

Civil Society Memorandum to the Meeting of the Ministers Responsible for Trade in Least Developed Countries (LDCs) Livingstone, Zambia, 25-27 June 2005

Civil Society participants working on trade, development, debt and poverty eradication met in Livingstone on 23-25 June, 2005 on the occasion of the LDC Trade ministers meeting. The aim of the meeting was to provide input into the deliberations of the trade experts and Ministers.

We take this opportunity to communicate to the Trade Ministers' meeting our views on LDC countries concerns and positions on the on-going trade negotiations in the World Trade Organization as well as regional trade agreements, especially the Economic partnership Agreements (EPAs) currently being negotiated and where 39 LDCs are parties.

In this context, we express our appreciation of the Cairo Road map and the AU Declaration on the EPA negotiations from the 3rd AU trade ministers meeting in Cairo, June 7-9 2005. We also appreciate the outcome of the 2nd South Summit of G77 and China, Doha, June 12-16, 2005. We note that both expresses sensitivity to the special challenges the LDC faces in the context of globalization.

Experience has shown us that free market principles tied to development have been fundamentally flawed for the majority of LDCs. There is a need to change the focus to a domestic demand driven structure in favour of local entrepreneurs. Therefore the 6th WTO ministerial meeting should adopt pro-poor trade policies that are driven by global commitment to sustainable development and poverty eradication.

We recognize that reliance on market mechanisms alone is insufficient to meet the challenge of development in a globalizing world economy and to achieve national, regional and the internationally agreed development goals, including the Millennium Development Goals (MDGs).

We therefore urge the LDC Ministers to promote national efforts to sustainable human development and attainment of the MDGs. Further, we recognize the importance of debt cancellation in releasing resources to social and economic development. We call for total and unconditional debt cancellation for all LDCs.

We note that four years since the adoption of the Doha Work Programme (DWP), there is little evidence of progress in tackling the developmental concerns of LDCs and other developing countries which were proclaimed as pivotal to the success of the Doha agenda. On the contrary, as evident in their proposals, the rich and powerful industrialized countries of the WTO continue to pressurise for deeper commitments in the direction of further liberalization in crucial sectors such as agriculture, services, binding industrial tariffs. Also the rich countries try to tighten instead of securing rules that gives access to non-reciprocal regional trade agreements (RTAs).

The lack of progress on the SDT and implementation issues manifests the absence of commitment by the major trading partners to promote development within the multilateral trading regime. LDCs and other developing countries face the prospect that the current imbalances in the international trade regime threaten their economies and peoples.

We urge the LDC governments to remain firm in articulating and sustaining positions which promote the interests of their people and their economies, and to continue efforts to strengthen unity and solidarity among countries of the South.

In this light, the following are our recommendations on the most pressing issues in international trade negotiations:

UNDERLYING PRINCIPLES:

- The LDCs should recognize that any trade rules that adversely impact on the livelihoods of their people and economies are non-negotiables under any multilateral, regional or bilateral trade arrangements.
- The LDCs should exploit and preserve their policy space to pursue their development objectives, including food security, livelihoods, health and welfare of their peoples, full employment, and industrialization and value addition especially to their primary commodities.
- LDCs should not accept to use SDT as a negotiation tool. The SDT should remain a cornerstone of global governance to address the asymmetry between unequal parties in the global trading system.
- Development benchmarks rather than arbitrary longer compliance periods should be the basis for determining SDT.
- Developed countries should desist from using financial support in the form of technical assistance, development aid and financing, including debt relief, as a tool to influence the negotiation and trade policy positions of LDCs and other developing countries. Financial support should be dealt with independently of LDC trade negotiation positions.
- LDCs should remain vigilant and firm in pursuing their development objectives within the multilateral trading system as well as under regional and bilateral trading arrangements, to secure the interests of their peoples.

SPECIFIC RECOMMENDATIONS

Agriculture

1. We call for urgent implementation of the Marrakech Decision on NFIDCs and LDCs and a clear reflection of the special and differential treatment component of any disciplines to be developed on export credits in accordance with paragraph 4 of this Decision.
2. We call for rapid conclusion of a flexible Special Safeguard Mechanism (SSM) whose coverage is not predetermined as this would constitute a unique instrument for responding to the concerns of LDCs and other developing countries on issues of food security, livelihood security and sustainable rural development.
3. We also call for modalities with respect to the self designation of special products (SP) to be devised in a way that provides maximum flexibility and exemption from tariff reduction and binding to LDCs and other developing countries to reflect their particular domestic circumstances and development needs.
4. Export subsidies and other support measures that contribute to dumping, including the review of green box subsidies should be removed. This elimination shall be without prejudice to S&D treatment of NFIDCs and LDCs.
5. LDCs State Trading Enterprises (STEs) should be excluded from the application of any new disciplines; in recognition of the critical role they play in sustaining livelihoods, food security and poverty reduction.

