

**Trade Policy Review Body
6 and 8 February 2002**

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TRADE POLICY REVIEW

MALAWI

Minutes of Meeting

Addendum

Chairperson: H.E. Mr. Pekka Huhtaniemi (Finland)

This document contains the advance written questions, and replies provided by the delegation of Malawi.¹

**Organe d'examen des politiques commerciales
6 et 8 février 2002**

EXAMEN DES POLITIQUES COMMERCIALES

MALAWI

Compte rendu de la réunion

Addendum

Président: S.E. M. Pekka Huhtaniemi (Finlande)

Le présent document contient les questions écrites communiquées à l'avance et les réponses fournies par la délégation malawienne.¹

**Órgano de Examen de las Políticas Comerciales
6 y 8 de febrero de 2002**

EXAMEN DE LAS POLÍTICAS COMERCIALES

MALAWI

Acta de la reunión

Addendum

Presidente: Excmo. Sr. Pekka Huhtaniemi (Finlandia)

En el presente documento figuran las preguntas presentadas anticipadamente por escrito, junto con las respuestas facilitadas por la delegación de Malawi.¹

¹ In English only./En anglais seulement./En inglés solamente.

**ADVANCE WRITTEN QUESTIONS BY MEMBERS, AND RESPONSES BY THE
DELEGATION OF MALAWI**

I. ECONOMIC ENVIRONMENT

DISCUSSANT

Q 1: What is current size and impact of the Malawi's external debt on its trade relations and on its efforts to transform the country's economy?

A: A written response will be provided later.

Q 2: How does the Malawian Government propose to address the challenge that 65.3 percent of its population lives below the poverty datum line.

A: A written response will be provided later.

Q 3: What has been the impact on the economy and on foreign relation of Malawi's transition to multiparty democracy in the early 1990.

A: A written answer will be provided later.

Q 4: Could you please expound on the Government's effort to enhance the rate of growth of the country's economy and effort to mainstream trade in the country's development agenda, with the view to achieving sustained economic growth and alleviation of poverty?

A: A written answer will be provided later.

Q 5: What has been the impact, in quantitative terms, of the anti smoking lobby in the US, EU and elsewhere, on Malawi's foreign exchange earnings and how does the Government intend to address the consequent shortfall in foreign exchange?

A: A written answer will be provided later.

Q 6: What measures have been put in place to curb corruption in Malawi's public administration?

A: A written response will be provided later.

Q 7: How effective is the Cash Budget system in instilling accountability and financial discipline in the Government budgeting system?

A: The cash budget system was instituted to ensure that expenditures are made in accordance with available resources. As an expenditure control tool, it has been noted that by its own, it is not adequate in controlling expenditures. Government has since introduced other expenditure control measures such as Credit Ceiling Authority whereby Ministries/Department are only able to spend up to credit ceiling amount held with their commercial banks. Government then reimburses the Commercial Banks on daily basis. Government has also introduced a Commitment Account System which gives Ministries a three month funds allocation information to allow them plan for their commitments. This assists in ensuring that there are no arrears building up in the system.

Q 8: How does the Government propose to address the problem of constantly growing inflationary pressures on the economy?

A: With the assistance of the IMF, Government is working on an economic program that ensures that the Government's fiscal deficit is set at an acceptable percentage of GDP commensurate with the country's growth objectives.

Q 9: Could you please expound on the Government's effort to enhance domestic resource mobilization?

A: A written response will be provided later.

EUROPEAN UNION

Q 1: We would be interested in receiving some more details on the structural adjustment programmes. What were there results and how did the Government of Malawi react to the alleged negative effects?

A: Malawi has been implementing Structural Adjustment programs since 1981, with the support from the World Bank and the International Monetary Fund and other donors. Some of the programs included:-

- (1) The Enhanced Structural Adjustment Facility – basically a macroeconomic stabilization program implemented with support from the IMF;
- (2) The Economic and Capital Markets Development adjustment Credit (ECMAC) which aimed at financial sector reform and development of the capital markets, review of the Reserve Bank Act;
- (3) Entrepreneurship Development and Drought Recovery Program (EDDRP) which aimed at fiscal restructuring including increasing budgetary allocation to the social sectors;
- (4) Fiscal Restructuring and Deregulation Program (FRDP) – This is an on going program which has encompassed issues of privatization, civil service reform, and the expenditure prioritization and resource allocation framework, the so called Medium Term Expenditure Framework (MTEF);

The results of the structural adjustment programs have been mixed. The liberalization of the economy and sectoral reforms have resulted in price-decontrols, rationalization of the tax system, and enhancement of competition and the promotion of production efficiency. However, as Malawi opened up, the economy has been overwhelmed by the influx of imports and has also been subjected to economic instability with its trading partners. The speed of economic liberalization did not allow domestic industries time to cope with the aggressive foreign competition. In some instances delays in donor flows and non-fulfilment of donor commitments have exacerbated the pressure on the fiscal deficit.

Q 2: (para 4) What are, in Malawi's view, the reasons for the decline in trade in goods from 97% of GDP in 1994 to 74% in 1999?

