



Effective Market Access for Least Developed Countries' services exports

Case Study on Utilizing
the World Trade Organization Services Waiver in
Zambia





Effective Market Access for Least Developed Countries' services exports

Case Study on Utilizing
the World Trade Organization Services Waiver in
Zambia



© 2020, United Nations Conference on Trade and Development

The findings, interpretations and conclusions expressed herein are those of the authors and do not necessarily reflect the views of the United Nations or its officials or Member States.

The designation employed and the presentation of material on any map in this work do not imply the expression of any opinion whatsoever on the part of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

Photocopies and reproductions of excerpts are allowed with proper credits.

This publication has not been formally edited.

UNCTAD/DITC/TNCD/MISC/2020/8

eISBN: 978-92-1-004867-5

ACKNOWLEDGMENTS

This pilot case study for Zambia was prepared by the UNCTAD secretariat with co-financing from Sweden, for which UNCTAD is thankful.

The related work, conducted in two phases, was supervised by Bruno Antunes (phase II) and Marisa Henderson (phase I), Economic Affairs Officers of the Division on International Trade and Commodities (DITC) of UNCTAD. A draft of this pilot case study was provided by Ms. Hadil Hijazi, who worked jointly with Mr. Hannes Schloemann and with backstopping support from Ms. Cristina Rubiano Passos. Martine Julsaint-Kidane, Economic Affairs Officer of DITC, provided useful comments. The document was finalised by Bruno Antunes and Vincent Valentine, Economic Affairs Officers of the DITC of UNCTAD.

In Zambia, special recognition goes to Her Excellency Margaret Mwanakatwe, Minister, Ministry of Commerce, Trade and Industry, Zambia. Additional thanks go to the Zambian Development Agency.

The authors are indebted to a group of business representatives and representatives of Zambia's services exports for their inputs and individual contributions, which have been thoroughly appreciated, in particular to Mr. Kelly Kalumba, Managing Director, Green Code architects and President, Zambian institute of architects; Prof. Chifwanakeni, Vice Chancellor, University of Lusaka; Mr. Abel Ng'andu, Managing director, Ng'andu Consulting Engineers; Mr. Edwin Mukonka, Managing Partner, AMC Group; Mr. Charles Etemesi, COO, Prima Re; Mr. Christopher Jannou, President, AmCham and CEO, the Urban Hotel Group; Mr. Mwenya Nakatal, Manager, Anguloraso; Mr. Ceasar Cheelo, Researcher, ZIPAR; Mr. Bwalya Ng'andu, Deputy Governor of Operations, Bank of Zambia; Mr. Chabala Lumbwe, Managing Director, Madison General Insurance Company.

The authors extend their recognition to Ms. Monde M. Mukela, for her assistance during the in-country consultations.

The views expressed in this report are those of the authors and do not necessarily reflect the views of UNCTAD or the Government of Zambia.

Marina Murina and Sophie Munda provided administrative support.

Cover design and desktop publishing was done by Laura Moresino-Borini.

NOTE

This publication forms part of the background research for the study titled “**Effective market access for least developed countries’ services exports; An analysis of the World Trade Organization services waiver for least developed countries**” (UNCTAD/DITC/TNCD/2019/1). The research was originally undertaken in 2017 and has been released for publication to help policymakers understand some of the intricacies behind the original study. Some details may have since changed.

All references to dollars (\$) are to United States of America dollars unless otherwise stated.

For further information on the Trade Negotiations and Commercial Diplomacy Branch, please contact:

Trade Negotiations and Commercial Diplomacy Branch
Division of International Trade and Commodities
United Nations Conference on Trade and Development
Palais des Nations
1211 Geneva 10
Switzerland
Email: tncdb@unctad.org
Website: unctad.org/services

CONTENTS

- Acknowledgments iii
- Note iv
- Abbreviations and acronyms..... vii
- Preface..... ix

- I. INTRODUCTION: LDC SERVICES EXPORTS, THE WTO SERVICES WAIVER FOR LDCs AND PREFERENCES NOTIFIED BY MEMBERS 1**
 - A. LDC Services Exports 2
 - B. The WTO Services Waiver for LDCs 2
 - C. Preferences notified by WTO Members – A summary assessment 4
 - D. Preferences notified and Zambia’s Services Exports: Approach..... 7

- II. SERVICES AND SERVICES TRADE IN ZAMBIA 9**
 - A. The Economy – A Snapshot 10
 - B. Services..... 10
 - C. Context: Services Trade Policy in Zambia..... 14

- III. SECTORAL REVIEW LDCs SERVICES EXPORTS AND THEIR INTERESTS UNDER THE WAIVER 15**
 - A. Insurance Services..... 16
 - 1. Definition 16
 - 2. Insurance Services in Zambia 16
 - 3. Barriers encountered, possible preferences, and actual preferences notified..... 17
 - B. Selected Professional Services 20
 - 1. Definition 20
 - 2. Professional Services in Zambia..... 20
 - 3. Barriers encountered, possible preferences, actual preferences..... 22
 - C. Construction Services 35
 - 1. Definition 35
 - 2. Construction Services in Zambia 35
 - 3. Barriers encountered, possible preferences, actual preferences..... 36
 - D. Education Services 38
 - 1. Definition 38
 - 2. Education Services in Zambia..... 39
 - 3. Barriers encountered, possible preferences, actual preferences..... 40

- IV. CONCLUDING OBSERVATIONS 43**
- References 46
- Endnotes..... 49

List of boxes

1. Services data – A caveat..... 8
2. Services trade statistics: Zambia as a high achiever..... 11
3. Work permits in South Africa..... 25
4. Government procurement under the GATS and the LDC waiver..... 27
5. Government procurement in South Africa in the context of the Broad-Based Black Economic Empowerment Policy..... 28
6. Medical doctors: going to America, going to South Africa..... 28

List of figures

1. Merchandise and services trade of Zambia 2000–2013 12
2. Merchandise and services trade of Zambia 2000–2013 13
3. Top regulatory challenges facing zambian exports of professional services in export markets..... 23

List of tables

1. Sectoral contribution in Zambia's gross domestic product, 1980–2016 10
 2. Trends in Zambia's gross domestic product and its sectoral composition, 1980–2012 11
 3. Value and share of exports for different commercial service subsectors in Zambia, selected years..... 13
-

ABBREVIATIONS AND ACRONYMS

AfCFTA	African Continental Free Trade Area
APA	Auditing Professions Act
B-BBEE	Broad-Based Black Economic Empowerment
BOP	Balance of Payments
BPO	Business Process Outsourcing
CIPC	Companies and Intellectual Property Commission
CMMI	Capability Maturity Model Integration
COMESA	Common Market for Eastern and Southern Africa
CPC	United Nations Central Product Classification
CPTPP	Comprehensive and Progressive Trans-Pacific Partnership
CSS	Contractual Service Suppliers
CTI	Commercial Trade and Industrial Policy of Zambia
CTS	Council for Trade in Services
DDA	Doha Development Agenda
DITC	Division on International Trade and Commodities
DTIS	Diagnostic Trade Integration Study
EBOPS	Extended Balance of Payments Services Classification
ECSA	Engineering Council of South Africa
EFTA	European Free Trade Association
EEA	European Economic Area
EIF	Enhanced Integrated Framework
EIZ	Engineering Institute of Zambia
ENT	Economic Needs Test
FATS	Foreign Affiliates Trade in Services Statistics
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
FWMP	Foreign Workplace Management Program
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
GNC	General Nursing Council of Zambia
GPA	Government Procurement Agreement
GWP	Gross Written Premiums
HPCSA	Health Professions Council of South Africa
ICT	Information and Communication Technology
IELTS	International English Language Testing System
IFAC	International Federation of Accountants
IMED	International Medical Education Directory
ITC	International Trade Centre
KGRTC	Kafue Gorge Regional Training Centre
LDC	Least Developed Country
MFN	Most-Favoured Nation
MoHE	Ministry of Higher Education
MRA	Mutual Recognition Agreement
MSITS	Manual on Statistics on International Trade in Services

NCC	National Council for Construction of Zambia
NMC	United Kingdom Nursing and Midwifery Council
ONP	Overseas Nurses Program
PAFA	Pan African Federation of Accountants
PIA	Pensions and Insurance Authority
PTA	Preferential Trade Agreement
RTA	Regional Trade Agreement
SME	Small Medium Enterprise
SAICA	South African Institute of Chartered Accountants
SADC	Southern African Development Community
SAQA	South African Qualification Authority
TEVETA	Technical Education, Vocational and Entrepreneurship Training Authority
UNCTAD	United Nations Conference on Trade and Development
USMLE	United States Medical Licensing Examination
WTO	World Trade Organization
ZCAS	Zambian Institute of Accountancy Studies
ZDA	Zambian Development Agency
ZIA	Zambian Institute of Architects
ZICA	Zambian Institute of Chartered Accountants

PREFACE

This paper was prepared in the context of the United Nations Conference on Trade and Development's (UNCTAD) intensified work in support of least developed countries' (LDC) participation in trade. It aims to contribute to the discussion on market access for services and services suppliers from LDCs, in particular, in the context of the World Trade Organization (WTO) Services Waiver Decision adopted on 17 December 2011 (hereinafter "the Waiver").

For many years UNCTAD has been emphasizing the importance of services and services trade for developing countries, and the need to strengthen and diversify services sectors. This includes a focus on services and services-supported exports. Over the past 30 years the share of services in the gross domestic product (GDP) of developed countries has grown from 61 to 75 per cent, while the share in developing countries has grown from 42 to 55 per cent. In LDCs the share was and is still lower, but the growth trajectory is very clear – services are a key part of their economic future. Trade in services remains important as their exports have grown more than goods exports and more resiliently.

In addition to these direct effects, services provide inputs to all economic sectors. They are bundled with goods - for example when manufacturing firms also provide distribution services; and create linkages in productive value chains - as in the case of telecommunication and ICT services which integrate, through digitization, production processes more than ever before. These indirect effects imply that there is value added of services included in output and exports of all economic sectors. While direct exports of services were 13 per cent of total exports in LDCs, services accounted for 39 per cent of total value added in their exports. This value added, the so called "Mode 5" of services trade, confirms that servicification trends also occur in international trade and place services as a key contributor to trade as it is for output.

The LDC Services Waiver, which effectively operates as a new LDC-specific "Enabling Clause for services", now allows developed-country WTO Members and developing WTO Members in a position to do so to provide preferential treatment to services and service suppliers originating in LDCs. Consequently, the Waiver releases WTO Members from their legal obligation to provide non-discriminatory (MFN) treatment to all trading partners (General Agreement on Trade in Services (GATS) Article II) when granting trade preferences to LDCs.

After a slow start, WTO Members took up the challenge. Since 2015 developed and several developing Members – in total 24 WTO Members (counting the European Union as one) – have submitted Notifications granting specific preferences to LDCs under the Waiver – an important start, but more remains to be done.

Perhaps most importantly the Waiver has been a catalyst for a growing discussion and growing awareness among policy makers, service suppliers and other stakeholders both - from LDCs and from current and potential importers of LDCs services. But the task at hand for all those interested in LDCs and their services trade integration goes beyond the operationalization of the Waiver. The Waiver is just one tool among others – from autonomous liberalization to regional and bilateral agreements – that enables services liberalization in favour of LDCs.

The Waiver itself neither requires WTO Members to grant preferences, nor provides them with specific ideas or tools to devise smart mechanisms that actually facilitate LDC services exports into their markets. Thus, even if the range of preference-granting countries itself is noteworthy, the breadth, depth and real-life relevance of the preferences offered require and deserve attention, not least with a view to diversifying and sharpening the tools to provide effective pro-development access to services markets of export interest to LDCs.

UNCTAD has an important role to play in fostering, facilitating and enriching this discussion among all those who care about LDCs and their considerable potential in services. In 2016 UNCTAD commissioned a study on "LDCs Services Waiver – Operationalized?" The study carried out an in-depth assessment of the preferences offered in the context of the Waiver and juxtaposed them with what LDCs had asked for through their 2014 Collective Request. This deliberation has now been further developed through four pilot case studies in four LDCs services exporters – Cambodia, Nepal, Senegal and Zambia – that accompany an overview study. The pilot studies aimed at reviewing the implementation of the Waiver in the overarching idea of improving effective market access for LDC services and service providers. This resulted in an overview paper and a set of four country papers.

This paper presents the findings of the pilot study on Zambia. Focusing on a selection of services sectors of particular export interest to Zambia, this case-study assesses, where appropriate on an anecdotal basis, whether and to what extent the preferences granted by WTO Members respond to the market access, regulatory and other barriers experienced by Zambia's services exporters in their export market(s). By converging all available sources of information, the analysis aims to identify the relevance of the notified preferences for Zambia's services exports, possible gaps and opportunities for further development of improved market access mechanisms, as well as its utilization by LDC services exporters.

This is a pilot study. It does not aspire to provide a complete view of services exports from Zambia or of every demand-side barrier existing in respect of the services examined. The analysis neither aims to give a comprehensive picture of all services exported and barriers operating in the sectors chosen for examination. This paper and other work products produced under this study are hence selective, aimed at providing a critical mass of useful findings that could meaningfully advance the discussion on LDC services trade. It is based on desk research and an in-country consultations with services exporters, services regulators, representatives of relevant government agencies and representatives of services related business associations, against the background of often weak and unreliable services statistics.

This paper is intended to assist negotiators and policymakers in the WTO Members and LDCs in their efforts in identifying, designing and implementing smart mechanisms that could facilitate LDCs' services exports. The set of papers will not only benefit the countries examined, but other LDCs and the LDC Group, as the barriers faced by one LDC's service or service supplier are often also faced by services and service suppliers from other LDCs. It follows that potential preferences suggested by this study may be relevant for several, often for many, and sometimes for all LDCs.

This exercise remains by its nature necessarily a limited one, a work in progress that should stimulate further, progressively broader and deeper engagement by LDC governments, LDC services importers and other stakeholders, on the obstacles encountered and the solutions to be sought. UNCTAD's hope and ambition is to encourage stakeholders to carry the discussion forward, and to support them in this endeavour.

Pamela Coke-Hamilton
Director
Division on International Trade and
Commodities
UNCTAD



**INTRODUCTION:
LDC SERVICES EXPORTS,
THE WTO SERVICES WAIVER
FOR LDCs AND PREFERENCES
NOTIFIED BY MEMBERS**

This paper focuses on Zambia as an LDC and a services exporter. It does so embedded in the immediate context of the overall question of LDC services exports, their promotion and the operationalisation of the WTO's LDC Services Waiver. It thus serves as a case study – one of an initial set of four – and should be read in conjunction with the overview paper “Effective Market Access for LDC Services Exports – An Analysis of the WTO Services Waiver for LDCs”, which considers cross-cutting observations and conclusions.

A. LDC SERVICES EXPORTS

Least-Developed Countries (LDCs) participation in services trade is on the rise. According to the WTO, LDCs' commercial services exports expanded by 12 per cent on average per year during 2005-2016¹ An impressive outcome compared to 8 per cent in other developing economies and 5 per cent in the developed group.²

While LDCs as a group are generally services importers, their share of global services imports is slowly decreasing. In 2016, for instance, LDCs' services imports decreased to 1.4 per cent from 1.7 per cent in 2011.³ In turn, the share of LDCs in global exports of commercial services grew from 0.4 in 2015 to 0.7 per cent in 2016.⁴

However, LDCs services exports have also seen a sharp decline in recent years. Services exports from LDCs in Africa dropped by 5 per cent in 2016. Likewise, services exports from LDCs in Asia, which recorded the most rapid export growth expanding by 14 per cent on average per year during 2005-2016, saw a 3 per cent decline in 2016, while imports recorded 10 per cent growth.⁵

LDCs' portfolio of services exports is mainly focused on tourism with some variations by region. In 2016 exports of LDCs in Africa accounted for more than half of LDCs' total commercial services thanks to transport and tourism services in Ethiopia and in the United Republic of Tanzania and Uganda respectively.⁶ LDCs in Asia recorded the most rapid expansion from 2005-2016, mainly due to Myanmar's and Cambodia's performances as the leading tourist destinations in the region, and to Bangladesh and Nepal as leading exporters of information and communications services.⁷ In LDC islands, tourism accounted for more than two-thirds of their services exports.⁸

LDCs commercial services exports remain concentrated within a few economies. Myanmar leads the

table boosted by rising travel exports that account for 12.3 per cent of LDCs commercial services exports. It is followed by Cambodia (12.1 per cent), United Republic of Tanzania (11.6 per cent), Ethiopia (8.7 per cent), Bangladesh (6 per cent), Sudan (4.8 per cent), Uganda (4.2 per cent), Angola (3.6 per cent), Senegal (3.3 per cent) and Nepal (3.1 per cent). This is an unchanged pattern since 2005.⁹

In addition to these direct effects, services provide inputs to all economic sectors; are bundled with goods; and create linkages in productive value chains. These indirect effects can be measured by the value added of services included in output and exports of all economic sectors. While direct exports of services were 13 per cent of total exports in LDCs, services accounted for 39 per cent of total value added in their exports. This value added, the so called “Mode 5” of services trade, confirms that servicification trends also occur in international trade and place services as a key contributor to trade. Such important indirect effects have a relevant bearing on inducing efficiency and effectiveness, reducing productive and trade barriers, and contributing to more productivity and increased productive and export capacity.¹⁰

B. THE WTO SERVICES WAIVER FOR LDCS

While LDCs participation in service trade is slowly increasing, their vast potential is still untapped partly due to capacity constraints and partly due to market access barriers encountered in export markets. This fact has initiated a series of deliberations in the WTO and other multilateral fora.

In 2003, the WTO Council for Trade in Services adopted a Decision on Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services. Quite generally, this decision aimed at defining negotiating modalities for LDCs in the area of services to ensure that WTO Members would take the special situation of LDCs into consideration when negotiating with them. The text also highlighted the need for WTO Members to open their services markets as a priority in sectors of interest to LDCs. A bit more than two years later, further developments on the matter were reflected in the 2005 Hong Kong Ministerial Declaration, where WTO Members agreed to “implement the LDC modalities and give priority to the sectors and modes of supply

of export interest to LDCs, particularly with regard to movement of service providers under Mode 4”.

After several years of discussions on how to effectively implement those LDCs modalities, trade ministers finally adopted on 17 December 2011 a waiver to enable developing and developed-country WTO Members to provide preferential treatment to services and service suppliers originating in LDCs. The Waiver, initially granted for 15 years from the date of adoption, releases WTO Members from their legal obligation to provide non-discriminatory (MFN) treatment to all trading partners (GATS Article II), when granting trade preferences to LDCs. It effectively operates as a new LDC-specific “Enabling Clause for services”.

Two years later, with no progress made, Ministers came back to the issue with a subsequent decision on the ‘Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least Developed Countries’, adopted on 7 December 2013 at the Ninth Ministerial Conference in Bali. That decision established a process which foresaw that a High-Level Meeting – an idea akin to that of the Signalling Conference of 2008, or a pledging conference – would be held six months after the submission of a Collective Request by the LDC Group. After significant research, the LDC Group developed the Collective Request and circulated it to WTO Members in July 2014, followed by the High-Level Meeting in February 2015, at which WTO Members agreed that those intending to grant preferences under the Waiver would follow up by submitting specific and detailed notifications of their intended preferences by July 2015.

Building on this success, the Nairobi Ministerial Conference in 2015 adopted the decision to extend the Waiver until 31 December 2030. The decision encourages WTO Members that have not notified preferences to do so, and WTO Members that have notified one to provide technical assistance and capacity building in order to allow LDCs to actually benefit from the preferences granted. It also asks WTO Members to address regulatory barriers as defined in GATS article VI:4 and mentions tasks to be fulfilled by the Council for Trade in Services (CTS) for a quicker and more efficient implementation of the notified preferences.

Since its adoption, the Waiver has been a catalyst for a growing discussion and growing awareness among policy makers, service suppliers and other

stakeholders both from and in LDCs and from and in many other countries that import services from LDCs, or may do so in the future. Twenty-four WTO Members have so far taken the next step and notified the lists of preferences they grant to LDC service providers and services under the Waiver. For now, this discussion process at the WTO has become a permanent feature of the proceedings in the CTS. One element of that discussion has been the attempts to evaluate the ‘value’ of the preferences offered.

But the task at hand for all those interested in LDCs and their services trade integration is arguably much greater than that. The Waiver is a legal tool that enables WTO Members to sidestep the otherwise applicable MFN obligation when granting preferences to LDCs. As such it only enables preferences, but neither requires WTO Members to grant them, nor provides them with specific ideas or tools to devise smart mechanisms that actually facilitate, and perhaps even support, LDC exports into their markets.

