

# BRIEFING PAPER



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## Civil Society's Participation in Trade Policy Making *Case of CUTS International*

### Why civil society's participation in trade policy making?

There are several reasons for civil society's participation in trade policy making and some of them are as follows:

- Trade measures are no longer confined to borders; behind the border measures (mainly non-tariff barriers) are becoming more important determinants of international trade and they have more direct linkage with human development impact of trade – for trade policy makers to better understand this linkage
- Other than trade measures, there are trade-related measures and there are linkages between trade and non-trade issues – for instance, the banana disputes at the WTO taught us that bananas have become trade-related; the civil society is in a better position to evaluate social, economic and environmental sustainability impact of trade
- To challenge the conventional thinking (particularly in countries like us) that “exports are good, imports are bad” – trade is as much about exports as about imports – a cursory glance of the trade policy of many countries tells us that there is hardly any policy on imports – aligning consumer interests with producer interests

The above-stated points form the core mandate for civil society's participation in trade policy making. They underline a paradigm shift in the multilateral trading system. It is about enhancing transparency and fostering accountability. As compared to the Uruguay Round negotiations, this paradigm shift was evident at the time of the establishment of the World Trade Organisation

(WTO) and during its initial years. Civil society organisations (CSOs) have become an integral part of the multilateral trading system.

Recognising the growing role and influence of CSOs in trade policy making, at the Doha Ministerial Conference of the WTO Members trade ministers made the following commitment: “... While emphasising the intergovernmental character of the organisation, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system.” – Paragraph 10 of the Doha Ministerial Declaration.

### CUTS' experience in participating in trade policy making in India and Zambia

#### Participation in trade policy making in India

- National Advisory Committee on International Trade, Government of India (1996-2004): one of the two CSOs who were members of this body and the rest representing business interest (see Box)
- A continuous struggle to align consumer interest with business interest – exposing excessive economic rent seeking behaviour on the part of business and align them with social rent seeking on the part of consumers and communities at large
- Provided inputs to the formulation of India's positions in Singapore, Seattle, Cancun, Doha and Hong Kong ministerial conferences

## CUTS and the National Advisory Committee on International Trade

In 1996, the Department of Commerce, Government of India constituted a National Advisory Committee on International Trade. The purpose was to get inputs from various stakeholder groups on trade and trade-related issues and develop a broad political consensus on India's positions on them, particularly those discussed at the multilateral level. CUTS, represented by Pradeep S. Mehta, Secretary General, was one of the two civil society groups represented in this Committee.

Deliberations at this Committee helped India in taking positions on many contentious issues in the early stages of the Doha Round of negotiations – such as TRIPs and Public Health, Trade and Competition Policy, Trade and Investment Policy, Transparency in Government Procurement, Trade Facilitation.

A number of Working Groups were constituted to discuss such issues in-depth. CUTS was part of the Working Groups on:

- TRIPs, Trade & Environment, Transparency in Government Procurement
- Investment Policy, Competition Policy
- Industrial Tariffs, Special & Differential Treatments

As part of this engagement, CUTS analysed all important issues as in the Doha Ministerial Declaration of the WTO Members. They were done from the point of view of India's offensive and defensive interests. A set of advocacy documents was compiled in 2002: "WTO and India: An Agenda for Action in Post Doha Scenario". It was widely disseminated to diverse stakeholder groups in India, so as to raise their awareness on WTO issues.

Since the time of the First Session of the Conference of the WTO Members, held in Singapore in 1996, CUTS raised the issue of civil society's representation in official delegation to WTO ministerial conferences. Questions were raised on when business representatives were taken in the official delegation to Singapore, Seattle, Doha and Cancun ministerial conferences, why civil society representatives were ignored. This continuous advocacy of almost 10 years resulted in a success when CUTS Secretary General was invited to be a part of the official delegation to the Hong Kong Ministerial Conference in 2005.

