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Technical Annex

**Accession to the World Trade Organisation:
Challenges and Prospects for the Least-developed
Countries (LDCs): Ethiopian Accession Case Study**

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This document is the technical annex to the full paper “Accession to the World Trade Organisation: Challenges and Prospects for Least-developed Countries (LDCs)” which is available separately.

Currently, Ethiopia is in the process of finalising her Memorandum of Foreign Trade Regime (MFTR)¹ for submission to the WTO. The working party on Ethiopia’s accession examines the country’s trade policy on the basis of the MFTR and the comprehensive responses provided to the list of questions submitted to it by members. Ethiopia is also expected to make available to members of the working party copies of relevant legislation and comprehensive statistical information on applied duty rates, agricultural supports and export subsidies and trade in services among others. As this stage lays the foundation for the ensuing accession negotiations, it is extremely important to pay particular attention to it.

Following decades of tight economic and political centralization, Ethiopia has been undertaking important policy measures since 1992, albeit with mixed results. These measures include reduction of tariff and non-tariff barriers, harmonization and simplification of tariffs, including tariff lines and dispersions, removal or tariffication

of quotas, reduction and gradual elimination of all controls including on domestic prices, deregulation and realignment of foreign exchange rates and liberalization of investment policies. Measured along these lines Ethiopia's policy measures were found to be slow but extensive, and the country is now considered open. The average tariff levels on luxury consumer goods were reduced from over 230 percent in the late 1980s to 28.9 percent in 1995 (early phase of the reform process) to 17.5 percent in 2002. The same average for LDCs as a group was about 20 percent in 2002. The range of tariff rates in Ethiopia narrowed, from 0-to-240 in the pre-liberalization period, to 0-to-80 in 1995 and 0-to-35 in 2002. The degree of dispersion of tariff measured as a coefficient of variation also declined from 82.4 percent to 69.7 percent during the same period.² Ethiopia has also realigned its foreign exchange rate by substantially devaluing its currency (the Birr) from the official rate of 2.07 to a US dollar in the pre-liberalization period to well over 8.50 currently, bringing the parallel and the official market rates to symmetry.

Given the above, one could conclude that Ethiopia's pursuit of open and liberal economic policy is no less than the policy measures adopted by developing countries and other LDCs. What was unique to Ethiopia's economic policy reform endeavours, though, was that, unlike most developing countries and LDCs that are members of the WTO, Ethiopia's trade liberalization measures were undertaken in the context of structural adjustment programmes (SAPs). This means that the measures are unilateral – not multilaterally negotiated. The implications of this are enormous for future trade and development policies of the country, especially in the context of its accession negotiations. First, Ethiopia has already made substantial reductions of tariffs and non-tariff measures without receiving reciprocal concessions from its trading partners, since its liberalization commitments were not multilaterally negotiated. Second, some of the adjustment and reform commitments of Ethiopia went beyond what other LDCs that are members of the WTO have accepted. For instance, Ethiopia's removal of all forms of agricultural subsidies goes beyond the provisions of the WTO, where LDCs are exempt from such reduction commitments. Although the capacity of LDCs such as Ethiopia to provide direct subsidies is very weak, the total elimination of all forms of agricultural subsidies could have adverse consequences on the productivity and competitiveness of the sector. Similarly, some of the reform programmes Ethiopia had undertaken in the context of SAPs failed to take into account the realities of the country. Ethiopia, with a total population of about 72 million but with fewer than 600,000 civil servants, had been pushed through labour retrenchment exercises in the early phase of its reform programmes. This shows that Ethiopia (whatever the

circumstances may be) has already undertaken deep and wide adjustment and reform programmes before submitting its accession requests to the WTO. This could put the country at a disadvantage, especially during negotiation of the terms and conditions of accession to the organisation. There is little that the country could offer now in terms of tariff concessions on goods or specific commitments on services to its trading partners, as it has already slashed tariff levels more proportionately than or equal to those of developing countries and LDCs that are members of the WTO.

Therefore, Ethiopia's top priorities in the ensuing accession negotiations should be a) to press her trading and development partners to acknowledge and consider as a basis the outcomes of her policy reform and trade liberalization measures thus far, so that the country will receive due credit and recognition for the liberalization policies pursued through SAPs and for the results therefrom, and b) to ensure that the objectives of trade liberalization policies and new obligations arising from WTO accession be consistent and coherent with Ethiopia's overall development policies and strategies.