A: The declining total trade to GDP ratio is an area that requires further investigation. With respect to the fall in exports to GDP ratio it is important to note that Malawi has faced declining terms of trade for the major export crop tobacco which accounts for over 60 per cent of export earnings. Since 1994 Malawi has been affected by a decline in real wages which can partly explain the decline in imports to GDP ratio.

Q 3: (para 20) The report states that “Despite Malawi’s efforts to attract FDI, inflows remain relatively small”. Would the GoM agree that one obstacle to private investments is Malawi’s recently formulated National Land Policy? According to this policy foreigners are no longer allowed to acquire land on a freehold basis. In addition, foreign citizens currently in possession of freehold estates will have to obtain Malawi citizenship within the next seven years in order to retain their free ownership. Such policy will rather contribute to prevent than encourage the already low inflow of FDI in Malawi. Alternatively, what other options would foreign investor have in Malawi?

A: Malawi Government does not agree that the recently National Land Policy is an obstacle to private investment. Land in Malawi is broadly divided into three categories namely customary land, public land and private land. Private land consist of free-hold and lease hold. The two broadly contain the same legal rights but it is against principle for foreigners to acquire land on free hold basis. Foreigners wishing to invest will obtain land on lease hold basis which is best suited for conduct of business. Apparently there has been a misunderstanding of the relationship between foreign direct investment (FDI) and the existing land policy. It is important to note that FDI levels have always been low due to other factors rather than land matters.

UNITED STATES OF AMERICA

Q 1: The Secretariat’s report notes that Malawi is finalizing its PRSP in collaboration with its multilateral donors, which is expected to be approved by Parliament in 2001. The strategy focuses on improving fiscal discipline, governance, and public sector efficiency. How has the government included trade in its PRSP?

A: While the PRSP has not yet been approved by Parliament, there are plans to finalize the approval process before the 2002/2003 Budget formulation process which starts in March 2002. Government has also noted that trade strategy issues are not adequately covered in the PRSP and is therefore taking necessary actions to correct the situation.

Q 2: The Secretariat’s report notes that while Malawi has made substantial progress in many areas to reform its economy, development continues to be heavily constrained by a number of key factors, such as inadequate infrastructure, misallocation of human resources, fiscal mismanagement, lack of accountability, weak institutions, and poor governance. What does Malawi think it needs to overcome these problems?

A: The issue of attaining macroeconomic stability remains Government priority economic goal. In this regard, Government continues to explore measures for containing budgetary pressure. Further more there are various efforts to address institutional capacity constraints through own efforts as well as with financial and technical assistance from Cooperating partners.

JAPAN

Q 1: Declining Trade Ratios. Please provide Malawi’s analysis of the reasons for such decline of Trade in goods.

A: The declining total trade to GDP ratio is an area that requires further investigation. With respect to the fall in exports to GDP ratio it is important to note that Malawi has faced declining terms of trade for the major export crop tobacco which accounts for over 60 per cent of export earnings. Since 1994 Malawi has been affected by a decline in real wages which can partly explain the decline in imports to GDP ratio.

II. TRADE AND SECTORAL

DISCUSSANT

Q 1: When does the Government intend to rationalize the wide spread use of exemptions and concessions in Malawi's trade regime?

A: Government recognizes that the wide spread use of exemptions in trade regime could be subject to abuse. In this regard Government has already set up a Committee to develop criteria that qualifies goods. This work is expected to be completed by July 2002. The aim is to rationalize the entire tariff book to remove inconsistencies in tariff applications and to avoid cases where same goods are treated differently. It is important to note that some of the exemptions are due to diplomatic privileges and obligations from international treaties.

Q 2: What measures have been put in place to enhance transparency and accountability (as well as compliance with WTO national treatment and Most Favored Nations principles) in Malawi public procurement system?

A: With respect to ensuring transparency and accountability in public procurement practices, Government has finalized a Bill which will be presented in Parliament at the next sitting.

Q 3: How is the 5-year Tourism Strategic Development Study intended to address the policy, institutional, infrastructure and other deficiencies in the tourism sector in Malawi?

A: A written response will be provided later.

Q 4: What are the bases for optimism regarding the envisaged substantial increase in the FDI in Malawi's tourism sector?

A: A written response will be provided later.

Q 5: What accounts for the continued dominant role of the twin financial giants; National Bank of Malawi and the Commercial Bank of Malawi, despite the liberalization of the financial sector? How does Malawi propose to address this situation?

A: while the two banks are dominant, Government is addressing the by enhancing competition through new entrants. Currently, there are three new retail banks including the Finance Bank, Fincom Bank, First Merchant Bank, and four finance houses, one merchant bank, one new building society, one discount house, and several insurance companies. Government has also sold its 60 per cent shareholding in Commercial Bank to STANBIC.

Q 6: Given the adverse impact on the economy of the biomass resources, are there any plans to develop alternative sources of fuel energy?

A: A written answer will be provided later.

