

**Council for Trade in Services
Special Session**

**ELEMENTS REQUIRED FOR THE
COMPLETION OF THE SERVICES NEGOTIATIONS**

Report by the Chairman

1. Following the discussion in the Special Session on 2 June of my report (TN/S/33) of 26 May, I continued my consultations on the elements required for the completion of the services negotiations. Taking account of the views expressed, I circulated a revised draft text contained in document JOB(08)/79 of 17 July 2008. At the meeting of the Special Session on 17 July, several new drafting proposals were made. This led to the suspension of the meeting, to be resumed at a later stage.
 2. After further discussion and consultation with Members, certain elements of the draft text were modified in order to accommodate the views expressed. These modifications included:
 - (a) The proposed dates in paragraph 7 and 8 for revised offers and final draft schedules, respectively, have been placed in square brackets and are subject to further confirmation in the light of the overall calendar for the DDA.
 - (b) While paragraph 9 contains an agreement to establish a waiver mechanism enabling Members to provide preferential treatment to LDCs, it was agreed that the impact of such a mechanism on other developing countries will be taken into account in negotiating the principles and characteristics of such a waiver.
 3. At the resumed meeting of the Special Session on 23 July 2008, four Members – Bolivia, Cuba, Nicaragua and Venezuela – expressed their disagreement with the formulation of the text, which is annexed to this report. Venezuela, on behalf of the four Members, requested that their position, as expressed in the quoted text below, be registered in this report as well as in the attached Annex. The quoted text, which was not discussed by other delegations at the Special Session, reads:

"There is no consensus on a new text on services. Various delegations consider that there is no mandate to agree on elements that go beyond the points agreed by all Members in the Hong Kong Ministerial Declaration and that there is no obligation to make commitments at the highest possible level. Any language that modifies Members' current obligations has no binding force. However, there is total agreement on immediate implementation of any treatment in favour of the least developed countries and the small and vulnerable economies."
 4. Apart from the four Members mentioned above, the Annex to this Report was considered by Members as providing the elements required for the completion of the services negotiations.
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ANNEX

Elements Required for the Completion of the Services Negotiations¹

1. Members recall and reaffirm the negotiating mandates and objectives as stipulated in the GATS, the Doha Ministerial Declaration, the Hong Kong Ministerial Declaration, the Guidelines and Procedures for the Negotiations on Trade in Services adopted by the Special Session of the Council for Trade in Services on 28 March 2001, and the Decision of the General Council adopted on 31 July 2004. Members reiterate that the negotiations shall be intensified and proceed to their conclusion in accordance with the Objectives and Approaches set out in Annex C of the Hong Kong Ministerial Declaration.

2. Members recall that the request-offer approach is the main method of negotiation in the current Round and that, prior to the Hong Kong Ministerial Conference, such negotiations had been proceeding on a bilateral basis. Members further recall that, pursuant to paragraph 7 of Annex C of the Hong Kong Ministerial Declaration, in addition to bilateral negotiations, request-offer negotiations were also pursued on a plurilateral basis. Accordingly, 21 collective requests were submitted by co-sponsors to other groups of Members in the following sectors and modes: Air Transport; Architectural, Engineering and Integrated Engineering Services; Audiovisual Services; Computer and Related Services; Construction Services; Distribution Services; Education Services; Energy-Related Services; Environmental Services; Financial Services; Legal Services; Logistics Services; Maritime Transport Services; Postal and Courier Services; Services Related to Agriculture; Telecommunication Services; Tourism Services; Cross-Border Supply (Modes 1 and 2); Mode 3; Mode 4; and MFN Exemptions. On the basis of these requests, 21 related plurilateral groups convened four rounds of meetings. Since the Hong Kong Ministerial Conference, participants also held six rounds of bilateral request-offer meetings.

3. Members have participated actively in the request-offer negotiations. They exchanged indications of possible new commitments that might be reflected in the next round of revised offers, in response to various individual and collective requests. Some Members considered that the progress achieved to date in the services negotiations was satisfactory compared to other areas of the DDA. Others took the view that so far progress fell well short of responding adequately to their requests. Members shared the view that substantial efforts were needed to reach a successful conclusion of the negotiations. They acknowledged that the outcome of the request-offer negotiations would eventually have to be assessed by each participant, including in relation to other areas of the single undertaking.

