



ECA/RCID/0101/99

United Nations
Economic Commission for Africa

Workshop on “Analytical, Communication and Negotiating Skills
for African Trade Negotiators”

8 – 10 November 1999, Addis Ababa, Ethiopia

REPORT OF THE WORKSHOP

I. Opening

1. The Workshop was opened by Mr. A.P. Traoré, Officer-in-Charge of the Regional Cooperation and Integration Division (RCID) on behalf of Mr. Y. Suliman, Chief of RCID. In his opening remarks, Mr. Traoré stated that the workshop on Analytical, Communication and Negotiating Skills for African Trade Negotiators could not have been held at a more propitious time in view of the impending WTO negotiations and the reshaping of the long standing ACP-EU relations. He added that the workshop was part of a series of efforts, including the various meetings that took place in Sun City, Pretoria, Addis Ababa and Algiers, aimed at better preparing African countries for the Third WTO Ministerial Conference in Seattle and the successor arrangements to the Lomé Convention.
2. Mr. Traoré further stated that there were strong indications that the next WTO negotiations would likely take the form of a "Development Round". The negotiations would transcend the built-in-agenda issues and address a very pertinent question that continued to plague the world trading system. From the African perspective, one of the main issues remained the transformation of the economies from primary commodity production to that of industrial production. Such a restructuring would help make the African economies more competitive and cushion them against the adverse consequences of the new trading system.
3. On the overall economic situation of the African continent, he stated that African economies generally recorded a positive growth trend. However, the recovery remained fragile and patchy viewed against the performance in areas such as external debt, resource flow and balance of payments. In this connection, he underlined the need to introduce improvements to the principles of the WTO system and its agreements in order to:
 - Bring into sharper focus the vulnerable position of the continent;
 - Provide flexibility in the use of appropriate instruments to enhance the process of recovery;
 - Provide enforceable statutory provisions that support efforts for strengthening supply capacities; and
 - Improve market access for the goods produced by the continent.
4. With respect to the various WTO Agreements, Mr. Traoré underscored a number of principles that should underpin the provisions on the Special and Differential Treatment (SDT). These include recognition of asymmetries in the Agreements, the correction of imbalances in rights and obligations and the continuation of non-reciprocal preferences.
5. The issue of competitiveness and supply side constraints remained a core problem. This was one of the major reasons for advocating SDT to help prepare the ground for African countries to develop their competitive capacities. Mr. Traoré laid strong emphasis on the need to adopt rigorous measures for the transformation of the African economies if the region was to take advantages of the opportunities arising from the WTO arrangements.
6. On the issue of the EU-ACP successor arrangement, he said that Africa remained an important political and economic partner of the European Union. Hence, the ongoing negotiations within the Lomé framework should be viewed as an additional opportunity towards the economic recovery and transformation of the African economies.

7. In his concluding remarks, Mr. Traoré informed the participants that following the workshop was a two-day seminar on Comparative Analysis between the Commitments made by African countries under the Treaty Establishing the African Economic Community (AEC) and the Agreements of the Uruguay Round, for which a background document had been prepared by the ECA and distributed to the participants.

II. Attendance

8. The list of participants is annexed to this report.

III Proceedings

9. Papers were presented by resource persons on various pertinent issues relating to the WTO system and the WTO negotiations. The following gives account of the thrust of the presentations made and the issues arising from comments and observations made by participants.

A. Presentation on the General Overview of the WTO Negotiations

10. In presenting this item, the representative of the WTO outlined the steps that should normally be followed in WTO negotiations. He stressed the importance of adequate preparations for such talks. The steps are:
 - Identify one or more objectives and prioritize them: mechanisms should be put in place in each country to ensure that all government ministries/departments involved in WTO negotiations are conversant with the issues at stake.
 - Gather relevant information: the information gap should be filled by improved data on trade in goods and services, subsidies, taxes, and national regulations. A consistent regional data system could also help in this regard.
 - What is to be achieved: for each negotiating objective and in each negotiating forum, it is important to identify potential allies with similar interests such as the ACP Group, alliances between Asia/Africa or Latin America/Africa.
11. After giving an overview of some of the WTO Agreements (Agriculture, Technical Barriers to Trade and Sanitary and Phytosanitary Measures, Industrial Tariffs, Rules of Origin, Textile and Clothing, Safeguards, Antidumping Measures, Trade and Environment, Technical Assistance, Special and Differential Treatment and Notification obligations) he indicated that the following principles underscore the multilateral trading system and the negotiations:
 - WTO Agreements constitute a “Single Undertaking” binding on all member States. The Agreements can be improved through further negotiations;
 - Negotiations are to be conducted in a manner that is transparent and ensures the effective participation of all members;

