

# EAC GENEVA FORUM

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## The Least Developed Countries Services Waiver

Opportunities and Challenges to the EAC

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## Introduction

The Least Developed Countries (LDC) WTO Services waiver was signed into practice by the Chairman of the Council for Trade in Services (CTS) on the 29<sup>th</sup> of November 2011 to be adopted by Ministers at the 8<sup>th</sup> Ministerial Conference<sup>1</sup> of 2011. The waiver, as it extends to the service sector exempts LDCs from the Most Favored Nation (MFN) clause that governs all members of the WTO. From the time of its signing, this clause will be operational for a period of 15 years.<sup>2</sup> In practice, this allows WTO members to grant preferential treatment to services and service suppliers of LDCs under the following four modes of Services market access<sup>3</sup>:

- Mode 1 entails services supplied from one country to another, commonly referred to as “Cross-border supply of services”
- Mode 2 involves the consumption of services in another country. Thus it is referred to as “consumption abroad”
- Mode 3 includes a foreign company setting up branches or subsidiaries in another country. This entails the “commercial presence” as a means of providing a service.
- Mode 4 refers to the temporary movement of labor from one country to another in order to supply a service abroad. This is the “official presence” of natural persons.

The waiver presents a variety of opportunities to four of the five member countries of the East

African Community (EAC) that are LDCs, namely Uganda, Burundi, Rwanda, and Tanzania. If well utilized, the waiver could allow these countries to improve and expand upon their existing service sectors. This can be done by identifying and securing markets of interest in the WTO membership. In turn, strides will also be made in improving the efficiency of the domestic service suppliers of EAC LDCs while also increasing the foreign exchange earnings accrued from increased exports of services abroad.

## Services in the East African Community (EAC)

Services, as they pertain to the non-commercial (water, health, education etc) and commercial sectors (banking, tourism, telecommunications etc.) contribute significantly to the total GDP of EAC member states. As of 2011, the value of service exports, pertaining to the EAC accounted for approximately 7.987 billion USD<sup>4</sup>. However, compared to the import of services into the EAC, there is significant room for improvement as the total import of services into the EAC amounts to 7,828 billion USD<sup>5</sup>. This demonstrates that, despite admirable performance and increase in the exports of services, the benefits from these improvements will not be fully realized unless member states can either curtail the range of service imports or vastly improve upon their existing service exports. It is also worthwhile to note that Kenya’s inclusion within the EAC has cushioned this comparison.

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<sup>1</sup> “The LDC Services Waiver: Making it Work,” last modified 13th August 2012, <http://ictsd.org/i/competitiveness/140321/>.

<sup>2</sup> IBID.

<sup>3</sup> “Services: Rules for Growth and Investment,” accessed March 13th 2013,

[http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm6_e.htm)

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<sup>4</sup> “Value-shares and growth of service imports by service category,” last modified 10<sup>th</sup> July 2012,

<http://unctadstat.unctad.org/TableViewer/summary.aspx>

<sup>5</sup> IBID

Broken down on a country by country basis, some countries within the EAC stand as net importers of services. With four of the five countries within the EAC being LDCs, the WTO Services waiver points to a useful opportunity for member states to work towards reversing these existing imbalances.

**Table 1: Share of EAC Services sector in world trade**

EAC LDC	Share in World Trade	Share in World Imports	Share in World Exports	Ratio Imports/ Exports
Uganda	0.08%	0.11%	0.06%	1.8
Rwanda	0.03%	0.04%	0.02%	2.0
Burundi	0.01%	0.01%	0.00	36.7
Tanzania	0.16%	0.14%	0.18%	0.8

*Source: The South Center: Analysis of Draft Waiver Decisions on Services and Service Suppliers of LDCs.*

As demonstrated in the above table, the ratios of service imports and exports by LDCs in the EAC point to an imbalance for the majority. Tanzania can bolster its already advantageous positions in service exports while Uganda, Rwanda, and Burundi need to work on reversing their negative imbalances.

An expansion of the domestic service sector is vital to the growth and development of any country. The EAC common market protocol has enabled services within the EAC to grow beyond national borders. Services such as telecommunications and banking have expanded within the EAC and have contributed to economic growth and inclusive development to the wider populations of these economies. In order for member states within the EAC to improve upon their existing service sectors, it is vital that this opportunity granted by the WTO services waiver is fully taken advantage of by

identifying and securing markets of interest to their service sectors and services suppliers.

