

JOB(05)/262
2005

26 October

Council for Trade in Services
Special Session

DRAFT MINISTERIAL TEXT ON SERVICES

Note by the Chairman

Please find attached a first draft of a text for the Ministerial meeting in Hong Kong. This draft has been prepared on the basis of submissions by delegations and on discussions, in particular during the meeting of the Special Session on 24-25 October 2005.

DRAFT MINISTERIAL TEXT

[Principles]

1. The negotiations on trade in services shall proceed to their conclusion with a view to promoting the economic growth of all trading partners, and the development of developing and least developed countries (LDCs). In this regard, we recall and reaffirm the Objectives and Principles stipulated in the Doha Declaration and in the Guidelines and Procedures for the Negotiations on Trade in Services adopted by the Council for Trade in Services on 28 March 2001.

2. We are deeply concerned by the lack of progress in the negotiations. We are therefore determined to intensify the negotiations and urge all Members to participate actively towards achieving a higher level of liberalization of trade in services in these negotiations, with appropriate flexibility accorded to individual developing countries. We recognize the special situation of recently acceded Members who have undertaken extensive market access commitments at the time of accession. We also recognize the particular economic situation of LDCs, including the difficulties they face in accepting new negotiated commitments, and acknowledge that they are not expected to undertake new commitments.

[Objectives]

3. In order to achieve a higher level of liberalization of trade in services, with appropriate flexibility being accorded to individual developing country Members, we agree that Members shall ensure, to the greatest extent possible, that their new and improved commitments adhere to the following objectives:

(a) Mode 1

- (i) commitments to existing levels of openness on a non-discriminatory basis across sectors of interest to Members
- (ii) removal of existing requirements of commercial presence

(b) Mode 2

- (i) commitments to existing level of openness on a non-discriminatory basis across sectors of interest to Members
- (ii) commitments on mode 2 where commitments on mode 1 exist

- (c) Mode 3
 - (i) commitments to enhanced levels of foreign equity participation
 - (ii) substantial reduction of economic needs tests
 - (iii) commitments allowing greater flexibility of types of legal entity allowed
- (d) Mode 4
 - (i) new or improved commitments on the categories of Contractual Services Suppliers and Independent Professionals to reflect *inter alia*:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal
 - (ii) new or improved commitments in the categories of Intra-corporate Transferees and Business Visitors, specifying prescribed duration of stay and possibility of renewal
- (e) Economic Needs Tests
 - (i) elimination of existing, and refraining from inscribing new, economic needs tests unless stipulated in existing legislation
 - (ii) scheduling of remaining economic needs tests in strict accordance with the Scheduling Guidelines adopted by the Council for Trade in Services on 28 March 2001
- (f) MFN Exemptions
 - (i) substantial reduction of MFN exemptions
 - (ii) clarification of existing MFN exemptions in terms of scope of application and duration
- (g) Scheduling of Commitments
 - ensuring clarity, certainty, comparability and coherence in the scheduling and classification of specific commitments, and adherence to the Scheduling Guidelines adopted by the Council for Trade in Services on 28 March 2001 in doing so

4. Sectoral and modal objectives as expressed by Members, in order to provide guidance for the request/offer negotiations (e.g. Annex to the Chairman's Report to the TNC).

5. The negotiations shall pursue full and effective implementation of the LDC Modalities adopted by the Council for Trade in Services on 3 September 2003, with the view to integration of LDCs into the multilateral trading system.

6. Rule making *[text to be added]*

[Approaches]

7. Pursuant to the principles and objectives above, we agree to intensify and expedite the request-offer negotiations, which shall remain the main method for negotiation, with a view to securing substantial commitments. .

8. In addition to bilateral negotiations, we agree that the request/offer negotiations should also be pursued on a plurilateral basis in accordance with the principles of the GATS and the Negotiating Guidelines. The results of such negotiations shall apply on an MFN basis. These negotiations would be organized in the following manner:

- (a) Any group of Members may present collective requests to other Members in any specific sector or mode, identifying their objectives for the negotiations in that sector or mode,
- (b) Members who have made such collective requests in a specific sector or mode, together with Members to whom such requests have been made, and any other interested Member, shall enter into plurilateral negotiations on the basis of such requests.
- (c) The Council for Trade in Services in Special Session shall review progress in such negotiations.
- (d) Plurilateral negotiations should be organised with a view to facilitating the participation of all Members, taking into account the situation of small delegations.

9. Numerical targets and indicators

10. The negotiations shall develop methods for the full and effective implementation of the LDC Modalities, including expeditiously

- (a) developing mechanisms for according special priority to LDCs,
- (b) identifying sectors and modes that represent development priorities for LDCs,

- (c) developing a reporting and reviewing mechanism, and
- (d) providing targeted and effective technical assistance and capacity building for LDCs.

11. Rule making [*text to be added*]

[Timelines]

12. Recognizing that an effective timeline is necessary in order to achieve a successful conclusion of the negotiations by the end of 2006, we agree that the negotiations shall adhere to the following dates:

- (a) Any outstanding initial offers shall be submitted as soon as possible.
 - (b) Groups of Members presenting plurilateral requests to other Members should submit such requests by [February 2006] or as soon as possible thereafter.
 - (c) Members shall notify the Special Session of the Council for Trade in Services by [date] of the sectors in which they intend to engage in plurilateral negotiations.
 - (d) A second round of improved revised offers shall be submitted by [date].
 - (e) Final draft schedules of commitments shall be submitted by [date].
-