- Negotiations are conducted with a view to ensuring mutual advantage and increased benefits to all participants. Due account is taken of the principle of “balance and equity”, which makes it possible to provide special treatment, exceptions and preferences to poorer countries. It, thus constitutes a departure from the key WTO principle of the Most Favoured Nation (MFN);
 - The principle of “sustainable development” is also taken into account in the negotiations to enable such issues as environmental concerns and the achievement of economic growth to be addressed; and
 - There is a “peace clause” that implies that there will be no trade war during negotiations.
12. The representative of the WTO gave an account of the issues that were mandated by the Marrakech Agreement (i.e. the built-in-agenda and unfinished business) as well as the new issues for negotiations (competition policy, relationship between trade and investment, transparency in government procurement, trade and environment, electronic commerce and transfer of technology) and other areas. In this connection, he stated that although WTO established a list of issues of interest to African countries, additional proposals could also be submitted to the WTO through the appropriate ministry of member countries.
13. The WTO Representative also briefly discussed regional trading arrangements within the WTO. He said that the time frame for establishing a Free Trade Area (FTA) and a Customs Union (CU) should normally not exceed ten years and that member States could not maintain an open-ended timetable in the WTO context.
14. Following the WTO presentation the following issues emerged from the comments and observations by participants.
- There is a need for greater coherence between the World Bank, International Monetary Fund and WTO: even though the three institutions pursue different mandates, the fact that they all serve the same constituency makes this imperative. It was however, recognized that the WTO is a member driven organization unlike the World Bank and IMF, which have strong administrations that set their own agenda.
 - Commodity exports from the least developed countries were noted to be enjoying some degree of duty free privileges in the three biggest markets i.e. EU, Japan and US. Nevertheless market access to exports of significant interest for developing countries generally leaves much to be desired.
 - “Transparency”: in principle allows a fair competition and trade. But in government procurement for example, there could be non-transparent practices in order to win a contract. Member countries should put in place national regulations to monitor non-transparent behaviours, in addition to the WTO rules on transparency.

B. Presentation on Tariff Concessions

15. The presentation of the paper on “Tariff Concessions in the Context of WTO Negotiations”, centred on custom duties and tariffs as a traditional instrument of trade policy in many countries. It reviewed the different objectives served by tariffs such as protecting infant or

sensitive industries, rationalizing foreign currency, generating government revenue (50% of revenue) and influencing production and consumption patterns.

16. The resource person further discussed the General Agreement on Tariffs and Trade (GATT), which he said focuses on tariff reductions and concessions, and obliges members to bind their tariff commitments and desist from raising tariffs over the bound rates.
17. He gave account of the following issues bearing on the subject:
 - tariff peaks;
 - tariff escalation;
 - erosion of preferences; and
 - special and differential treatment.
18. The issue of supply side constraints was highlighted as perhaps constituting the real problem facing Africa and not the issue of inadequate tariff concessions. The fact that Africa keeps on producing less value added commodities was of real concern in the international trade arena, especially as commodity prices generally face a declining trend in world markets.
19. The current tariff system and structure of developed countries generally tended to impede the ability of developing countries to take advantage of tariff reductions in the industrialized countries, characterized by tariff peaks and escalations, tariff dispersion, detailed tariff classification and nuisance tariff. The presentation further outlined the approaches to be used by African countries in terms of tariff concessions in the context of the WTO tariff negotiations. These include:
 - tariff band approach (with high, medium and low levels);
 - formula approach (allows for increased transparency);
 - sectoral approach (used when additional concessions are needed);
 - bilateral approach (in the form of give and take); and
 - harmonization approach.
20. The following issues and proposals arose from the presentation on tariff concessions.
 - Tariff concessions may be akin to the price for becoming a WTO member. This is done on a mutually advantageous basis. The question is how far a country can reduce its tariffs without adversely affecting the effective level of protection for its products or industries.
 - Developed countries though have made quite significant tariff concessions, they often employ tariff escalation and tariff peaks which tend to negate the concessions made. There is also the view that most products of export interest to developing countries have not benefited a great deal from tariff concessions by developed countries. This is particularly the case with agricultural products. Therefore, African countries should ask for additional concessions in areas of export interest to them.
 - Clarifications were provided with respect to “bound tariff” and “applied tariff” rates. The bound tariff is normally the tariff ceiling beyond which the country cannot increase rates. It was observed that the bound tariffs of African countries are relatively high as compared to those of developed countries, which have bound their rates at lower levels.