This paper stands in the context of efforts to assist all stakeholders in doing precisely that: Identify, design and implement smart mechanisms to facilitate LDC services exports. It aims to make a contribution to the process stimulated by the LDC Services Waiver, but not exhaustively covered by that tool or the specific processes around it. The goal must be to come to an integrated, holistic debate and development process where the needs are fully understood, and tools are used in the most constructive, creative and productive way.

Building on a study “LDCs Services Waiver – Operationalized?” that was commissioned by UNCTAD in 2016, this current analysis presents and reflects on the pilot review, undertaken in late 2017, of Zambia’s services trade and its interests under the Waiver. By taking a look at a selection of Zambia’s services and service providers, and the issues they encounter in their export markets, the study aims at providing a start into the next phase of the ongoing discussion process. Thus, taking the Waiver process as a context, it is now needed to look at the specific situations of service providers on an LDC-specific basis, consider specific issues encountered in export markets, and devise specific responses, whether incremental improvements or complete solutions, to these challenges.

C. PREFERENCES NOTIFIED BY WTO MEMBERS – A SUMMARY ASSESSMENT¹¹

At the time of writing 24 WTO Members have notified preferences under the Waiver to the WTO, including all developed but also many developing country WTO Members: Australia; Brazil; Canada; Chile; China; European Union; Hong Kong, China; Iceland; India; Japan; Liechtenstein; Mexico; New Zealand; Norway; Panama; Republic of Korea; Singapore; South Africa; Switzerland; Taiwan Province of China; Thailand; Turkey; United States; and Uruguay.

Categorizing, counting and assessing the preferences contained in the 24 notifications so far is a complex task requiring multiple choices that can affect statistical outcomes and other findings. With that caveat in mind certain careful observations on the – by our count well over 2000 preferences – can be made.

- **Rising Above the 2006-2008 Doha Development Agenda (DDA) Offers:** Almost half of the preferences promised to LDCs now go beyond what was offered a decade ago to all WTO Members. In another 40 per cent of the cases the preferences correspond to the DDA offers. Only 12 per cent remain below that threshold. While that is encouraging in that it reflects a willingness of WTO Members to engage seriously in the challenge to design services preferences and make the Waiver work, most of the DDA offers from a decade ago already reflected and applied MFN treatment rather than new, improved Market Access or National Treatment. It is fair to assume that at least half of the preferences – those that are either equal or less than the DDA offers – reflect currently applied MFN treatment or less, *i.e.*, no actual preferences for LDC services and providers, and no additional market opening vis-à-vis the *status quo ante*.
- **Getting close to the “Best Preferential Trade Agreement (PTA)” Level:** Preferences already offered under PTAs are politically and technically tested. Their extension to LDCs under the Waiver was therefore a logical demand enshrined in the 2013 WTO Ministerial Meeting’s ‘Operationalization Decision.’ Over two thirds of the preferences promised in the 24 notifications correspond to what the respective WTO Members have granted to third parties under recent PTAs. Almost one quarter of the notified preferences seem to provide even better treatment to LDC services and service

providers. That finding, however, may be affected by the choice of comparator PTAs and other factors, and should be used with caution.

- **More than demanded in the Collective Request? Yes, but...:** A simple count suggests that 46 per cent of the notified preferences go beyond what was specifically demanded in the 2014 Collective Request. That, however, is arguably misleading. Over one third of these ‘CR plus’ preferences are in the – mostly meaningless – Mode 2, which the LDCs mostly left out of their request, presumably in order to steer the focus towards the more important other modes. Second, many of the preferences are arguably covered by the general list of services and activities of interest annexed to the Collective Request. Third, the fact that preferences are offered in sectors/modes not asked for may also in part reflect a choice by preference grantors to ‘boost’ their packages by adding more easily feasible but less relevant preferences.
- **Most preferences cover market access.** Only about 15 per cent cover National Treatment, with very few providing preferential regulatory treatment. This is arguably the biggest weakness of the notifications so far.
- **Uneven sectoral distribution.** By far the most notified preferences are in Business Services (including professional, IT and many other services), arguably corresponding to a focus of the Collective Request. The second largest number concern transport services, also important are recreational, cultural and sporting services. Arguably disappointing is the small number of preferences in tourism, construction, health and education services, all with significant export potential for LDCs.
- **Modes almost equally distributed, with Mode 4 being the strongest.** Rather encouraging is the notifying WTO Members’ response to the LDCs’ expected strong emphasis on Mode 4. One third of the preferences – as counted here – concern Mode 4. This effect is however to some extent linked to the counting method applied, where improved horizontal commitments are counted per each sub-sector to which they apply. This leads to a multiplication effect, but arguably appropriately so, as improved horizontal commitments in Mode 4 – for example, a new category such as CSS and/or independent professionals – do indeed apply their effect in all sectors covered.

- **Degrees of liberalization: A mixed picture.** Almost half of all notified preferences are full commitments ('none') – almost one third of which, however, are in Mode 2. Often partial commitments however may in fact be the most interesting ones, as they reflect efforts to carefully craft access opportunities in cases where barriers exist, but their prevalence also suggests that there is room for improvements in the future.
- **Some WTO Members offer big, some small packages.** While some of these variations may result from scheduling techniques and/or the counting method applied here, large discrepancies remain in any case. Chile, the European Union, Iceland and Norway lead the table, with, Australia, Canada, India, Japan, Mexico, Switzerland and the United States forming a second group. Very few preferences were offered by China and Singapore. Brazil; Republic of Korea; Liechtenstein; New Zealand; South Africa; Thailand; Turkey; Uruguay; Hong Kong, China; and Taiwan Province of China each offer a small selection of preferences, often however seemingly carefully selected. However, numbers don't necessarily imply quality. Selected, targeted and carefully designed preferences offered by WTO Members with existing geographical or other links to LDC markets may well offer more meaningful access to markets than large sets of commitments in less relevant sectors, less relevant modes, and/or less relevant geographical contexts.

Actual Preferences?

Unlike normal services trade agreements the LDC Services Waiver is, or was meant to be, about *actual preferences* – meaning: Real-life deviations from MFN treatment – and about *actual improvements for LDC services trade*. It remains unclear how many such actual preferences (*vis-à-vis* the previous practice) are contained or reflected in the notifications – finding out would require a comparison with applied regimes, something rather ambitious to do. Local academics and NGOs in particular would ideally fill this gap, bringing clarity to what remains to date an obscure situation.

That said, there has been significant progress with regard to data on applied regimes. While the WTO's and the World Bank's joint *I-TIP Services* database¹² began integrating applied regime data some time ago, it appears that recently new and much richer data has become available and is now being integrated into

the database. It is hoped that this will in future allow for at least some analysis of the Waiver and other preferences against applied regimes.

That said, "best practices" observed in existing notifications and preliminary lessons for future notifications would include the following:

Best Practices: Approach, technique and presentation

- **Comprehensive and systematic approach** proactively considering the complete range of services sectors, rather than a selected approach to 'cherry-picking' sub-sectors and modes of supply arguably, tends to generate more and more open-ended opportunities, better suited to respond to a very dynamic sector. That said, seriously targeted sets of preferences may be of high value as they may send equally targeted and concentrated signals, and hence make recognizable contributions to the development of LDC services trade as 'pilots' or 'bridgehead' commitments.
- **Clear identification of preferences vis-à-vis GATS MFN commitments** (ideally *vis-à-vis* applied MFN *treatment*, although no WTO Member made this step). Ideal would be a hybrid: A full schedule with LDC preferences highlighted. Iceland's notification does that to a large extent.
- **Clustering modes where possible.** Services are often provided in several modes within the same business relationship. For LDC service providers (as for SMEs generally) separating modes is often particularly difficult. It is therefore desirable for WTO Members to provide to the greatest extent possible market access across all/most modes of supply.
- **Using the flexibility of unilateral action to explore uncharted waters.** The Waiver offers the possibility of unilateral preferences but does not commit WTO Members to maintaining them indefinitely or indeed at all if and when found to be undesirable. This is in contrast to multilateral WTO or even bilateral FTA negotiations. Therefore, it seems unnecessary to exercise heightened caution in sectors and modes where the potential impact of LDC services would in any case be marginal for the importing country, but potentially interesting for LDC services exporters.

Best Practices: Substance

- **Taking Mode 4 seriously.** Among the most interesting potentials for LDC services exports are

improvements for exports through Contractual Service Suppliers (CSS) and Independent Professionals, often effective trailblazers for and components of primarily Mode 1-based business models, alongside Service Sellers and Business Visitors. While many WTO Members struggle with the challenge of integrating trade and immigration tools and mechanisms for this purpose, some have made a recognizable effort to make steps forward to facilitate *bona fide* services trade.

- **Taking regulatory issues (and possible preferences) seriously, creatively so.** Unfortunately, most WTO Members have so far shied away from exploring regulatory preferences, an approach that stands in some contrast to the express needs and desires of LDCs and the potentials enshrined in many qualification requirements and procedures, licensing requirements and procedures, and technical standards.
- **Targeted efforts in difficult or complex areas help in exploring possibilities.** India's explorations of limited but creative Mode 4 access for tour guides and language teachers from LDCs show the way towards serious detailed engagement with LDC services issues. The LDC Services Waiver indeed provides the opportunity to expand trade in services by exploring better solutions for SME providers, and should be welcomed as such. This will be for the benefit of LDC providers as well as possibly others, but without detracting from the former.

Lessons Learned

- **The squeaky wheel gets the grease.** LDCs have been proven right in their approach to confront WTO Members with very specific requests. This should be kept up, as there's much room for improvement in how LDCs services and service providers are received.
- **Format influences content: The problematic use of the schedule format.** WTO Members (including LDCs themselves) seem to gravitate towards using the tools and mechanics they know rather than those that fit the task. The use of the GATS (or other) schedule format has had two unwelcome effects. First, many delegates and observers often find themselves discussing commitments rather than applied measures. While this works comfortably in trade negotiations, it

risks reducing the Waiver's operation to very little. Its function is to enable WTO Members to grant *actually applied MFN-violating preferences*. A promise to apply treatment that is actually granted to all on an MFN basis means something in FTAs, but nothing under the Waiver; such treatment does not require any deviation from MFN, hence does not need the Waiver, and should not count as its operationalization (even if intelligent and / or overdue MFN liberalization stimulated by reflections on preferences is welcome as long as they actually respond to LDC services exporters challenges). Second, the schedule format has allowed – if not enticed – WTO Members to largely abstain from granting regulatory preferences, despite a number of specific (and realistic) requests in the Collective Request. This is unfortunate and should be avoided in future – not necessarily by abandoning the format, but by challenging its completeness.

- **Applied MFN vs. actual preferences.** Many misunderstandings still intact. Much of the discourse gravitates towards a consideration of 'commitments' instead of actually applied preferences. In many cases this is because the discourse never left the comfort of the known context. More awareness raising is required. Active usage of the notified preferences and systematic feedback can make a significant contribution over time.
- **Forward-looking approach.** While the requests so far have chiefly focused on areas of current export interest to LDCs, it is also important to seek for preferences in sectors that will contribute to longer-term development goals, including by contributing to diversification and upgrading. This means that LDCs, in addition to build on their existing comparative advantages, also need to challenge them and strive for new avenues and build new comparative advantages. Along this line, data on services value-added in all sectors, which is still scarce in LDCs, could be informative to evaluate what are the services sectors that are contributing more to overall productive capacity, productivity and competitiveness. This is important to expand the debate on development options, revealing that services are not an alternative to agriculture or industrial development, but instead they should be a key element of strengthening agriculture and of industrialization strategies.

D. PREFERENCES NOTIFIED AND ZAMBIA'S SERVICES EXPORTS: APPROACH

The effective value of the preferences for LDC services exports is under discussion. LDCs and other WTO Members are engaged in an ongoing dialogue at the WTO's Council for Trade in Services. A small number of studies have looked at some of the issues, including the mentioned study commissioned by UNCTAD (DITC) in 2016, whose main findings were already reflected, which took a reasonably detailed look at the notifications and juxtaposed them with what LDCs had asked for through their 2014 "Collective Request".

The 2016 study also recommends that a more systematic and detailed monitoring exercise be conducted, ideally regularly, considering the perspectives of services exporters. The present case study serves as one of the pilots for that exercise. It presents a summary of a pilot review conducted in Zambia aimed at reviewing the implementation of the WTO Services Waiver, or rather: The underlying idea of improving effective market access for LDC services.

Taking a bottom-up approach the case study looks at Zambia's services exports, the relevance of the notified preferences for these exports, and possible gaps and opportunities for further development of mechanisms for improved effective market access and its utilization by all LDC services exporters, and by Zambia's services exporters, in particular. Focusing on sector(s) of particular export interest to the country, this case study assesses, where appropriate on an anecdotal basis, whether and to what extent the preferences granted respond to the market access, regulatory and other barriers experienced by services exporters from Zambia in their export market(s) of interest. By doing so, the analysis aims at identifying existing gaps and proposing options for further improvements.

This pilot analysis relies on desk research combined with brief and compact in-country consultations held with services exporters, services regulators,

representatives of relevant government agencies and representatives of services related business associations.¹³ It aims to bring together what knowledge is available to allow an instructive picture to emerge.

Based in particular on anecdotal research this paper takes a hard look at Zambia's current and emerging interests in terms of services exports and hence in the related – potential - removal or modification of barriers encountered in its export markets under the LDC Services Waiver. These interests are then juxtaposed with the preferences on offer, both directly (Does any preference granted respond to the needs or desires identified?) and indirectly (Are there other positive elements in the notified preferences?) with a view to identifying both remaining gaps and useful achievements.

A word of caution is needed: This exercise remains by its nature necessarily a limited one, a work in progress that should stimulate further, progressively broader and deeper engagement by LDC governments, stakeholders and friends on the subject of services exports, the obstacles encountered and the solutions to be sought. Its bottom-up approach looking for the real-life example of barriers to services trade by those who know: The services providers affected. Identifying those stories is a challenging exercise, but it remains without alternative: It is those stories that identify the obstacles to be removed, as usable data on export interests and obstacles encountered are hardly available, often in the form of anecdotes.

The purpose of this paper is to generate insights into pertinent challenges to LDC services exports in their export markets, and potential measures that could make a contribution to addressing those challenges. This paper is thus not a "study" on the services sector in Zambia as such; rather, it is a collection of useful anecdotal evidence from a few selected sectors of export interest that serves to understand the bigger picture in order to pave the way for a more meaningful operationalization of the LDC Services Waiver.

Box 1: Services data – A caveat

When considering services trade data, it is important to note that current statistics in many countries, not least LDCs, rarely capture with any accuracy what is actually happening. This reflects both the secondary attention accorded to services trade and the objective difficulties in collecting and collating the relevant information. These difficulties include:

- First, unlike trade in goods, usually no physical commodity crosses the border, and hence can be observed, counted and measured. Balance of payments (BOP) statistics provide some help, but the collection of traditional BOP statistics primarily relies on measuring cross-border transfers of money, and hence does not “see” the actual transaction of the service that is being paid for. Even if the service provider can be identified as the recipient of the payment, it is often not clear which service was provided (as the provider may provide different services), nor in which mode of supply. Modes 1, 2 and 4 will usually trigger international money transfers as provider and recipient are based in different jurisdictions, so bank or cash transfers across borders will happen and can thus be reflected in the BOP. However, central banks or statistics agencies have little means to tell which mode was actually applied – did the lawyer travel to the client, the client to the lawyer, or just the legal memo through the internet before the client made the bank transfer to the lawyer?
- The picture is further complicated for purposes of accounting the value of services provided by natural persons (Mode 4) who stay for a period that is longer than a year in the export market. Those are usually treated as residents of the host country while under the GATS they are still considered as Mode 4 services providers beyond this period - for example as intra corporate transferees staying for 2-3 years. Remuneration for services provided by (resident) natural persons often appear only as net of costs in the form of remittances in the BOP statistics, effectively underreporting the value of services.
- Second, sectoral classifications traditionally used in BOPs are largely out of synch with categories usually used in trade policy, making it difficult for policy makers to use BOP data for many sectors, even if such data are available, as they will often be too aggregated. Much work has been done to advance convergence, but until today services trade statistics remain mostly unusable for trade policy making and trade negotiations.
- Third, Mode 3 is almost entirely under the BOP radar screen as it triggers local, not international payments (from a local service consumer to a foreign-invested, but locally established provider). The needed Foreign Affiliates Trade in Services Statistics (FATS), both inbound and outbound, are difficult and tedious to establish, and most developing countries do not even try. As a result, Mode 3 services provision goes largely unmeasured, except to the extent that it appears as part of FDI statistics.

All these (and some more) issues have long been recognised, and a group of international agencies including among others the International Monetary Fund (IMF), EUROSTAT, the WTO and UNCTAD, has made significant efforts to compile recommendations and international best practices,¹⁴ but actual practice lags far behind.

The issue of services trade statistics, notably, is not exclusive to developing countries. Traces of the magnitude of the challenge are found almost as much in developed country resources and discourse. For example, a report by the United States Congressional Research Service on members of the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) looked at United States of America services trade with only eight of the eleven (non-United States) CPTPP parties because the United States Bureau of Economic Analysis (BEA) lacked individual data for trade with the others.¹⁵

This weakness of data has the understandable but odd consequence that more often than not the unavailability of data translates directly into a lack of awareness among those who otherwise tend to rely on data, such as administrative agencies, politicians and negotiators.

This effect is exacerbated in trade in services as many stakeholders (including businesses themselves) have only a shallow grip on the concepts and mechanics of trade in services. Finally, the sheer sectoral spread in services adds to the resulting confusion.

The result is a political and economic discourse that is sometimes perilously removed from reality. However, the fact that something is difficult to measure of course does not mean that it is not there. These observations and any exchange with service providers and their clients will make it clear that trade in services is a major reality, and an even bigger potentiality, for any economy. It is therefore incumbent on policy makers and other stakeholders to make every effort to ensure that the absence or paucity of data does not lead to misinterpretations. This requires an enhanced qualitative, as opposed to just quantitative, discourse, and arguably an even closer engagement with stakeholders than elsewhere.



SERVICES AND SERVICES TRADE IN ZAMBIA

A. THE ECONOMY – A SNAPSHOT

Zambia is a Southern African landlocked country sharing borders with Angola, Botswana, the Democratic Republic of Congo, Malawi, Mozambique, Namibia and Zimbabwe. It is a member of both the Southern African Development Community (SADC) with 15 members and the Common Market for Eastern and Southern Africa (COMESA) with 19 members. The Zambian capital, Lusaka, is the seat of the COMESA Secretariat.

Zambia's economy is growing, and although primarily known for its mineral extraction industry and its physical products, it has its eye on services. Even though GDP growth in real terms was around 3 per cent in 2015, a figure lower than in the preceding five years, Zambia's economic growth is still above the regional average.¹⁶ Between 2016 and 2018, annual growth remained between 3.5 and 3.8 per cent.¹⁷ Growth has mainly been supported by large infrastructure development, the recovering mining sector with exploration investment flowing into resources other than copper, and the agriculture sector. Much of the economic activity around this growth relates to services, including construction, engineering and transportation, but also professional services more broadly, other infrastructure services including insurance and other financial services, and many others – not least retail and business tourism.

Mining, Agriculture, etc.

The mining industry is one of the most important economic sectors in the country. As the world's

seventh largest copper producer, Zambia exports copper and cobalt products, which account for about 70 per cent of its exports¹⁸ and about 6 per cent of global copper supply.¹⁹ Other mineral deposits include nickel, manganese and non-metal resources such as coal and uranium.²⁰ In addition, following Angola, the Democratic Republic of the Congo and South Africa, Zambia attracts the greatest foreign direct investment (FDI) inflows in the SADC region, most of which related to the mining sector.²¹

Other economic sectors have also been growing in the last years. Construction, for instance, thanks to public infrastructure projects and investment in commercial buildings and residential housing, towing cement production, which increased at an estimated 10 per cent in 2018.²² Although Agriculture's economic importance in relation to other industries seems to wane over the years, it remains the largest employer. The majority of the labour force are small-scale farmers or family members engaged in subsistence farming of row crops, cattle and other livestock for local consumption.²³

B. SERVICES

Services contributed above 56 per cent of Zambia's GDP in 2016, marking a recovery from a dip in 2005 of 47.96 per cent. In addition, as illustrated in the Table 1, services have steadily contributed to the economy – with the exception of the decline in the 1990s and in 2005.