Q 7: What is the explanation of the drastic decline in fish production between 1980s and 1990s? How does Government intend to enhance public participation in this industry? How does Government propose to enhance the contribution of fisheries sector to Malawi's GDP?

A: A written answer will be provided later.

Q 8: Given that agriculture accounts for 90% of Malawi's export earnings and also given that the sector provides a source of livelihood for the majority of the rural population, how does Government propose to invigorate this sector so as to increase its contribution to the country's GDP?

A: Government has come up with a medium term strategy to invigorate agricultural production, a copy of which will be made available to WTO secretariat.

Q 9: When does the Government plan to adopt a more rational land tenure system, given that the communal land ownership system constrains agricultural development?

A: Government adopted a new land policy in January, 2002 to address this issue.

Q 10: What safeguards are there to ensure that the Starter-Pack Initiative does not create a dependency syndrome in the country's subsistence farming community?

A: The Starter Pack scheme ceased and has since been succeeded by the Targeted Input Program (TIP). The TIP program is under continuous review and is targeting the very poor only. In order not to create the dependency syndrome, the scale of the programme has been reduced.

Q 11: When is it planned to operationalise the proposed One-Stop-Shop Investment Promotion Agency?

A: One stop- stop shop is operational.

Q 12: When does Malawi plan to open a Mission in Geneva?

A: The Government recognizes that nothing can replace permanent representation in Geneva if Malawi has to effectively and meaningfully integrate into the multilateral trading system and take advantage of the opportunities arising there from. In this regards, government is seriously looking into the matter to have the office opened soon.

Q 13: In Malawi assessment, how can the multilateral trading system framework effectively contribute to the achievement of its national trade policy objectives?

A: By guaranteeing market access, flexibility and predictability in application of rules and capacity building.

Q 14: How does Malawi propose to reconcile the conflicting tariff liberalization schedules and other commitments as a consequence of its overlapping membership of SADC and COMESA?

A: Regional grouping such as COMESA and SADC are being seen as building block under the Abuja Treaty to the formation of the African Union. SADC will be fully transformed into an FTA by 2010, while COMESA intends to transform into a customs union by 2004 and a monetary union by 2025. Malawi, therefore sees these two organizations as complementary though we acknowledge the possibility of complication in implementation in such areas as rules of origin to name one. In recognition of this possible complication member states of COMESA and SADC have mandated the two organizations to explore in detail area where harmonization may be necessary. To this end, a joint task force has been set to identify areas for possible harmonization. Malawi, is an active member in the two organizations and is therefore able to push for harmonization and close cooperation in areas where it sees necessary in consultation with all members.

Q 15: Given Malawi's strong trading relationship with South Africa, what is the impact of SACU on Malawi's economy?

A: A written response will be provided later.

EUROPEAN UNION

Q 1: (para 73 as well as WT/TPR/S/96, p. 24 para 47) The EC welcomes regional integration in Southern and Eastern Africa under COMESA and SADC. However, as it is mentioned in both reports, overlapping memberships result in red-tape, complicated procedures for private sector and confusion as to further liberalisation (CET under COMESA vis-à-vis FTA obligations under SADC and bilateral agreements). How does Malawi intend to address these issues in the coming years? And is Malawi, as a member of both organisations and as a signatory of both FTAs, in a position to push for harmonisation and close co-operation of these two regional integration schemes?

A: Regional grouping such as COMESA and SADC are being seen as building block under the Abuja Treaty to the formation of the African Union. SADC will be fully transformed into an FTA by 2010, while COMESA intends to transform into a customs union by 2004 and a monetary union by 2025. Malawi, therefore sees these two organizations as complementary though we acknowledge the possibility of complication in implementation in such areas as rules of origin to name One. In recognition of this possible complication member states of COMESA and SADC have mandated the two organizations to explore in detail area where harmonization may be necessary. To this end, a joint task force has been set to identify areas for possible harmonization. Malawi, is an active member in the two organizations and is therefore able to push for harmonization and close cooperation in areas where it sees necessary in consultation with all members.

Q 2: (para 84) With regard to this paragraph we would like the Government of Malawi to consider correcting their statement on the EBA. Malawi is not a beneficiary of the EBA under the ACP/EU partnership arrangement. As you know EBA is fully integrated into the GSP regulation. EBA is a non-reciprocal initiative enabling free market access to the EU market for all products except arms.

A: The delegation notes the error and will work with the secretariat to correct it to read "Malawi, being a least developed country, is a beneficiary of the EBA initiative as well as the ACP/EU partnership Agreement and, qualified starting from 17th August, 2001 to export to USA under AGOA".

THE WTO SECRETARIAT QUESTIONS

Q 3: (paras 40-45) We note the importance of mainstreaming trade into Malawi's policy framework: What are the activities of the Government to make full use of donor support for trade-related areas, and specifically the IF? Will there be a task-force/co-ordinating mechanism in place to mainstream the IF activities?