- The Generalized System of Preferences (GSP) is applied outside the purview of the WTO system and thus does not benefit from the enforcement disciplines of the WTO. As it could be withdrawn unilaterally, the issue was to bring GSP rates within the disciplines of the WTO system and thereby make them more binding.
- African countries should seek for the removal of tariff peaks in the context of the WTO negotiations.
- They should also make a case for greater commitments in the area of Special and Differential Treatment.

C. Presentation on the General Agreement on Trade in Services (GATS): Financial Services and Tourism

21. In his presentation on financial services and tourism, the resource person gave an overview of the General Agreement on Trade in Services (GATS) and the extent to which African countries participated in the negotiations on financial services and tourism. The main points of his presentation were as follows:
22. Despite the critical and potential role the services sector was playing in generating growth in Africa, it was not well integrated in the international trade. However, there was still the opportunity for Africa to improve on GATS since the Agreement is subject to successive rounds of negotiations.
23. The main thrust of GATS was contained in Part II in the "General obligations and disciplines". Most of the provisions included the most favoured nation treatment whereby all trading partners were required to be treated equally.
24. One of the general obligations critical to African countries was contained in article IV of GATS, which outlined the measures to increase the participation of developing countries in world trade. One of the provisions of this article deals with improving the access of developed countries to the distribution channels and information networks.
25. The national treatment provision of GATS differed slightly from that of trade in goods (GATT). In GATS, a country was not obliged to apply national treatment in sectors where it had not made any commitment.
26. The performance of African countries in the negotiations was very much limited. African countries offered only 10% of the total commitments. In the forthcoming negotiations, there was a very strong expectation to expand their sectors and commitments.
27. In financial services, especially in insurance, only four countries (Mauritius, Ghana, Nigeria and Kenya) made commitments/offers. The resource person elaborated in detail on the specific offers made by these countries. With respect to reinsurance, he pointed out that the mandatory sections which were required by almost all countries seemed to make the subsector fairly unattractive to service providers.

28. Financial reforms made by African countries in the 1980s and 1990s did not contribute much in the growth of the sector. In many countries budget deficits had continued to widen and growth rates declined. Some countries, e.g. Malawi, were reported to perform better.
29. After discussing the importance of tourism in growth, he observed that there were some strategies that could be developed for future negotiations. An appropriate strategy would be to undertake a broad analysis of the services sector in Sub-Saharan Africa with a view to identifying potential areas of interest to the whole region.
30. Developing countries should also take advantage of labour movement in order to derive foreign exchange through remittances. Labour migration, especially to the developed world, was an area where most countries directly concerned were reluctant to open.
31. Before concluding, he underlined the two main approaches proposed for negotiation:
 - The 'big basket approach' whereby both developed and developing countries agree to trade commitment spanning several sectors in the financial services; and
 - Sector specific negotiations, which was basically focussed on one sector.
32. He further suggested that African countries should have a well-defined common regional approach to negotiations. A more general strategy was the formation of negotiating blocks in which countries mandate a spokesperson on behalf of negotiating countries.
33. In the area of tourism, he urged African countries to exploit Article IV of GATS which called for the developing countries to be accorded special treatment by the developed countries in terms of more market access.
34. The discussion that followed the presentation emphasised on the need to improve the business environment and Africa's capacity in its productive sectors so that the continent could attract investment. A number of measures were suggested in this regard:
 - Adequate policies should be taken to remove the supply side constraints and improve on laws and regulations that govern business in the services sector.
 - The weakness of Africa's financial services has more to do with a number of reasons such as weak regulatory structures and weak banking supervision influenced by political patronage.
 - On the issue of international migration, the appropriate institution or organization to handle the issue should be ILO.
 - Total financial liberalization was a concern portrayed by the example of Southeast Asia where the financial system collapsed due to weak regulations. Nevertheless as very little speculative capital occurs in the Africa region, the concern for financial liberalization may not be as pronounced.