- Took active part in amendments to Indian laws to make them compatible with WTO rules and, at the same time, balancing various interests – for example, amendments to the Indian Patent Act (from process to product patents)
- Part of the official Indian delegation to the Hong Kong Ministerial Conference of the WTO Members – inputs were sought before, at and after Hong Kong on modalities of negotiations and, more importantly, on political economy dimensions including cross-sectoral reciprocity
- In 2004, this body was dissolved and since then there is regular informal interaction with the Government of India on trade policy matters – for example, Government of India officials and those from other South Asian countries (capitals as well as Geneva) took active part in one of our projects on interaction between trade policy officials and civil society representatives in the Doha Round of negotiations
- In 2004, two important suggestions of CUTS were taken on board: a) instead of annual trade policy, there should be a long-term (five-year) trade policy with annual supplements; and b) in order to get better political buy-in for trade, there should be an Inter-State Trade Council (a body for regular interaction between national and sub-national actors)
  - The first suggestion is working well – the National Trade Policy, 2009-14 is an improvement over the previous policy of 2004-09; their macro objectives are being achieved
  - The second suggestion has not worked, despite the formation of this body and holding of couple of meetings – a continuous effort to make it functional
- In 2008, Government of India organised a mini-ministerial on the Doha Round of negotiations and CUTS was a part of that event including providing inputs on specific issues such as special products and special safeguard mechanisms on agriculture and sectorals in non-agricultural market access; on trade in services, our work on domestic preparedness on regulations formed a part of India's (and other South Asian countries') negotiating position

### Participation in trade policy making in Zambia

- In Zambia, consultations on trade policy issues are undertaken through an institutional mechanism such as Sector Advisory Groups chaired by Permanent Secretaries of different ministries
- There is a Trade Expansion Working Group. An objective assessment of the situation indicates that many stakeholder groups have a reasonable access to participate in the trade policy making process. However, not all of them are given equal opportunities. Private sector associations participate in every platform. Civil society's participation is limited to technical working groups. CUTS, therefore, proposed the need for streamlining the consultative mechanism to address various capacity constraints. Currently, the Zambian government is in the process of streamlining the consultative mechanism and consultations are being held on how different working groups will operate in future
- The purpose of the Trade Expansion Working Group is to improve country ownership of the Enhanced Integrated Framework (EIF) and also to enhance transparency in its implementation. This forum comprises of the representatives of the Zambian government, private sector and two CSOs including CUTS
- Through our interventions it was found that though the Diagnostic Trade Integration Studies under the EIF and action matrix have been prepared, there is a significant gap between its content and priority needs of many stakeholders, especially marginalised groups in rural provinces who are facing several developmental challenges. Our work underlined how trade (through, among others, good implementation of EIF-supported projects and other activities under Zambia's aid for trade agenda) can be made an effective means to address some of those challenges
- In the past, discussions and debates on the implementation of the EIF in Zambia were mostly confined within the Ministry of Commerce, Trade and Industry and the Trade Expansion Working Group. Our work on this subject is the only example of taking this (discussions and debates on EIF in Zambia) forward to diverse stakeholders in provinces and also to the public at large through the use of media.

- Parliamentarians were also engaged with informal lobby meetings and it was learnt that most of them hardly had any idea about EIF and hence, could not debate the issue in the Parliament.
- Based on CUTS' work, the National Implementation Unit of the EIF projects in Zambia has sought collaboration with CUTS to generate stakeholders' awareness on the EIF

### CUTS' work on civil society's participation in trade policy making in India and Africa

Keeping in mind the letters and the spirit of Paragraph 10 of the Doha Ministerial Declaration (which is the essence of mainstreaming trade into national development), since 2005 the following three projects are implemented:

- Grassroots Reachout & Networking in India on Trade & Economics (GRANITE)
- Mainstreaming Trade into National Development (MINTDEV) in Bangladesh and India
- Fostering Equity & Accountability in the Trade System (FEATS) in Africa

The objectives of the GRANITE project were to: a) develop the capacity of CSOs to take effective part in the country's economic governance and b) make a case for following a more inclusive trade policy making process. It was focused on the National Trade Policy of India, 2004-09 and 2009-14 and targeted to consumer organisations in India.

The first objective has largely been achieved and it is now reflected in the position taken by many Indian consumer organisations on a policy allowing foreign direct investment in multi-brand retail.

