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IMPROVING THE EFFECTIVENESS OF LEBANON'S NEGOTIATIONS INSTITUTIONAL BASE

SUPPORT FOR LEBANON'S ACCESSION TO THE WORLD TRADE
ORGANIZATION (WTO) PROJECT
FROM BOOZ ALLEN HAMILTON
TO USAID

04/15/2011

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TO USAID LEBANON ECONOMIC GROWTH OFFICE

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Improving the Effectiveness of Lebanon's Negotiations Institutional Base

Introduction:

In order to meet WTO requirements, a coordinated and interactive follow up is needed at both the Government level (Ministries and Governmental Agencies) and the private sector level.

Most WTO members have established national WTO units, and Inter-ministerial Committees on WTO. An effective negotiations institutional base typically consists of the following four main elements:

- Policy Working Group (Inter-ministerial committee or National Committee in Lebanon)
- WTO Unit
- Sectoral Working Groups
- Negotiations Team

A brief outline of each of these elements is provided below.

1. The Policy Working Group or National Committee

All WTO member countries as well as countries wishing to accede to the WTO establish inter-ministerial committees (usually by decree) including representatives from all relevant ministries, including Foreign Affairs, Justice, Trade, Finance, Economy, Agriculture, etc. Some countries have established the inter-ministerial committee at a high level to include Ministers, where the committee is headed by the Prime Minister or the Deputy Prime Minister. Other countries have set up the committee with lower ranking government officials, and chaired by a Minister. Such is the case in Lebanon, where the inter-ministerial Committee is made of Director-Generals, Deputy Ministers, heads of governmental agencies and headed by the Minister of Economy and Trade.

The two main functions of the Policy Working Group or National Committee should be (1) to make decisions regarding policy and legal reform and major administrative issues connected with WTO accession and raise them to the Council of Ministers for adoption and (2) to develop and approve negotiation positions and strategies.

The Head of the state body in charge of negotiating international trade agreements should be (or his designee) the Head of the Policy Working Group or National Committee. It is highly advisable that members of the Policy Working Group include either the Minister or the

Director General of all relevant ministries and state bodies.¹ It is advisable also that the the National Committee includes private sector representatives (representatives from key business associations).

Generally, the Policy Working Group or National Committee should meet (1) per request of the Head of the WTO Unit to address policy, legal, and major administrative issues and (2) **prior** to any negotiation round to develop and/or approve negotiation strategies and positions.

Lebanon established the National Committee for WTO Accession in May 1998. However, the National Committee is not active and does serve the purpose for which it was established. Also, the National Committee should be extended to include more representatives of the private sector.

2. WTO Unit

The GOL should establish and fund the operations of a permanent WTO Unit to lead accession effort and be in charge of (1) all technical aspects of accession including preparation of accession materials, coordination, and negotiations and (2) post-accession WTO-related affairs. The existing WTO Unit in Lebanon is funded and staffed by UNDP advisors and not civil servants.

The WTO Unit should be primarily a coordination and negotiation body with the following functions:

- Interfacing with the WTO Secretariat and scheduling working party and bilateral meetings with WTO member countries
- Participating in all bilateral and multilateral negotiations
- Raising policy issues to the National Committee
- Preparing accession materials
- Preparing market access offers on goods and services in coordination with the private sector
- Interfacing with relevant ministries on technical issues
- Establishing and leading legal working groups to draft, or amend, legislation for compliance with the WTO agreements
- Forming and leading sectoral/industry working groups to develop negotiations strategies

¹ WTO-relevant Ministries and state bodies in Lebanon are the following: The MOI, the MOA, the MOF, the MPH, the Ministry of Justice, the Ministry of Public Works and Transport, the Ministry of Post and Telecommunications, the Ministry of Tourism, the Ministry of Foreign Affairs, the Ministry of Environment, the Ministry of Labor, the Ministry of Social Affairs, Council of Development and Reconstruction, Central Statistics Directorate, BDL, LIBNOR, and IDAL.

and positions for market access in the areas of goods and services

- Conducting research and analysis
- Implementing economic and sectoral studies
- Coordinating legal drafting and tracking legal agenda for conformity with the WTO
- Interfacing with the private sector
- Educating the public sector and the private sector about the WTO and its agreements, process of accession, and impact of WTO accession on economy and business
- Keeping the public and private sector as well as the general public informed about the status of accession

The WTO Unit should include the following permanent positions:

- **Multilateral Negotiations Expert:** This person should be responsible for all aspects connected with working party and bilateral meetings including preparation of the memorandum on the foreign trade regime and replies to questions raised by WTO working party members. This expert should have a broad knowledge of Lebanon's overall policy, legal, regulatory, and institutional framework.
- **Service Negotiations Expert:** This person should be in charge of all aspects of service negotiations (including technical and policy work connected with preparation of offer on services and negotiations) and should coordinate with sectoral ministries², service-related business associations³, and the private sector. This expert should, as deemed necessary, form sectoral working groups (including sectoral ministries, private sector, business associations and academia) to develop negotiating strategy and position with respect to specific service sector(s). This expert should have good knowledge of the service sector and the regulatory environment governing services in Lebanon as well as the investment environment in Lebanon.
- **Goods Negotiations Expert:** This person should be in charge of all aspects of goods negotiations (including technical and policy work connected with preparation of offer on goods and negotiations) and should coordinate with sectoral ministries, trade and industry-related business associations (Chambers of Industry, Chambers of Commerce) and the private sector. This expert should, as deemed necessary, form sectoral working groups (including the Ministry of Industry, the Ministry of Finance, the Higher Customs Council, private sector, business association) to develop negotiating strategy and position with respect to specific good or industry. The said expert should have a good knowledge of the Harmonized System (HS 96) and the

² Sectoral ministries include the following: the Ministry of Public Works and Transport, the Ministry of Post and Telecommunications, the Ministry of Petroleum, the Ministry of Hydro-Electric Resources, and the Ministry of Tourism

³ These include: Bar Association, Syndicates of doctors, hotels, engineers, pharmacists, contractors; national council of insurance companies; association of insurance companies, associations of banks in Lebanon.

national tariff nomenclature. An ideal person would be someone who has experience working for Customs.