## Opportunities arising from the Service Waiver

The Services Waiver opens an opportunity for LDCs including those within the EAC to make significant gains in their service exports. If well utilized, multiple benefits can accrue to the service sector through efficiency, competence, and overall contribution to the exports of these countries.

Harnessing these opportunities will require EAC LDCs to identify service sectors in which they enjoy a considerable comparative advantage. These should ideally be in areas that can contribute to greater export earnings, and where competitive and efficiency gains can also benefit the domestic service supply. Once these sectors are spotted, specific requests and demands for preferential treatment can be tabled to other member states within the WTO<sup>6</sup>.

In identifying priority sectors, LDC countries should consult with other WTO member states that may have an interest in importing their services. Firstly, attention should be devoted towards researching, identifying, and picking specific markets of interest within the WTO membership. These countries should either have a market to consume the services from these countries or have an identifiable comparative advantage in the certain service sectors of interest to EAC member states. The WTO services waiver also restricts service importers from including non-trade issues as a compliance prerequisite. Further to this, the Rules of Origin

<sup>6</sup> "The LDC Services Waiver: Making it Work," last modified 13<sup>th</sup> August 2012, <http://ictsd.org/i/competitiveness/140321/>.

mandate also prevents third party actors from benefiting from the services waiver<sup>7</sup>. As a result, there is a reduced risk of non-LDC service providers benefiting from the waiver. In effect, the bargaining position of LDC service providers is greatly strengthened thus enhancing the potential of ameliorating their existing conditions.

Once coalitions of mutual interests are formed, collaborating states should jointly invest in statistical research to investigate the maximum gains that can be attained from preferential access. This research should be geared towards determining the specific services and service suppliers from LDC member states that are in demand in other states whereas LDC countries should also determine their specific export capacity. The research on the service sectors should be done in each of the four modes of trade in services as outlined by the WTO. This way, all potential opportunities are exhausted. It is also important to note that the service exports should not deplete the existing domestic services. Agreements on lowering access and entry in these specific areas and services should also take place in order to facilitate the ease of market penetration by service providers from LDCs.

As demonstrated in the below sections, EAC LDCs could explore several opportunities arising in a number of services sectors, including the unskilled sector.

- **Opportunities in the unskilled sector**

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<sup>7</sup> "Analysis of Draft Waiver Decisions on Services and Service Suppliers of LDCs", December 2011, [http://www.southcentre.org/index.php?option=com\\_content&view=article&id=1649:analysis-of-draft-waiver-decision-on-services-and-services-suppliers-of-lDCs&Itemid=1&lang=en](http://www.southcentre.org/index.php?option=com_content&view=article&id=1649:analysis-of-draft-waiver-decision-on-services-and-services-suppliers-of-lDCs&Itemid=1&lang=en).

In future, the demand for unskilled labor in developed countries is expected to undergo some significant changes and experience some potential shortfalls due to a variety of reasons. This includes but is not limited to: demographic changes, undesirability of the unskilled sector among the local populations, low birth rates, ageing populations and welfare schemes for the citizens of these countries. Juxtaposed with this phenomenon is the population boom that is prevalent within many African countries, particularly the member states of the EAC. This presents an opportunity for the younger EAC LDC populations to temporarily fill the existing gaps that are presented with the population drawdown in more developed countries.

This new demand for the unskilled services of populations from developing countries can greatly work towards improving the unskilled sector within the sending country's economy. It will also temporarily bolster the service sectors within developing countries as well. Such services that can benefit from this trade include but are not limited to, care for the elderly, construction services, domestic care, and basic telecommunications services. Furthermore, the temporary migration of labor to developed countries will also allow for greater remittance flows to the sending country.