A: A national workshop scheduled for 18th February 2002 will among other things agree on the work program that will highlight the activities that Government will undertake to make full use of donor support for trade related areas. At the same time Government will ensure that there is no duplication of technical assistance. The workshop will also look at the membership/composition of the National Working Committee to coordinate the activities of the Integrated Framework (IF).

Q 4: (para 46-47) We would be grateful if the GoM could provide data which separately identifies the share of Malawi's trade with the COMESA and the SADC. In particular, we would like to know how the share of trade altered over time.

A: A written response will be provided later.

Q 5: (para 78) We suggest the following correction in this paragraph referring to the Cotonou agreement: As the Cotonou Agreement does not determine the period for full implementation of WTO compatible trading arrangements, “within 12 years” should be replaced trough “within a transitional period”.

A: The correction is noted and Malawi will inform the secretariat to effect the necessary correction.

Q 6: (para 80) In terms of correctness, we suggest another minor change in the text. The fourth sentence should read: “Moreover, the recent EBA initiative which grants additional preferences to least-developed countries, from March 2001.”

A: The suggestion is accepted and the secretariat will be informed accordingly.

Q 7: (para 9) Could Malawi please supply more details of the trade facilitation measures it will be implementing under the Regional Integration Facilitation Forum?

A: A Draft annual work program has been prepared highlighting all activities and will be forwarded to the WTO Secretariat.

Q 8: (para 14) The report states that “Domestic producers may seek relief against competing imports by applying for duty rebates on imported inputs.” Would Malawi be so kind to confirm whether the products that are put together wholly or partially from these ‘inputs’ are for an overseas or domestic market.

A: They are for both domestic and export markets.

Q 9: Could the Government of Malawi please inform about its intentions to reform the rather complicated and unbalanced tariff structures including tax concessions and exemptions?

A: Government recognizes that the wide spread use of exemptions in trade regime could be subject to abuse. In this regard Government has already set up a Committee to develop criteria that qualifies goods. This work is expected to be completed by July 2002. The aim is to rationalize the entire tariff book to remove inconsistencies in tariff applications and to avoid cases where same goods are treated differently. It is important to note that some of the exemptions are due to diplomatic privileges and obligations from international treaties.

Q 10: (para 46, 47) We note that minimum or reference prices are applied for certain second-hand goods, such as motor vehicles, where used-car values are used and an absolute minimum value set at US\$3,000. There seem to be indications that Malawi uses “guide prices” or “domestic values” for customs valuation purposes. As Malawi has notified to the WTO the full implementation of the WTO Agreement on Customs Valuation, the EU would be interested in receiving details on how this agreement is implemented. Could Malawi please clarify its position with regard to minimum values, in particular how it sees the consistency of “absolute minimum values”, “guide prices”, or “domestic prices” with the WTO Agreement on Customs Valuation.

A: The circumstances that necessitated the procurement of pre-shipment inspection services are that in 1991 government embarked on reforms to streamline rates of duty and strengthen institutional capacity for the facilitation of legitimate trade and revenue collection. The reforms were embarked upon to remove deficiencies that were affecting the proper function of the revenue collecting institutions. Since the capacity had gone down, government decided to procure the services of a PSI company to assist in capacity building in the form of training of customs officials in the determination of the accuracy and truth of declarations for customs valuations purposes. Since the

reforms were embarked upon in 1994, customs operations are being computerized, training in valuation and classification has been enhanced. In February 2000, Government formed the Malawi Revenue Authority as part of institution strengthening. In view of these reforms which are going on well, it is the intention of government to do away with pre-shipment as soon as the reforms have been completed.

Q 11: (para 55) Does the Government of Malawi have any intentions to eliminate the provision allowing the use of anti-dumping measures to offset trade partners' currency depreciation?

A: Malawi's current anti-dumping legislation contained in the customs and Excise Act and the Fourth Schedule of the Customs Schedule is being reviewed, with the objective to bring it in conformity with WTO requirements.

Q 12: (para 60) The EU is pleased to see that the Malawi Standards Board is a member of ISO and that it is actively working in regional standards related activities. We see great merit in regional work as a means to overcome some of the problems related to the implementation of the TBT Agreement in developing countries with scarce resources.

A: A written answer will be provided later.

Q 13: (para 61) We also appreciate that Malawi is using international standards and we welcome the efforts made by the Malawi Government to increased harmonisation of standards within the SADC region.

A: A written answer will to be provided later.

Q 14: (para 63) Could Malawi please inform whether mandatory standards or relevant parts of them are based on international standards?

A: A written answer will be provided later.

Q 15: (para 63) We would also like to know if Malawi accepts equivalent technical regulations of other WTO members?

A: Yes, Malawi does.

Q 16: (para 65) Does Malawi accept certification from any European testing organization? And does it accept suppliers' declaration of conformity?

A: A written answer will be provided later.

Q 17: (para 65) Could Malawi please explain further the denial for certificate of products that have less than half of their shelf-life remaining? What products are covered?

A: A written response will be provided later.

Q 18: Could the GoM please inform how transparency is ensured in Malawi's procurement practices.

