

Annex 4

Doha Development Round Documents Calling for Special and Differential Treatment

A. DOHA DECLARATION⁹⁵

15. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. ...

B. GUIDELINES AND PROCEDURES FOR THE NEGOTIATIONS ON TRADE IN SERVICES (2001)⁹⁶

I. OBJECTIVES AND PRINCIPLES

2. The negotiations shall aim to increase the participation of developing countries in trade in services. There shall be appropriate flexibility for individual developing country Members, as provided for by Article XIX:2. Special priority shall be granted to least-developed country Members as stipulated in Article IV:3.
3. The process of liberalisation shall take place with due respect for national policy objectives, the level of development and the size of economies of individual Members, both overall and in individual sectors. Due consideration should be given to the needs of small and medium-sized service suppliers, particularly those of developing countries.

II. SCOPE

4. There shall be no *a priori* exclusion of any service sector or mode of supply. Special attention shall be given to sectors and modes of supply of export interest to developing countries.
5. MFN Exemptions shall be subject to negotiation according to paragraph 6 of the Annex on Article II (MFN) Exemptions. In such negotiations, appropriate flexibility shall be accorded to individual developing country Members.

III. MODALITIES AND PROCEDURES

11. There shall be appropriate flexibility for individual developing country Members for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV.

15. To ensure the effective implementation of Articles IV and XIX:2, the Council for Trade in Services in Special Session, when reviewing progress in negotiations, shall consider the extent to which Article IV is being implemented and suggest ways and means of promoting the goals established therein. In implementing Article IV consideration shall also be given to the needs of small service suppliers of developing countries. It shall also conduct an evaluation, before the completion of the negotiations, of the results attained in terms of the objectives of Article IV.

APPENDIX 3

C. MODALITIES FOR THE TREATMENT OF AUTONOMOUS liberalisation⁹⁷

14. In the application of these modalities, and in recognizing and granting credit pursuant to these modalities, Members shall take fully into account the flexibility provided for individual developing country Members under the provisions referred to in paragraph 13 above, as well as the level of development of developing country Members in relation to other Members. Special consideration shall be given to the least-developed country Members.

D. MODALITIES FOR THE SPECIAL TREATMENT FOR LEAST-DEVELOPED COUNTRIES IN THE NEGOTIATIONS ON TRADE IN SERVICES⁹⁸

I. OBJECTIVES AND PRINCIPLES

1. In pursuance of the objectives of the GATS and as required by Article XIX:3 of the GATS special treatment for least-developed country Members (LDCs) shall be granted by providing special priority to LDCs in the implementation of paragraphs 1 and 2 of Article IV of the GATS. Particular account shall be taken of the serious difficulty of LDCs in undertaking negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.
2. The importance of trade in services for LDCs goes beyond pure economic significance due to the major role services play for achieving social and development objectives and as a means of addressing poverty, upgrading welfare, improving universal availability and access to basic services, and in ensuring sustainable development, including its social dimension. LDCs are facing serious difficulty in addressing a number of complex issues simultaneously, and lack institutional and human capacities to analyse and respond to offers and requests. This should be factored into the negotiating process in general and regarding the individual requests made to LDCs.

3. Together with the *Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93)*, the *Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services* shall ensure maximum flexibility for LDCs and shall form the basis for the negotiations.

II. SCOPE

4. Members shall take into account the serious difficulty of LDCs in undertaking negotiated specific commitments in view of their special economic situation, and therefore shall exercise restraint in seeking commitments from LDCs. In particular, they shall generally not seek the removal of conditions which LDCs may attach when making access to their markets available to foreign service suppliers to the extent that those conditions are aimed at achieving the objectives of Article IV of the GATS.
5. There shall be flexibility for LDCs for opening fewer sectors, liberalizing fewer types of transactions, and progressively extending market access in line with their development situation. LDCs shall not be expected to offer full national treatment, nor are they expected to undertake additional commitments under Article XVIII of the GATS on regulatory issues which may go beyond their institutional, regulatory, and administrative capacities. In response to requests, LDCs may make commitments compatible with their development, trade and financial needs and which are limited in terms of sectors, modes of supply and scope.
6. Members shall, as provided for in Articles IV and XIX of the GATS, give special priority to providing effective market access in sectors and modes of supply of export interest to LDCs, through negotiated specific commitments pursuant to Parts III and IV of the GATS. LDCs should indicate those sectors and modes of supply that represent priority in their development policies, so that Members take these priorities into account in the negotiations.
7. Members shall work to develop appropriate mechanisms with a view to achieving full implementation of Article IV:3 of the GATS and facilitating effective access of LDCs' services and service suppliers to foreign markets.
8. Members shall take measures, in accordance with their individual capacities, aimed at increasing the participation of LDCs in trade in services. Such measures could include:
 - strengthening programmes to promote investment in LDCs, with a view to building their domestic services capacity and enhancing their efficiency and export competitiveness;
 - reinforcing export/import promotion programmes;

- promoting the development of LDCs' infrastructure and services exports through training, technology transfer, enterprise level actions and schemes, intergovernmental cooperation programmes, and where feasible, financial resources; and
 - improving the access of LDCs' services and service suppliers to distribution channels and information networks, especially in sectors and modes of supply of interest to LDCs.
9. It is recognized that the temporary movement of natural persons supplying services (Mode 4) provides potential benefits to the sending and recipient Members. LDCs have indicated that this is one of the most important means of supplying services internationally. Members shall to the extent possible, and consistently with Article XIX of the GATS, consider undertaking commitments to provide access in mode 4, taking into account all categories of natural persons identified by LDCs in their requests.
 10. LDCs shall be granted appropriate credit for their autonomous trade liberalisation. In addition, Members shall refrain from requesting credits from LDCs.
 11. In developing any multilateral rules and disciplines, including under GATS Articles VI:4 (Domestic regulation), X (Emergency safeguard measures), XIII (Government procurement) and XV (Subsidies), Members shall take into account the specific interests and difficulties of LDCs.

