

Services

The Guidelines and Procedures for the negotiations on Trade in Services (S/L/91) which outlines the objectives and principles, the scope and the modalities and procedures of the services negotiations, were adopted by the Special Session of the Council of Trade in Services on 28th March 2001. Accordingly, since 2001, negotiations have progressed on services in the WTO in a Request-Offer fashion, where Members make bilateral and confidential requests to other Members to open certain sectors of interest to them, or remove certain restrictions being faced by their services suppliers. Members may then respond by offering certain market access commitments through offers which, based on the non-discrimination 'Most Favoured Nation (MFN)' principle are available to all WTO Members.

The services negotiations remain in two broad categories: market access and rules, which include Domestic Regulations (DR).

Within the timeframe of the overall negotiating deadline of 1 January 2005, as agreed by Members in Doha, and which is part of the Doha Development Agenda (paragraph 15) "participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003".

Participants in the services negotiations have been exchanging bilateral initial requests since 30 June 2002. Since 31st March 2003 Members have submitted 69 initial offers, although none of these offers have come from LDCs. Some initial offers have been derestricted by the Member concerned and are publicly available in the TN/S/O document series on the WTO website (www.wto.org). In addition, some Members have made their initial offers, or summaries of these offers, publicly available on their own websites.

Since 19th May 2005 Members have submitted 30 revised offers and, again, some of these revised offers have been derestricted by the Members concerned and are publicly available in the TN/S/O rev.1 document series or on the Members' own websites.

WTO Members are currently tabling proposals regarding both the structure and the contents of the new negotiations which started at the beginning of 2000.

In 2005 a group of developed country members introduced proposals – complimentary approaches - in the Services negotiations that introduced quantitative and qualitative mandatory targets. However, this approach, which would have changed the Request – Offer format of the negotiations, was not acceptable to the rest of the membership, although plurilateral requests and offers are.

LDCs recognise the major role the services sector plays in their economic and social development. However, LDCs face substantial difficulties in participating in services trade

Modes of Supply in the Services Sectors

The General Agreement on Trade in Services (GATS) does not define "services", (although the WTO Secretariat has classified services in MTN.GNS/W120 of 10 July 1991) but does define the means by which services are delivered to consumers (Article I). The means of service delivery are known as the "Modes of Supply". Under GATS, there are four modes of supply:

Mode 1: Services supplied from one country to another (known as "cross-border" supply). An example of Mode 1 would be international telecommunication services or money transfers from one country to another.

Mode 2: Consumption of services in another country (known as "consumption abroad"). Consumption abroad would apply to services such as tourism, when travel is arranged from one country but takes place in other.

Mode 3: Establishment of a business in another country (known as "commercial presence"). Establishing a business office in another country would be a form of commercial presence, and often involves "foreign direct investment" or "FDI".

Mode 4: Individuals travelling to another country to supply services (known as "presence of natural persons"). People travelling to countries to provide consultancy or labour services are providing services through the presence of natural persons.

and, consequently, need additional time and resources to finalise their sector assessments and GATS templates, while recognising that delays in liberalising services trade may also result in delay in economic development and poverty alleviation.

Some of the challenges faced by LDCs include making proper assessments of their services economy and challenges relating to weak regulatory capacities. These constraints make it difficult for LDCs to make commitments on a mandatory basis.

In September 2003 the Committee on Trade in Services (CTS) adopted the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services (TN/S/13). The LDC Modalities cover objectives and principles, scope, principles for the provision of technical assistance and mechanisms and procedures and are aimed at ensuring that LDCs have “maximum flexibility” in the services negotiations. Flexibility is considered to mean liberalising fewer types of transactions; progressively extending market access in line with their development situation; offering less than full national treatment; and not being expected to undertake additional commitments on regulatory issues which may go beyond their institutional, regulatory, and administrative capacities.

The LDC Modalities also request other members to exercise restraint in seeking commitments from LDCs and not to ask for the removal of conditions which LDCs may attach when making access to their markets available to foreign service suppliers, as long as the conditions are GATS-compatible.

In response to requests, the LDC Modalities allow LDCs to make commitments compatible with their development, trade and financial needs and which are limited in terms of sectors, modes of supply and scope.

The LDC Modalities also state that Members shall give special priority to providing effective market access in sectors and modes of supply of export interest to LDCs, with LDCs indicating those sectors and modes of supply that represent priority in their development policies.

Other important issues to note in the LDC Modalities are the request for targeted and coordinated technical assistance and capacity building programmes, granting of appropriate credit for autonomous liberalisation, the recognition of temporary movement of natural persons supplying services (Mode 4) as being one of the most important means of supplying services internationally for LDCs, and the review mechanism.

On Mode 4, the LDC Group has put forward two requests, one to the entire membership and the other to selected Members, outlining the sectors where they have commercial interests. Both requests request market access commitments in semi-skilled labour. So far there has been no serious uptake of any of the LDCs’ requests in Mode 4 and the LDC Group will either have to put more pressure on the membership or modify the requests if progress is to be made.

Despite that fact that the LDC Modalities were adopted in 2003, Members is still examining how to implement and monitor each of the paragraphs of the modalities. Article 7 of the LDC Modalities state that “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”. In order to assist Members to develop appropriate mechanisms to achieve the full implementation of Article IV.3 of GATS (which states that members should give special priority to LDCs in implementing the commitment to increasing participation of developing countries in world trade while taking account of LDCs’ difficulties in accepting negotiated specific commitments) the LDC Group submitted a proposal for a mechanism to put Article IV:3 into operation (TN/S/W/59 of 28th March 2006). The proposal provides draft text for consideration by Members.

The LDC Group is very much involved in the services negotiations on domestic regulations (DR). The position taken is one that requests special and differential treatment in DR, so taking account of the difficulties LDCs face in implementing these disciplines and linking this to the need for additional technical assistance. This approach seems to be generally acceptable to the rest of the Membership and language is being developed that recognises the need for a balanced outcome.