Table 2 highlights the growth of the services sector from \$3,473 million in 1980 to \$15,172 million in 2016, with a major upturn in the last 10 years.

Table 1: Sectoral contribution in Zambia's gross domestic product, 1980–2016
(in percentage of gross domestic product)

Sector	1980	1990	1995	2000	2005	2010	2015	2016
Agriculture	15.07	17.42	16	18.27	16.13	9.973	5.25	6.53
Industry	42.14	51.27	38.9	26.83	29.7	34.12	35.31	36.6
Services	42.79	28.12	45.03	54.15	47.96	55.9	59.4	56.8

Source: World Bank, World Development Indicators.

Table 2: Trends in Zambia's gross domestic product and its sectoral composition, 1980–2012 (constant 2010 \$ billion)

Sector	1980	1990	1995	2000	2005	2010	2015	2016
Total gross domestic product	7.563	8.388	8.274	9.882	13.351	20.266	25.319	26.99
Agriculture	1.433	1.823	2.318	2.347	2.186	1.909	1.907	1.978
Industry	2.434	2.798	2.304	2.424	4.172	6.533	7.91	8.351
Services	3.473	3.218	3.04	4.423	6.24	10.702	14.758	15.172

Source: World Bank, World Development Indicators.

As to the contribution of service sectors to the Zambian economy, available data suggests that construction, transport and communication, travel, business and education services are among the key contributors to the country's GDP. In particular, in comparison to other SADC countries and other LDCs, education services

and business services are of relative importance with 8.8 and 8.6 per cent GDP value addition while hotel and restaurant services play a relatively marginal role with only 2.9 per cent sectoral GDP share, compared to 10.9 per cent in the United Republic of Tanzania and 20.5 per cent in the Seychelles.²⁴

Box 2: Services trade statistics: Zambia as a high achiever

While services trade statistics generally, and in LDCs in particular, are notoriously incomplete, unreliable and often somewhat misleading (see Box 1), this applies to Zambia much less than for others, thanks to its statistical agencies' approach.

The Bank of Zambia not only migrated to the BPM6 standard some years ago²⁵ – a step that even some middle-income countries' central banks have not yet completed, – it also applies the recommendations of the MSITS (2010). The business surveys conducted on a quarterly basis include several questions on services, and the country's Balance of Payments Statistical Committee publishes inward FATS – Foreign Affiliates Trade in Services statistics, an approximation of 'Mode 3' services trade.²⁶

With the general caveat on services data in mind, some observations will nonetheless be helpful in illustrating Zambia's situation for purposes of this study.

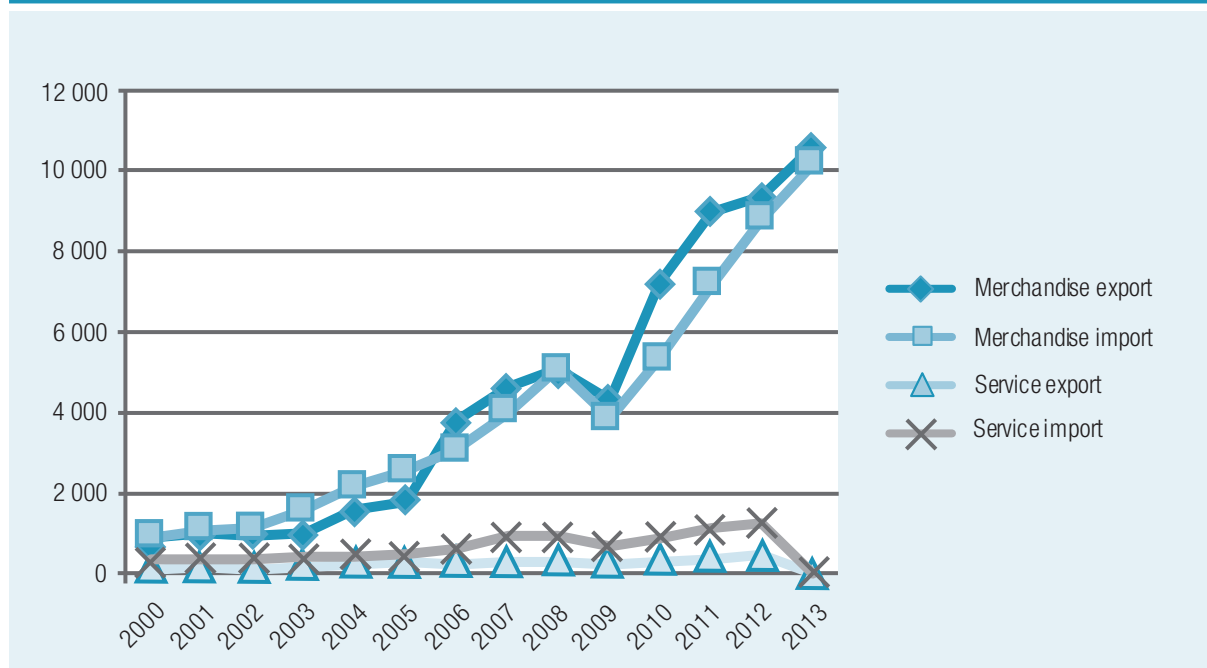
Figure 1, reflecting trade statistics for the period 2000–2013, illustrates a relatively low importance of Zambian services trade compared with trade in merchandise – but an immediate caveat applies: If 'Mode 3' were included, the correlations would look rather different. Note in this context that inward 'FATS' (Mode 3 imports) for 2015 accounted for a turnover of \$4.3 billion, with a net operating surplus of \$560 million.

With that caveat in mind, services trade's value addition relative to GDP (imports and exports/GDP) amounts to only about 8 per cent.²⁷ This is below the average of other neighbouring small economies

and LDCs such as the neighbouring Eswatini (27 per cent), Madagascar (23 per cent), United Republic of Tanzania (18 per cent) and Mozambique (18 per cent).²⁸ However, these low figures might well in part be a result of weak or inaccurate services data and statistics, as explained in Box 1.

The Bank of Zambia in its (for 2016: Preliminary) Balance of Payments exercise records exports of commercial services (including transportation and travel) of \$885.5 million in 2016, up from \$861.5 million in 2015 and \$850.9 million in 2014.²⁹ Overall Zambia remains a net importer of commercial services, but with both overall imports and the negative balance now progressively declining. The services trade balance was negative \$508.2 million in 2016, down from negative \$570.9 million in 2015 and negative

Figure 1: Merchandise and services trade of Zambia 2000–2013 (\$ at current prices in million)



Source: UNCTADstat.

\$793.5 million in 2014.³⁰ This appears to be a reversal of the trend over the preceding decade until 2013, which had seen a widening gap³¹ reaching a peak of almost negative \$1.1 billion in 2013.³² This, however, appears to have been at least in part due to significant imports of services that related to investment, such as management consulting services, which shot up by around \$300 million that year.

The main sub-sectors for exportation of commercial services – other than transport or travel, by far the biggest contributors in terms of recorded statistical value – are communication, cultural, business and insurance services. Especially business and cultural services exports are above the regional average. These data sets, as presented in Table 3, however, do not include information on construction services and computer and information services and may thus be inflated.³³

Extending the contemplated matter to Zambia's service imports, Figure 2 provides an impression of the relative weight values of export and import in some services sectors and sub-sectors.

It is important to keep in mind the limitations of these numbers. Professional services, including classical professions – not least Zambian export of medical (doctors, nurses, midwives) services, accounting services and IT-related services, appear to be underrepresented. The same would apply to education and health services, including those provided to citizens of neighbouring countries in localized cross-border transactions.

A 2017 study commissioned by the Commonwealth Secretariat and the COMESA Secretariats identifies four broad sectors as reflecting export (growth) potential, namely: Transport; personal culture and recreation services; insurance and pension services; and computer and information services; without, however, excluding others.³⁴

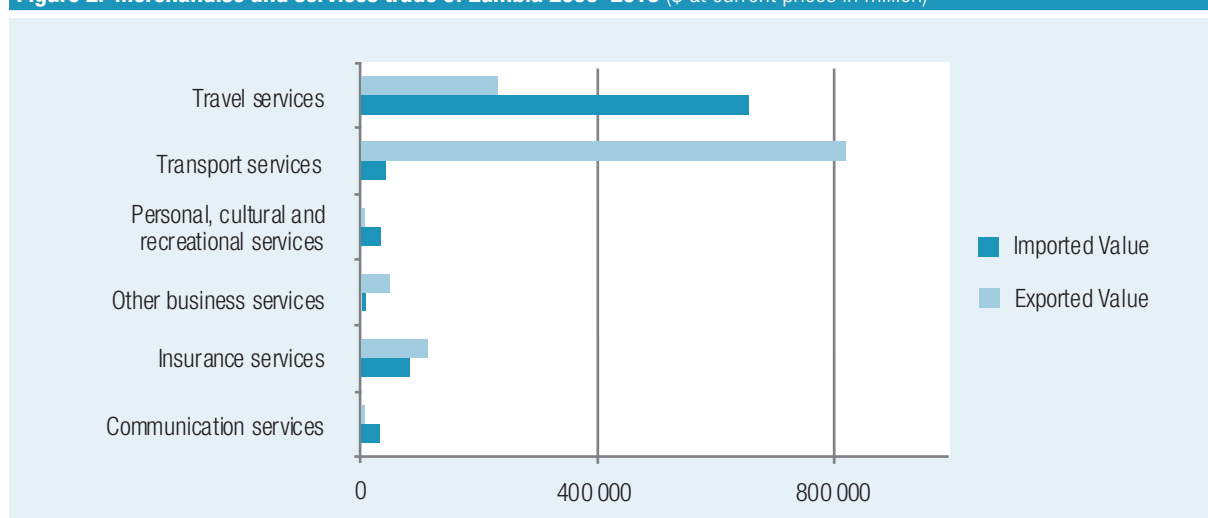
In relation to employment, services not only create more jobs in the formal sector than other economic sectors, but also contribute to SMEs job creation. From 2000 to 2013, services contributed an average of 69 per cent to total employment. As of 2013, 713,000 workers were employed in the services sector.³⁵

Table 3: Value and share of exports for different commercial service subsectors in Zambia, selected years
(\$ million and per cent)

Sector	2000		2005		2010		2015	
	Value (\$ million)	Share (%)	Value (\$ million)	Share (%)	Value (\$ million)	Share (%)	Value (\$ million)	Share (%)
Commercial Services	120.16	100.0	296.3	100.0	345.3	100.0	861.512	100.0
Transport	42.6	35.5	85.9	29.0	151.9	44.0	43.655	5.1
Travel	66.5	55.3	98.4	33.2	124.6	36.1	660.15	76.6
Other commercial services	5.91	4.9	89	30.0	34.4	10.0	-	0.0
Communications	0.06	0.1	12	4.1	23.1	6.7	32.947	3.8
Construction	-	0.0	-	0.0	-	0.0	-	0.0
Insurance	5.09	4.2	8	2.7	7.3	2.1	84.052	9.8
Financial services	-	0.0	-	0.0	-	0.0	-	0.0
Computer and information	-	0.0	-	0.0	-	0.0	-	0.0
Royalties and license fees	-	0.0	-	0.0	-	0.0	-	0.0
Other business services	-	0.0	3	1.0	4	1.2	5.211	0.6
Personal, cultural & recreational services	-	0.0	-	0.0	-	0.0	35.500	4.1

Source: UNCTADstat and ITC, Trade Map.

Note: The shares in the table have been calculated after excluding "Government services n.i.e." The export value for Total Commercial services is estimated by UNCTAD, WTO and ITC.

Figure 2: Merchandise and services trade of Zambia 2000–2013 (\$ at current prices in million)

Source: ITC, Trade Map.

C. CONTEXT: SERVICES TRADE POLICY IN ZAMBIA

Zambia's policy makers and stakeholders have cultivated a healthy focus on services and services trade. The country's Commercial Trade and Industrial (CTI) Policy of 2009 emphasized the importance of services trade, and identified supporting the development of "services exports particularly in the tourism sector as well as other potential sectors", alongside the development of an enabling regulatory environment to support further investments. The CTI emphasizes the need to examine the export potential beyond tourism.

Services figured prominently on Zambia's agenda when it chaired the LDC Group in the WTO. As indicated, the country's statistical agencies' work on services trade data is in some ways exemplary, although some observers indicate that better communication between statistical agencies and policy makers could

help in putting unpublished and raw data to good use, including in the context of regional negotiations on services. Zambia is an active participant in four regional fora engaged in pushing forward services trade integration through negotiations, namely SADC, COMESA, the Tripartite Agreement and the AfCFTA.

A renewed focus on services exports is emerging, although some industry stakeholders indicate the need for more and more sustained consultation of stakeholders, including with regard to the ongoing regional negotiations. The Zambia Development Agency (ZDA), has recently upgraded its attention to services exports, and is working on enhancing services export promotion. A draft national export strategy is in the making which, reportedly, will contain important elements relating to services exports, based not least on SWOT analysis/es. Earlier governmental strategy documents already reflected reasonably prominently the ambition to develop exports (see CTI 2009) but have so far been short on specifics.



**SECTORAL REVIEW LDCs
SERVICES EXPORTS AND THEIR
INTERESTS UNDER THE WAIVER**

This section explores services of interest, related exports or export potentials, and obstacles encountered in export markets. It juxtaposes these obstacles with possible solutions that could be imagined to be implemented by importing countries, whether under the WTO Services Waiver or otherwise, and with the preferences actually notified by the 24 WTO Members that have come forward under the Waiver. This is done here on a selective, sometimes anecdotal basis, and hence remains illustrative, but is nonetheless already rather instructive.

A comprehensive, systematic, and periodic stakeholder-based if not stakeholder-led review, would be optimal, and would ideally be conducted periodically for each LDC. Short of that, a selective approach, like the one taken here, is instructive and useful as it will already generate interesting and relevant results, suggesting specific solutions for some issues and stimulating an overall targeted search for solutions for others.

A. INSURANCE SERVICES

1. Definition

'Insurance Services' are a sub-sector of 'Financial Services' in the Services Sector Classification often used in the WTO and in other trade contexts, grouped together with banking other non-banking financial services. The same WTO classification sub-divides insurance services into the following categories: Life, accident and health insurance services, non-life insurance services, reinsurance and retrocession services, and, services auxiliary to insurance (including broking and agency services). Insurance services are otherwise often broadly categorized into individual and corporate insurances, or in short-term and long-term insurances. Long-term insurances include, for instance, life, wealth creation, education and funeral insurances.

2. Insurance Services in Zambia

Insurance services in Zambia are mainly provided through small local insurance companies or subsidiaries of large South African banks, with the former taking the greater share. Insurance brokers are equally present in the market with local suppliers dominating the operations.

As of August 2016, there were three reinsurance companies, two reinsurance brokers, 22 general

insurance companies, twelve long-term insurance companies, 45 insurance brokers and 223 insurance agents registered with the Pensions and Insurance Authority (PIA).³⁶ The vast majority of these actors are Zambian nationals.

In accordance with a 2005 law, insurance companies in Zambia are sub-divided into long-term and short-term insurers, with long-term insurance being classified as those that insure human life while short-term insurances cover any other good.³⁷ As a consequence of this regulation, a number of larger companies split their businesses, resulting in a fairly large number of new life insurance companies. Insurance brokers may provide services on both.³⁸

The national insurance companies and brokers offer most standard long-term and short-term and private and commercial service. While life insurance companies dominate the market in numbers,³⁹ having increased considerably since 2006 as a consequence of the new regulation (from six to twelve), general insurance products are more widely used. Vehicle and property insurances take the greatest share while agriculture and goods in transit insurances are also increasing.⁴⁰

Business insurance packages such as comprehensive engineering insurance or financial bond covers, however, are mainly offered through foreign companies' local subsidiaries.⁴¹

Zambia has one of the lowest levels of financial inclusion worldwide. In 2009 only 13.6 per cent of the population had access to insurance and only 4 per cent was actually insured.⁴² These numbers have slightly increased in the past years. As of 2015, only 14.2 per cent of Zambians had access to insurance and 5.5 per cent of them were actually insured.⁴³ For comparison, in Lesotho 61 per cent of the population uses insurance products, and more than 60 per cent of them (37 per cent of the total population) use formal insurance services.⁴⁴ According to FinScope, lack of information is the major barrier to insurance services; about 88.3 per cent of Zambian adults have never heard of insurance.⁴⁵

On the other hand, the sector has witnessed great growth levels of above 20 per cent per annum in assets over the past few years. In 2015, the industry recorded an overall increase of 18 per cent in terms of gross written premiums (GWP), which in monetary terms accounts for K1.38 billion (\$208 million approx.).⁴⁶ Most of the expansion, however, is due to increasing

premiums by existing clients, rather than new clients and new products.⁴⁷ The mentioned low awareness and overall limited coverage of the population alone suggests significant growth potential.

Reliable data on insurances exports are available since 2000, when it was estimated to be \$5 million, accounting for nearly 4.5 per cent of total services exports. In 2015,⁴⁸ insurance exports accounted for 9.8 per cent of total commercial services exports as recorded in the country's Balance of Payments, with around 90 per cent of those being re-insurance services.⁴⁹ (These data, it bears repeating, do not account for exports in Mode 3, by far the most common for insurances other than re-insurance, which often operates on a cross-border basis.)

Zambia exports insurance services in Modes 1 and 3 primarily to regional markets. One of the major exporters is Madison General (MGen), which as of 2014 shared 16 per cent of the general insurance market in Zambia. The company is a subsidiary of Madison Financial Services Company Limited and underwrites all classes of short term or general insurance business. It has been exporting short term insurance services to the United Republic of Tanzania since 2006 through its branch there – MGEN Tanzania, is now also present in Rwanda, and is considering branching into other regional markets including Zimbabwe and the Democratic Republic of the Congo.⁵⁰

Another exporter of insurance services is Prima Reinsurance Plc (Prima Re) – the first Zambian reinsurance company certified with the highest rate (A) by Global Credit Rating Co. (GCR), an international rating standard, and the only Zambian-owned reinsurer in the country. The company, just a decade after its establishment, considers all of Africa its target market (except Egypt and South Africa, for business reasons) and by now exports reinsurance services to around 20 African markets, primarily SADC and COMESA countries, but recently also West Africa. The company explores markets primarily through insurance brokers operating locally in these markets (Mode 1).⁵¹

3. Barriers encountered, possible preferences, and actual preferences notified

Barriers Encountered

Insurance services, like other financial services, are subject to heavy regulation and oversight in most

countries, the primary objectives being to ensure the stability of the sector and to avoid market failures – both risks can entail far reaching implications for the entire economy.

WTO Members therefore reserved themselves significant regulatory flexibility under the GATS – the so-called 'prudential carve-out' in Section 2 of the Annex on Financial services – to regulate the sector for prudential reasons even where such regulations have an impact on market access or are even discriminatory. While WTO Members will not be willing to grant exceptions from measures deemed necessary for prudential reasons, even within prudential regulations there may sometimes be space for flexibilities in favour of LDCs and other preferred trading partners (such as FTA partners) as long as such flexibilities do not affect the prudential function of the regulation.

Classically, barriers to trade in insurance services include entry requirements (e.g. in the form of licensing requirements), minimum capital requirements, actuarial and auditing requirements (e.g. financial reporting), and requirements pertaining to the investments of insurance companies.

Reinsurance: National and regional quotas

Some countries impose additional restrictions on international trade in long-term insurance and/or reinsurance to reduce the outflow of premiums for reinsurance from the country. This includes many African countries (hence export markets for Zambian insurers and reinsurers), some of which apply combinations of restrictions.

This is uncontroversial for the share reserved for the African Reinsurance Corporation – Africa Re – which was established in 1976 by African states to preserve reinsurance premiums and reduce the outflow of foreign exchange from the continent. The currently 41 African members of Africa-Re require national insurance or reinsurance institutions to place a minimum of five per cent of their re-insurance cessions with Africa-Re. In addition, many African countries including Kenya, Rwanda, Uganda, Ethiopia, Ghana and Zimbabwe require national insurances to place a mandatory share of reinsurance premiums with national re-insurance institutions. Such national quotas may be combined with regional quotas, e.g. for re-insurance companies from COMESA members.

