowed for each establishment of a bank;
(e) on specific types of legal entity or joint venture, e.g., only incorporated subsidiaries of banks allowed; and
(f) on the participation of foreign capital, e.g., only 51% of foreign capital is allowed in banks.

[27] Regional liberalization indices calculated either as simple averages of country indices or as GDP share weighted averages. Higher values of the liberalization index indicate that commitments have a greater liberalizing content.

- ***Binding below the status quo:*** A number of countries have bound at less than status quo with respect to their current regimes. Reasons for this could be related to domestic macroeconomic instability and regulatory weaknesses currently experienced in their domestic liberalization efforts. This is quite common under mode 3 where countries were inclined to bind foreign ownership to levels below what is currently prevailing. This has driven a wedge between firms already existing and those that enter when the commitments have come in force, and is analogous to *Grandfathering* the privileged existing firms. It mainly takes the form of foreign equity-related limitations, legal form-related limitations and general limitations. It is arguably the reason why there are a number of limitations under mode 3.

- ***Binding a pre-commitment to the future liberalization:*** The GATS offers a valuable mechanism for overcoming the difficulty countries face in liberalizing now, provided they do so in the future. However, the failure to honour these commitments could generate an obligation to compensate those who are deprived of the benefits. Although it is argued that these conditions could make commitments more credible than mere announcements, it could also explain why a number of African WTO members have not made any commitments at all.

As mentioned earlier, a number of African countries have undertaken domestic financial sector reforms mainly in the framework of structural adjustment programs supported by the IMF and the World Bank. Few of them have made commitments under GATS liberalization of trade in financial services, however, although the reforms undertaken by some countries have been even deeper than those provided under the gradual liberalization strategy suggested in GATS. In all there are several markets where access is more liberal in countries with IMF/World Bank programmes than those bound under GATS. The question then is why can’t these countries bind their status quo or at least below status quo?

<u>As mentioned earlier, the sensitivity of the economic system to financial sector imbalances has created differences in the pace and commitments to GATS liberalization. We try to identify the experiences of financial sector reforms implemented in Africa that have led to the reluctance of some African WTO members to make commitments to GATS liberalization. In particular, these relate to the uncertain impacts of financial liberalization and commitments on the broader economy, lack of strong institutions to support the process, and the underdeveloped markets in Africa. The next section discusses the challenges that have arisen in domestic financial sector liberalization efforts undertaken by African countries.</u>

5. <u>Challenges in Financial Services Liberalization</u>

A number of developing and transition countries have experienced banking sector problems since deregulation and liberalization and this has led some to conclude that liberalization has caused the problems. The high cost of bank resolutions and the accompanying effects on the real economy have made a number of them undertake reforms more gradually and they are thus reluctant to make any commitments as required by GATS in the midst of uncertainty. Most African countries believe that commitment to the liberalization of financial services should only proceed when the inadequate macroeconomic and regulatory policies have been addressed including strengthening institutions to support the liberalization process.

5.1 *Macro-economic Stability*

A number of African economies are just beginning to stabilize as the foundation for sustainable growth is being laid. To this extent, poverty reduction growth frameworks (PRGF), which emphasize poverty reducing growth in a stable macroeconomic environment, have been adopted and are being implemented by a number of African economies. The transition period to an open financial system is therefore crucial and most countries would try to avoid harmful policy errors that could undo whatever macroeconomic stabilization gains may have been realized so far. This cannot be ruled out in an environment where financial markets are still underdeveloped, confidence in the new policy regime is still weak, and the experience with the proper management of the macroeconomy and financial sector is more limited. The most important cost of any financial sector problems that could result is the weakening of the confidence in government policy making and in economic liberalization.

Financial services trade liberalization can also affect financial stability indirectly via its effects on capital flows. The pro-cyclical nature of these inflows can complicate the management of macroeconomic policies particularly where the authorities do not have adequate policy instruments. Monetary management during liberalization is also complicated by the changes in monetary aggregates, which could make monetary aggregates difficult to monitor and interpret. If the wrong indicators are monitored, early warning signals of monetary expansion might be missed. In addition, instruments and markets to deal with uncertain and volatile capital flows are still lacking, which exposes the domestic agents to risks and uncertainties under financial liberalization. Given this environment of underdeveloped financial markets and inadequate instruments, there is some reluctance by some African countries to make commitments to GATS.