It is also imperative for trading partners of Ethiopia to recognize the fact that for most LDCs, including Ethiopia, economic reform and adjustment policies have so far failed to bring about structural transformation in their economies and improvements in the standard of living of their populations. In Ethiopia in 1981, the percentage of the population living on less than \$1/day, based on estimates of the household survey of consumption expenditure,³ was 32.7; the percentage living on less than \$2/day was about 82.9. But when the basis for the estimate changes, for example, from the household survey to national accounts⁴ the figures for the same year are more alarming. With the latter estimates, in 1981 about 89.5 percent of the population of Ethiopia lived on less than \$1/day, while about 96.8 percent lived on \$2/day (for details of the techniques of the two estimates see UNCTAD, LDCR, 2002). After more than a decade, the situation of extreme poverty in Ethiopia has shown no substantial improvement despite the wide-ranging reform and adjustment programmes it has undertaken. Thus, it is important for Ethiopia to make every effort to ensure that new obligations and commitments it undertakes in the context of the WTO take into account its specific circumstances and be consistent with its long-term development policies and strategies.

The negotiation phase that follows the "initiation" phase is more challenging and complex, as it involves negotiations on terms and conditions of accession that define the concessions and commitments Ethiopia must honour. To date there have not been agreed standard terms of accession to the WTO, and an individual country's success in

accession negotiations depends to a large extent on its extent and level of preparations. Strong, sustained and coordinated efforts are needed to obtain realistic terms and conditions of accession. The terms of accession should be commensurate with the economic, trade and financial needs of Ethiopia and consistent with the development priorities, policies and strategies of the country. This phase also involves separate and distinct negotiations on WTO rules, trade in goods as contained in the GATT, intellectual property rights as addressed in the TRIPS and trade in services as addressed in the GATS. These negotiations could be bilateral, multilateral or plurilateral. For instance, market access offers in goods and commitments in services sectors are handled in bilateral negotiations, while negotiations on the levels of domestic support and export subsidies in agriculture are increasingly becoming part of the early accession negotiations through plurilateral tracks. Negotiations on rules that assess the degree and level of convergence or conformity of Ethiopia's trade regime to WTO rules would largely be reviewed by the working party in a multilateral setting, as these are concerns of common nature for all members. Nevertheless, discussions on rules could also be held bilaterally in cases where interested members have concerns about the nature and level of convergence or divergence of the trade regime of Ethiopia with the WTO rules. Interestingly, in most cases, especially on market access negotiations, countries in the accession process will assume special responsibilities in initiating such negotiations. This applies particularly to negotiations on concessions and commitments that follow the "initial offer" approach – a situation where the applicant country initiates the market access negotiations by presenting basic factual information and initial offers on goods including commitments on agriculture and/or services (see WTO/ACC/10 for more details on this).

During substantive negotiations, countries such as Ethiopia that are in the accession process face several challenges and problems. Some of these relate to the following:

1. The difficulty to, on the one hand, link initial offers to their respective long-term development priorities and, on the other hand strike the right balance between initial offers and existing WTO rules and commitments on market access. An acceding country will not be involved in reciprocal exchange of market access commitments. Instead it will be entitled to make use of existing market access privileges as contained in the URAs, as a package, in exchange for its initial offer.
2. Inability to fully apply the relevant provisions granted to LDCs by virtue of their LDC status. It is critical to strictly apply WTO provisions on market access, especially Article XXXVI.8 of the GATT 1994, Article 15 of the Agreement on Agriculture and

articles IV and XIX of the GATS. According to these provisions acceding LDCs shall offer market access through reasonable concessions on goods and commitments on services sectors commensurate with their developmental, financial and trade needs. Similarly, and pursuant to the above provisions, WTO members shall exercise restraint in seeking concessions and commitments from acceding LDCs that exceed the commitments undertaken by the existing WTO LDC members.⁵ Notwithstanding these “LDC-friendly” provisions, Ethiopia, beyond what is contained in the URAs, may be expected at the first meeting of the working party to maintain or declare a standstill on any WTO-inconsistent measures and increases of tariff during the accession process.