4. Members reaffirm that the services negotiations are an essential part of the DDA. They recognize that an ambitious and balanced outcome in services would be integral to the overall balance in the results of the DDA single undertaking. Negotiations must therefore be driven by a high level of

¹ At the meeting of the Special Session on 23 July 2008, the delegations of Bolivia, Cuba, Nicaragua and Venezuela expressed their disagreement with this annex and requested that their position be registered. For that purpose, the following text has been provided by the delegation of Venezuela on behalf of Bolivia, Cuba and Nicaragua, with the request that it appear in this Annex. It has not been subject to any discussion by other delegations at the Special Session.

"There is no consensus on a new text on services. Various delegations consider that there is no mandate to agree on elements that go beyond the points agreed by all Members in the Hong Kong Ministerial Declaration and that there is no obligation to make commitments at the highest possible level. Any language that modifies Members' current obligations has no binding force. However, there is total agreement on immediate implementation of any treatment in favour of the least developed countries and the small and vulnerable economies."

ambition and political will as reflected in the other areas of the DDA. Accordingly, the negotiations shall aim at a progressively higher level of liberalization of trade in services with a view to promoting the economic growth of all trading partners, and the development of developing and least-developed countries. There shall be no a priori exclusion of any service sector or mode of supply. Respecting the existing structure and principles of the GATS, Members shall, to the maximum extent possible, respond to the bilateral and plurilateral requests by offering deeper and/or wider commitments. Such responses shall, where possible, substantially reflect current levels of market access and national treatment and provide new market access and national treatment in areas where significant impediments exist, in particular in sectors and modes of supply of export interest to developing countries, such as modes 1 and 4, in accordance with Article IV of the GATS. Commitments shall be commensurate with the levels of development, regulatory capacity and national policy objectives of individual developing countries. In making such commitments, Members shall be guided by paragraphs 1, 2 and 7 of Annex C of the Hong Kong Ministerial Declaration.

5. In accordance with paragraph 5 of Annex C of the Hong Kong Ministerial Declaration, Members are called upon to develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current Round of negotiations. Members welcome the progress achieved since the Hong Kong Ministerial Conference and, in particular, that the negotiations have moved into a text-based phase. In light of the extensive and constructive discussions that have taken place, Members call upon the Working Party on Domestic Regulation to intensify its work and finalize text for adoption. Members invite the Chairman to continue to consult on drafting revisions, with a view to developing and adopting text before the end of the negotiations.

6. Members reaffirm their commitment as made in the Hong Kong Ministerial Declaration to conclude negotiations on GATS Rules pursuant to Articles X, XIII, and XV, in accordance with their respective mandates and timelines. Members take note of the efforts made since Hong Kong, including through the submission of specific and concrete proposals, to facilitate consideration and engagement in all three areas. Members recognize the importance attached by some delegations to the objectives and principles contained in these proposals. While there has been more focused work, efforts must be stepped up for enhanced engagement with the objective of advancing the work in the three areas as expeditiously as possible.

7. In order to conclude the negotiations in a timely fashion, Members shall submit revised offers by [15 October 2008].

8. Final draft schedules of commitments shall be submitted by [1 December 2008].

9. Members reaffirm their commitment to fulfil the requirements set out in paragraph 9(a) of Annex C of the Hong Kong Ministerial Declaration regarding the development of appropriate mechanisms for according special priority including to sectors and modes of supply of interest to LDCs. Members welcome the Note by the Secretariat "Options to Implement the LDC Modalities" (JOB(08)/8). Of the options identified in this paper, 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. Members shall strive to complete negotiations on the specific principles and characteristics of such a waiver before the revised offers are submitted, in accordance with the sequence of the timelines set out in paragraph 11 (e) of Annex C of the Hong Kong Ministerial Declaration.

10. Members shall continue to give due consideration to proposals on trade-related concerns of small economies. In recognizing their special situation, further liberalization shall be in accordance with their development needs.

11. Members shall complete the consideration of proposals on special and differential treatment, referred to the Special Session of the Council for Trade in Services by the Special Session of the Committee for Trade and Development, with a view to making clear recommendations for a decision by the General Council prior to the conclusion of the DDA negotiations.

12. Members recognize the special situation of recently-acceded Members who have undertaken extensive market access commitments at the time of accession. This situation will be taken into account in the DDA negotiations.

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 before the end of the negotiations.