5.2 *Institutional Weaknesses*

In order to strengthen the stability of the financial sector, institutions that perform financial intermediation and manage risk need adequate prudential regulation and supervision. This becomes particularly important in more open financial markets. The interdependence between macroeconomic and financial stability increases in a liberalized environment. Consequently, the following become necessary: commitment to core principles for effective supervision; prudential rules and disclosure of information to encourage good banking; deposit schemes to provide safety nets against bank insolvencies and failures; and market-based international monitoring to complement government supervision. However, the appropriateness and applicability of such standards to African economies also raises other issues, given that the quality and reliability of real—and sometimes financial—sector data are suspect. This mainly arises because the institutions that should strengthen the quality of data are still weak. Legal, disclosure, accounting and auditing practices need to be revamped in order to strengthen the quality of data. On the other hand, liquid and deep capital markets to complement the supervisory authority's efforts to evaluate the capital adequacy of firms and banks are still lacking. Opening up and making commitments to, when one does not know with certainty the time it takes to build the necessary institutions could explain why some African governments have not made any commitments as yet to GATS.

In addition, the strength of the financial sector also depends on the quality of data from the non-financial sector and the general level of corporate governance. In a situation where accounting, auditing and disclosure standards are still weak, the quality of private sector data cannot be fully trusted and this has implications for the stability of the financial system. Consequently, the financial–real sector linkages are to date weak and if these are to be strengthened then the private sector and institutions in general need to be strengthened. The approach in dealing with a tiny underdeveloped financial sector is fundamentally different from that of dealing with well much developed, larger ones. Institutional safeguards that abound in the developed financial markets are not present in underdeveloped financial markets.

Institutional weaknesses have also increased the interest rate spreads and risk-averseness in many African WTO countries that have liberalized their financial systems. Weak enforcement by the legal system and secondary markets for collateral have resulted in increased provisioning by financial institutions, thus higher interest spreads and risk-averseness by the financial systems.

Given the weak institutions, there is still a lot of uncertainty about on the likely impact of financial sector liberalization on the health of the banking system, and any commitments under such an environment are considered risky and could cause credibility problems for the countries concerned. It would appear that commitments to GATS schedules pre-suppose the existence of such institutions and since institution building takes time this could probably further explain African countries' reluctance to make commitments to the GATS schedules.

Fund programmes such as the Financial Sector Stability Assessments (FSSA) allow countries to assess the stability of their financial sectors frequently and make appropriate changes, both policy and institutional, in order to safeguard the stability of the system. Getting adequate policy instruments and institutions to deal with potential instability of a liberalized financial system seems to be the concern of many African countries. With a learning curve such as the one they are in, it may be imprudent to make commitments.

Experiences in some African countries show that entry of foreign banks may at times compromise the safety and soundness of the domestic banking system even when these banks are operating in industrial economies or had ownership relationships with reputable foreign sources (bank failures such as BCCI, Meridien and Westmont PLC). In other cases their entry takes away all the prime borrowers from the indigenous banks, who are then left to deal with more risky borrowers, an action that could lead to their collapse. Other countries argue that entry of foreign banks' should not be based on capital only; rather, the foreign bank should have a reputation for banking in environments similar to that of the host nation and a name to protect.

5.3 Slow Process of Law Reform

As mentioned earlier, there are three types of financial sector reforms, with the first being a domestic one aimed at improving the allocation efficiency of the financial system. The second and third are the capital account liberalization and the internationalization of financial services, respectively. These two involve convertibility of currency and elimination of discrimination in treatment between foreign and domestic financial service providers consistent with the most favoured nation (MFN) and national treatment principles. Some countries such as Uganda have undertaken deep financial sector reforms of both the second and third types, but the changes in the laws to incorporate these developments have not yet been enacted. Uganda's Exchange Control Act of 1969, for example, is yet to be revoked, while the Foreign Exchange Bill that specifies issues on cross border supply and consumption abroad is yet to be enacted by parliament. The existing laws such as the Investment Act of 1993 to some extent specifies mode 3 of market access and treatment but it is general in nature and would have to be amended to incorporate the recent developments in GATS negotiations. In brief, the absence of domestic laws to support financial sector liberalization may be hampering some African countries such as Uganda in making commitments to GATS financial sector liberalization.