3. Problems and challenges that arise from the form and structure of negotiations. Ethiopia should avoid, as much as possible, initiating parallel negotiations on its terms of accession. In this regard, it is important for Ethiopia to consider each track of accession negotiations as distinct and separate from one another at least in terms of procedures and processes. For instance, Ethiopia should undertake sectoral studies before tabling an initial offer on goods and services. Such studies are critical to identify the comparative and competitive advantages of Ethiopia in relation to key trading partners. Initial offers, as a matter of principle and of convenience to the acceding countries, should be tabled on the basis of the findings of sectoral studies. The initial offers should also follow the submission by Ethiopia of comprehensive responses to the questions and clarifications raised at consultation plans and to those previously raised by member states in connection with the country’s MFTR.

4. Conflict of interest, especially as concerns access to the S&D provisions. Although there is a universal recognition of the development problems and special socio-economic circumstances of LDCs such as Ethiopia, there have been several instances of strong opposition (or reservation) from member countries (developing and/or developed) on the automatic granting of S&D treatment, including transition periods, for newly acceding LDCs. Especially in the multilateral tracks of accession negotiations, serious problems could arise with regard to the “automatic” application of provisions for special and differential treatment, including transition periods for newly acceding countries. As S&D provisions are reserved for current WTO members, the question of automatic access to them by acceding countries has been a source of tension between members and newly acceding countries. There have been cases when automatic applications of S&D provisions were considered on a case-by-case basis. However, pursuant to the decision of the General Council,⁶ special and differential treatment provisions as contained in the WTO agreements and relevant

ministerial decisions shall be applicable to all acceding LDCs from the dates of entry into force of their respective protocols of accession. Likewise, transition periods contained under specific WTO agreements shall be granted in accession negotiations, taking into account an individual country's developmental, financial and trade needs. In this context, Ethiopia should continue to intensify efforts to get commitments and supportive actions from its partners for full and automatic access to all development-friendly provisions such as the S&D provisions.

5. Complexities of negotiations related to the services agreement (GATS). Despite the fact that the GATS is the most flexible and development-friendly agreement ever concluded in the MTS, accession negotiations related to the GATS are daunting. The complexities arise mainly from the lack of statistical information on flows and trends of trade in services as well as from the nature and form of accession negotiations involving services sectors. With respect to the latter, first, as with agricultural domestic supports and export subsidies, commitments on services sectors cover general systemic interests more than concessions on specific tariff lines for goods. Second, as experience so far has shown, services schedules of commitments involve sequenced negotiations – first multilateral and then bilateral. This suggests that only after multilateral examinations of the services regime of Ethiopia have been completed could bilateral negotiations on initial offers begin. Third, negotiations on services involve the so-called “horizontal commitments”⁷ depending on the form of delivery (supply) and consumption of services, ranging from mode 1 to mode 4.⁸

6. Challenges related to maintaining institutional requirements of the GATS. For instance, the GATS requires member countries, including newly acceded ones, to establish “inquiry points” for information on laws, regulations and administrative practices in relation to trade in services (see Martin and Winters, 1996). This requirement adds technical and financial burdens to newly acceding countries such as Ethiopia. Services negotiations also involve sector-specific commitments⁹ on a range of services. The strategic implication for Ethiopia of these provisions, commitments, special requirements and limitations is that it is critical for the country to fully assess their essence and economic viability. Ethiopia should also be able to avail itself of these provisions and limitations in a manner that promotes her developmental interests. This should in principle precede accepting binding commitments in the accession negotiations and signing the protocol of accession. In this context, it is crucial for Ethiopia to engage in accession negotiations in such a way as to preserve, as far as possible, all the advantages while ensuring that entitlement of all benefits pertaining to other developing countries also accrue to the country.

7. The increasing interest of trading and development partners in the services sector. During accession negotiations, Ethiopia has been requested on several occasions to liberalize, across the board, its services sectors (e.g., banking and insurance, telecommunications, power, etc.) despite the flexibility provided for developing countries in the GATS. For instance, Article XIX.2 of the GATS allows developing countries to open fewer services sectors or fewer types of transaction (see UNCTAD, 2000). The agreement also provides countries such as Ethiopia with the opportunity to strengthen their domestic services capacities and to improve the efficiency and competitiveness of their services sectors through technology transfer and enhanced access to distribution channels and information networks before liberalizing their services sectors. Generally, the GATS provides for a well-structured integration of development objectives of developing countries. Unlike other WTO agreements, market access and national treatment clauses in the GATS are negotiated concessions relating to particular services sectors on the basis of a “positive list approach” to allow for more gradual and well sequenced liberalization of the sector. Ethiopia should make every effort to make full use of these and other development-friendly provisions contained in the URAs in order to safeguard its trade and development interests.