- Attorney: This person should lead and coordinate the legal reform connected with bringing the foreign trade regime into conformity with the WTO agreements. This person should be in charge of forming legal working groups (including representatives from the relevant state bodies, private sector, judiciary and academia) to draft, or amend existing, laws in order to conform to the WTO requirements
- Lebanon's Representative to the WTO: Lebanon's Representative to the WTO should be stationed in Geneva and report to the WTO Unit. The main tasks should include (1) coordinating accession matters with the WTO Secretariat and WTO members, (2) scheduling negotiations meetings, (3) attending working party meetings of other acceding countries and working party meetings on specific WTO issues and providing reports on such meetings to the WTO Unit, and (4) gathering and forwarding information to the WTO Unit.

The WTO Unit should not be viewed as a short-term entity to simply enable accession to the WTO. Post-WTO accession requires the existence of a core team of experts to be in charge of all affairs connected with WTO membership (e.g. dispute settlement, notification, participating in multilateral negotiations).

The experience of other countries indicates that real progress in the accession process was achieved only after the accession process was elevated to a state body higher than the ministerial level. Furthermore, having the WTO Unit at a higher state body will permit more effective coordination and cooperation among various ministries.

3. Sectoral Working Groups

Sectoral working groups are often established to deal with specific thematic issues that arise over the course of the accession process. They are usually made up of the professional staff within Ministries who have technical expertise in their field.

Sectoral working groups should be specific to a service sector (telecommunications, banking, insurance, transport, tourism, professional services) or good (or good category; e.g. textiles, agro-industry; agriculture-fruits and vegetables; agriculture-animal products; machinery; electrical equipment; etc...) and should be headed by the relevant ministry or a business association and include representatives from the public sector and private sector. The role of the GNTE and SNTE should be to coordinate the work of sectoral working groups, prepare agenda in coordination with the sectoral ministry, summarize recommendations for presentation to the Policy Working Group or National Committee, and reflects decisions in market access offers and revisions.

Legal drafting working groups should be specific to a piece of legislation (law on competition, law on agriculture, law on integrated circuits) and should be headed by the relevant ministry and include representatives from the public sector, private sector, academia, and judiciary. The role of the WTO Unit Lawyer should be coordinate the work of legal drafting working groups, review draft legislation for consistency with the WTO requirements, prepare agenda in coordination with the sectoral ministry, and summarize recommendations for presentation to the National Committee.

It is important to formalize and institutionalize the sectoral working groups. Consistency and Continuity are very important component of trade policy formulation. If members of the working groups change regularly, this will lead to a loss in institutional memory and will weaken the capacity of new members who have to “catch up” and learn the process from scratch. Constantly changing members is also disruptive to building personal relationships and trust, among the working group members, with the Geneva representative and WTO secretariat, as well as with other member country committees.

The Sectoral Working Groups should, as much as possible, involve the private sector and professional groups, and take into account their views and input.

4. The Negotiation Team:

The Negotiation Team should be headed by a Chief Negotiator who could be the Head of Policy Working Group or the National Committee. The Chief Negotiator should have full authority from the Government of the acceding country to negotiate accession and sign protocols and agreements in connection with WTO accession. The Negotiation Team should consist of all members of the WTO Unit, representative of the Ministry of Agriculture , representative of the Ministry of Finance, and a representative of Customs.

The Chief Negotiator should be able to select members from the Policy Working Group or National Committee to be part of the Negotiation Team. Selected members will likely vary from one round to another depending on negotiation priorities, discussion topics, and outstanding issues.

Conclusion:

Certainly, there are many other institutional models for WTO negotiations. Our proposals in this memorandum are, however, designed to improve the effectiveness of the existing model established in Lebanon.

In this context, it is worth noting that while making use of the technical advisory services of external experts on WTO is to be encouraged, governments should avoid establishing entire units made up of external consultants who are not civil servants, and who may leave the government

once the project has ended.

This was the case in Jordan, the WTO unit was entirely staffed by project personnel working on a technical assistance project of a development institution. Once the project was completed, the staff within the unit left taking with them most of the institutional memory and acquired capacities. The same scenario is being repeated in Lebanon with the UNDP Project’s advisors. Therefore, it is highly advisable that the Ministry of Economy and Trade would remedy to this situation in the nearest future.

In addition, although the Policy Working Group or the National Committee for WTO Accession has been established since 1998, this committee has never played the role it was

designed for. It is worth noting that the National Committee has not been convened for at least the past four years. The Government of Lebanon is strongly advised to activate this Committee.

Although Lebanon has had seven Working Party Meetings so far, it has never established Sectoral Working Groups. Such Groups are essential to push the negotiations further and provide the negotiation team with the substantial information about the various sectors. The Ministry of Economy and Trade is lacking data on the various service sectors that are being negotiated. Had Lebanon established Sectoral Working Groups, data collection would have never been an issue. It is highly recommended that the Government of Lebanon establishes SEctoral Working Group to support bilateral and multilateral negotiations.