A: Malawi is neither a member of nor observer to the Plurilateral Agreement on Government Procurement. Malawi has created a Government Contracting Out unit which is transparent. It has drafted a Public Procurement Act to be implemented this year (2002). This draft legislation specifies open tender as the main procurement method.

Q 19: (para 78) What are the requirements and procedures for foreign companies to be included on the list of approved suppliers?

A: A written answer will be provided later.

Q 20: (para 79) Could Malawi please provide the WTO Secretariat with the rules and/or laws governing the procurement and the composition of the Medical Buying Committee and the Central Medical Stores?

A: The Government undertakes to provide the documents to the secretariat later.

Q 21: (para 82) We would be grateful if Malawi could also forward the texts of the proposed Public Procurement Act and the Corrupt Practices Act to the WTO Secretariat.

A: Government undertakes to provide the documents later.

Q 22: (para 119) We note that Malawi is doing its best to fulfil its obligations under TRIPS, but is desperately short of expertise and resources. As a least-developed country Malawi benefits from the special and differential treatment in TRIPS Agreement implementation afforded by Article 66.1. Nevertheless, in the perspective of the implementation of the TRIPS agreement by 1st January 2006 it would be appreciated if Malawi could inform us of any concrete steps (timescale) to be undertaken in order to achieve this objective.

A: Malawi as an LDC cannot give a definite timetable at this time regarding the implementation of the TRIPS Agreement. However the issue of capacity is still outstanding and government will be seeking technical assistance

Q 23: Please indicate which type of inventions are excluded from patentability under the Malawi patent law.

A: A written answer will be provided later.

Q 24: (para) The report states that Malawi is working on food safety measures. It would be interesting to know if safety standards for pharmaceuticals will be also addressed in this context.

A: A written answer will be provided later.

Q 25: We would welcome additional information on any measures taken recently by Malawi to reduce and simplify its import and export procedures, and to introduce modern customs and trade administration procedures such as pre-arrival processing of consignments, risk assessment procedures, and submission of data by electronic means.

A: In order to improve simplification on imports and exports procedures, Malawi established an independent institution called Malawi revenue Authority responsible for Customs and excise and tax administration. It implemented the ASYCUDA and automation of customs processes and also enhanced training of customs officers.

With regards to financial and technical assistance, Malawi would need financial assistance for procurement of equipment such as computers and transit goods monitoring systems and radio communication system, electronic validation, training. A full financial and technical requirements will be provided later.

What measures does Malawi have in place to consult the trading community – including importers and exporters, shippers, freight forwarders and agents, SMEs – on customs and trade facilitation rules and procedures and ways of improving them?

There is a national working group on trade policies which comprises of the public and private sector and discuss many issues including issues relating to trade facilitation rules and procedures. The Malawi revenue authority also organises quarterly meetings with the business community.

Q 27: What are Malawi's principal needs in respect of technical assistance in the field of trade facilitation/simplification of customs, import and export procedures?

A: Capacity building in terms of policy analysis, institutional development at public and private sector levels. A comprehensive technical needs will be provided later.

UNITED STATES OF AMERICA

Q 1: Trade Policy Formulation and Implementation ... (National Working Group on Trade Policy) How is the new system working?

A: Prior to the setting up of the National Working Group on Trade Policy there was limited participation by private sector in arriving at government positions on trade policy. As a result the private sector did not own the policy reform programs. The new arrangement, in which the private sector is taking the lead, has facilitated public private sector dialogue and has enhanced ownership of the programs as this is done in full consultation with the private sector in all negotiations. The Ministry of Commerce and Industry holds ultimate responsibility for trade policy.

Q 2: Trade related technical assistance – Absence of Malawi Diplomatic Mission in Geneva. Has the reference center and the non-resident initiative been effective in this regard? Does Malawi have suggestions on how these programs can be improved?

A: Malawi finds for example the Geneva Week to be of value but insufficient on its own. The Geneva week could be improved as follows:-

- (i) Involve a three-week period in late autumn each year, in which annual reports of subsidiary bodies would be presented and discussed;
- (ii) A more participative approach could replace the Geneva Week process. The non-resident participation in these annual agenda setting session could be funded from a Trust Fund created for this purpose, including funds originally dedicated to Geneva Week;
- (iii) The non resident initiative should be entitled to funding for participation in agenda setting sessions;
- (iv) Alternatively, the non residents should be given the choice of attending either Geneva Week or some week of actual WTO meetings relevant to their areas of interest.

Q 3: Regional Agreements – Effect of COMESA Free Trade Area launched on November 1, 2000.

A: There has been a noticeable increase in intra-COMESA trade. Malawi export trade opened up with Egypt (tobacco), Democratic Republic of Congo (Sugar), Kenya (Sugar).

Q 4: Regional Integration Facilitation Forum (RIFF) – What specific trade facilitation measures under the RIFF does Malawi plan to implement?

A: A Draft annual work program has been prepared highlighting all activities and will be forwarded to the WTO Secretariat.