An example of a country that has taken advantage of this comparative advantage in the service sector is Bangladesh. As of 2011, the contribution from labor services in Bangladesh accounted for approximately 57.5% of its Gross Domestic Product. Similarly, remittance flows from migrant populations also stand at about \$12 billion USD; far outstripping its intake of foreign aid. The services waiver, if optimally used by Bangladesh is predicted to add a further intake of up to \$4billion dollars in remittance flows to the Bangladesh economy. These flows

will also add considerable value to the efficiency and competitiveness of the skilled service sectors of the economy.<sup>8</sup>

Remittances, as they stand, make significant contributions to the foreign exchange earnings of many developing countries. An example of this can be seen with Uganda which received \$700 million worth of remittances in the year 2011<sup>9</sup>. Rwanda on the other hand also has a steady flow of remittances with an intake of \$162 million in the year 2011<sup>10</sup>. Thus, noticing this contribution of remittances to the economy, it is important that the EAC LDC governments take the necessary steps in outlining these trends as a development policy in a similar manner to Bangladesh. As shown with the example of Bangladesh; Tanzania, Rwanda, Uganda, and Burundi can all take advantage of this opportunity in exporting their unskilled labor on a temporary basis through the WTO services waiver. This will take place under Mode 4 of trade in services as outlined by the General Agreement on Trade in Services (GATS). In addition to remittance flows under Mode 4, further gains that can result from exporting labor include the development of skills, work experience, certain aspects of technology transfer, and an overall improvement in the service sector of the sending countries through the improved service efficiency of the returnees.

Extended to the developing world, the World Bank estimates that global gains as a result of service liberalization, particularly in the

<sup>8</sup> "WTO Gives Special Treatment for Service Providers from LDCs", last modified: March 16<sup>th</sup> 2012, <http://www.mediaglobal.org/2012/03/16/wto-gives-special-treatment-for-service-providers-from-ldcs/>.

<sup>9</sup> "Uganda expects \$700 million remittances from abroad." Last modified 5<sup>th</sup> December 2012, <http://www.independent.co.ug/news/news/6974-uganda-expects-700million-remittances-from-abroad>.

<sup>10</sup> "Rwanda's Remittances Up by 69.2pc", last modified February 28<sup>th</sup> 2012, <http://www.newtimes.co.rw/news/index.php?i=14916&a=50719>.

allowance of temporary migration can improve global welfare by up to \$150 billion dollars. This highlights the necessity and importance of using the service waiver as an engine for development among member states within the EAC<sup>11</sup>.

### ● **Diversify Options: Opportunities in other services sectors**

The unskilled services area only presents one option that member states in the EAC LDC can potentially focus on. Other opportunities can also arise through specific attention to other service sectors that can contribute to greater export earnings.

The tourism sector is another example. Within the EAC, only Rwanda and Tanzania accrue significant earnings from tourism as compared to their overall export earnings. This is demonstrated in the tables below:

**Table 3: International Tourism as Percentage of Exports<sup>12</sup>**

	2008	2009	2010
Uganda	6%	6%	6%
Tanzania	23%	23%	20%
Burundi	1%	1%	1%
Rwanda	30%	41%	36%

The services waiver presents an opportunity for Rwanda and Tanzania to further consolidate their position with other members of interest within the WTO. Burundi and Uganda on the other

<sup>11</sup> "WTO Gives Special Treatment for Service Providers from LDCs", last modified: March 16<sup>th</sup> 2012, <http://www.mediaglobal.org/2012/03/16/wto-gives-special-treatment-for-service-providers-from-ldcs/>.

<sup>12</sup> World Bank Country Data, "accessed March 6<sup>th</sup> 2013, [http://www.chicagomanualofstyle.org/tools\\_citationguide.html](http://www.chicagomanualofstyle.org/tools_citationguide.html)

hand, experience substantially lower revenues from tourism as a percentage of their exports. The LDC Waiver thus presents an opportunity for them to tap into different markets of interest among various WTO members and improve upon their tourism sectors.

Similarly, this opportunity also opens the door for these LDCs to foment their tourism sectors among different markets of interest. Examples of such emerging markets that have enormous potential are economies such as Brazil, China, and India. If well exploited, the tourism sector can experience significant booms from these potential sources of export revenues. In order to fully take advantage of this opportunity, EAC LDCs should pursue the establishment of commercial presence of their tourism service providers in developed and emerging markets of interest. This will take place under Mode 3 of the GATS. This way, direct promotion of their tourist services will be guaranteed.

Emerging markets also present opportunities for LDC members to ensure that certain service sectors gain more exposure to specific areas of interest that the emerging markets are doing particularly well in. An example of this is within the Information Technology industry in India. Allowing for the temporary migration of labor within this specific sector will promote the development of capacity in this area within the EAC. In the long run, this may lead to a well-established IT sector that is able to compete favorably in the international market.