D. Presentation on the General Agreement on Trade in Services (GATS): Transport, Telecommunications and Electronic Commerce

35. The presentation on this subject elaborated the state of telecommunications in Africa from the regulatory perspective and touched a little bit on the General Agreement on Trade in Services.
36. The presenter described the following attributes of the telecommunications sector. It is a means of delivery or distribution channel for capital and information. It is vital to services in banking, advertising, insurance, data processing and retrieval and recognized as an essential component in trade and development. It is considered as a strategic service vital to a nation's infrastructure, public and private applications and also as a component of national security. For all these reasons, developed countries attach a great deal of importance to the telecommunication sector in their national socio-economic development and security.
37. He stated that estimates indicate that at the close of the millennium, 60% of the work force in selected developing countries would be telecommunications and information related. Already, multinational companies in the developed world were busy trying to launch massive international service provisions and commercialization of Internet technology and new technologies.
38. He emphasized that despite the importance of this sector, African countries had not been very keen in having an efficient system of information and telecommunications. He mentioned other weaknesses including the perceptions of telecommunications by African countries as a means of generating revenue rather than as an instrument for economic development, the poor market performance of the telecommunications sector, the inadequacy of private sector involvement, poor management practices and inefficient use of investment resources.
39. The presenter therefore pointed out the urgent need of African countries to reverse these weaknesses, through, inter-alia:
 - formulation of appropriate policies for commercialization and privatization of the sector;
 - Initiation of dialogue by governments with relevant stakeholders including the private sector and civic leaders on the development of the sector;
 - Promotion of reforms in the sector, which would include the following elements: separation of regulatory functions from operations, separation of the postal services from telecommunication services, and privatization (i.e. increasing the scope of the private sector in ownership of the services and infrastructure).
40. With regard to the GATS, the resource person pointed out the fact that telecommunication services were now part of the WTO system. The negotiations on the subject within the WTO framework aim at opening up market access, fostering greater competition and bringing about far-reaching changes in current international accounting rates and tariffs.

41. In addition, the schedules within the GATS contained commitments of which 55% represent offers made by 69 WTO members to open their national markets to international competition. The annex on telecommunications was composed of seven sections with its core obligations contained in the section on access to and use of public telecommunication, transport networks and services.
42. At the multilateral level, he said that the results of telecommunication negotiations are extended to all WTO members based on the most favoured nation principle.
43. In conclusion, the presenter indicated that current WTO provisions did not include Electronic Commerce (E-Commerce), probably because E-commerce was just evolving. Nevertheless, he recommended that African countries should prepare themselves towards its emergence by establishing a legal framework to regulate it.
44. The discussion that followed the presentation addressed the following issues:
 - Telecommunication services are too restrictive and costly in Africa. For instance telephone line in Africa was noted to cost about US\$ 5,600.00 compared to US\$1,500.00 in other developing areas, a situation which was not conducive for the development of telecommunications infrastructure. This is an issue that needed to be raised by African negotiators in future GATS negotiations.
 - The high tariffs charged for long distance telephone calls do not also help the development of telecommunication services.
 - African governments ought to play a leading role in terms of creating an enabling environment by means of various policy measures and regulations with a view to encouraging private sector participation in the telecommunications sector.