Q 5: The Secretariat's report notes that Malawi's customs legislation allows duty and tax concessions in the form of suspension, rebates, remission and refunds. Could you please provide details on the export incentives Act? Does the Export Incentives Act provide other export incentives besides drawback? If so, could you please provide further details? Do the incentives apply to all industries? Please explain whether duty drawback is operated in accordance with Annex II of the SCM Agreement?

A: A copy of the Export Incentives Act will be provided at a later date. The Export Incentive Act allows one type of incentive, duty drawback on raw materials used in the production of exports, and any taxes incurred on goods intended for exports.

Q 6: Customs Valuation and Best Customs Practices. ...”Notification of the legislation and Checklist will advance efforts of the WTO Committee to operate as a constructive problem solving body.

Comment: Malawi has noted the observation by the United States of America regarding the Best Customs Practices.

Q 7: Malawi Government Procurement Regime and observer status obtainable under the Plurilateral Agreement on Government Procurement.

Comment: Malawi has noted the observation by the United States of America regarding the Plurilateral Agreement on Government Procurement.

Q 8: Export Assistance – Assistance by the Malawi Export Promotion Council (MEPC)

A: MEPC's assistance to exporters is restricted technical assistance only. This includes identification of markets, and provision of export market information. Recently the Council has set up a business information bureau for the business sector to access business information.

Q 9: Export Processing Zones – Incentives for Export Oriented Companies vs Firms producing for domestic market. What type of incentives are offered to export-oriented companies (direct/indirect) located in these zones?

A: The incentives being offered are duty free importation of capital and raw material, and zero corporate tax;

Q 10: Export Promotion and Finance – Export Guaranteed fund aimed at 100% loan finance. Determination of interest rates.

A: Government is consulting on the modalities of charging interest rates.

Q 11: The Investment Promotion Act (1991) – how does it promote and facilitate investment?

A: The Investment Promotion Act mainly seeks to streamline investment approval and procedures through MIPA facilitation.

Q 12: The Secretariat's reports notes that a more liberal regime and efforts to attract investment including the formation of the Malawi Investment Promotion Agency and various tax and other financial incentives, foreign direct investment (FDI) inflows remain erratic and relatively low: inflows (concentrated in manufacturing, construction and distribution) declined from US\$70 million in 1998 to US\$51 million in 2000. What is Malawi doing to try to increase direct foreign investment flows?

A: Despite the existence of an enabling environment the level of FDI to Malawi remains low for several reasons including poor economic infrastructure, persistent unfavourable macroeconomic environment, a small domestic market, and constraints in the availability of inputs locally. In order to increase the level of FDI inflows the government is actively seeking to redress the existing constraints by among other things carrying out the privatization program, pursuance of a macroeconomic stabilization program, exploring ways of greater private sector involvement in infrastructure provision (e.g. Build –own- transfer, Build-own-operate) and carrying out intensified investment promotion activities.

Q 13: The secretariat's report notes that the main ministries involved in setting and implementing trade related policies are Commerce and Industry; Finance and Economic Planning; and Agriculture and Irrigation. Several other Ministries and government bodies are responsible for policies in certain subsectors, such as tobacco, minerals, timber, fishing, and tourism. Private sector input on trade related policies is facilitated by the new National Working Group on Trade Policy and its National Task Force. This is intended to improve private-sector and trade policy coordination, until now dispersed over several ministries, none with overriding authority. How does this Work?

A: Government and private sector through the national Working Group on Trade Policy propose policies which are passed on to Ministry of Commerce and industry for onward submission to cabinet for approval.

CANADA

Q 1: Paragraph 47 states that Malawi's membership of overlapping regional and bilateral arrangements makes its trade regime more complex and that it distorts trade and incentive patterns in an unpredictable manner and could entail inconsistent obligations being undertaken by Malawi. Please advise what steps Malawi plans to undertake to rationalize and simplify its trade regime?

A: Regional grouping such as COMESA and SADC are being seen as building block under the Abuja Treaty to the formation of the African Union. SADC will be fully transformed into an FTA by 2010, while COMESA intends to transform into a customs union by 2004 and a monetary union by 2025. Malawi, therefore sees these two organizations as complementary though we acknowledge the possibility of complication in implementation of such areas as rules of origin just to name one. In recognition of this possible complication member states of COMESA and SADC have mandated the two organizations to explore in detail areas where harmonization may be necessary. To this end a joint task force has been set to identify areas for possible harmonization. Malawi, is an active member in the two organizations and is therefore able to push for harmonization and close cooperation in areas where it sees necessary in consultation with all members.

Q 2: Paragraph 7 states that PSI is contracted to SGS until March 2003 when it is expected that such services will cease. Please advise if Malawi plans to modernize its administration of the customs valuation program once the services of SGS terminates in 2003?

A: As pointed out earlier reforms are already on-going but more financial assistance is required.

Q 3: Para 47 states that the extent to which non-transaction values, such as guide prices are used for customs valuation in Malawi is not clear. Does Malawi plan to clarify when non-transaction values, such as guise prices, are used and, if so how?

A: See question 4 below.