There appears to be a significant trend across the region towards tightening (increasing) such

restrictions, which industry players perceive – at least in part – as strongly protectionist rather than prudential in nature. Zambia itself has so far resisted this trend and remains entirely open to foreign re-insurers. All the more remarkable, then, that Zambia maintains a slightly positive trade balance in reinsurance services (around \$4.1 million in 2015, with around \$74 million in exports and around \$70 million in imports).⁵²

In GATS legal terms these national/regional quotas represent a market access restriction as they place limitations on the total value of service transactions (on Modes 1 and 3). The requirement to place the reinsurance premiums with national reinsurance institutions is also a national treatment limitation, the regional preferences an MFN limitation.

Withholding tax on reinsurance premiums

Some countries, such as Zimbabwe or Ghana, reportedly apply a withholding tax on reinsurance outflows, in an effort to keep premiums in the country. This functions as a national treatment limitation, in particular in some cases where there's no corresponding local tax.

Local partner requirements and equity limitations

Stakeholders further reported market access limitations on Mode 3 in the form of local partner requirement and participation of foreign equity in some regional markets, such as Kenya and the United Republic of Tanzania.

Restrictions on Mode 2 for life insurances (China)

In earlier consultations stakeholders had reported market access restrictions on purchasing life insurance for Chinese nationals from foreign insurance companies (market access restriction on Mode 2). Given the magnitude of China's investments in Zambia in construction and infrastructure development projects, the involvement of Chinese workers in these projects and the risks associated with the construction industry more generally, relaxing these restrictions would potentially offer opportunities for Zambian providers of life insurance services. Recent consultations do not confirm that the problem – the lack of Chinese workers taking out local life insurance – is in fact a regulatory one imposed by China. It may be a reflection of an arguably bigger challenge, namely that Chinese-financed projects in Zambia,

many of them of major importance, usually “come fully insured” and hence provide limited opportunities for local insurers.

Employment of foreign managers and specialists (Mode 3, Mode 4)

Stakeholders also report market access restrictions in regional markets, such as the United Republic of Tanzania, in the form of limitations on the total number of foreign natural persons that may be employed (market access restriction on Mode 4 in connection with Mode 3), and/or in the form of refusals to grant work visas/work permits. This also – and in some cases apparently: Particularly – applies to managers, board members and even general managers. This poses significant challenges for companies working through Mode 3 establishments in their target markets. Stakeholders also reported that these limitations are sometimes imposed in an *ad hoc* manner – including through the refusal to extend existing work permits – thereby creating difficulties for the foreign insurance companies to react and properly plan their human resources especially in markets where local competencies might require training before undertaking the tasks of the foreign staff.

Domestication of certain insurances, such as “marine” (transport) insurance

Some countries in the region – an example mentioned is Kenya – have begun to make the local insurance of imports and exports compulsory. This creates *de facto* exclusive, but in any case captive, markets for national insurers in these countries, hence a national treatment challenge.

Other local insurance requirements

Similarly, some countries appear not to allow, *de facto* or *de jure*, the insurance of Zambian assets abroad by Zambian insurance providers (something they would be allowed under Zambian law to do, which as a rule restricts their operation to local assets). This would amount to a market access limitation.

Possible Preferences

Possible measures that could be devised as preferences for LDCs under the Waiver to address the challenges encountered would thus include the following:

- Provide national treatment for LDC providers of reinsurance services for purposes of receiving mandatory reinsurance premiums;
- Provide preferential treatment for LDC providers of reinsurance services for purposes of receiving mandatory reinsurance premiums;
- Create an LDC quota for LDC providers of reinsurance services for purposes of receiving mandatory reinsurance premiums;
- Exempt LDC reinsurance and life insurance providers from otherwise applicable withholding tax on their products;
- Remove local partner requirement for LDC providers of insurance services;
- Remove or relax market access limitations for LDC providers of insurance services, especially those related to the form of the legal entity and the participation of foreign capital;
- Remove or relax market access restrictions on the consumption abroad of life insurance services provided by LDC insurances, generally or for cases of personnel temporarily stationed in the respective LDC market;
- Relax market access limitations on the total number of (foreign) natural persons employed by LDC providers of insurance companies;
- Facilitate the granting of work permits and the renewal of work permits for natural persons employed by LDC insurance companies, including specifically managers and specialists; and
- Allow LDC insurance service providers, including of marine insurance products, to cover risks otherwise subject to domestication or other national preferences (preferential market access, national treatment).

Preference notifications by WTO Members: To what extent they respond to the needs?

There appears to be little correlation between the challenges identified and the preferences notified so far under the LDC Waiver.

- **Relevant African regional markets not covered by Waiver notifications.** The target exports markets of the Zambian insurance and re-insurance industry are mainly African countries, with the exception of special cases such as life insurance for foreign workers. This appears to remain the primary model for the foreseeable future. With the exception of South Africa, no African country, developing country or LDC, has offered preferences under the LDC Waiver so far. While many of the relevant challenges identified may be equally or better covered under existing or future regional integration agreements, there may still be space for useful LDC-only, unilateral and more easily revocable preferences under the WTO Waiver to address issues that are not resolved under regional arrangements. This may be interesting, for example, in the case of national or regional reserved quotas

for reinsurance contracts. There the objective of the measure in some cases may be to stem the otherwise massive outflow of reinsurance premiums to powerful, more developed regional players such as South Africa, an objective that would not be jeopardized by opening up national quotas to much weaker LDC players. As the Waiver would allow for this to be done on a more flexible basis than under regional treaty arrangements, the tool offers additional flexibility that could encourage countries to apply preferences even on a 'trial basis'.

- **Six notifications do address insurance services.** These are the four EFTA states (Iceland, Liechtenstein, Norway and Switzerland), as well as Brazil and the European Union (for seven Members, namely Belgium, France, Germany, Italy, the Netherlands, Spain and the United Kingdom of Great Britain and Northern Ireland).
 - **None addresses problematic restrictions on reinsurance (such as national preferences),** possibly because these restrictions do not apply in the respective markets.

- **A few commitments making residency requirements of directors more flexibly are explored in Norway's and Iceland's notification.** Norway usually reserves the right to require half of all directors of mutual insurance companies to reside within Norway or the EEA. The notification foresees the possibility of ad hoc exemptions for this requirement, granted by a ministry concerned. The usefulness of this model is arguably very limited, not least because most LDC exporting insurances would not be mutual insurances. However, the small flexibility – the possibility of an ad hoc exemption – may still be of interest as a 'better than nothing' approach. While its usefulness in any given case presupposes that there's sufficient administrative/political will to apply flexibilities (*i.e.*, grant Zambian/LDC insurance companies the exemption from residency requirements), there may be cases where to apply flexibilities in an LDC-only basis, perhaps under conditions, while keeping it in place for insurances from bigger, more developed countries. Iceland's notification contains a similar flexibility: Insurance intermediaries must normally be resident in Iceland, but the Minister of Economic Affairs may grant exemptions from this requirement.⁵³
- **The European Union's notification contains, for seven Member States, an opening for direct insurance provided in Modes 1 and 2 for "maritime shipping", covering the goods shipped as well as vessels, as an exception to other direct insurance products which are usually "unbound" in Modes 1 and 2 (hence no market access/national treatment promised).** Such an opening, if offered by Zambia's neighbours, especially those through which goods are delivered to and from the landlocked country, would operate as an exception to the otherwise emerging trend of domestication of shipping insurances, as suggested.
- **Some notifications cover improved "Mode 4" access for managers and specialists on a horizontal basis, hence usually applicable also to insurance services.** This includes, for example, Norway's notification. While this does not address any specific limitations in terms of number or per centage of foreigners on the board of directors or similar, it would relate to general policies restricting work permits for foreign executives, managers and

specialists, which appear to be at the root of some of the issues mentioned by Zambian stakeholders. It bears repeating in this context that those issues would equally well be addressed by horizontal commitments applied on an MFN basis, which many WTO Members have indeed undertaken for executives, managers and/or specialists as subcategories of intra-corporate transferees.

There are, thus, no immediate benefits emanating from the notified preferences for this sector, both because relevant export markets are not offering preferences under the Waiver so far and because most sectoral preferences notified do not address the types of issues raised by stakeholders. Some, however, could serve at least as an example (the European Union, Iceland, Norway). Effective horizontal measures could help solve some of the "Mode 4" issues around work permits for executives, managers and specialists.

B. SELECTED PROFESSIONAL SERVICES

1. Definition

Under the WTO Services Sectoral Classification List – referred to as the 'W/120'⁵⁴ "Professional services" are listed as a sub-sector of "business services." The category of 'professional services', divided into ten sub-sectors, encompasses the classical professions (lawyers, doctors etc.) and other services offered by professionals with specialized higher education. Often these are organized in professional membership groups such as the bar associations or national medical associations which in many cases are endowed with self-regulatory functions and powers.

This section focuses on a selection of a sample subsectors including accounting and auditing services, architectural services, integrated engineering services, and services provided by nurses.

2. Professional Services in Zambia

For the 2014 Diagnostics Trade Integration Study (DTIS) conducted by the Enhanced Integrated Framework (EIF),⁵⁵ the World Bank engaged in a series of surveys on professional services in Zambia. Ninety per cent of the surveyed enterprises reported that they already use professional services, with 70 per cent of them using accounting and related services, and 50 per cent using engineering and legal services.⁵⁶ In comparison, the COMESA wide average of use

of professional services is only 78 per cent.⁵⁷ While large companies make a higher use of professional services, the survey revealed that 70 per cent of those surveyed were small companies.⁵⁸

The result is a high local demand for professional services that translates into a fairly developed professional services industry with many local players who dominate the market. This is further matched with good educational facilities and regionally competitive wages in most sectors.

The fairly competitive nature of Zambian professional services is reflected in the sector's export records. In 2011 Zambia's recorded exports of professional services amounted to \$4 million, marking a steady increase from \$3 million since 2006.⁵⁹ While this accounts for only 1.1 per cent of exports, it remains above the regional average in terms of real value.⁶⁰ These numbers likely do not include Mode 3 exports – which often are the preferred mode, with engineers and others operating through local establishments, often in combination with local partners. They are also likely to exclude a significant amount of informal trade, and some payments for professional services may not appear in the BoP for other reasons.

Imports, on the other hand, amounted to above \$100 million in 2011, marking a rapid rise from 40 million in 2009 and \$62 million in 2010.⁶¹

According to the EIF study, 18 per cent of all professional service providers export their services, with an average of 34 per cent of firms' revenue being generated through foreign trade.⁶² The COMESA average is 16 per cent and 20 per cent respectively.⁶³

All of the exporting companies rely on Mode 1 as their main means of export delivery. A much smaller yet still significant number of exporters supply services through the temporary movement of professionals (Mode 4), and an equally small number of exporters export via Mode 2 when foreign clients are visiting while only six surveyed companies reported that they maintain branches abroad.⁶⁴

The average COMESA country's main export markets are Sub-Saharan Africa, mainly other COMESA countries (82 per cent), and Europe. For Zambia, however, the share of exports to Europe ranges much higher than that of other COMESA countries with 45 per cent as opposed to 18.5 per cent average (28 per cent for accountancy services alone). Other significant export markets include North and South America

(27 per cent, COMESA average), Australia and New Zealand (9 per cent, above COMESA average) and the Russian Federation, India and China (9 per cent, below COMESA average).⁶⁵

Accounting Services

Accounting services are among the most sought-after professional services in growing economies. In Zambia today only 1.2 accountants operate per 100,000 people while in neighbouring LDC the United Republic of Tanzania 7.7 accountants operate per the same share of population. The demand for accountancy services in Zambia will continue to rise as more than 70 per cent of enterprises outsource their accounting to providers of accounting services.⁶⁶

Chartered accountants in Zambia need to be registered with the Zambian Institute of Chartered Accountants (ZICA). ZICA is the regulator of the accountancy profession in Zambia and as such is the agency that licenses accountants in the country. ZICA also provides professional education and training in accountancy in Zambia and the region. ZICA registered 89 chartered accountant firms performing audits and 27 chartered accountant firms not performing audits for the year 2016.⁶⁷ Among the 116 firms are the four main international accounting firms PwC, KPMG, Deloitte and Ernst & Young.

Major local companies include Newton Lungu and Associates, AMG Global Zambia and Reeds Business Solutions. AMG Global Zambia is among the few locally registered accounting firms that operate offices in various countries in the region, namely Botswana, Malawi, Mozambique, South Africa, Zambia and Zimbabwe.⁶⁸ Newton Lungu and Associates, on the other hand, with over 60 clients is only registered in Zambia, but lists a number of international companies and organizations as past clients.⁶⁹ AMG Global Zambia has around 50 employees, Newton Lungu and Associates and Reeds Business Solutions employ between five and fifteen professionals in the Zambia offices and offer a wide range of services that go beyond narrow accounting services.⁷⁰ Abacus 360 is another important player with foreign operations and foreign clients.

The EIF study provides some general export data on professional services from Zambia as already illustrated, but data on accounting services exports is scarce save for few anecdotal reports. That said, stakeholders suggest that a good part of the real export potential for Zambian accountancy services is

still untapped, partly due to issues of recognition of qualifications and partly due to regulatory and other constraints as described below.

In fact, South Africa faces acute shortages of accounting and auditing skills,⁷¹ however 80 per cent of the skills needed were of individuals with lower levels of education than the Chartered Accountant South Africa (CA(SA)) designation.⁷²

Architectural Services and Engineering Services

The Zambian Institute of Architects (ZIA) regulates the architecture profession in Zambia. The Engineering Institute of Zambia (EIZ) regulates the engineering profession in the country. According to the EIZ, there are 4,108 engineering professionals and 832 engineering organizations.⁷³ Data on the number of registered architects with ZIA is not available, but company profiles for Zambian firms underline an impressive record of export in engineering and architecture services to the region.

Ng'andu Consulting Engineers, African Mining Consultants (AMC Group) and Green Code Architects are examples of Zambian firms that have been engaged in major multi-million (sometimes -billion) dollar projects providing architectural and engineering services to regional markets. That said, often larger projects are given to foreign architecture firms, including South African firms.⁷⁴

African Mining Consultants, headquartered in Lusaka, have developed projects in Côte d'Ivoire, Congo, Mauritania, Mozambique, South Africa, Sudan, Uganda, Zambia and Zimbabwe. It offers services on environmental baseline studies, impact assessments and auditing, on various aspects of exploration and on a very large number of actual mining engineering projects. Around half of all operations occur outside of Zambia resulting in major exports. The company employs over 30 engineers.

Ng'andu Consulting has led several projects in Zambia and Rwanda, including the construction of the award-winning Pontoon Bridge project in Zambia and a large soccer stadium in Kigali, currently under construction. The company specializes in design and supervision of road and bridge infrastructure and transportation engineering.⁷⁵

Green Code Architects, a smaller size enterprise, has lead project in South Africa, Zambia and Ghana.

The dominant export market for architecture and engineering services is by far the sub-Saharan African region with nearly 70 and 80 per cent, respectively.⁷⁶ Export takes place primarily in Modes 1 and 4 and increasingly in Modes 2 and 3⁷⁷.

Services Provided by Nurses

The General Nursing Council of Zambia (GNC) registers nurses and midwives operating in the country. According to GNC data, in 2011 there were less than 3,000 midwives (and nurses with midwifery training) and around 7,500 nurses were working in Zambia. The Health Professions Council of Zambia on the other hand, estimated that from 2011 to 2015, 10,389 health professionals were registered in the country.

In terms of exports, 9.2 per cent of Zambian nurses (or 1,110 nurses) export their services (in Mode 4) to markets in sub-Saharan Africa, the United States, Canada, the United Kingdom, Australia and New Zealand according to 2010 data.⁷⁸ The numbers, however, remain comparably low due to high ratio of nurse wages to per capita income in Zambia, which stands at nearly ten dollars (ratio) compared to one dollar in the United States.⁷⁹ Possibly as a result of this Zambia does not appear to absorb all of its nurse graduates in the local job market, making export of nursing/midwifery services a desirable and important for the health sector, its professionals and its development.⁸⁰ That does not detract from the fact that there is a significant shortage of nurses – or perhaps rather: Effectively funded nursing jobs – in Zambia.⁸¹ Brain drain has been suspected as one of the causes, but arguably more to 'push' factors (low wages, poor working conditions).⁸² Both export opportunities and local needs suggest a significant growth potential of the sector.

3. Barriers encountered, possible preferences, actual preferences

Barriers Encountered

Professional services include in particular services provided by accredited professions such as medical services, engineering services, legal services and accountancy services. These are usually reserved

to professionals who meet certain qualification and licensing requirements, and subject to more restrictive regulations than other business services such as management consulting services. These regulations, primarily in the form of qualification and licensing requirements and procedures, can translate into barriers to trade in such services, sometimes in combination with certain preferences for local professionals, e.g. in the form of requirements to be locally qualified.

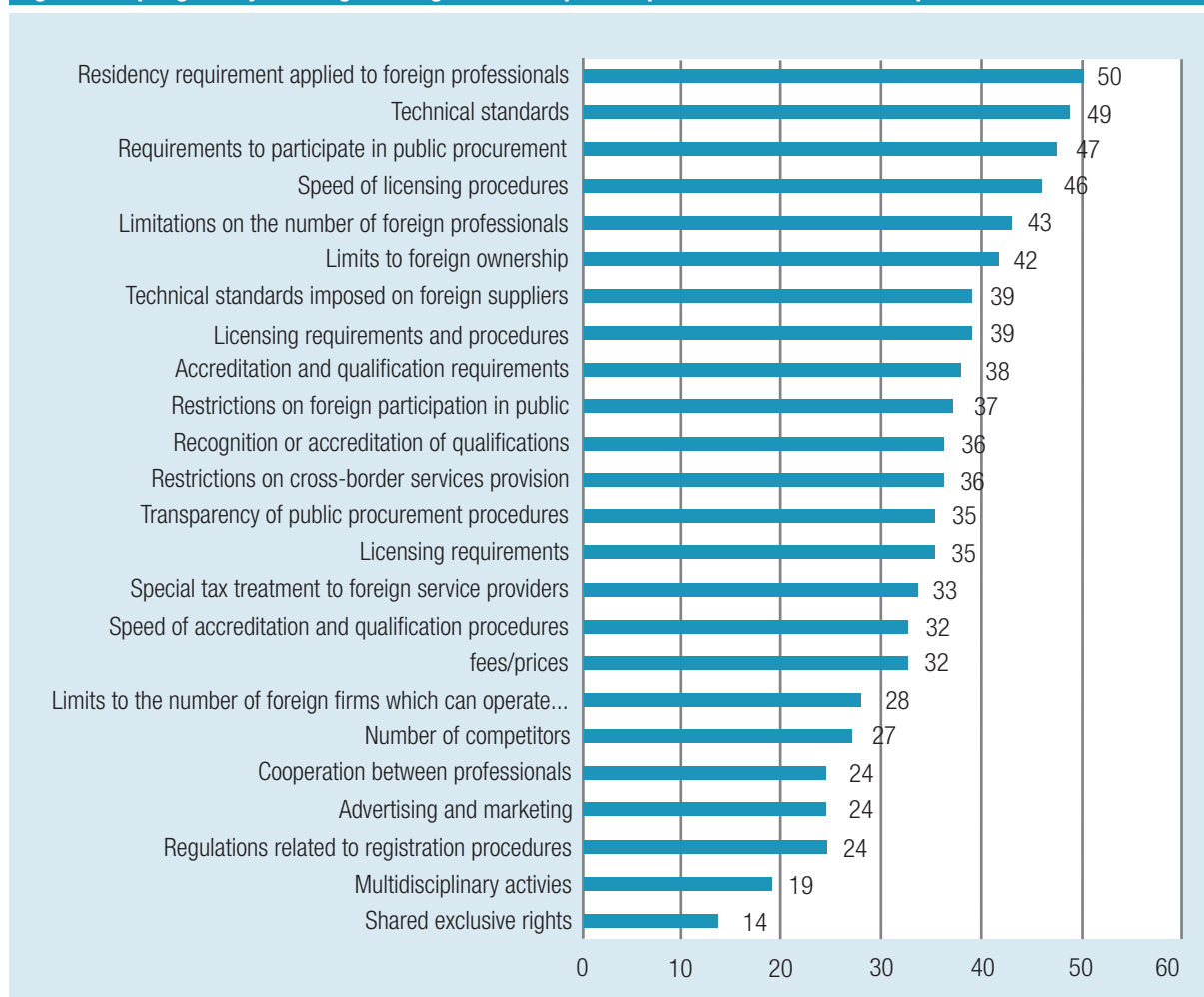
Challenges related to recognition of qualifications, accreditation, procedural and/or substantive licensing requirements and possibly membership in professional

associations or guilds are classical barriers to trade in professional services.