A majority of the Indian consumer organisations have understood the benefits that an effective implementation of this policy would bring to the Indian consumers as well as Indian producers, including farmers and small and medium size entrepreneurs.

A CUTS-organised petition signed by a large number of consumer organisations and farmer bodies supporting this policy was submitted to the Prime Minister of India.

Furthermore and on FDI in multi-brand retail, a CUTS paper on myths and realities on FDI in

multi-brand retail has been received well by the Indian parliamentarians. The Finance Minister of India, while presenting the Budget for the year 2012-13, underlined the importance of building better political consensus on such policy matters.

CUTS' paper on FDI in multi-brand retail is expected to play a crucial role in consensus building on such policy matters. CUTS will use various platforms such as the CUTS-initiated Parliamentarians' Forum on Economic Policy Issues to contribute to this consensus building effort.

The second objective of the GRANITE project has also been achieved as the Directorate General of Foreign Trade, Government of India has accepted its recommendation to develop the next Foreign Trade Policy of India (to be announced in 2014) through a wider consultation with consumer groups and other CSOs.

CUTS has also made a recommendation that while the objectives of the National Foreign Trade Policy of India are largely being achieved, not much benefits are accruing to small producers/exporters.

Therefore, this Policy should have a benefit-sharing mechanism between large and small producers/exporters in value-chains of products, particularly of those products which are earmarked under the Focused Product Initiative of this Policy.

CUTS is working with groups of small producers/exporters to make this demand heard and reflected in the National Foreign Trade Policy of 2014.

The MINTDEV project addressed questions such as:

- How to embed social and political considerations into trade policy making?
- How to engage civil society into trade policy making in a socially inclusive manner?
- What are the conditions necessary for mainstreaming trade into national development strategy?

The data derived from a household survey bring out the disconnect between local demands and government policies. It also highlights the existence of asymmetric information gap on government schemes and policies. It underlined that a well-known fact in developing countries that the causes of lack of effectiveness of government schemes are more often than not attributable to their management than the volume of resources.

“Access to development opportunities” reveals a very complex picture. Contrary to popular perceptions, participation in democratic process, level of education or mere awareness were not found to be sufficient conditions to ensure better access to development. There are multitudes of social, economic and political factors prevailing at the ground level that determine access to development. Discrimination and other types of social exclusion are major determinants of exclusion from development process, particularly in rural areas.

Our findings underlined that the quality of information on government support programmes (on trade-related issues or any other such programme) is one of the decisive factors for stakeholders to avail opportunities overcoming vested interests.

The FEATS project was focused on studying trade policy making processes in Kenya, Malawi, Tanzania, Uganda and Zambia, and analysing challenges in participation in trade policy making as viewed by stakeholders. A key objective was to identify critical areas for capacity building interventions including through cross-country comparison of trade policy making processes and challenges faced by various groups of stakeholders such as government ministries/agencies, private sector and CSOs.

The project led to the development and implementation of a qualitative tool to assess the inclusiveness of trade policy making process and the role of various groups of stakeholders. Entitled as “Inclusive Trade Policy Making Index (ITPMI)”, this tool allowed for comparisons across countries and groups of stakeholders (see Table). It also brought to fore the critical capacity gaps for targeting capacity building initiatives.

Main conclusions of the FEAT project and the application of ITPMI include:

- There is limited technical, financial and human capacity among all groups of stakeholders. Trade ministries in particular need more resources to establish and ensure effective functioning of stakeholder consultative mechanisms.
- Adequate and timely coordination among ministries/departments on trade issues is lacking. There seems to be an institutional weakness in the government machinery.