Cotton

6. We are encouraged by the recent Appellate Body and Panel Decisions on cotton adopted by the DSB on the 21 March 2005. We warn against some major subsidizing countries attempt to distract the focus from their obligations. Therefore, with a view to retaining policy space for

future value addition, we urge the LDC countries to maintain priority focus on the elimination of all export subsidies and domestic support measures on cotton.

Services

7. We reiterate that LDCs and other developing countries have the right to regulate services and liberalize their economies in line with their national development policy objectives.
8. LDCs are not under any obligation to further liberalize their services sectors. Industrialized countries should therefore withdraw any demands on services liberalization from LDCs.
9. The multilateral working group on domestic regulation, government procurement, subsidies and safeguards should be guided and satisfactorily concluded to secure the development needs of LDCs and other developing countries.

Market Access

10. Developed countries, and other developing countries in a position to do so, must provide bound duty and quota free market access at remunerative prices for agricultural products originating from LDCs. This should not be tied to reciprocity.
11. On preferential schemes such as the EBAs and AGOA whose tariffs are zero-rated or low, the LDCs face restricted market access because of complex Rules of Origin (RoO), Sanitary and Phytosanitary measures (SPS), Non Tariff Barriers (NTBs) and Technical Barriers to Trade (TBT). These rules should be simplified and harmonized and the LDCs should be facilitated through relevant and demand driven technical assistance to benefit from market access.
12. Given the asymmetry between parties under the trade rules, preferences will remain an important tool for LDCs, and other small economies (SIDS and LLDC). Therefore the issue of preference erosion has to be addressed urgently within the WTO.

Industrial Tariffs

13. The LDCs, although currently exempted from reduction commitments under the NAMA, should engage in the NAMA negotiations with a view to retaining future policy space. LDCs should also ensure that they are not adversely affected by commitments made by non-LDCs in the context of common regional integration processes.

Trade Facilitation

14. We remain convinced that trade facilitation should not be dealt with through a multilateral agreement in the WTO. However, we note that governments have agreed that this be negotiated within the Doha round.

Intellectual Property Rights

15. We reaffirm the right of LDCs to make use of flexibilities under the TRIPS agreement to protect public health as well as biodiversity and technology transfer. We call on LDCs to take appropriate measures at the national level to make full use of these flexibilities and to resist attempts to introduce TRIPS Plus proposals (which go beyond TRIPS obligations) under the EPAs negotiations, bilateral or any FTA arrangements.
16. LDCs should resist the pressure from developed countries and industry to enact patent laws that limit policy space.

TRIPS and Public Health

17. We reaffirm the Doha declaration on TRIPS and Public health and in particular paragraph six on countries with insufficient capacity or no manufacturing capacity. We reiterate that the TRIPS agreement should not undermine access to affordable medicines. While recognizing efforts to address this problem specifically under the 30 August 2003 decision, we call upon

WTO members to develop a less cumbersome and complex procedures for countries with insufficient or no manufacturing capacity to make use of TRIPS flexibilities to access affordable medicines.

18. We reaffirm Para 7 of the Doha declaration on TRIPS and Public Health and seek an expeditious and time bound commitment by developed country members to provide incentives, promote and encourage technology transfer to LDCs pursuant of Article 66.2 of the TRIPS Agreement.

TRIPS and Biodiversity

19. The LDCs should reaffirm the Africa group proposal to review Article 27.3b of the TRIPS to exempt from patentability of all life forms.
20. LDCs should ensure that intellectual property rights on technologies do not undermine indigenous knowledge systems, farmers and communities rights, access to and control over plant genetic resources for food and agriculture.

Regional Trade Agreements (RTAs)

21. 39 LDCs are parties to the EPA negotiations with the EU. These negotiations are undermining the few rights and developmental interests of LDCs under the WTO framework. The LDCs should not negotiate such agreements.
22. Regional agreements between unequal parties, especially in the EPAs are undermining the regional integration efforts to strengthen regional policies and economies. The experience of developing countries in the WTO ministerial meeting in Doha 2001 showed clearly how well coordinated positions against the so-called Singapore Issues faded away because of the lack of clarity on rules governing regional trade agreements. The LDCs should support and strengthen proposals on the GATT Article 24 and GATS Art 5 to ensure that the principle of non-reciprocity and SDT rights are ensured under RTAs between asymmetrical parties to the agreements.
23. LDC governments should have a coherent and consistent approach to positions and results that have been obtained in the WTO when they negotiate in other fora. We therefore reassert that the LDCs should not accept the reintroduction of the Singapore Issues in RTAs despite the major powers' attempt to do so.

Commodities

24. We urge WTO Members to address the crisis of instability and secular decline in commodity prices with the aim of attaining stable, equitable and remunerative prices on these products.