Furthermore, many professional services including nursing and engineering services are mostly traded in Mode 4. Horizontal barriers to trade in Mode 4 such as those related to visa, work permits, and recognition of qualifications are therefore of great relevance to trade in professional services.

The EIF Study highlights the key regulatory constraints faced by Zambian providers of professional services in export markets as depicted in Figure 3.⁸³ Not surprisingly, residency requirements, technical standards and licensing procedures are among the top regulatory barriers.

Figure 3: Top regulatory challenges facing zambian exports of professional services in export markets



Source: World Bank Surveys of professional services in COMESA, 2013.

The following section provides anecdotal evidence of barriers to exports of selected professional services from Zambia as underscored by stakeholders during consultations.

Accountancy Services

Barriers on trade in accountancy services include restrictions related to market entry regulations and professional conduct. The accountancy profession, like the legal and medical profession, is largely self-regulated. The accountancy guild or association in most countries is the main regulator of the accountancy profession. Access to membership and obtaining licensing from such guilds or associations can in law or in fact raise barriers to foreign providers of accountancy services. It is worth recalling that taking on the accountancy sector as a 'pilot,' WTO Members in an effort to ensure that the regulation of the accountancy profession does not lead to unnecessary barriers to trade in accountancy services in 1998 negotiated a set of 'Disciplines on Domestic Regulation in the Accountancy Sector'. These disciplines underscore the need to ensure that measures relating to licensing are prepared, adopted or applied in a manner that does not create unnecessary barriers to trade.

Zambian accountants generally find their neighbouring target markets relatively open, their qualifications recognized. Zambia's flagship training institution for accountancy (and now many other fields), ZCAS, has a long history of not only training Zambian but also many foreign students, who obtain ACCA-certified qualifications that are widely recognized. However, relevant exceptions apply, not least in one of the most important markets in the region – South Africa.

(i) National treatment and market access limitations: Recognition of qualifications, quantitative restrictions and work permits

In terms of challenges to Zambia's export of (chartered) accountancy and auditing services the stakeholders reported national treatment limitations, regulatory restrictions related to recognition of qualifications, market access limitations in the form of quantitative restrictions and difficulties in obtaining work permits in South Africa.

Providing chartered accountancy services in South Africa requires the service provider to be registered with the South Africa Institute of Chartered Accountants (SAICA). Auditors have to be registered with the Independent Regulatory Board for Auditors

(IRBA),⁸⁴ established under the Auditing Professions Act, 2005 (APA). Section 37 of which requires *inter alia* auditors to complete the prescribed education, training and competency for a registered auditor, to be a fit and proper person to practice the profession, and to reside in South Africa.⁸⁵ This latter residency requirement obviously operates as a **national treatment limitation** on exports of auditing services in Mode 4 from any country including Zambia.

Further, stakeholders reported challenges related to **recognition of qualifications** in South Africa. Interestingly, while the South African Qualification Authority (SAQA) recognises the academic chartered accounting and auditing qualifications from a number of Zambian tertiary institutions, SAICA does not recognise Zambian professional (non-academic) qualifications of the same services. There further appears to be some inconsistency regarding the assessment of equivalency and recognition of such qualifications by SAQA.

Stakeholders also highlighted that IRBA only recognizes chartered accountants who hold the CA(SA) designation granted by the SAICA.⁸⁶ Chartered accountants trained in Zambia do not qualify for the CA(SA) designation as SAICA does not have a mutual recognition agreement (MRA) with ZICA. Within Africa, SAICA concluded so far MRAs with its counterparts in Namibia, Eswatini and Zimbabwe.

Consequently, chartered accountants licensed in Zambia, who wish to gain the designation of CA(SA) must have their qualifications evaluated, complete a specialist course, pass exams and meet the three-year training requirement (referred to as articles).⁸⁷

The net result is that Zambian chartered accountants and auditors have to perform their services in South Africa under the direction, control and supervision of a registered chartered accountant/auditor who assumes responsibility for the unregistered chartered accountant/auditor. This of course has professional and financial implications on the Zambian accountants and auditors.

South Africa further maintains quotas on foreign-trained auditors, which operates as a **market access restriction** for exported auditing services. The quota changes from time to time based on labour market and ENTs.

Zambian providers of auditing services may establish a presence in South Africa – export in Mode 3.

However, all partners or shareholders of an auditing firm must be auditors registered in South Africa (which requires being resident in the country) and the auditing firm must be incorporated and registered under South Africa's Companies Act, 2008.⁸⁸ Further, registered auditing firms cannot share fees with a person who

is not registered in South Africa, therefore limiting the ability of auditing firms to repatriate or share profits made in South Africa.⁸⁹

Another challenge in exporting accountancy services in Mode 4 to South Africa is related to obtaining **work permits** as elaborated in Box 3.

Box 3: Work permits in South Africa

Obtaining work permits in South Africa has long been criticised as burdensome, prompting changes as part of the new 2014 Immigration Regulations to the Immigrations Act 2002.

Prior to the 2014 Regulations three main types of permits were available for professionals seeking to provide their services in South Africa: General work permits, quota work permits and exceptional work permits. In accordance with the Regulations quota and exceptional work permits have now been merged under the category of 'critical skills permits', though existing quota and exceptional skills permits remain valid.

General work permits are issued upon the joint application of an employer and employee for a specific position. The position must have been advertised sufficiently prior to the application and the employer must show that no equally qualified South African candidate applied. The process is generally regarded as difficult with uncertain outcomes, resulting in a situation where most jobs are advertised for applicants with 'valid work permits only'. General work permits are only valid for the specific position they have been issued for, which can result in a zeroing of promotions, as promotions even within the same company and department would qualify as a new position.

Quota work permits, on the other hand, were meant to respond to a skills shortage in South Africa. They would be available for specific areas of work and specific positions identified by the Department of Home Affairs (DHA), though they did not require an applicant to have a job offer prior to obtaining the work permit. According to the DHA the 2013 list for quota work permits identified 35,000 positions in 53 different sub-sectors.⁹⁰ Quota work permits remain valid for as long as the holder was employed "within the area of expertise and permit holders are required to report to the Department of Home Affairs on an annual basis in order to confirm that they continue to be employed in their designated professions".⁹¹ For that reason they continue to exist.

Finally, **exceptional skills work permits** were available for professionals with exceptional skills, provided that they were supported by government authorities in their home country or in South Africa, endorsed by established academic or business institutions, and were found to be to the benefit of South Africa in the area of work that the applicant applied for. The applicant is not required to have a job offer prior to obtaining the work permit, but he or she had one year to obtain work. The permits were valid for five years subject to the person remaining employed.

Under the new Regulations these latter two categories have been merged, now only allowing applications in specified fields. Regulation No. 459 on the Immigrations Act 2002, gazetted on 3 June 2014, sets out nearly 200 skills in ten categories which are deemed critical. Most skills related to environmental sciences, engineering, certain professional services, ICT and BPO services, senior business and management skills and academic research. Critical skills permits remain valid for five years and may be applied for even without a concrete job offer. Proof of application for a certificate of registration with the professional body, council or board recognised by South African Qualification Authority (SAQA) is essential for the application. The fees differ but can be as high as \$255 per person and are non-refundable.

Architecture Services, Engineering Services and (relevant) Services related to Mining

Exports of engineering services take place primarily in Modes 3 and 4 and thus barriers encountered by exporters are often those pertinent to the said modes of supply more generally.

Industry representatives in Zambia report various examples of barriers to their exports including barriers related to recognition of qualifications, licensing and work permits in South Africa, barriers related to work permits in Rwanda in addition to difficulties in tendering on government procurement projects in multiple countries. It is worth recalling that like others this selection of course represents merely a snapshot sample emanating from discussions with stakeholders and does not imply that similar or other barriers are not encountered by the same or other stakeholders in other markets.

(i) Recognition of qualifications and licensing in South Africa

Stakeholders reported that South Africa does not recognize Zambian architecture licenses, obtained from the Engineers Registration Board of the Engineering Institution of Zambia. To obtain a license in South Africa, foreign architects have to have their qualifications recognized as equivalent to the corresponding South African qualifications and have to demonstrate a number of years of professional practical experience.

In regard to recognition of academic qualifications, stakeholders reported difficulties in obtaining recognition of qualifications for engineers and architects by the South African Qualifications Authority (SAQA) citing reasons related to unclear or inconsistent criteria on the basis of which SAQA grants equivalency of qualifications. Stakeholders further reported that qualifications recognized by SAQA as equivalent to the South African qualifications do not

seem to be suffice for the purposes of registration with the Engineering Council of South Africa (ECSA), which undertakes another, separate assessment of the foreign qualifications.⁹²

In fact, ECSA confirmed that they do not recognize Zambian engineering qualifications *per se*, and that Zambian engineers must submit their academic and professional qualifications for an evaluation, pay the applicable processing fees and may be invited for an interview to determine if their qualifications are recognized in South Africa. This is done on a case-by-case basis for each engineer, and the recognition of qualifications is at the ECSA's discretion.⁹³

Stakeholders further reported that the ECSA counts part of the years of professional experience gained in Zambia as relevant professional experience.

(ii) Work permits

Stakeholders also reported that obtaining **work permits** in South Africa is challenging both for the delivery for engineering and architectural services in Mode 4 (including in connection with Mode 3). This challenge, also reported by several providers of other services, is described in detail in Box 7.

Stakeholders mentioned difficulties in renewing work permits for Zambian engineers and architects in Rwanda working on implementing a government tender although the Zambian bidder won the tender with the profiles of the said engineers and architects.

(iii) Restriction in bidding on government procurement tenders

Stakeholders further reported challenges in bidding on government procurement tenders. These are largely not disciplined by the GATS and WTO Members therefore, as a technical matter, do not need the Waiver to grant preferences for LDC providers as explained in Box 4.

Box 4: Government procurement under the GATS and the LDC waiver

Government procurement is largely exempted from GATS disciplines. Article XIII of the GATS specifies that Articles II (MFN), XVI (market access) and XVII (national treatment) *shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of services purchased for governmental purposes*.

Therefore, WTO Members are permitted to prefer national suppliers or distinguish between services on the basis of their origin and to prefer the services of particular origin(s) over those of other origin(s) provided that two conditions are met:

- (i) The services are purchased by governmental agencies; and
- (ii) The services are purchased for “*governmental purposes*” (*i.e.*, for example, not for resale or other commercial purposes)

This means that already under the GATS proper WTO Members are entitled to prefer LDC services over services originating in non-LDCs. Recourse to the LDC Services Waiver is therefore not necessary to justify such preferential treatment.⁹⁴

It is not clear whether any such preferential treatment is currently extended to LDCs by any WTO Member. In contrast, however, non-LDCs are indeed recipients of preferential treatment with respect to foreign procurement markets, not least under the WTO's Government Procurement Agreement (GPA), a reciprocal plurilateral agreement.

This contrasts sharply with the needs on the ground as far as LDC service providers are concerned. While government is often one of the biggest consumers in many sectors and hence one of the biggest potential customers for foreign services exporters, many LDC service providers encountered underscored the difficulty in bidding on government procurement tenders and providing services to government-procured projects in their actual or potential export markets. In light of the economic significance of services procured by governments for service providers including LDC providers, not least especially in some key sectors of interest to LDCs such as construction, engineering and IT and computer-related services (*e.g.* to provide e-government solutions, a major market), it seems appropriate to harness the momentum generated by the LDC Services Waiver to consider demand-side measures that would facilitate LDC access to services procured under government procurement tenders.

Stakeholders reported **national treatment** limitations and **regulatory limitations** when bidding on government tenders for engineering projects in South Africa, Botswana and the European Union (in European Union funded infrastructure projects in Zambia and the region).

In South Africa stakeholders mentioned (1) *de jure* or *de facto* nationality requirements in government procurement project. In line with the Preferential Procurement Policy Framework Act and its implementing regulations, tenderers attaining a B-BBEE status level of contribution are granted up to 20 preference points.⁹⁵ While in principle open

to all, in most cases only South African companies can effectively obtain B-BBEE status; and (2) a local content requirement in the form of employment of local staff, with legislation requiring contractors supplying services to public authorities under government procurement tenders to prove that sufficient domestic skills are not available before hiring foreign workers, which *de facto* often excludes foreign companies who would like to use their own (foreign) workers.

These national treatment limitations encountered in the context of bidding on government engineering tenders in South Africa are described in Box 5.

Box 5: Government procurement in South Africa in the context of the Broad-Based Black Economic Empowerment Policy

The Broad-Based Black Economic Empowerment (B-BBEE) is a government policy that aims to advance economic transformation and enhance the economic participation of Black people in the South African economy. Black people are defined as Africans, Coloureds and Indians who are citizens of the Republic of South Africa.⁹⁶

In line with the B-BBEE, public entities are required to implement a preferential procurement policy granting preferences to Black suppliers, referred to as suppliers with a B-BBEE Status Level. Acquiring a B-BBEE Status Level requires the supplier to (1) be incorporated in South Africa or be registered as an “external company” with the Companies and Intellectual Property Commission (CIPC), and (2) fulfil certain criteria such as have “Black” ownership, “Black” management control, “Black” skills development, “Black” enterprise and supplier development and “Black” socio-economic development.⁹⁷ Each of these criteria is matched with a pre-defined score point and a B-BBEE Verification Agency⁹⁸ assesses, verifies and validates disclosed and undisclosed B-BBEE-related information on measured entities and grants the B-BBEE Status Level accordingly.

Tenders for construction works issued by the department of public works, for example, are scored in a way that accords bidders with B-BBEE Status Level with up to 20 additional points over bidders without the B-BBEE Status Level.

Stakeholders further reported national treatment challenges facing Zambian engineering companies registered in Botswana (Mode 3) in bidding on government tenders in Botswana.

Interestingly, stakeholders mentioned restrictive nationality requirements in donor funded infrastructure projects in Zambia including European Union -funded projects. These donor-funded projects reportedly often contain a requirement for the bidder to demonstrate experience in undertaking similar projects in the country/region of origin of the funds (e.g.: In the European Union, in the context of European Union funded projects) rather than the region where the project is to be implemented (e.g.: Zambia,

COMESA or Southern African countries for example). This requirement automatically excludes Zambian engineers and architects from the bidding process as most if not all Zambian engineers and architects can demonstrate experience in Zambia and/or the region but not outside the region.

(iv) Regulatory challenges: Financial capacity requirements

Also, in the context of government procurement, stakeholders further underscored regulatory challenges in South Africa, Botswana (and in donor-funded infrastructure projects) in the form of excessive requirements related to the financial capacity of bidders.

Box 6: Medical doctors: Going to America, going to South Africa

Many Zambian doctors have emigrated, and many more aspire to emigrate to the United States, or South Africa. Barriers include **cumbersome and costly licensing procedures** and challenges related to **visas** in the United States and market access, national treatment and recognition of qualifications in South Africa.

Licensing procedures in the United States

Practicing medicine in the United States requires physicians with an M.D. degree to (1) have attended a school listed in the International Medical Education Directory (IMED) - The University of Zambia School of Medicine is among those listed institutions in IMED and (2) pass the United States Medical Licensing Examination (USMLE), a multi-part (3-steps) examination for medical licensure in the United States.

United States medical students take step 1 and 2 as part of their medical training. Applicants from outside the United States can take step 1 and 2 of the USMLE examination in designated examination centres

Box 6: Medical doctors: Going to America, going to South Africa (cont.)

outside the United States. Stakeholders reported that the closest such centres to Zambia is a Prometric Centre in South Africa. Step 3 has to be undertaken in the United States – this of course is linked to obtaining the necessary visa. Stakeholders reported that the costs for undertaking the USMLE are high for Zambian standards.⁹⁹ In addition, applicants have to cover travel and associated costs for undertaking the exams in South Africa or the United States. These high costs, stakeholders reported, act as a deterrent for many Zambian doctors to make the initial steps necessary to export their services to the United States.

Visa requirements and procedures in the United States

As to challenges related to obtaining **visas** to the United States, stakeholders mentioned that there are two categories of visas that they could apply for. The first is a J-1 visa which is issued by the United States to exchange visitors participating in programs that promote cultural exchange and to obtain medical or business training within the United States upon the end of the cultural or training program, the visa holder has to return and stay in their home country for a period of at least 2 years. The second is the H-1B visa issued to allow United States companies to hire or seek the services of foreigners in specialty occupations including medicine.¹⁰⁰

Important to note that the number of H-1B visas issued is capped every fiscal year. It currently stands at 65,000. Exempted from these numerical caps are (1) up to 20,000 foreign nationals holding a master's or higher degree from US universities, (2) all H-1B non-immigrants who work at universities, non-profit research facilities associated with universities or government research facilities, (3) 1,400 visas for Chilean nationals and 5,400 visas for Singaporean nationals as part of the United States free trade agreements with Chile and Singapore.

The two categories of visas described have their challenges and limitations. While the J-1 visa with its mandatory home residency requirement allows foreign M.Ds to undertake step 3 of the USMLE examination, it does not allow the export of medical services in Mode 4 to the United States market. The H-1B visa is linked to concluding contractual arrangements in the United States which presupposes that the foreign M.D. is accredited to practice medicine in the United States thereby implying that he/she managed in the past to get a visa to the United States to undertake step 3 of the USMLE.

Market access and national treatment restrictions in South Africa

Stakeholders reported difficulties for general practitioners (non-specialized medical doctors) trained in Zambia to provide their services in South Africa. This difficulty appears to be linked to **market access** restrictions, **national treatment** restrictions and possibly issues related to **recognition and equivalency of qualifications**.

All foreign qualified medical and dental practitioners must register with the Health Professions Council of South Africa (HPCSA) and may provide their services in the Public Service for at least 5 years before providing their services to private practices. The recruitment of foreign doctors in South Africa by the Foreign Workplace Management Program (FWMP) is largely to serve the underserved communities in the rural areas and the few underserved urban hospitals e.g. Chris Hani Baragwanath Hospital in Johannesburg. The same restrictions do not apply to national medical practitioners. In other words, Zambian general practitioners face national treatment and market access limitations in the form of quantitative restrictions (0 per cent during the first 5 years of practice) in practicing medicine in the private sector in South Africa.

In order to practice in the Public Service as a General Practitioner, the practitioner must have successfully completed a recognized internship-training programme.¹⁰¹ This is a two-year period for South African-trained medical doctors. While Zambian medical degrees are in principle recognized in South Africa, HPCSA does not recognize the one-year training program medical practitioners in Zambia undergo.¹⁰² As a result, Zambian general practitioners have to undergo another 2 years of intern-training program in South Africa to obtain the necessary qualifications to practice medicine in the country.

Services provided by Nurses

Stakeholders raised three types of **regulatory challenges** or barriers to Zambia's exports of nursing services to the United Kingdom.

First, in order to provide nursing services in the United Kingdom, nurses must be admitted to the Nursing and Midwifery Council (NMC) Register. Stakeholders stress that for them the **cost of registration** with the NMC is high and may act as an obstacle to effective market access.

Second, one of the requirements for inclusion on the NMC Register is that foreign nurses undertake (and successfully pass with a certain score) the **International English Language Testing System** (IELTS) even if these nurses are native English speakers or trained in a native English-speaking institution. English is an official language in Zambia and is the language of instruction for nurses in the country.

Third, foreign nurses are required to undertake **additional adaptation courses in the United Kingdom** – referred to as the Overseas Nurses Program (ONP). This program is intended to assess the ability and competence of nurses to practice in the United Kingdom health environment. Zambian nurses encountered reported that undergoing the ONP in their view was unnecessary as their qualifications and experiences equipped them with the skills and competencies to perform their work successfully in

the United Kingdom. More importantly, stakeholders mentioned that the **significant costs associated with undergoing such program**, including not only the course fees but also the cost of living in the United Kingdom for the duration of the program, in fact causes major difficulties for many nurses who cannot provide up front the resources needed to undergo such programs.

Interestingly, the requirements to undertake the IELTS and undergo additional training in the United Kingdom (adaptation) do not apply to EEA nationals (EFTA states and 27 European Union Member States) even if the EEA nurses and midwives are not native English speakers. EEA nationals are also subject to lower registration fees with NMC.

Possible Preferences

Possible measures that could be devised as preferences for LDCs under the Waiver to address the challenges encountered would include those contained in the following lists. These lists are both extensive and illustrative. (It bears repeating that many of the issues could of course also be addressed, alternatively or in combination with unilateral preferences under the Waiver, through regional trade arrangements such as COMESA, SADC, the Tripartite Agreement or the AfCFTA; through other forms of cooperation, and/or through unilateral action on an MFN basis.)

