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COMMUNICATION FROM THE LDC GROUP

Draft Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services

The following communication has been received from the Permanent Mission of Zambia, on behalf of the Least-Developed Country Members, with the request that it be circulated to the Members of the Council for Trade in Services. This communication contains a revision of an earlier draft circulated as JOB(02)/205, dated 2 December 2002.

I. OBJECTIVES AND PRINCIPLES

1. In pursuance of the objectives of the GATS and following Article XIX:3, special treatment for least-developed country (LDC) Members shall be granted by providing special priority to the LDC Members in the implementation of paragraphs 1 and 2 of Article IV. Particular account shall be taken of the serious difficulty of the LDCs in undertaking negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.

2. The importance of trade in services for LDCs goes beyond pure economic significance due to the major role services play for achieving social and economic development objectives and as a means for addressing poverty and upgrading welfare, improving universal availability and access to the basic services, in ensuring sustainable development, including social dimension. LDC Members are facing serious difficulty in addressing a number of complex issues simultaneously, they lack institutional and human capacities to analyse and respond to offers and requests. This should be factored into the negotiating process in general and regarding the individual requests made to the LDCs.

3. Together with the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93), the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services shall ensure the maximum flexibility for the LDC Members and shall form the basis for the negotiations.

II. SCOPE

4. Considering the serious difficulty of LDCs in undertaking negotiated specific commitments in view of their special economic situation, Members shall present requests which are compatible with the developmental, economic and financial needs of the LDCs and which are limited in terms of numbers of sectors and modes of supply and scope of commitments.

5. LDCs shall retain maximum flexibility in undertaking commitments in a manner consistent with their development needs. Members shall not seek the removal of conditions, which LDCs may attach when making access to their markets available to foreign services suppliers and which are aimed at achieving objectives of Article IV. For so long as they remain LDCs, no LDCs shall be required to offer national treatment. LDCs shall not be requested under Article XVIII to undertake additional commitments on regulatory issues, which may go beyond their institutional, regulatory and administrative capacities.

6. Members shall grant full market access and national treatment to LDCs in the sectors and modes of supply of export interest to them. To achieve effective implementation of the provisions contained in Article IV:3, preferential market access mechanism shall be established for ensuring effective access of LDCs to markets of other Members. Additional commitments ensuring increasing participation of the LDCs in the sectors of their trading interest shall be offered by developed countries. For this purpose, LDCs shall indicate those sectors and modes of supply that represent a priority in their development policies, so that the WTO Members take these priorities into account in the negotiations.

7. Developed country Members shall promote and strengthen their investment and export/import promotion programmes for LDCs with the view to building domestic services capacity and its efficiency and export competitiveness.

8. Members shall assist least-developed countries in obtaining training and transfer of technology, and shall undertake other specific measures that support the development of their infrastructure and services exports through enterprise level actions and schemes and intergovernmental cooperation programmes, and making appropriate financial resources available for such specific measures.

9. Members shall facilitate and ensure the improvement of access to services and service suppliers of LDC Members to distribution channels and information networks, especially in tourism, transport, audiovisual, and construction services, *inter alia* through promotion of intergovernmental cooperation programmes. Members shall take appropriate measures to discipline certain business practices that restrain competition and thereby restrict participation of services suppliers from LDCs in trade in services.

10. The temporary movement of natural persons (Mode 4), particularly of unskilled and semi-skilled persons, provides the greatest potential benefit to the sending and recipient countries. For LDCs, this is the most important means of supplying services internationally and eliminating poverty. Members shall, accordingly, undertake commitments to provide access to all categories of natural persons from LDCs, particularly unskilled and semi-skilled persons, for supplying services under the GATS without the application of economic needs test.

11. LDCs shall be granted maximum credit for their autonomous trade liberalization without scheduling them as binding commitments. Credit shall not be requested from LDCs by other Members.

12. In developing multilateral rules and disciplines, including under Article VI:4 (Domestic regulation), X (Emergency safeguard measures), XIII (Government procurement) and XV (Subsidies), Members shall specifically account for interests and difficulties of LDCs.

13. Targeted and coordinated technical assistance and capacity building including for the purposes of strengthening their domestic services capacity and its efficiency and competitiveness, by WTO and other relevant multilateral, regional and bilateral development partners, shall be provided, on a priority basis, to assist LDCs. Technical assistance shall also provide for institutional and

human capacity building and undertaking regulatory reform. Assistance shall be accorded in line with special priority given to LDCs with the objective of effectively implementing their increasing participation in world trade. In pursuance of Paragraph 14 of the Guidelines, technical assistance shall be provided to LDCs to carry out national assessments of trade in services in overall terms and on a sectoral basis with reference to the objectives of the GATS and Article IV in particular, and taking into account their special economic situation and their development trade and financial needs.

III. MECHANISMS AND PROCEDURES

14. The review of the progress achieved in the implementation of the modalities for LDCs shall be a standing item on the agenda of the Special Session of the Council for Trade in Services. In evaluation of the results attained in negotiations in terms of the objectives of Article IV, the special needs of the LDCs shall be examined with respect to ensuring their increasing participation in trade in services. Negotiations shall be adjusted in the light of the results of the review as provided in paragraph 14 of the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93).

15. Each report by the Chairman of the Special Session of the Council for Trade in Services to the Trade Negotiations Committee shall report in a special section, on the issues outlined in this document. This section shall build upon the above evaluation and shall be drafted in close collaboration with LDCs. In particular, the report shall examine whether the special needs of the LDCs have been adequately addressed; and whether the negotiations contributed to the increasing participation of LDCs.