E. Presentation on WTO's Technical Assistance and Capacity Building Programmes

45. The WTO representative stated that the WTO technical assistance programme was designed to assist developing countries to better participate in the multilateral trading system and implement the WTO agreements.
46. He mentioned that technical assistance could take the form of:
 - national or regional seminars conducted upon request by member States;
 - specialized workshops covering one or two subjects e.g. anti dumping and safeguards conducted upon request from member States;
 - training courses on trade policy organized in Geneva for about three to four months with an in-depth coverage on all elements of the multilateral trading system. The number of trainees is normally limited to twenty-five and the courses are conducted in English,

- advisory missions by secretariat staff to tackle specific issues e.g. customs valuation; and
- provision of assistance using electronic documentation via reference centres.

47. Delivery methods used to provide technical assistance include:

- “outsourcing” based on better coordination with regional and subregional organizations;
- “integrated framework” linked to the specific needs of the LDCs; and
- linkage of technical assistance programmes to the academia. In this respect, the use of universities to deliver programmes was being explored.

48. The main issues arising from the presentation were as follows:

- The role of the IMF, the World Bank and the WTO in addressing the supply side constraints: it was stated that although the problem could be examined under the integrated framework, the WTO was not mandated, so far, to address the issue by itself or jointly with the two institutions.
- Inclusion of study tours in technical assistance programmes: WTO will explore ways and means for launching effective study tours, which will cover specific subjects. These will complement the trade policy courses.
- With respect to the private sector, the WTO had tried to link its technical assistance programme through organizations like the Chambers of Commerce. The private sector and the academia are also involved in the WTO programme called the GTAP.
- In connection with Article VIII of the TRIPS, there is an agreement between WTO, the World Intellectual Property Organization (WIPO) and the World Customs Organization to implement the provisions of the Article at national and regional levels.
- Technical assistance should be seen as a complement to national policies and not as an end in itself. Nations had increasingly moved from political friction to trade friction. The perception of international diplomacy should also change in favour of producing trade diplomats.
- Africa should be proactive in information exchange. The WTO had set up the electronic reference centre for use by African countries, especially the least developed ones.

F. Presentation on Trade-Related Intellectual Property Rights (TRIPS)

49. In his presentation on TRIPs, the resource person highlighted the following general provisions of TRIPS:

- National Treatment (Article 3);
- Most Favoured Nation (Article 4);

- Multilateral Agreement on Intellectual Property Rights (IPR) Protection (Article 5); and
 - Exhaustion of IPR (Article 6).
50. He added that Article 27.3(b) allowed the patenting of all life forms and life processes, and made it particularly compulsory for WTO members to patent micro-organisms and microbiological processes.
51. In relation to standards, he surveyed all the seven different types of IPR covered by TRIPS, including their linkages with the Bern Convention, the Paris Convention and the Rome Convention. He pointed out that, often, the substantive provisions of these conventions, many of which are accepted as operative provisions of TRIPS as well, are ignored, but that they provide useful leeways for developing countries.
52. He underlined that in view of its importance for developing countries, the protection of Industrial Designs in the textile sector should receive sufficient attention. Such protection should apply particularly to traditional designs.
53. It was pointed out that 'patents' should be an area of interest to negotiators. For example, in the health sector, diagnostic, therapeutic and surgical methods need not be patented and no country should be forced to do so. There is also no ground for patenting living things since the life processes that generate them are all natural and discovered, not invented.
54. The issues listed below were raised during the discussion that followed the presentation:
- TRIPS is of relevance to Africa only if it makes it impossible for the continent to start industrialization through imitation, which has been the path industrialized countries have so far taken. There is no advantage that can accrue to Africa from TRIPS. Otherwise, there was no empirical evidence suggesting that Africa could benefit from TRIPS. IPRs keep a market captive for imports rather than encourage local manufacturing.
 - Geographical indication should be seen as a means of keeping open a future market niche for specialized African products.
 - Undisclosed information remains useful indefinitely only to the owner of the information and is never disclosed so as to benefit society; protecting it therefore should be the affair of the owner. There is no rationale to argue that society should pay for the individual's sole benefit."
 - There is virtually no African export of IPR protected technologies. Therefore, Africa has no need to focus on TRIPS. However, a good amount of community knowledge, technologies and biodiversity of developing countries is being pirated and IPR protected as belonging to companies of developed countries. Developing countries should, therefore, put in place laws that effectively regulate access to biological resources and protect community rights.
 - On the issue of the plant breeders' right protection of teff (the staple food in Ethiopia) by the Teff Company of America it was pointed out that the right could be contested in a U.S. court, but that it would be expensive. Ethiopia could not afford to pay the costs involved. A strong opinion was voiced by some participants that Ethiopia should give such a challenge a high priority since doing so could forestall other future piracies.