Q 4: Para 47 states that it has been suggested that tariffs are not necessarily applied directly to import costs because of the use of domestic values for customs valuation. Please provide additional information as to how and when the transaction value declared by an importer is rejected in favour of a value determined by SGS. Also please advise if Malawi has a system in place to provide for an importer's right to an explanation in writing from customs administration as to how the customs value was determined, in accordance with the Customs Valuation Agreement (Article 16)?

A: Malawi does not use minimum guide values. It uses transaction method (price paid adjusted for insurance, handling charges, and transport. However in cases where the accuracy of the transaction is not acceptable the second and third method of valuing goods are used i.e. the value of identical goods imported over a certain period or value of similar goods imported over a period of time. That is why the government of Malawi sought the services of pre-shipment inspection company to help in determining the accuracy of the transaction values.

Q 5: Para 68 states that Malawi did not participate in the most recent WTO negotiations on telecommunications services. Does Malawi intend to make commitments on basic telecommunication services in negotiations under the GATT?

A: Negotiations in trade services are on-going and Malawi will make its position known on basic telecommunications in services in due course.

Q 6: Para 78 state that the Government was in the process of selecting a foreign strategic partner to partially privatize Malawi Telecom until the privatization process was suspended. Please advise on whether the privatization process will be re-instated and if yes, whether the partial privatization of 30% of Malawi Telecom will be completed?

A: Privatization has been reinstated and government will soon make a decision on the outcome of the bids it has received both foreign both and domestic investors.

Q 8: Para 76 states that to facilitate investment promotion by reducing bureaucracy delays, the Government wishes to establish a One-Stop-Shop Investment Promotion Agency. Please advise whether this Agency has been established?

A: Yes it has been established.

Q 9: Para 82 states that the capacity building is at the core of Malawi's needs to integrate into the world economy, and that it welcomes the IF for trade related technical assistance. Please advise if Malawi has identified its short term TRTA needs pending the longer term diagnostic process to be undertaken under the IF? Also, please describe how Malawi is preparing to participate in the IF process and whether Malawi has been able to engage the private sector and civil society in the important questions of trade policy?

A: A national workshop scheduled for 18th February 2002 will among other things agree on the work program that will highlight the activities that Government will undertake to make full use of donor support for trade related areas. At the same time Government will ensure that there is no duplication of technical assistance. The workshop will also look at the membership/composition of the National Working Committee to coordinate the activities of the Integrated Framework (IF).

HONG KONG, CHINA

Q 1: We note that Malawi's membership of overlapping regional and bilateral arrangements with different geographic coverage trade liberalization agendas, trading rules and goals has made its trade regime complex and inconsistent and hence distorts trade and incentive patterns in an unpredictable manner. We would like to know if Malawi has plans to rationalize such problems so as to enhance consistence of its trade regime?

A: Regional grouping such as COMESA and SADC are being seen as building block under the Abuja Treaty to the formation of the African Union. SADC will be fully transformed into an FTA by 2010, while COMESA intends to transform into a customs union by 2004 and a monetary union by 2025. Malawi, therefore sees these two organizations as complementary though we acknowledge the possibility of complication in implementation of such areas as rules of origin just to name one. In recognition of this possible complication member states of COMESA and SADC have mandated the two organizations to explore in detail areas where harmonization may be necessary. To this end a joint task force has been set to identify areas for possible harmonization. Malawi, is an active member in the two organizations and is therefore able to push for harmonization and close cooperation in areas where it sees necessary in consultation with all members.

Q 2: It is mentioned that imports subject to mandatory standards are inspected where there are reasonable grounds for suspected non-compliance. We would be interested to know more about the circumstances under which Malawi authorities would perform inspections on such grounds

A: A written response will be given later.

Q 3: We appreciate the effort made by Malawi to liberalize the non-basic telecommunication services and the plan to issue a third mobile licence. We would like to know more about the liberalization plan in this regard and the details of foreign participation in the further liberalization. Moreover, we would like to know if Malawi would consider binding the existing regime in telecommunication in its schedule of commitments

A: Privatization has been reinstated and government will soon make a decision on the outcome of the bids it has received both foreign both and domestic investors. Negotiations in trade in services are on-going and Malawi will make its position known on basic telecommunication services in due course.

NORWAY

Q 1: We understand that trade with neighbouring countries has decreased while trade with the EU and U.S. has increased. What are the main reasons for this new trend in trade flows and how do you see trade development in the near future?

A: The availability of preferences have created market access of some kind in EU and U.S. There are delays in the removal tariff and non-tariff barriers under the regional arrangements of COMESA and SADC; Countries in the region produce largely similar products. The decline in the regional export promotion effort.

Q 2: In the report by the Government it is stated that sustained financial and technical assistance as well as capacity building would assist in reducing marginalisation. Would the Malawi authorities please inform us about which technical assistance they think is most important for the future?

A: As part of the effort to reduce the marginalisation of the Malawi economy in the market trading system Malawi needs international support in terms of financial and technical assistance including capacity building in the following areas:-trade policy analysis; Human resource development; Institutional support to private sector and trade support institutions. A comprehensive technical and financial needs requirements will be provided later.