Accountancy Services

- Grant LDC providers of auditing services facilitated residency status;
- Waive the residency requirement for LDC providers of auditing services;
- Fast track and facilitate the recognition of qualifications obtained in LDCs;
- Encourage professional bodies to negotiate the terms of mutual recognition agreements with their counterparts in LDCs;
- Eliminate or reduce market access restrictions (quantitative restrictions) for LDC providers of auditing services;
- Create an LDC quota for LDC providers of auditing services;
- Provide preferences for LDC providers of auditing services in filling the auditors' quota;
- Facilitate access to work permits for LDC service providers;
- Grant an LDC quota for work permits;
- In cases where work permit is granted on the basis of a quota system, grant preferential treatment for LDC service providers in filling applicable quotas;

- Grant preferential treatment for LDC service providers in cases where work permit is granted on the basis of shortage of domestic skills;
- Fast track procedure for obtaining work permits for LDC service providers establishing commercial presence (Mode 3); and
- Reduce work permit fees for LDC service providers.

Architecture Services, Engineering Services and (relevant) Services related to Mining

- Fast track and facilitate the recognition of qualifications obtained in LDC countries;
- Encourage professional bodies to negotiate the terms of mutual recognition agreements with their counterparts in LDC countries;
- Facilitate the licensing of LDC providers of engineering and architecture services;
- Facilitate access to work permits for LDC service providers;
- Grant an LDC quota for work permits;
- In cases where work permit is granted on the basis of a quota system, grant preferential treatment for LDC service providers in filling applicable quotas;
- Grant preferential treatment for LDC service providers in cases where work permit is granted on the basis shortage of domestic skills;
- Fast track procedure for obtaining work permits for LDC service providers establishing commercial presence (Mode 3);
- Grant national treatment to LDC engineering and architecture services under government procurement tenders;
- Relax or remove nationality requirements for LDC tenderers under government procurement schemes;
- Relax or remove local content requirements for LDC and other tenderers in respect of LDC services content;
- Relax or remove local employment requirements for LDC tenderers and others in respect of LDC employees;
- Extend/apply existing national preferences to LDCs and their tenderers (e.g. count LDC nationals as 'Black' under B-BBEE; or waive B-BBEE strictures for LDC tenderers);
- Grant preferential treatment in scoring tenders for construction projects involving LDC bidders (alone or as members of consortia);
- Extend third country preferences, e.g. under GPA, to LDC tenderers; and
- Relax requirements for LDC bidders in engineering/architecture projects procured by governments including those related to the financial capacity of bidders (*possibly in conjunction with accepting bank guarantees and insurances to mitigate possible risks*).

Medical Services

Preferences addressing challenges related to accreditation, licensing and visas in the United States include:

- Outsource step 1 and 2 of the USMLE exam to examination centres located in or in close proximity to LDCs;
- Reduce the USLME fees for LDC applicants;
- Exempt LDC providers of medical services (**and other services falling under the speciality occupations**) from the numerical caps applicable to H-1B visas; and
- Facilitate the granting of J-1 visa for LDC M.Ds intending to undertake the USMLE examination.

Preferences addressing market access and national treatment limitations in South Africa include:

- Eliminate market access restrictions for LDC general practitioners;
- Relax market access restrictions for LDC general practitioners (e.g.: Reduce the minimum period of practice in the public service as a precondition to practicing in the private sector); and
- Eliminate national treatment restrictions for LDC general practitioners.

Preferences addressing regulatory restrictions in South Africa include:

- Encourage regulatory bodies for health professionals to negotiate mutual recognition agreements with counterparts in LDCs including on matters related to obligatory intern-training programs.

General preferences addressing challenges related to accreditation, licensing and visas include:

- Facilitate the granting of visas and work permits for LDC providers of medical services; and
- If visas/work permits for foreign providers of medical services are granted on the basis of a quota, grant preferences for LDC providers in filling the quota.

Services provided by Nurses

- Encourage professional bodies in host country to negotiate terms of mutual recognition agreements with their counterparts in LDC countries;
- Waive or reduce registration /application fees in professional bodies in host country for nurses from LDCs;
- Revise the requirement to undergo English language testing (incl. IELTS) for nurses from LDCs where English is an official language or where the nurse obtained qualifications from an English medium institute or university; and
- Revise the requirement to undergo additional studies and supervised trainings provided that the training (qualification) of the LDC nurse meets the standards in the host country.

Preference notifications by WTO Members: To what extent do they respond to the needs?

Accountancy Services (Accounting, bookkeeping, auditing)

- **Most of the suggested preferences are not addressed through the notifications.**
- **The primary target markets for accounting and auditing services – neighbouring African markets – are so far not covered by any preference notifications.**
 - Nine notifying WTO Members made specific promises of preferences relating to accounting, bookkeeping or auditing services. These are Canada, Chile, the European Union (Belgium, France, Germany, Italy, the Netherlands, Spain, the United Kingdom, all European Union), Iceland, Japan, Mexico, Switzerland, the United States, and Uruguay.
- **South Africa's preference notification contains no preferences relating to professional services**, nor any improvements over its horizontal GATS commitments on Mode 4. For accounting and auditing it has also virtually no general GATS commitments – no commitments at all in accounting, and for auditing a theoretically full market access in Mode 3 ('none'), but apparently coupled with the requirement to be a citizen of South Africa (in the NT column) – in other words: No commitment.
- **Some inspirations can be drawn from the existing notifications.**
 - Several provinces of Canada have gradually relaxed their requirements for Mode 1 – instead of residency or even nationality requirements for auditing services they now require a commercial presence, *i.e.*, a Mode 3 investment. While that remains burdensome, it is easier to overcome, and often makes business sense anyway, so it does pave the way for viable business models involving an important Mode 1 component for accountancy/auditing firms. (Curiously one province – Nova Scotia – installed a residency requirement instead of a commercial presence requirement.)
 - The United States also shows itself liberal in Mode 4, where it allows (like in its CPTPP offer and in the United States – Republic of Korea free trade agreement: KORUS) full market access “for

natural persons of the LDC who are in the United States lawfully for the purpose of supplying such services, except that an in state office must be maintained to receive a license to perform audits for Arkansas, Connecticut, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New Hampshire, New Mexico, Ohio, Vermont, and Wyoming. United States citizenship is required for licensure in North Carolina.” Again, the commercial presence requirement, applicable only in some states, operates as a remaining but – in case of sufficient economic interest – surmountable obstacle.

- Switzerland proposes for both Mode 1 and Mode 4 it is open to foreign service providers, except that “at least one auditor of a “joint-stock company” or a “stock company with unlimited partners” must have his domicile, his principal office or a registered branch in Switzerland.”
- Mexico waives its 49 per cent capital ceiling for Mode 3 service providers in accounting, bookkeeping as well as auditing and opens its market completely ‘non’ in Mode 3. This corresponds to its CPTPP (‘best PTA’) offer.
- Chile keeps its reserved activities for locally registered auditors limited to auditing of financial institutions: “External auditors of financial institutions must be registered in the Register of External Auditors.” This corresponds to its CPTPP offer.
- In the European Union, Belgium waives the otherwise applicable ENT for accounting and bookkeeping services in Mode 4 “for CSS when the annual wage is above the amount defined by the relevant laws and regulations.” This model could be used by others who maintain ENTs for fear of salary dumping. While this would take away the cost advantage of LDC providers, it still provides an opening.
- A slate of other European Union Member States allow accounting and bookkeeping in Mode 4 as provided in the horizontal commitments, which includes CSS and independent professionals.

Architecture Services, Engineering Services and (relevant) Services related to Mining

- **The majority of the suggested preferences are not addressed through the notifications.** Some of the preferences offered relate to facilitating the

licensing and accreditation of LDC providers of engineering and architectural services.

- **The primary target markets for architecture and engineering services – neighbouring African countries – are so far not covered by any preference notifications, with the exception of South Africa, which however offers no additional opening in these subsectors.** While already committed to full market access in Mode 3, the limitations in Modes 1 and 2 for Agriculture (“For building plans of 500 m² and over the services of a locally registered architect have to be utilized”) could have been addressed. South Africa has already made full GATS commitments for engineering and integrated engineering services, except for Mode 4 (horizontal).
- **Fourteen notifying WTO Members made specific promises of preferences relating to architecture or engineering services.** These are Australia; Canada; Chile; China; the European Union (Belgium, France, Germany, Italy, Netherlands, Spain, the United Kingdom and all European Union); Iceland; India; Japan; Mexico; New Zealand; Switzerland; Turkey; United States; Uruguay and Hong Kong, China. Some of these are of interest here, at least as examples, assuming arguably that they are done on a preferential basis:
 - Certain provinces in Canada opened fully the market to Mode 1 by waiving the residency requirement for the provision of architectural services. Other provinces have kept its reservations in Mode 4 but did valuable improvements in waiving the nationality requirement for the accreditation of architects. Canada also undertook commitments in integrated engineering services in Modes 1, 2 and 3, which were not included in its GATs schedule, but correspond to its offers in CPTPP. With the exception of the province of Saskatchewan, where residency requirements apply for Mode 1, there are no limitations to the provision of integrated engineering services in Modes 1, 2, and 3.
 - In the European Union, Belgium – as it does for a number of other subsectors – waives the ENT for contractual services suppliers of architectural and engineering services when the annual wage is above the amount established by the relevant laws and regulations. France, the United Kingdom and the Netherlands allow

engineering services in Mode 4 as provided in the horizontal commitments, which include CSS and independent professionals.

- Japan and New Zealand open their market fully to the supply of urban planning and landscape architectural services from LDCs providers in Modes 1, 2 and 3. Hong Kong, China also shows itself liberal in Modes 2 and 3.
- The United States open their market to Mode 4 for the supply of engineering services and integrated engineering services. It allows – as in its CPTPP offer – full market access “for natural persons of the LDC who are in the United States lawfully for the purpose of supplying such services”.
- India gives up on its 51 per cent capital ceiling for Mode 3 supply of engineering services and only requires the establishment to be through a company incorporated in India. While that remains as a limitation, it is easier to overcome, and it is worth noting that this preference is even better than its India-ASEAN (‘best PTA’) offer.
- Uruguay allows engineering services in Mode 4 as provided in the horizontal commitments, which include CSS, professionals and specialists. This is better than in its 2004 trade agreement with Mexico (‘best PTA’).

Medical Services

- **None of the suggested preferences are addressed through the notifications.**
- **The primary target markets for Zambian exports of medical services – South Africa or the United States – are not proposing any specific preferences in this subsector.**
- **Only three WTO Members – Japan, the European Union (several Member States), and Mexico – offer specific openings relating to medical services.**
 - Mexico shows itself fully open to the supply of medical services from LDCs providers in Modes 2 and 3, while Mode 4 remains unbound except for business visitors, investors, intra-company transferees and professionals with an offer of paid employment in Mexico.
 - Japan opens its market to Mode 2. It also eliminates limitations on the participation of foreign capital in Mode 3, although it remains (otherwise) unbound.

- Perhaps most remarkably, a range of 16 European Union Members (excluding the United Kingdom) offer a new opening in Mode 4, namely for Contractual Service Suppliers (CSS), albeit for 15 of them subject to an ENT. This obviously reduces the legal and hence economic value, but the general possibility of access remains important. Note that Independent Professionals are not covered by this preference, which corresponds to the European Union's offer in the European Union -CARIFORUM EPA.
- **Also of note is what is not offered – for example: Remaining limitations on telemedicine.** For example, 21 (out of 28) European Union Member States keep Mode 1 for medical, psychologists' and dental services unbound, which means telemedicine is not covered for them, while one (Hungary) explicitly allows telemedicine.

Services provided by Nurses and Midwives

- **The suggested preferences are not addressed through the notifications.**
- **The primary target markets for services provided by Zambian nurses – the United Kingdom and South Africa – do not provide for preferences relating to nurses.**
- **Only three notifying WTO Members made specific promises of preferences relating to services provided by nurses and midwives: Japan, Chile and the European Union (several Member States).** None of them offers much inspiration for creative preferences.
 - Japan relaxes Mode 3 (nursing) by eliminating limitations on foreign capital participation but keeps the sector otherwise unbound.
 - Chile opens Modes 1-3 for nurses' services (Mode 4: Horizontal commitments), matching its CPTPP commitments.
 - Similarly to the preferences offered for medical services, a range of European Union Members (excluding the United Kingdom) are offering some cautious additional openness in Mode 4 for midwives and nurses in the form of Contractual Services Suppliers (but not independent Professionals), mostly subject to ENTs. It bears repeating that while an ENT denies legal guarantees, it may be a way to provide an opening in an otherwise closed sector, and hence can be a good tool.

C. CONSTRUCTION SERVICES

1. Definition

Under the WTO's Services Sectoral Classification list "Constructions and related engineering service" include "General construction work for buildings"; "General construction work for civil engineering"; "Installation and assembly work" and "Building completion and finishing work". All of these are included in the following assessment. In addition, a number of Professional services are of great relevance for the construction sector, namely architectural, engineering, integrated engineering and urban planning and landscape architectural services, which were already addressed.

2. Construction Services in Zambia

Over the past decade the importance of the constructions sector for Zambia's GDP has been growing steadily. In 2006 construction was the third most important sector with a contribution of 13 per cent, in 2010 the share rose to 21 per cent (same as for agriculture, the previously most important sector) and in 2013, grew to 29.1 per cent making it by far the most important sector in terms of contribution to GDP.¹⁰³ In 2015, the contribution fell to 10.6 per cent, however the sector remained as one of the four key drivers of growth during 2016.¹⁰⁴ Government spending is the main driver behind this development, with high-profile projects such as Link 8000 aimed at constructing 1500 kilometres, Pave 2000 for pedestrian paths and Lusaka 400 for the rehabilitation of Lusaka roads with jointly more than \$5 billion.¹⁰⁵ Most of these projects, in turn, have become both necessary and possible due to the overall boom in mining.¹⁰⁶ The key drivers of growth during 2016 were mining, wholesale and retail trade, and construction and manufacturing. These four sectors account for two-thirds of total growth during the year.

All construction contractors must be registered with the National Council for Construction (NCC) under one of the following five categories: General building and housing, General civil engineering works, General road and earth works, General mining services, Electric and communications. As of September 2017, the NCC has issued 5,867 contractor registrations, among them 287 for foreign companies.¹⁰⁷ Some companies hold more than one registration, thus the number of actual construction companies is somewhat lower.¹⁰⁸

Nearly half of all contractors are registered with the lowest grade, namely grade 6, while just over 500 registrations exist for companies with either grade 1, 2 or 3.¹⁰⁹ Grading of construction firms is important for purposes of exporting services, acquiring large projects and accessing government tenders. Data also suggests that all foreign companies in the market have been awarded one of the three highest grades (grade 1-3) and hold nearly 54 per cent of all existing grade 1-3 registrations (*i.e.* 245 out of 532 registrations of companies with grade 1-3 are held by Zambian companies, while 287 are held by foreign companies).¹¹⁰

Moreover, most companies in the general mining services category hold either grade 1, 2 or 3 registration and only three Zambian companies hold registration for mining services. The vast majority of Zambian companies, *i.e.* those with grades lower than grade 3, specialize in general roads and earthworks and in general building and housing work.¹¹¹ It should be noted that subsidiaries of international companies are considered as 'local'.¹¹²

Among the larger Zambian companies is Gomes Haulage, a company specialized in sulphuric acid transportation in the copper belt region.¹¹³ The company holds three registrations. It is registered as grade 1 in general building and housing, as grade 5 in general civil engineering and grade 6 in general civil engineering works.¹¹⁴ Sable Construction, on the other hand, is a grade 1 registered local company specialized in road construction.¹¹⁵ Another major regional player is the Inyatsi group, an originally Eswatini-based, Zambian controlled company that operates in Mozambique, South Africa, Eswatini, Namibia and Zambia and has operations in Botswana.¹¹⁶

Export statistics for construction or related engineering services are unfortunately not available for Zambia. Imports, however, have been steadily decreasing since 2008 with the value dropping from \$282.4 million in 2008 to \$50.357 million in 2015.¹¹⁷ The statistics and stakeholder reports suggest that the involvement of local actors in domestic construction projects is steadily increasing even faster than the sector's overall development. There is also increasing potential for exports, especially on cross-border construction projects and for projects related to region specific activities such as the mining activities in the copper belt that links the North of Zambia with the Democratic Republic of the Congo.

3. Barriers encountered, possible preferences, actual preferences

Barriers Encountered

Export of construction services take place primarily in Modes 3 and 4, the latter mainly in the form of semi- or low-skilled labour, and thus classically barriers encountered by exporters are often those pertinent to the said modes of supply more generally.

In addition, major construction projects including mining and infrastructure projects such as the construction of roads and highways, dams, airports and bridges are classically procured by governments and often aim at generating domestic employment. Therefore, national treatment restrictions including requirements of nationality, residency, local content (including in the form of using local service suppliers) or the employment of local staff are classical barriers encountered by the industry in export markets under projects procured by governments.

Stakeholders report market access, regulatory and other challenges to their exports to regional markets including Eswatini, Mozambique, South Africa, and Uganda in addition to national treatment restrictions and regulatory restrictions encountered in the context of construction projects procured by governments.

Market access barriers: Joint venture/partnering requirements

Challenges related to market access include restrictions on the form of legal entity and the participation of foreign capital especially in large infrastructure projects. Stakeholders report that several markets require the foreign provider to form a joint venture or otherwise partner with local companies.

Restrictions on participation in government procurement tenders

For *government procurement* tenders – which are largely not disciplined by the GATS and technically WTO Members do not need the Waiver to grant preferences for LDC providers as explained in Box 3 – stakeholders reported national treatment limitations and regulatory limitations.

Similar to the challenges reported by Zambian engineers and described in detail in Box 4, industry representatives underscored that government tenders for construction projects in South Africa, for example, are subject to (1) *de jure* or *de facto* nationality requirements - (In line with

the Preferential Procurement Policy Framework Act and its implementing regulations, tenderers attaining a B-BBEE status level of contribution are granted up to 20 preference points.¹¹⁸ While in principle open to all, in most cases only South African companies can effectively obtain B-BBEE status.); and (2) a local content requirement in the form of employment of local staff, with legislation requiring contractors supplying services to public authorities under government procurement tenders to prove that sufficient domestic skills are not available before hiring foreign workers, which *de facto* often excludes foreign companies who would like to use their own (foreign) workers.

Regulatory challenges and visa and work permit requirements

Regulatory challenges reported in the context of government procurement tenders include the requirement to be registered with specialized ranking institutions, excessive requirements related to the financial capacity of bidders and provide proof of

availability of equipment and human capital on the ground.

Providing proof of availability of equipment and human capital on the ground are associated with additional challenges including: (1) Transporting construction equipment across borders is difficult as most of these are leased or mortgaged and their transportation across the border is restricted. (2) Providing proof of availability of human capital (insofar as such capital is imported) is often associated with challenges related to **visa and work permits**.

Stakeholders reported that obtaining work permits for foreign workers is a major challenge not only for semi-skilled labour but also for professional staff including engineers and managers. Obtaining extensions for work permits to cover the duration of the project implementation period is another major challenge in all export markets.

Box 6 provides some detail about aspects of the work permit regime in South Africa as an example.

Possible Preferences

- Remove or relax market access limitations for LDC providers of construction services especially those related to the form of the legal entity and the participation of foreign capital;
- Grant national treatment to LDC providers of construction services under government procurement tenders;
- Relax or remove nationality requirements for LDC tenderers under government procurement schemes;
- Relax or remove local content requirements for LDC and other tenderers in respect of LDC services content;
- Relax or remove local employment requirements for LDC tenderers and others in respect of LDC employees;
- Extend/apply existing national preferences to LDCs and their tenderers (e.g. count LDC nationals as 'Black' under B-BBEE; or waive B-BBEE strictures for LDC tenderers);
- Grant preferential treatment in scoring tenders for construction projects involving LDC bidders (alone or as members of consortia);
- Extend third country preferences, e.g. under GPA, to LDC tenderers;
- Relax requirements for LDC bidders in construction projects procured by governments including those related to the financial capacity of bidders (*possibly in conjunction with accepting bank guarantees and insurances to mitigate possible risks*);
- Facilitate access to work permits for LDC service providers;
- Grant an LDC quota for work permits;
- In cases where work permit is granted on the basis of a quota system, grant preferential treatment for LDC service providers in filling applicable quotas;
- Grant preferential treatment for LDC service providers in cases where work permit is granted on the basis of shortage of domestic skills;

- Facilitate the extension of work permits for LDC providers of construction and associated services (e.g.: *Engineering and project management services*) to allow for the conclusion of construction projects in host countries; and
- Fast track procedure for obtaining work permits for LDC service providers establishing commercial presence (Mode 3).