- The resource person reported on two case studies of international negotiations to show what could be done to protect Africa's interests. These were on the negotiations for a Protocol on Biosafety and for the revision of the International Undertaking on Plant Genetic Resources for Food and Agriculture, both of which are to become protocols of the United Nations Convention on Biological Diversity.

G. Presentation on Preferences within the WTO and EU/ACP frameworks

55. In his presentation on preferences within the WTO framework, the resource person indicated that preferences or trade negotiations should be linked to the issue of capital accumulation in Africa. In other words, trade preferences should allow Africa to generate and accumulate capital.
56. In this context, he elaborated on the concept of preferences and its historical evolution from ITU to GATT and finally to the WTO. The interest of Africa was not to negotiate on issues that could not help in the creation of capital. The resource person argued that before talking about preferences, tariffs, TRIPS, most favoured nation clause and other negotiations, Africa should, first and foremost, take decisive actions and measures to control the markets for its commodities; in other words, Africa should participate in price determination. The interest of the region should have been to know how prices were determined.
57. In his concluding remarks, he recommended that a periodic journal much similar to that of the American Economic Review could be prepared to serve as an economic forum on WTO and other issues related to the development of Africa. What African policy makers discuss in conferences is not effectively disseminated to government, universities, civil societies and other stakeholders since there were no journals. Such a journal would help address this weakness.
58. Following the presentation, participants raised the following issues:
 - The need for Africa to be involved and play its role in the price determination for its products. Because most products are produced and handled by transnational companies, most African Governments are not in any way involved in price determination.
 - Preferences within the WTO are very complex and broad in terms of coverage. The different rules on preference within the WTO are contained in about 30,000 pages. The size and complexity of the rules delayed implementation in many developing countries.
 - With regard to the problem related to the notification of preference, participants suggested that developed countries periodically notify the WTO which portion of their imports entered under preferences. This would help better evaluate the quantity of preferences accorded to countries. It would also help include in the integrated database the actual treatment received by each country.

IV. Recommendations

59. The workshop made the following recommendations:

- As trade and development were interfaced, the WTO should bring the issue of development in its sphere of competence;
- In addition to the preferences granted to African countries a mechanism should be created to enable the region participate in the determination of prices offered to primary as well as semi-processed goods;
- Intellectual Property Rights should also be applicable to communities in the developing countries;
- The issue of revenue vs. tariff dispersion and tariff reduction and harmonization should be addressed;
- Potential priorities or issues should be identified and discussed amongst African countries in order for the region to speak with one voice;
- A common African position be developed to assist the negotiations in Seattle and beyond;
- More attention should be given to the adverse consequences of trade on the environment, especially in forest products;
- In addressing labour to the developed world as an area of interest to African countries, the cost and benefit of labour migration especially the 'brain drain' should be taken into account;
- Strengthen the regional economic communities;
- Strengthen African countries' working relationship with WTO;
- WTO should establish more cooperation links with specialized agencies such as UNCTAD in order to solve the problems in the area of valuation;
- WTO should involve the private sector as the sector was the major partner in development;
- WTO to publicize itself more;
- Academia to be involved in discussions on WTO matters;
- Creation of a periodic journal to disseminate important WTO and other issues related to the development of Africa;
- ECA should organize more training workshops on negotiations; Future training workshops should focus on simulation in negotiation where by trainees are grouped to play the role of negotiators.



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establishing the African Economic Community (AEC) and Agreements
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