Countries that are, like Ethiopia, in the early phase of their accession negotiations can draw several lessons from completed accession cases or from those that are at advanced stages. First, irrespective of their differing levels of development, countries in the accession process could end up making commitments that go beyond current WTO agreements, and these commitments could have serious consequences for their development. For instance, Cambodia made explicit commitments on patents and protection of undisclosed information under the TRIPS Agreement although LDCs that are members of the WTO are exempt from such provisions until 1 January 2016.¹⁰ Second, poor countries that are in the accession process have been facing growing pressure to categorise investment incentives that they provide for investors as export subsidies, which should therefore be phased out upon accession. Investment incentives are critical to enable LDCs to attract much needed capital to their economies. Hence, poor countries that are in accession negotiations, such as Ethiopia, should pay particular attention to ensure such incentives be allowed within accession packages and be considered “non-actionable subsidies”. Third, countries in the accession process should undertake comprehensive reviews of the implications and impacts of WTO agreements on their socio-economic progress before submitting their accession applications. Such reviews should include sectoral studies prior to the tabling of initial offers on market access for goods and commitments on services so

that the initial offers will be reasonable and take into account the developmental, financial and trade needs of acceding countries. Cambodia and Nepal – the only LDCs that have joined the WTO since its establishment – managed to obtain better transition periods on market access than, for example Vanuatu has. Finally, poor countries that are in the advanced stages of accession negotiations (e.g., Viet Nam¹¹) are being pressured to eliminate subsidies and refrain from attempting to regulate agricultural imports and import surges, while developed countries have continued to provide trade-distorting subsidies to their farmers. LDCs should also be given free choice on timing and sequencing their liberalization policies based on their developmental needs and priorities, including binding of the tariff lines and tariff levels.

Endnotes

1. An MFTR is a basic policy document outlining the scope and coverage of trade and related policy of acceding countries for closer and factual examination of these policies by the working party on accession.
2. For the data and interpretation see the draft Ethiopian Diagnostic Trade Integration Studies (DTIS) by the World Bank.
3. This survey uses questionnaires to estimate household incomes or household consumption expenditures for a representative sample of population.
4. National accounts-consistent estimates are based on estimates of the level of the average per capita private consumption of the total population as derived from the sample of the household survey data.
5. See decisions of the General Council of 10 December 2002 on accession of the least-developed countries.
6. *Ibid.*
7. Horizontal commitments also contain some limitations based on classifications of the different modes of supply of services. These are limitations on the number of service suppliers, on the total value of transactions and assets, on the number of services operations in relation to the total quantity of services output, on the total number of persons employed, including specific types of legal entity such as joint venture, and limitations on foreign equity participation. (See the GATS for more details.)
8. Mode 1 refers to cross-border trade (the supply of services from the territory of one member into the territory of any other member); mode 2 refers to consumption of services abroad (the supply of services in the territory of one member to the service consumer of any other member); mode 3 is commercial presence (the supply of services by a service supplier of one member through commercial presence in the territory of any other member); mode 4 is the presence of natural persons (the supply of a service by a service supplier of one

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- member, through presence of natural persons of a member in the territory of any other member).
9. Sector-specific commitments include professional services (accountancy, taxation, architectural and engineering, legal, medical, etc.), computer and related services, research and development services and other sectoral services such as tourism, transport, construction, financial and insurance, air transport, etc.
 10. The Doha Declaration on the TRIPS Agreement and Public Health in paragraph 7 states “Least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of part II of the TRIPS Agreement or to enforce rights provided for under these sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other extensions of transition periods as provided for in Article 66.1 of the TRIPS Agreement.”
 11. Oxfam International, *Do as I Say, Not as I Do: The Unfair Terms for Viet Nam’s Entry to the WTO*, 9 May 2005.