Preference notifications by WTO Members: To what extent they respond to the needs?

- **None of Zambian construction companies' target markets have notified any LDC preferences under the Waiver.**

- Nine WTO Members are addressing the sector. These are Brazil, Canada, the European Union (Belgium, France, Germany, Italy, the Netherlands, Spain), Iceland, New Zealand, Norway, Switzerland, Turkey and Uruguay.
- South Africa's notification does not address the construction sector, likely because its GATS schedule already promises far-reaching openness: In four main subsectors full commitments ('none') apply in Modes 2 and 3, and for Mode 4 the horizontal commitments apply. (Mode 1 is left 'unbound' for lack of technical feasibility – this assessment from the 1990s needs to be re-assessed in the age of digitization, remote-controlled machines, and robots). That said, South Africa so far does not have any commitments for pre-erection works, special trade construction work (e.g. masonry) or construction equipment rental.
- (Perhaps most pertinently for Zambian construction interests South Africa does not relax B-BBEE for the benefit of LDCs. While politically this may be too much to ask at this point, it remains desirable and potentially feasible to consider this in due course.)

- **There are very few notified preferences that provide any inspiration for measures that address Zambian companies' concerns and needs.**

- Many of the notifying WTO Members open Mode 4 supply in all or some construction subsectors up in accordance with their horizontal commitments (Canada (Ontario), Iceland, Norway, Turkey, Uruguay and several European Union Member States).

- In some cases, this covers CSS. None, however, goes the next step to allow CSS that are not highly qualified. Only that would effectively open construction markets to dynamic participation of SME building firms.

- **No LDC preferences in public procurement.**

While the LDC Waiver would not be needed to cover such preferences because they are already possibly under the GATS, and while this would thus explain why they do not appear in Waiver-related notifications, it bears repeating that a meaningful opening of procurement markets would be of great interest to the Zambian construction industry, which has been building strength in its home market over the past years of mining boom.

D. EDUCATION SERVICES

1. Definition

Under the WTO's services sectoral classification list 'education services' are sub-divided into primary education services, secondary education services, higher education services, adult education services, and other education services.

Higher education services cover 'post-secondary' (such as technical and vocational training on a large variety of subjects), and other 'higher education services' (mainly university education).

Traditionally global trade in education services took place primarily in higher education as primary and secondary education are often provided through governmental institutions directly to the students in their home locations. Today, an increasing number of students travel abroad to receive secondary or primary education, either for short-term studies or to boarding schooling institutions.

Moreover, global trade in education services used to take place predominantly through Modes 2 and 4 whereby, students travel to the location of the education institution to consume education services

abroad; likewise, teaching staff and other natural persons engaged in the delivery of education services travel to the location of the education institutions to deliver education services. Today, education services are offered in all modes of supply. Distance and online learning are very common these days (Mode 1) and the emergence of private education especially in the higher education segment paved the way for foreign providers of education services to establish offshore campuses in order to offer its education services beyond the borders of where it is mainly based (Mode 3).

2. Education Services in Zambia

Over the past 25 years Zambia made significant efforts to develop the education sector in an attempt to increase access to education and to reach the millennium development goals. While focusing mainly on primary and secondary education, the efforts and momentum generated spill-over effects on Zambia's public and private education institutions.

Zambia's tertiary sector encompasses more than 400 educational institutions including 25 universities, 300 general colleges and 78 specialized colleges that include 60 nursing schools, 2 health colleges, 10 agriculture training colleges, 28 teacher colleges and Zambia's Institute of Chartered Accounting (ZICA). These institutions are currently registered with the Ministry of Higher Education (MoHE) or the Technical Education, Vocational and Entrepreneurship Training Authority (TEVETA).¹¹⁹

Data on the exportation of education services is not available but the number of foreign students in Zambia, the availability of distance learning programs at Zambian institutions and discussions with stakeholders suggests that Zambian exports of education services in Modes 1, 2 and 4 are non-negligible, and represent potential.

Online records suggest that nearly 100 foreign students are currently enrolled at the three public universities in Zambia. Stakeholders further reported that with the endorsement of the International Federation of Accountants (IFAC) and the Pan African Federation of Accountants (PAFA), the Zambian Institute of Chartered Accountants (ZICA) has become a competitive service provider not only in Zambia but also in the region attracting students from neighbouring English-speaking countries such as Botswana, Eswatini, Namibia, Lesotho and Malawi.¹²⁰

The Zambian Institute of Accountancy Studies (ZCAS) as one of the region's foremost accountancy training institutes historically served around 5 per cent foreign students. These numbers have gone down as regional neighbours, historically reliant on Zambia, established their own national accountancy training institutes. Now covering a much wider range of business-related studies ZCAS enjoys a great reputation and still attracts foreign students – this year, e.g., from the Democratic Republic of the Congo, Zimbabwe, Angola, as well as Nigeria, Pakistan and China – albeit in much smaller numbers (12 out of 2,100 students in 2017/18). ZCAS, however, also exports education services in Modes 1 and 4 to regional education centres teaching accountancy including in the form of curriculum development, teaching methodology and conducting, supervising and correcting examinations.

One of the impressive examples of Zambia's providers and exporters of education services is the Kafue Gorge Regional Training Centre (KGRTC) established in 1989 by SADC Energy Ministers with the support of Scandinavian donor funding to offer specialized training in hydropower and related engineering disciplines. In addition to the niche technical expertise, the Centre is equipped with state of the art hydropower turbines that are available only in three locations worldwide including Zambia.¹²¹ The Centre offers (a) specialized training courses on matters related to electricity generation from hydro generation to supply chain of electricity, dam safety management, transmission lines maintenance, emergency restoration system towers and occupational health to interested parties worldwide including so far 22 African countries, Bhutan and Nepal (*i.e.*: Export of education services in Mode 2), (b) installation of and after sales training services on the hydropower equipment for markets/countries that purchase the equipment (*i.e.*: Export of education services in Modes 4 and 1) and (c) hosts researchers from around the world including developed countries such as Canada to conduct research at the Centre on matters related to hydropower and system analysis (*i.e.*: Export in Mode 2).¹²²

Moreover, distance learning is becoming popular in Zambia with an increasing number of institutions offering vocational tertiary training, in particular, for computer and information technology services. In addition, the Zambian Open University offers specialized distance learning programs for Bachelor, Master and PhD degrees as well as Diplomas also for students from the region (*i.e.*: Export in Mode 1).¹²³

3. Barriers encountered, possible preferences, actual preferences

Barriers Encountered

Education services are heavily regulated in most countries, not least to ensure universal access to education, monitor and control the quality and delivery of education, ensure that the qualifications obtained fulfil the competence requirement as set by the regulatory authority and protect the integrity of the education system more generally.

Classical measures to achieve these objectives include (a) licensing and registration requirements and procedures for education institutions with national authorities, (b) accreditation requirements and procedures and (c) recognition of qualifications. These measures obviously have an impact on trade in education services and can therefore be treated as classical barriers to trade in education services in addition of course to (d) visa requirements and procedures since those heavily affect the ability of providers and consumers of education services to deliver or consume the service abroad.

Arguably the dominant mode of supply is Mode 2 – foreign students coming to study at local universities and schools. In this mode only very few 'hard' obstacles apply, as countries usually do not stop their nationals from attending schools abroad. However, more subtle challenges do intervene and may have a significant impact, such as difficulties in obtaining accreditation/recognition for curricula and diplomas and lack of scholarship portability.

Recognition of qualifications

Recognition of qualifications - the qualifications they issue – is among the challenges faced by Zambian providers of education services in export markets especially in the non-academic professional training segment. KGRTC, for examples, offers "Skills Award" qualifications. This type of qualification is not fully recognized in many countries including African countries such as Ghana, Botswana and the United Republic of Tanzania.

Licensing and registration requirements for educational institutions

Another barrier are registration requirements, namely the need for educational institutions to register with national professional bodies in their target markets. This is sometimes cumbersome and appears unnecessary.

Stakeholders reported that some professions including engineering require their members to demonstrate "continuous professional development" through undertaking training courses. This can be done abroad as long as the courses are delivered by a training/educational institute registered with the professional body at home. This means that KGRTC, for example, has to be registered with the engineering councils/associations in all the countries from which current and potential trainees originate in order for it training courses to be recognized for purposes of the "continuous professional development" requirement. This is a cumbersome and costly process.

Visa requirements and procedures

Stakeholders reported that visa requirements and procedures are among the key barriers to exporting education services in Mode 4. Important to note in this context that some Zambian educational institutions export their services in several modes of supply and encountering barriers to trade by one mode of supply hampers the chain of services offered and exported through other modes of supply. The KGRTC, for example, exports training services for hydropower generation and maintenance using certain equipment whereby the customer gets trained in Zambia (Mode 2), buys the equipment and needs the services of the KGRTC to install (Mode 4) and service the equipment (Mode 1). If the technicians at the KGRTC cannot reach the customer to install the equipment because they could not obtain a visa, the training activities of the KGRTC (Mode 2) and the after sales service (Mode 1) risk being severely reduced for that client.

Stakeholders further reported that some countries do not have embassies in Zambia and Zambian nationals wishing to travel to these countries have to travel to South Africa to obtain a visa, which increases the cost for Zambian providers.

Lack of scholarship/funding portability

In addition, stakeholders reported that some countries, including in the region, do not extend the coverage of government scholarships for studies in Zambia, which affects possible enrolments.

Possible Preferences

Possible measures that could be devised as preferences for LDCs under the Waiver to address the challenges encountered would thus include the following:

- Facilitate and fast-track the recognition of qualifications including technical/professional (non-academic) qualifications obtained in LDCs;
- Recognize the registration of LDC educational/training institutions;
- Facilitate the registration of LDC educational/training institutions with national professional bodies / national authorities;
- Reduce the registration fees for LDC educational/training institutions with national professional bodies or national authorities;
- Facilitate the granting of visas for LDC providers of training services especially those working with recognized training institutions and/or in the presence of a training contract; and
- Create reliable and easily accessible 'trusted person' system to benefit LDC service providers that repeatedly require visa/work permits.

Extend the eligibility for scholarships, grants and student loans to studies at LDC educational institutions.

Preference notifications by WTO Members: To what extent they respond to the needs?

- **Only four WTO Members, namely Norway, the United States, Thailand and the European Union have made any specific preferences available in this sector.** Primary target markets are not represented among the notifying WTO Members, and specific engagements on education services are very limited.
- **Some limited inspiration** can be drawn from existing notifications, such as from the United

States' promise of full market access in Modes 1-3 for higher education institutions. This, however, does not address accreditation and recognition.

- **No WTO Member addresses key regulatory aspects such as accreditation and recognition.** While it is challenging to imagine and craft 'hard' preferences, WTO Members could well consider systematically engaging with suitable LDC education service provider to facilitate the accreditation of programmes etc., possibly supporting their design and compliance efforts.
- **No WTO Member has responded to the suggestion, in the LDCs' Collective Request, to grant scholarship portability allowing students to study in LDCs.**



CONCLUDING OBSERVATIONS

Zambia is a “Landlocked Land of Opportunity” for services and services exports. Its mining boom has been translating into opportunities for services, including direct services exports in the four modes of supply.

As other LDCs, Zambia’s services exporters encounter market access, national treatment and regulatory challenges in export markets (including incorporation, local partnering requirements, visas, local content requirements and access to public procurement). Besides these classical barriers to trade, services exporters face a myriad of additional challenges ranging from administrative procedures, to qualification requirements, to fees and charges. So far, these challenges have been left almost entirely untouched in the Waiver operationalization process. This has several reasons, some structural, some substantive. The main reason is that Zambia’s neighbours and main trading partners, including for services exports, have not responded to the call for preference in the context of the LDC Services Waiver, with the exception of South Africa. However, South Africa’s notification appears to contain little of direct value for the country’s services exporters.

This pilot case study, thus, shows that while the preference notifications submitted under the LDC Services Waiver clearly mark a step forward, they often fail to address the specific challenges faced by LDC service suppliers. Further efforts towards more attentive, generous and creative preferences are needed. WTO Members should pay detailed attention to the issues encountered by LDC service providers. General, abstract perspectives of the kind cultivated by services negotiators used to dealing with schedules will not work. A key precondition for success is generosity that responds to potentials for development. WTO Members and their representatives need to avoid defensive reflexes and they should be creative. Specific problems often need specific responses to be solved. That may require leaving an institutional or political comfort zone and often demands much less flexibility and political capital than one might think.

Moreover, a forward-looking approach could be further pursued by LDCs. While the requests so far have chiefly focused on areas of current export interest to LDCs, it is also important to seek for preferences in sectors that will contribute to longer-term development goals, including by contributing to diversification and upgrading. Data on services value-added in all sectors, which is still scarce in LDCs,

could be informative to evaluate what are the services sectors that are contributing more to overall productive capacity, productivity and competitiveness. This would highlight that services are not an alternative to agriculture or industrial development, but instead they should be a key element of strengthening agriculture and of industrialization strategies.

An option for the future is the expansion of geographical coverage. While the primary expectations to provide preferences are on “developed countries and developing countries in a position to do so”, unilateral preferences for LDCs can be usefully considered and granted by all WTO Members, including LDCs themselves.

This applies even in the context of progressive regional integration, as in the case of Zambia, which is involved in at least four regional processes covering services (SADC, COMESA, Tripartite and AfCFTA). The LDC Services Waiver, even in the immediate context of regional integration, can offer a complementary tool, namely in cases where there is readiness to grant limited preferences to weak exporters only, hence not to all RTA partners; where there is hesitation or insecurity as to whether a facilitation measure will work and not cause damage, so that the flexibility to retract a preference under the Waiver is welcome; or where the implementation of regional measures depends on cooperation that may be delayed, so that a unilateral measure under the Waiver could be a useful way to make provisional progress.

That said, the case of Zambia makes it clear that regional services integration is often the most promising avenue for progressive integration and liberalization, not least because it may facilitate and integrates regulatory coordination and cooperation. Zambia is well-advised to advance the regional agenda compellingly, while keeping the Waiver closely in view as an important tool in the toolbox. When formulating specific demands and presenting them to trading partners, the Waiver should always be considered as a complementary or alternative option to the often bigger, more intensive regional integration tools.

This paper shares and supports the cross-cutting conclusions emerging from the overall pilot exercise. These are reflected and explored in some detail in the Overview Paper. Suffice is to recall here that:

- There is a need for, and a space for, a move towards more attentive, generous and creative preferences to address – through realistic, feasible but targeted

measures addressing the specific challenges encountered by LDC services exporters;

- There is a need and space for broader geographical coverage. The LDC Services Waiver is a tool that is available to all WTO Members. All countries could and should embrace the opportunities offered by the LDC Waiver and consider granting preferences to services and service providers from LDCs;
- There is a case for moving towards a more holistic process of support to LDC services exports, including on the institutional level. Better data collection will help understand current and future services trade options; better research, analysis and information dissemination could help

improve the design and implementation of trade preferences in services; capacity building and technical assistance to support LDCs in the design of coherent and development oriented domestic policies and regulations in the area of services will contribute greatly to the goal – where UNCTAD's Services Policy Reviews (SPRs) could provide key benchmarks of significance and viability to feed preferential treatment initiatives; and establishing and empowering a forum for dialogue, exchange of experiences and continuous monitoring, peer review and mutual inspiration will be very useful. Given its longstanding and comprehensive experience in this area, UNCTAD would be ideally placed to provide such a forum.

REFERENCES

- AfDB, OECD, UNEP, *African Economic Outlook for Zambia 2011*. Available from <http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/PDF/Zambia%20Full%20PDF%20Country%20Note.pdf>.
- AfDB, OECD and UNDP, *African Economic Outlook 2014*. Available from and http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_EN/Zambia.pdf.
- Bwalya, Dixon. Zambia: New ZIA Council Assigned to Bring Back Profession On Course. *The Times of Zambia*, 21 December 2012. Available from <http://allafrica.com/stories/201212210997.html?viewall=1>.
- Cheelo, Caesar (2017). Assessing the Potential of the WTO LDC Services Waiver to Expand Services Trade – Zambia, paper prepared for the Commonwealth and COMESA, supported by GIZ.
- Engbo Rasmussen, Peter, Colleen Zamba and Elda Chirwa. *African Economic Outlook for Zambia 2017*. ADB and OECD, 2017. Available from www.africaneconomicoutlook.org/sites/default/files/2017-05/Zambia_EN_2017.pdf.
- Gillson, Ian and others. *Harnessing Regional Integration for Trade and Growth in Southern Africa*. World Bank, 2011. Available from http://siteresources.worldbank.org/INTRANETTRADE/Resources/239054-1239120299171/5998577-1254498644362/6461208-1300202947570/SA_Regional_Integration.pdf.
- Hijazi, Hadil (2014). Operationalising the LDC services waiver: Zambia- Country Assessment, paper prepared for the WTO's LDC group, Geneva, Switzerland.
- International Copper Study Group (2013). *World Copper Factbook*.
- ITU (2016). *Measuring the Information Society Report 2016*. Geneva.
- Lane, Christopher, Adélio Fernandes Antunes and Mireille Kingma (2009). The nursing community, macroeconomic and public finance policies: towards a better understanding. Discussion Paper, No. 2. Geneva: WHO and International Council of Nurses. Available from http://www.who.int/health_financing/documents/dp_e_09_02-nursing_macroconomics.pdf.
- Makasa, Emmanuel. "The Human Resource crisis in the Zambian Health Sector – a discussion paper" in *Medical Journal of Zambia*, Volume 35, No. 3, pp. 81 – 87. Available from <http://graphics8.nytimes.com/packages/pdf/magazine/2012/0311doctors/Makasa.pdf>.
- Mendoza, Miguel Rodriguez *et al.* (2016). The LDC Services Waiver – Operationalized? A first look at preferences granted, constraints persisting, and early conclusions to be drawn", paper prepared for UNCTAD, Geneva, Switzerland.
- Ndulo, Manenga and Josephine Chanda (2016). Services and Sustainable growth in Zambia. Discussion Paper, 2016/02. Saipar.
- Schloemann, Hannes (2017). Trade preferences for services from developing countries: why, what and how?. In *Trade in Services and Economic Transformation*, Bernard Hoekman and Dirk Willem te Velde, eds. London: ODI.
- Schloemann, Hannes, Hadil Hijazi and Clementine Pitard (2016). Now the Real Thing: Getting Creative to Make the LDC Services Waiver Work. ILEAP, CUTS International Geneva and University of Sussex.
- Schloemann, Hannes, Hadil Hijazi and Jennifer Hawkins (2014). Operationalising the LDC services waiver, the catalogue of challenges and potential preferences – an introductory narrative. WTI Advisors.
- South African Institute of International Affairs (2011). *SADC Trade in Services*.
- UNCTAD (2013). *Services Policy Review Lesotho*. Geneva: United Nations.

- _____ (2018). Services and Structural Transformation for Development, UNCTAD/DITC/TNCD/2017/2.
- _____ (2016). Trade Policy Framework for Zambia: Harnessing the Potential for Trade and Sustainable Growth in Zambia. Geneva: United Nations.
- _____ (2017). Trade, Migration and Development, Handbook for Improving the Production and Use of Migration Data for Development, Global Migration Group.
- United Nations Statistics Division (2010). Manual on Statistics on International Trade in Services.
- Van der Nest, D.P. and Me. E van Zyl (2008). Financial Management, Accounting and Auditing Skills Shortage, a South African Reality, paper prepared for the South African Institute for Chartered Accountants. Available from https://www.cass.city.ac.uk/__data/assets/pdf_file/0006/37329/D-P-Van-der-Nest.pdf.
- Williams, Broack (2013). "Trans-Pacific Partnership Countries: Comparative Trade and Economic Analysis", Report for Congress (n.p., United States Congressional Research Service, 2013). Available from <https://fas.org/sgp/crs/row/R42344.pdf>
- World Bank (2014). Diagnostic Trade Integration Study Zambia, paper prepared for the Enhanced Integrated Framework. Available from: www.enhancedif.org/pt/system/files/uploads/zambia_dtis_report_june_10_2014.pdf
- _____ (2011). Harnessing Regional Integration for Trade and Growth in Southern Africa.
- _____ (2011). *Migration and Remittances Factbook 2011 Second Edition*. Washington D.C.
- Zambia, Bank of Zambia (2016). *Annual Report 2016*. Lusaka.
- _____ (2015). Financial Sector Deepening Zambia (FSDZ). *FinScope Zambia 2015. Top line findings*. Lusaka, 2015. Available from www.fsdzambia.org/wp-content/uploads/2016/05/FINSCOPE-REPORT-2015.pdf.