5.4 Choice of Liberalization Strategy

The choice of a liberalization strategy could be another factor accounting for the delayed commitment to GATS provisions. Varying country experiences with liberalization, including those that ended up with macroeconomic and financial problems, make it difficult to identify a single liberalization strategy that will minimize instabilities. The question that remains unanswered in many African countries is, how much macroeconomic stability and effective prudential regulation and supervision is needed and at what stage of the liberalization process. African countries with a record of weak macroeconomic management, and weak institutional structures, are more concerned with getting these strengthened before making commitments to GATS schedules where an uncertain environment abounds.

6. The Way Forward

It is clear from the foregoing that the interdependence between macroeconomic and financial stability increases in a liberalized environment. It is also seen that liberalization of financial services requires a stable macroeconomic environment in order to yield full benefits. On the other hand, an unsuccessful financial sector liberalization could result in the weakening of the confidence in government policy making and in economic liberalization. It therefore requires that the liberalization of financial services including the opening up of the capital account and internationalization of financial services be implemented cautiously. Institutions to ensure proper regulation and supervision, and complementary ones such as legal, accounting and auditing, must be firmly in place to promote the health and strength of the banking system. A stable macroeconomic environment is certainly useful to a successful liberalization of trade in financial services, including capital account liberalization and internationalization of financial services.

To the extent that it takes time to build institutions that will support further financial sector reforms, WTO or other assistance towards this area would be of help. Specifically needed is the financial support for the reform of laws that support financial sector liberalization, as well as capacity building in the area of accounting, auditing, regulation and supervision. In addition, any support to help in the research to design market-based indicators that could help to support the supervisory function in the banking system is of importance. It is also known that as domestic financial sector reforms took place, most commercial banks rationalized their operations and a number of bank branches were closed. The result has been the creation of financial vacuums in the greater geographical parts of many African countries and the challenge now is to identify institutions that could fill in these vacuums without compromising the stability of the financial system. Institutions such as micro finance institutions may be appropriate, but there is need for laws governing their operations to be defined. This is one area that the WTO and other assistance could consider supporting so that African countries can make further liberalization efforts and commitments to GATS.

Development of instruments and markets to hedge against risk, uncertainty and exposure arising out of the liberalization of trade in services is critical. The resultant volatility in the prices and asset markets could affect the franchise value of the assets in the economy if these instruments and markets are lacking. The WTO or any other related assistance in the development of domestic private sector initiatives to hedge against risks, uncertainties and exposures would be most welcome. It is true that the commercial presence of financial service providers could encourage the evolution of such instruments. However, this could only be limited to areas of lesser risk such as trade services leaving greater and risk prone but vital sectors like agriculture, small- and medium- scale enterprises, and lending to the poor society still exposed.

As mentioned earlier the African countries that have made commitments in the areas of insurance are those with relatively strong private sectors. It could then be the case that private sector development in an African environment perceived to be risky by the rest of the world requires instruments and markets to hedge against exposure, risks and uncertainty. Provision of insurance services helps to mitigate the risks faced by the private sector and those countries geared to private sector led development have gone a long way in providing these services. However, the commitment by governments to private sector development is key to ensuring that insurance services are provided, otherwise state led development paths may inhibit the growth of such services. On the other hand, those countries that are beginning to promote private sector development should be supported in building the necessary institutions to support the if the number of countries making further liberalization and commitments under GATS in the insurance area is to increase.