### ITPM Index of Selected sub-Saharan African Countries

	ITPM Action Variable	KENYA	MALAWI	TANZANIA	UGANDA	ZAMBIA
Part I. Ministry responsible for Trade	A. Identification of all key stakeholders	0.75	0.50	0.50	0.75	0.75
	B. Creating awareness about the need for trade policy	0.75	0.50	0.50	0.25	0.75
	C. Establishment of formal consultative mechanisms	0.75	1.00	0.75	1.00	1.00
	D. Functioning of formal consultative mechanisms	0.75	0.75	0.50	0.50	0.75
	E. Regular information flow to the stakeholders including on the content of trade policy	0.50	0.50	0.25	0.25	0.50
	<b>Part I Score</b>		3.50/5.00	3.25/5.00	2.50/5.0	2.75/5.00
Part II. Other relevant government ministries/agencies	F. Regular participation in the process and feedback to the relevant authorities	1.00	0.75	0.50	0.75	0.75
	G. Faithful representation of and regular feedback to the represented constituencies	0.50	0.50	0.50	0.50	0.50
	H. Acquiring relevant knowledge and expertise	0.50	0.50	0.50	0.50	0.50
	<b>Part II Score</b>	2.00/3.00	1.75/3.00	1.50/3.00	1.75/3.0	1.75/3.00
Part III. Private sector and business umbrella organisations	I. Regular participation in the process and feedback to the relevant authorities	1.00	1.00	0.75	1.00	1.00
	J. Faithful representation of and regular feedback to the represented constituencies	0.50	0.75	0.75	0.50	0.50
	K. Acquiring relevant knowledge and expertise	0.50	0.50	0.50	0.50	0.50
	<b>Part III Score</b>	2.00/3.00	2.25/3.0	2.00/3.00	2.00/3.00	2.00/3.00
Part IV. Civil society organisations	L. Regular participation in the process and feedback to the relevant authorities	0.75	0.25	0.50	0.25	1.00
	M. Faithful representation of and regular feedback to the represented constituencies	0.75	0.50	0.50	0.50	0.50
	N. Acquiring relevant knowledge and expertise	0.50	0.50	0.50	0.75	0.50
	<b>Part IV Score</b>	2.00/3.00	1.25/3.00	1.50/3.00	1.75/3.00	2.00/3.00
<b>ITPM Index Score</b>		9.50/14.0	8.50/14.00	7.50/14.00	8.25/14.00	9.50/14.00

- There is lack of trust between CSOs and governments. Moreover, CSOs lack adequate resources to link up with the grassroots as well as good coordination among themselves.

Taking into account 14 action variables determining an ITPMI, we found that it varies from 9.50 (out of 14) in Kenya and Zambia to 8.50 (Malawi) to 8.25 (Uganda) to 7.50 (Tanzania).

Why Tanzania performed poorly as compared to Zambia, another least developed country. On all

the following action variables for which the trade ministry is responsible, Zambia performed better than Tanzania:

- Identification of all key stakeholders
- Creating awareness about the need for trade policy
- Establishment of formal consultative mechanisms
- Functioning of formal consultative mechanisms
- Regular information flow to the stakeholders including on the content of the trade policy



## Lessons from CUTS' work on inclusive trade policy making

- There is no one-size-fits-all trade policy prescription: countries have to develop these policies in the context of their national endowments, prevailing conditions and international obligations
- The manner in which trade policy is developed is important: inclusive and participatory process with wider stakeholder involvement is generally better at striking a balance among various interests in play
- Some countries have made commendable efforts to open their trade policy making processes to a diverse group of non-state actors: a fact acknowledged and appreciated by these actors. *A stark contrast between an emerging country like India and least developed countries! Lesson for a policy initiative like FDI in multi-brand retail where much larger political consensus building is required*
- The process of inclusive trade policy making is of evolving nature and improvements should be made by rationalising the existing consultative mechanisms, building the capacity of a diverse group of stakeholders for more informed participation and improving the flow of information on trade issues. They require political commitments and resources

### Points to ponder

Further research and advocacy on inclusive trade policy making should focus on, among others, the following points:

- Why the process of trade policy making is more inclusive in some countries than in other countries?
- How the civil society actors are placing their demands for making the process of trade policy making more inclusive?
- What is the impact of inclusiveness (of non-state actors) in trade policy making process?
- Is non-inclusive trade policy making process a result or an outcome of policy inertia? Or, is there a two-way relationship?
- How the bodies responsible for trade policy making are developing the institutions on norms, procedures and rules so as to facilitate convergence of expectations of a diverse group of stakeholders?
- What are the features of evolution from de facto institutions to de jure institutions and how they are impacting the process as well as the content of inclusive trade policy making?

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