## Challenges in Utilizing the Service Waiver

Despite the enormous potential presented with the services waiver, the full gains to be accrued will only be realized if the obstacles that impede

market entry are overcome. These are especially manifested in the much desired mode 4 market access where endogenous and exogenous 'pull' and 'push' factors are required to assure the return of the skilled labor. This is specifically important in improving the domestic service efficiency and competence of the local populations. Some of the suggestions to overcoming these hindrances include but are not limited to<sup>13</sup>:

**Table 2: Barriers to Market Entry**

Challenge	Potential Solution
Lack of Transparency and Awareness of Potential Opportunities	Intergovernmental co-operation on advertising in the host and recipient country. Similar efforts can also be devoted to tracking illegal migration and implementing barriers that will curtail the flow of illegal migrants.
Non-recognition of Qualifications	Multilateral co-operation on mutual recognition of qualifications e.g. grant exceptions to LDCs that have been granted the service waiver
Quotas to Migrant Inflows	A clear description of the type of work and the eligibility of the employee as required by the employer. Specific visas should also be considered for migrants from the most preferred LDC
Work Permit Requirements and Social Insurance of the Employee	Work permits and services such as health insurance can be paid by the employer, which in turn can be compensated for in payroll deductions
Language skills and Integration deficiencies	Implement essential language learning skills and sessions in the sending country which will pave the way for easier integration into the recipient country

The main barrier to return of temporary labor migrants that will potentially be experienced by

<sup>13</sup> Crosby, Daniel "Advancing Services Export Interest of Least Developed Countries," last modified June 2009, <http://ictsd.org/downloads/2009/07/advancing-services-export-interests-of-ldcs.pdf>.

the host country and country of origin arises from the migrants' hesitancy to return. Solutions to solving this problem may include:

- Ensuring that the work programs accorded to the employees are temporary. This should extend to the contract agreements with the employer in addition to the visas and work permits granted by the host countries.
- Easing re-entry into the sending country through absorbing resettlement costs
- Provide greater social safety nets and security for the families of the returnees
- Provide further incentives for return and resettlement into the country of origin such as higher positions and improved salaries in specific divisions that appeal to the workers' specific skill sector e.g. construction, nursing, hospitality etc.
- Strengthen multilateral co-operation on the right of return of the migrant populations

As shown here, a comprehensive approach to exploiting the services waiver as it pertains to the unskilled sector can greatly work towards the advantage of the LDC member states within the EAC. The long term benefits that can be accrued from this opportunity include significant gains in remittances, foreign exchange earnings, and a substantial improvement in the competitiveness and efficiency of domestic services. In effect, this essentially paves the way for greater technology transfer from developed countries to LDC member states.

## Recommendations

The WTO LDC Services Waiver presents a unique opportunity for Uganda, Rwanda, Burundi, and Tanzania to improve the performance and

contribution of the services industry to their economies.

However, in order for the potential gains to be fully maximized, it is imperative that the concerned member states embark on a strategic analysis on the goals and targets that they each wish to achieve.

A step by step approach of fully analyzing the strengths, weaknesses, opportunities, and threats to the waiver will enable each state to meet their targets. The recommended steps are as follows :

- Identify Sectors of Interest to each member state and to the East African Community as a collective bloc. These should be sectors where the state has a comparative advantage in comparison to the potential recipient countries.
- Identify potential partners within the WTO system whose service sector markets are of particular interest to EAC LDCs.
- Secure alliances and partnerships with individual countries and states within the WTO system. This can be done through the direct targeting of countries of interest.
- Once partnerships and alliances are formed; partnering states should jointly engage in statistical research on the desired export and import capacities of the specified service sector.
- Tackle bottlenecks that impede market entry and access to specified countries such as visas, qualification permits, and import regulations.
- Develop programs and initiatives that ensure that maximum benefits to the service waiver accrue to the sending countries (e.g.

remittance flows, return packages for migrant workers)

- Diversify options: Priorities should not be directed at one particular service sector but many. Additionally, the focus should not entirely rest on one particular region or economic community. EAC partners should direct their efforts at identifying other regions or markets which also offer different opportunities to their service sectors.