A number of countries that have made commitments to GATS provisions and others that have not but have liberalized their domestic financial systems need to be helped to strengthen their capacities in data collection. Liberalization of trade in services has led to loss of valuable data through misclassification, under-reporting or non-reporting. Consequently, the capacity of the authorities to formulate appropriate external sector policies to deal with any external and monetary sector instabilities is weakened. Assistance with strengthening data collection would help to support any future efforts towards further liberalization or fulfillment of pre-commitment to liberalization.

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<u>Annex: Explanatory Tables</u>

Table A1: Numerical summary of commitments on modes 1, 2 and 3 in direct insurance and banking by African Countries (No. and percent share of GDP)

Total WTO members (share of BDP of all members)	Members with commitments (% share of GDP of all members in region)	Members with full commitments on all 3 modes	Commitments on cross border supply (Mode 1)		Commitments on consumption of services abroad (Mode 2)		Commitments on commercial presence (Mode 3)			
			Full	Limited	Full	Limited	Full or limitations only on the legal form	Limited		
								No. of ssrs: U, Limited DL or R	Foreign equity limitations	Other significant limitations
Direct Insurance										
41 1.50%	13 80%	1 0%	2 1.70%	5 40%	5 62%	3 11%	7 66%	3 13%	2 5%	
								1 both (16%)		
Banking										
41 1.50%	18 84%	5 6%	8 14%	4 13%	8 14%	3 1.50	9 78%	5 10%	1 2%	
								2 both (10%)		

Banking services includes acceptance of deposits and lending of all types

Source: World Bank

Table A2: Market access commitments under the GATS on insurance (life and non-life)

Full commitments on first three modes	Commitments on cross border supply (mode 1)		Commitments on consumption abroad (mode 2)		Commitments on commercial presences (mode 3)			
	Full	Limited	Full	Limited	Full or limitations only on the legal form	Limitations		
						Only no. of suppliers (U, ltd, DL, R)	Only foreign equity	Both no. of ssrs. and foreign equity
Gambia	Gabon Gambia	Egypt Ghana Kenya Nigeria Tunisia	Egypt Gabon Gambia Lesotho South Africa	Ghana Kenya Tunisia	Gambia Lesotho Nigeria Malawi Sierra Leone South Africa	Gabon Mauritius Morocco	Ghana Kenya	Egypt

Table A3: Market access commitments under the GATS on banking								
Ghana, Kenya Malawi Mozambique Sierra Leone	Gambia Ghana Kenya Malawi Mozambique Sierra Leone Tunisia Zimbabwe	Angola Benin Gabon Morocco	Gambia Ghana Kenya Malawi Mozambique Sierra Leone Nigeria Malawi South Africa	Benin Gabon	Egypt, Ghana Kenya Lesotho Mozambique Sierra Leone Nigeria Malawi South Africa	Angola Benin Gabon Morocco Mauritius Tunisia	Zimbabwe	Gambia Morocco

Note: Unless otherwise indicated (as in the second and third columns), percentages for each region are calculated as a share of GDP of all countries with commitments in the region. In the rows indicating the totals, percentages are calculated as a share of DGP of all countries with commitments (other than developed countries).

Banking services included acceptance of deposits and lending of all types.

Source: World Bank.

Table A4: Liberalization indices for direct insurance services

Direct Insurance				
	Simple Average		GDP Weighted Average	
	Life insurance	Non-life insurance	Life insurance	Non-life insurance
Africa	0.60	0.58	0.50	0.45
Asia	0.46	0.46	0.32	0.35
Eastern Europe	0.52	0.53	0.53	0.51
Latin America	0.35	0.31	0.23	0.26
Developed	0.71	0.70	0.68	0.72
All	0.50	0.49	0.62	0.66

Table A5: Liberalization indices for banking (acceptance of deposits and lending)

Banking				
	Simple Average		GDP Weighted Average	
	Acceptance of Deposits	Lending	Acceptance of Deposits	Lending
Africa	0.65	0.58	0.63	0.52
Asia	0.37	0.43	0.29	0.30
Eastern Europe	0.60	0.63	0.61	0.61
Latin America	0.48	0.45	0.39	0.35
Developed	0.79	0.74	0.71	0.65
All	0.54	0.53	0.66	0.61

Source: World Bank