Databases

- ITC, Trade Map. Available from <https://www.trademap.org> (accessed 10 February 2018).
- UNCTAD, Data Centre, UNCTADStat, 2017. Available from <http://unctadstat.unctad.org/EN/> (accessed 8 December 2017).
- World Bank, World Development Indicators. Available from <https://data.worldbank.org/indicator/> (accessed 24 January 2018).
- _____, World Development Indicators, Data Bank. Available from <http://databank.worldbank.org/data/> (accessed 27 November 2017).
- World Trade Organization, Zambia Construction Services, i-Tip Services trade database, 2017. Available from <https://i-tip.wto.org/services/default.aspx> (accessed 8 December 2017).

Agreements, protocols and laws

- South Africa, Codes of Good Practice issued under Section 9(1) Broad-Based Black Economic Empowerment Act 53 of 2003. 2013.
- World Trade Organization, LDC Collective Request, doc S/C/W/356. Available from <http://docsonline.wto.org>.
- _____, General Agreement on Trade and Services [GATS], 1995. Available from <http://docsonline.wto.org>.
- _____, MTN.GNS/W/120. Available from <http://docsonline.wto.org>.
- Zambia, Preferential Procurement Policy Framework Act, 2000.
- _____. The Insurance Act (1997) as amended in 2005.

Webpages

AMG Global Chartered Accountants Zambia, <http://www.amgglobal.co.zm/>.

DHA, <http://www.dha.gov.za/>.

Engineering Institute of Zambia, <http://www.eiz.org.zm/>.

Health Professions Council of South Africa, <http://www.hpcsa.co.za/>.

Inyatsi, <http://www.inyatsi.net/index.php/extensions/our-history>.

Kafue Gorge Regional Training Centre <http://www.kgrtc.org.zm/>.

Madison Insurance Zambia, www.madisonzambia.com.

Ministry of Higher Education, <http://www.mohe.gov.zm/>.

National Council of Construction, <http://www.ncc.org.zm/>.

Newton Lungu & Associates, <http://www.newtonlungu.com/>

Ng'andu Consulting, <http://nganduconsultzm.geniusworks.jp/>.

PIA, www.pia.org.zm/.

Prima Re, www.prima-re.com.

Sable Construction, <http://www.sabletransport.com/construction.html>.

SAICA, <https://www.saica.co.za/Technical/Assurance/IRBA/tabid/540/language/en-ZA/Default.aspx>

SANAS, <http://www.sanas.co.za/>.

USLME, www.USLME.org.

TEVETA, <http://www.teveta.org.zm>.

Zambia Institute of Chartered Accountants, <http://www.zica.co.zm/>.

Zambia, Pensions and insurance authority, www.pia.org.zm/content/overview-insurance-industry-zambia.

ENDNOTES

- ¹ WTO, “Market Access for products and services of export interest to least developed countries”, WT/COMTD/LDC/W/65/Rev.1, Note by the Secretariat, 24 October 2017, p. 19.
- ² Ibid.
- ³ Ibid, p. 21.
- ⁴ Ibid.
- ⁵ Ibid, p. 22.
- ⁶ Ibid, p. 21.
- ⁷ Ibid, p.22.
- ⁸ Ibid.
- ⁹ Ibid, p. 23.
- ¹⁰ UNCTAD, 2018, Services and Structural Transformation for Development, UNCTAD/DITC/TNCD/2017/2.
- ¹¹ This subsection briefly summarizes the (updated) findings of the 2016 paper. They are explored in some more detail in the Overview Paper accompanying this and the other three pilot case studies.
- ¹² See <http://i-tip.wto.org/services/>.
- ¹³ During 4-day in country consultations, the authors held 14 consultative sessions in Zambia in the form of bilateral or small group meetings with services stakeholders between 21 and 24 November 2017. In addition to the findings generated as a result of the in-country consultations held in the context of this paper, the authors built on findings generated from their previous work on the LDC Services Waiver in the run up to the 2014 Collective Request.
- ¹⁴ United Nations Statistics Division, Manual on Statistics on International Trade in Services (MSITS), 2010.
- ¹⁵ Brock Williams, “Trans-Pacific Partnership (TPP) Countries: Comparative Trade and Economic Analysis”, Report for Congress, 10 June 2013 (n.p., United States Congressional Research Service, 2013), p. 17. Available from <https://fas.org/sgp/crs/row/R42344.pdf>
- ¹⁶ Peter Engbo Ramussen, Collen Zamba, Elda Chiwiwa, *African Economic Outlook 2017: Zambia 2017* (n.p., AfDB, OECD, UNDP, 2017), p. 3.
- ¹⁷ UNCTADStat.
- ¹⁸ UNCTADStat.
- ¹⁹ The International Copper Study Group (ICSG), *World Copper Factbook* (n.p., 2013), p. 2.
- ²⁰ AfDB, OECD and UNDP, *African Economic Outlook 2014* (n.p., 2014).
- ²¹ Ibid.
- ²² AfDB, OECD and UNDP, *African Economic Outlook 2019*.
- ²³ AfDB, OECD and UNDP, *African Economic Outlook 2014*.
- ²⁴ South African Institute of International Affairs (SAIIA), *SADC Trade in Services* (2011), p. 8. Calculations by DNA based on country central banks and statistics offices and African Development Bank.
- ²⁵ The Bank’s own “Revision Notes on Balance of Payments BPM6” state: “Since 2010, the BoP unit has been obtaining financial account data for private sector on BPM6 basis. The services surveys were implemented over the period 2012–2014. The inclusion of services survey data made a notable contribution to the BoP series.” See <http://www.boz.zm/balance-of-payments-statistics.htm>.
- ²⁶ Bank of Zambia (BOZ), Central Statistical Office (CSO), Zambia Development Agency (ZDA) and Private Sector Development Programme (PSD), Foreign Private Investment and Investor Perceptions in Zambia (2016), Section 7.0 (Foreign Affiliates Statistics) and Annex XV (Inward Pure Services Categories Affiliates Statistics, compiled by industry and country).
- ²⁷ SAIIA, *SADC Trade in Services*, p. 11.
- ²⁸ Ibid.
- ²⁹ See Zambia, Bank of Zambia, *Annual Report 2016* (Lusaka, 2016) p. 19. Available from <http://www.boz.zm/BOZANNUALREPORT2016.pdf>. See also ITC, Trade Map. Available from [https://www.trademap.org/\(X\(1\)S\(jg5crf55u5ulyk3a1opdhny\)\)/lci/Index.aspx](https://www.trademap.org/(X(1)S(jg5crf55u5ulyk3a1opdhny))/lci/Index.aspx). (accessed 7 February 2017).
- ³⁰ Ibid.
- ³¹ Graphically reflected in UNCTAD, Trade Policy Framework for Zambia: Harnessing the Potential for Trade and Sustainable Growth in Zambia (Geneva, United Nations, 2016), p. 19, Figure 2.12.
- ³² ITC, Trade Map. Available from [https://www.trademap.org/\(X\(1\)S\(jg5crf55u5ulyk3a1opdhny\)\)/lci/Index.aspx](https://www.trademap.org/(X(1)S(jg5crf55u5ulyk3a1opdhny))/lci/Index.aspx). (accessed 7 February 2017).
- ³³ UNCTADstat.

- ³⁴ Caesar Cheelo, "Assessing the Potential of the WTO LDC Services Waiver to Expand Services Trade – Zambia", paper prepared for the Commonwealth and COMESA, supported by GIZ, 2017, page 33. Not published, on file with the author.
- ³⁵ Manenga Ndulo and Josephine Chanda, "Services and Sustainable growth in Zambia". Discussion Paper, 2016/02 (*Saipar*, 2016), p. 4.
- ³⁶ Data compilation on the basis of PIA's website records available from www.pia.org.zm/content/overview-insurance-industry-zambia.
- ³⁷ Zambia, The Insurance Act (1997), as amended in 2005.
- ³⁸ PIA information provided online and comparison of new registries available from www.pia.org.zm/content/overview-insurance-industry-zambia.
- ³⁹ 39.9 per cent of the insured population uses long-term (life) insurances, while 39.2 per cent have general insurance products such as motor and vehicle insurance. 32.7 per cent of the insured population purchase funeral insurance.
- ⁴⁰ Data compilation on the basis of a comparison of individual company figures provided on their websites compared with 2011 PIA statistics.
- ⁴¹ Comparison of different company portfolios on the basis of individual company websites.
- ⁴² World Bank, "Diagnostic Trade Integration Study (DTIS) Zambia", paper prepared for the Enhanced Integrated Framework (n.p., 2014), p. 198. Available from www.enhancedif.org/pt/system/files/uploads/zambia_dtis_report_june_10_2014.pdf.
- ⁴³ Zambia, Financial Sector Deepening Zambia (FSDZ), *FinScope Zambia 2015. Top line findings* (Lusaka, 2015), p. 53. Available from www.fsdzambia.org/wp-content/uploads/2016/05/FINSCOPE-REPORT-2015.pdf.
- ⁴⁴ Data from FinScope in UNCTAD, *Services Policy Review Lesotho* (Geneva, United Nations, 2013), p. 21.
- ⁴⁵ Zambia, FSDZ, *FinScope Zambia 2015*, p. 28.
- ⁴⁶ Data compilation on the basis of PIA's website records available from www.pia.org.zm/content/overview-insurance-industry-zambia.
- ⁴⁷ Ibid.
- ⁴⁸ World Bank, World Development Indicators, Data Bank. Available from <http://databank.worldbank.org/data/>.
- ⁴⁹ Ibid.
- ⁵⁰ In-country consultations. See also company's profile available at www.madisonzambia.com.
- ⁵¹ In-country consultations. See also company's profile available at www.prima-re.com.
- ⁵² ITC TradeMap, available from <https://www.trademap.org> (accessed on 10 February 2018).
- ⁵³ Note that both flexibilities may in fact be applied on a horizontal basis, so may not in fact be preferences. That, however, does not detract from the fact that they provide useful examples of small openings that could help address some real-life issues experienced by LDC providers, whether granted on a preferential or non-preferential basis.
- ⁵⁴ Services Sectoral Classification List adopted on 10 July 1991, commonly referred to as 'W/120.' In World Trade Organization, document WTO Doc.MTN.GNS/W/120. Available from <http://docsonline.wto.org>.
- ⁵⁵ World Bank, DTIS Zambia 2014.
- ⁵⁶ Ibid, pp. 165, 166.
- ⁵⁷ Ibid.
- ⁵⁸ Ibid.
- ⁵⁹ Note: Beyond legal, accounting, auditing, bookkeeping, architectural and engineering services, these statistics also include business and management, advertising, market research and public opinion polling services, research and development, waste treatment and depollution, as well as agricultural, mining and other on-site processing services.
- ⁶⁰ UNCTAD, Data Centre, UNCTADstat, 2017. Available from <http://unctadstat.unctad.org/EN/> (accessed 8 December 2017).
- ⁶¹ Ibid.
- ⁶² World Bank, *DTIS Zambia 2014*, p. 169.
- ⁶³ Ibid.
- ⁶⁴ Ibid.
- ⁶⁵ Ibid.
- ⁶⁶ Ibid.
- ⁶⁷ Zambia Institute of Chartered Accountants, Professional Accounting firms registered with Zica for the year 2016. Available from <http://www.zica.co.zm/wp-content/uploads/2017/01/Registered-firms-as-at-22-December-2016.pdf>.
- ⁶⁸ Company profile of AMG Global Chartered Accountants Zambia. Available from <http://www.amgglobal.co.zm/>.
- ⁶⁹ Company profile of Newton Lungu & Associates. Available from <http://www.newtonlungu.com/>.
- ⁷⁰ Comparison of companies' profiles available online.

- ⁷¹ Ian Gillson and others, *Harnessing Regional Integration for Trade and Growth in Southern Africa* (n.p., World Bank, 2011), p. 7. Available from http://siteresources.worldbank.org/INTRANETTRADE/Resources/239054-1239120299171/5998577-1254498644362/6461208-1300202947570/SA_Regional_Integration.pdf.
- ⁷² D.P. van der Nest and Me. E van Zyl, "Financial Management, Accounting and Auditing Skills Shortage, a South African Reality", paper prepared for the South African Institute for Chartered Accountants, Pretoria, South Africa, 2008, p. 47. Available from https://www.cass.city.ac.uk/__data/assets/pdf_file/0006/37329/D-P-Van-der-Nest.pdf.
- ⁷³ The number of engineering professionals includes engineers, technologists, technicians and craftpersons in the fields of agriculture, civil engineering, chemical engineering, electronic engineering, geology, hydro-geology engineering, land surveying, mechanical engineering, medical engineering, mining engineering, production management, computer engineering, and geomatic engineering. See Engineering Institution of Zambia, 2017 Gazette. Available from <http://www.eiz.org.zm/practice/gazette-notice/>.
- ⁷⁴ See also Dixon Bwalya, "Zambia: New ZIA Council Assigned to Bring Back Profession On Course", *The Times of Zambia*, 21 December 2012. Available from <http://allafrica.com/stories/201212210997.html?viewall=1>.
- ⁷⁵ Company profile of Ng'andu Consulting. Available from: <http://nganduconsultm.geniusworks.jp/>.
- ⁷⁶ World Bank, *DTIS Zambia 2014*, p. 167.
- ⁷⁷ Ibid.
- ⁷⁸ World Bank, *Migration and Remittances Fact Book 2011* (Washington D.C., 2011), p. 261.
- ⁷⁹ Values converted to dollars by the World Health Organization using PPP converters for 2005 the World Development Indicators in Christopher Lane, Adélio Fernandes Antunes and Mireille Kingma, "The nursing community, macroeconomic and public finance policies: towards a better understanding", Discussion Paper N° 2 (Geneva, World Health Organization and International Council of Nurses, 2009). Available from http://www.who.int/health_financing/documents/dp_e_09_02-nursing_macro_economics.pdf.
- ⁸⁰ Ibid, p 9, 11.
- ⁸¹ See "Zambia has a ratio of 0.8 Nurse to a 1,000 population – Health Minister", *Lusakatimes.com*, 27 September 2015. Available from <https://www.lusakatimes.com/2015/09/27/zambia-has-a-ratio-of-0-8-nurse-to-a-1000-population-health-minister/>. See also Association of Chartered Certified Accounts, *Ker health challenges for Zambia* (n.p., 2013) <http://www.accaglobal.com/content/dam/accaglobal/PDF-technical/health-sector/tech-tp-khcz.pdf>.
- ⁸² Emmanuel Makasa, "The Human Resource crisis in the Zambian Health Sector – a discussion paper" in *Medical Journal of Zambia*, Volume 35, No. 3, pp. 81–87. Available from <http://graphics8.nytimes.com/packages/pdf/magazine/2012/0311doctors/Makasa.pdf>.
- ⁸³ World Bank, *DTIS Zambia 2014*, p. 176, figure 8.13.
- ⁸⁴ IRBA also accredits institutions that register auditors. At present SAICA is the only professional body that is so accredited.
- ⁸⁵ SAICA website, <https://www.saica.co.za/Technical/Assurance/IRBA/tabid/540/language/en-ZA/Default.aspx>.
- ⁸⁶ This was confirmed by the author in a phone conversation with an IRBA official.
- ⁸⁷ World Bank, *Harnessing Regional Integration for Trade and Growth in Southern Africa* (n.p., 2011), p. 154, Available from http://siteresources.worldbank.org/INTRANETTRADE/Resources/239054-1239120299171/5998577-1254498644362/6461208-1300202947570/SA_Regional_Integration.pdf.
- ⁸⁸ Section 38 of the APA.
- ⁸⁹ World Bank, *Harnessing Regional Integration for Trade and Growth in Southern Africa* (n.p., 2011), p. 154.
- ⁹⁰ DHA website, <http://www.dha.gov.za/index.php/immigration-services/scarce-skills-work-permits>.
- ⁹¹ Ibid.
- ⁹² The need for what seems like a "double" assessment of foreign engineering qualifications in South Africa was verified by the author in phone interviews with SAQA and ECSA.
- ⁹³ Phone interview with ECSA.
- ⁹⁴ Note, however, that unlike under the LDC Services Waiver, which requires any preferences to be extended to all LDCs on a non-discriminatory basis, preferential treatment for services procured for governmental purposes within the definition of GATS Article XIII may distinguish among LDCs.
- ⁹⁵ Zambia, Preferential Procurement Policy Framework Act 2000, articles (5) and 6(2).
- ⁹⁶ South Africa, Codes of Good Practice issued under section 9(1) of the Broad-Based Black Economic Empowerment Act, Schedule 1, Part 2 (2013).
- ⁹⁷ Ibid, section 8(1).
- ⁹⁸ The department Trade and Industry appointed the South African National Accreditation System (SANAS) to conduct the accreditation of Verification Agencies. A list of all accredited agencies can be found at: http://www.sanas.co.za/af-directory/bbbee_list.php.
- ⁹⁹ The USLME fees (including copies of transcripts and certification fees) amount to roughly \$ 4,200. See www.USLE.org.
- ¹⁰⁰ American Competitiveness in the Twenty-First Century Act. The Act was signed into part of Immigration and Naturalization Act (INA) in year 2000 which changed the H-1B program and the employment-based immigration program.

- ¹⁰¹ Health Professions Council of South Africa, *Application for Registration as a Medical/ Dental Practitioner*, http://www.hpcs.co.za/downloads/medical_dental/form_176_foreign_qualified_practitioner_mdb.pdf.
- ¹⁰² As confirmed in a phone interview with HPCSA.
- ¹⁰³ AfDB, OECD, UNEP, *African Economic Outlook (AOE) for Zambia 2011* (n.p., 2011). Available from <http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/PDF/Zambia%20Full%20PDF%20Country%20Note.pdf>; and AfDB, OECD, UNEP, *African Economic Outlook (AOE) for Zambia 2014* (n.p., 2014). Available from and http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_EN/Zambia.pdf.
- ¹⁰⁴ Peter Engbo Rasmussen, Colleen Zamba and Elda Chirwa, *African Economic Outlook for Zambia 2017* (n.p., AfDB, OECD, UNDP, 2017), p. 5. Available from www.africaneconomicoutlook.org/sites/default/files/2017-05/Zambia_EN_2017.pdf.
- ¹⁰⁵ AfDB, OECD, UNEP, *African Economic Outlook Zambia 2014*, p. 5.
- ¹⁰⁶ *Ibid*, p. 3.
- ¹⁰⁷ National Council of Construction, *List of Registered Contractors for 2017*. Available from <http://www.ncc.org.zm/wp-content/uploads/2012/11/registered-contractors-30thSep.pdf>.
- ¹⁰⁸ *Ibid*, author calculations.
- ¹⁰⁹ *Ibid*, author calculations.
- ¹¹⁰ *Ibid*, author calculations.
- ¹¹¹ *Ibid*, author calculations.
- ¹¹² Outcome of company profile and registration research on the basis of the NCC registry.
- ¹¹³ Company profile, Gomes Haulage, LinkedIn Profile, <https://www.linkedin.com/company/gomes-haulage-limited>.
- ¹¹⁴ National Council of Construction, *List of Registered Contractors for 2017*.
- ¹¹⁵ Company profile, Sable Construction. Available from <http://www.sabletransport.com/construction.html>.
- ¹¹⁶ In-country consultations. See also company profile Inyatsi. Available from <http://www.inyatsi.net/index.php/extensions/our-history>.
- ¹¹⁷ World Trade Organization, *Zambia Construction Services, i-Tip Services trade database, 2017*. Available from <https://i-tip.wto.org/services/default.aspx> (accessed 8 December 2017).
- ¹¹⁸ Zambia, *Preferential Procurement Policy Framework Act, 2000*, articles (5) and 6(2).
- ¹¹⁹ Data compilation on the basis of governmental records listed on the websites of the MoHE and TEVETA. Available from <http://www.mohe.gov.zm/> and, <http://www.teveta.org.zm>.
- ¹²⁰ In-country consultations.
- ¹²¹ In-country consultations. See also Company profile of Kafue Gorge Regional Training Centre (KGRTC). Available from <http://www.kgrtc.org.zm/>.
- ¹²² *Ibid*.
- ¹²³ Comparison of available programmes on the basis of websites of institution accredited with TEVETA.