JAPAN

Q 1: SADC and COMESA – Please explain utilizes these regional arrangement for expansion of its trade? From the view point of Malawi, how are they useful to the expansion of its trade?

A: Both regional groupings provide market access to Malawi.

Q 2: Malawi is heavily dependent on agriculture, especially tobacco. Japan is of the view that Malawi should make efforts towards departing from the economic and trade structure which relies on tobacco. Please explain how Malawi tackles its export diversification.

A: Malawi is currently concentrating its effort in engaging in the production of other high value products namely textile and clothing, horticultural products, mining and tourism.

Q 3: Japan heard that since last year, Malawi has become a beneficiary of the U.S. Africa Growth and Opportunity Act (AGOA). We would like to know for which products Malawi expects to increase its exports to the U.S.

A: Malawi expects to increase its exports largely in textile and clothing.

Q 4: The report states that Malawi requires pre shipment inspection (PSI) on almost all imports. Does Malawi have any intention to maintain this requirement in the future? Is it considering eliminating or relaxing of this requirement?

A: The circumstances that necessitated the procurement of pre-shipment inspection services are that in 1991 government embarked on reforms to streamline rates of duty and strengthen institutional capacity for the facilitation of legitimate trade and revenue collection. The reforms were embarked upon to remove deficiencies that were affecting the proper function of the revenue collecting institutions. Since the capacity had gone down, government decided to procure the services of a PSI company to assist in capacity building in the form of training of customs officials in the determination of the accuracy and truth of declarations for customs valuations purposes. Since the reforms were embarked upon in 1994, customs operations are being computerized, training in valuation and classification has been enhanced. In February 2000, Government formed the Malawi Revenue Authority as part of institution strengthening. In view of these reforms which are going on well, it is the intention of government to do away with pre-shipment as soon as the reforms have been completed.

Q 5: Malawi has bound all tariff in agriculture products. However, tariffs on non-agricultural products were bound on less than 1% of its tariff lines, thereby making the overall coverage of its tariff lines at only 17%. Japan request Malawi to expand the coverage of its non-agriculture products under the bound tariffs.

A: A written response will be provided later.

Q 6: The report states that the extent to which non-transaction values, such as “guide” prices, are used for customs valuation in Malawi is not clear. If Malawi still maintains a minimum price system, Japan requests Malawi to provide its notification to WTO.

A: Malawi does not use minimum guide values. It uses transaction method (price paid adjusted for insurance, handling charges, and transport). However in cases where the accuracy of the transaction is not acceptable the second and third method of valuing goods are used i.e. the value of identical goods imported over a certain period or value of similar goods imported over a period of time. That is why the government of Malawi sought the services of pre-shipment inspection company to help in determining the accuracy of the transaction values.

Q 7: According to the Report, imports of certain products, such as certain fruits, tobacco-leaf, sweet and Irish potatoes, flower bulbs, seeds for sowing tea, and rubber seeds, are prohibited. Please explain in detail the reasons for such prohibition, as well as the legal basis, for each respective product.

A: A written response will be provided later.

INDIA

Q.1: We would request the delegation of Malawi to give us their views concerning the operation of the IF in general and the pilot project in particular and the benefits it has gained?

A: IF- In general IF has not been very successful. Our understanding of the IF was that it was going to address needs identified by Malawi in the country needs assessment report. Some of the needs were partially addressed in form of training and establishment of a Reference center. Supply side constraints have not been addressed fully.

Malawi appreciates that the country has been selected to participate in the pilot project. However, implementation has not yet commenced to enable us give an assessment of its benefits.

ZAMBIA

Q 1: How does Malawi rationalize its many bilateral trade deals? Is there no room for conflict? What about institutional capacity to implement these?

A: Malawi's bilateral trade agreements (BTA) take into account the objectives of regional arrangements (COMESA and SADC). Bilateral trade agreements are fast track arrangements for regional integration.

With respect to institutional capacity, as stated earlier, all efforts are being made to seek various forms of assistance to enhance institutional capacity.

Q.2: Malawi, is on recorded to have implemented the customs valuation agreement yet still maintains a Pre-shipment Inspection regime. How can the two positions be reconciled? Is not the PSI a contradiction of the very same CVA?

A: The circumstances that necessitated the procurement of pre-shipment inspection services are that in 1991 government embarked on reforms to streamline rates of duty and strengthen institutional capacity for the facilitation of legitimate trade and revenue collection. The reforms were embarked upon to remove deficiencies that were affecting the proper function of the revenue collecting institutions. Since the capacity had gone down, government decided to procure the services of a PSI company to assist in capacity building in the form of training of customs officials in the determination of the accuracy and truth of declarations for customs valuations purposes. Since the reforms were embarked upon in 1994, customs operations are being computerized, training in valuation and classification has been enhanced. In February 2000, Government formed the Malawi Revenue

Authority as part of institution strengthening. In view of these reforms which are going on well, it is the intention of government to do away with pre-shipment as soon as the reforms have been completed.