III. PRINCIPLES FOR THE PROVISION OF TECHNICAL ASSISTANCE WITH REGARD TO TRADE IN SERVICES

12. Targeted and coordinated technical assistance and capacity building programmes shall continue to be provided to LDCs in order to strengthen their domestic services capacity, build institutional and human capacity, and enable them to undertake appropriate regulatory reforms. In pursuance of Paragraph 14 of the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93), technical assistance shall also be provided to LDCs to carry out national assessments of trade in services in overall terms and on a sectoral basis with reference to the objectives of the GATS and Article IV in particular.

IV. MECHANISMS AND PROCEDURES

13. The Special Session of the Council for Trade in Services shall review, as necessary, the implementation of these modalities under the standing item on 'Review of Progress in the Negotiations'.

14. In his report to the Trade Negotiations Committee, the Chairman of the Special Session of the Council for Trade in Services will include the issues raised by Members with regard to these modalities.

E. DECISION ADOPTED BY THE GENERAL COUNCIL ON SERVICES⁹⁹

1 AUGUST 2004

- (c) With a view to providing effective market access to all Members and in order to ensure a substantive outcome, Members shall strive to ensure a high quality of offers, particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to least-developed countries.
- (d) Members shall aim to achieve progressively higher levels of liberalisation with no *a priori* exclusion of any service sector or mode of supply and shall give special attention to sectors and modes of supply of export interest to developing countries. Members note the interest of developing countries, as well as other Members, in Mode 4. ...
- (f) Targeted technical assistance should be provided with a view to enabling developing countries to participate effectively in the negotiations.

F. HONG KONG MINISTERIAL DECLARATION¹⁰⁰

26. We recognize the particular economic situation of LDCs, including the difficulties they face, and acknowledge that they are not expected to undertake new commitments.

Annex C: Services

Objectives

1. In order to achieve a progressively higher level of liberalisation of trade in services, with appropriate flexibility for individual developing country Members, we agree that Members should be guided, to the maximum extent possible, by the following objectives in making their new and improved commitments. ...
3. Members shall pursue full and effective implementation of the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services (LDC Modalities) adopted by the Special Session of the Council for Trade in Services on 3 September 2003, with a view to the beneficial and meaningful integration of LDCs into the multilateral trading system....
9. Members, in the course of negotiations, shall develop methods for the full and effective implementation of the LDC Modalities, including expeditiously:

- (a) Developing appropriate mechanisms for according special priority including to sectors and modes of supply of interest to LDCs in accordance with Article IV:3 of the GATS and paragraph 7 of the LDC Modalities.
 - (b) Undertaking commitments, to the extent possible, in such sectors and modes of supply identified, or to be identified, by LDCs that represent priority in their development policies in accordance with paragraphs 6 and 9 of the LDC Modalities.
 - (c) Assisting LDCs to enable them to identify sectors and modes of supply that represent development priorities.
 - (d) Providing targeted and effective technical assistance and capacity building for LDCs in accordance with the LDC Modalities, particularly paragraphs 8 and 12.
 - (e) Developing a reporting mechanism to facilitate the review requirement in paragraph 13 of the LDC Modalities.
10. Targeted technical assistance should be provided through, *inter alia*, the WTO Secretariat, with a view to enabling developing and least-developed countries to participate effectively in the negotiations. In particular and in accordance with paragraph 51 on Technical Cooperation of this Declaration, targeted technical assistance should be given to all developing countries allowing them to fully engage in the negotiation. In addition, such assistance should be provided on, *inter alia*, compiling and analyzing statistical data on trade in services, assessing interests in and gains from services trade, building regulatory capacity, particularly on those services sectors where liberalisation is being undertaken by developing countries.

G. ELEMENTS REQUIRED FOR THE COMPLETION OF THE SERVICES NEGOTIATIONS¹⁰¹

- 4. ... Commitments shall be commensurate with the levels of development, regulatory capacity and national policy objectives of individual developing countries.
- 9. ... Members are of the view that a waiver, available to all Members, from the obligations of Article II, paragraph 1 of the GATS in respect of preferential treatment benefiting all LDC Members offers the most satisfactory outcome of this negotiation.
- 10. Members shall continue to give due consideration to proposals on trade-related concerns of small economies. In recognizing their special situation, further liberalisation shall be in accordance with their development needs.

13. Members recall and reaffirm that targeted technical assistance as agreed in paragraph 10 of Annex C of the Hong Kong Ministerial Declaration is intended to enable developing countries and LDCs to participate effectively in the negotiations. In this regard, Members request the WTO Secretariat to prepare, prior to the submission of revised offers, a comprehensive report of technical assistance activities it has carried out in services since the Hong Kong Ministerial Conference, to enable Members to identify further required activities, on the basis of which the Secretariat, in consultation with Members, could provide a roadmap for future efforts.