

**COMMUNICATION FROM VENEZUELA**

Negotiating Proposal on Energy Services

The following communication has been received from the delegation of Venezuela with the request that it be circulated to Members of the Council for Trade in Services.

**I. INTRODUCTION**

1. Venezuela presents this negotiating proposal under paragraph 2(c) of the programme of work for the first phase of negotiations under GATS Article XIX (document Job No. 3573), adopted by the Council for Trade in Services at its Special Session of 26 May 2000, which appears in the report of the Special Session of the Council of 26 June 2000, (document S/CSS/M/3). It is an initial contribution to the discussion with the other Members of the Council for Trade in Services on the issue of energy services.

2. Venezuela reserves the right, provided for in document Job No. 3573, to add to or alter this proposal in the course of the negotiations on this issue.

**II. ENERGY SERVICES: BACKGROUND**

3. The supply of energy is fundamental to any country's development, given that energy is an essential intermediate input for almost all economic activity, as well as having a direct impact on the welfare of end-users, and because energy production is for many countries a direct driving force in their development. Hence the strategic role that has traditionally been attached to energy supply and the need to ensure that this supply is both stable and secure.

4. Furthermore, the dividing line between the generation of a good and the provision of a service for the various activities which make up the chain of production, transformation, transportation, distribution and sale of energy is a matter for discussion. In addition, many of these activities have been carried out, for economic or strategic reasons, under natural or de facto monopolies or conditions of exclusivity. These are some of the reasons for which trade in energy services was left out of the negotiations on services during the Uruguay Round.

5. In recent years, technological changes have occurred in some activities in the energy chain, making it economically possible for competition to be introduced in traditionally monopolistic areas. The trend towards outsourcing in various production sectors and the liberalization of world services trade have also been reflected in energy services, which have become more varied and have increased their participation in the services market in general. In a large number of countries, including many developing countries, this has led to the development and introduction of new regulatory and legal

frameworks for energy services, with two complementary objectives: firstly, to use them as effective instruments in these countries' development strategies, and secondly, to improve the economic efficiency of these services, by including measures to facilitate competition in some of the activities they involve.

6. These factors mean that it is now possible to consider conducting negotiations on trade in energy services, and to believe that they might have a good chance of succeeding, provided that from the outset such negotiations accept, and in some cases take advantage of, the specificity of these activities and the importance they have for all countries, especially developing countries. The advantages derived from the competitive, reliable and efficient supply of energy services for all countries are obvious.

7. It would be in the interests of developing countries if these negotiations were approached with a wider focus than a merely trade-based perspective, and if the results could help to enable them to achieve their objectives linked to the strengthening of their domestic entrepreneurial capacity, technological development and the protection of the environment and natural resources.

### **III. NEGOTIATING PROPOSAL ON ENERGY SERVICES**

#### **A. GENERAL OBJECTIVES**

8. These negotiations should ensure that energy services are made accessible to as many people as possible, in order to improve their standard of living, and to as many industries, businesses and services as possible, in order to promote economic growth.

9. The market-opening resulting from the negotiations should help to increase the energy supply capacities of all Members.

10. Furthermore, the agreements resulting from the negotiations should help developing countries to achieve improved access to technology and, in general terms, to pursue services-related policies designed to increase the competitiveness of all their production sectors.

11. Consequently, the results of the negotiations should enable countries which use the supply of energy services as an instrument for boosting their development and as a means of diversifying their economy and strengthening the private sector, to continue to pursue and to consolidate these policies.

#### **B. BASIS FOR NEGOTIATIONS**

12. The negotiations should guarantee the right of Members, especially developing countries, to regulate the supply of energy services within their territories in order to meet national policy objectives and to facilitate their increasing participation in international trade in these services, through the strengthening of their domestic capacity, in accordance with the preamble to the GATS.

13. The strategic character of energy services makes it essential that such negotiations should:

- (a) Include the definition of mechanisms to put into practice the provisions of GATS Article IV, especially with regard to access to technology and the treatment of least-developed countries (paragraphs 1(a) and 3);
- (b) take special care to advance in coordination with negotiations related to other aspects of the GATS, particularly emergency safeguard measures, government procurement and subsidies (Articles X, XIII and XV respectively);

- (c) not impair the right of governments to determine conditions of access to their markets and to set obligations with regard to public services.

14. The negotiations should respect the appropriate flexibility for individual developing country Members to open fewer sectors, liberalize fewer types of transactions and progressively extend market access in line with their development situation, in accordance with Article XIX of the GATS.

15. The negotiations should respect the developing countries' space to implement policies aimed at domestic capacity-building, in particular the capacity of their small and medium-sized energy service suppliers.

16. The ownership and rights of access to and use of natural resources are issues that should not be addressed in these negotiations.

17. It must be clear that the treatment of all goods, including energy goods, involved in the production and supply of energy services, is covered exclusively by GATT rules, disciplines and access commitments, and not by the GATS.

18. Recognizing that the supply of services in the energy sector is often linked to the use of specialized tools and equipment, the negotiations should facilitate requirements on the temporary admission of goods, with respect for the principle that these requirements must be governed by the domestic rules applicable in each country.

19. It would be highly desirable for the Secretariat, to revise document S/C/W/52 of 9 September 1998, in tandem with the work being carried out with a view to the possible negotiation of specific commitments in trade in energy services, so as to ensure that it reflects statistics and analysis relating to trade flows in energy services, which could serve as an input and stimulus for negotiations in this sector.

20. The current market realities with regard to the recent appearance of new energy services based on electronic commerce and information technology, must be taken into account, and prior to any negotiations, an assessment must be made of the viability and bases of the negotiations, bearing in mind, amongst other things, the impact that these services could have on price and financing conditions in energy markets.

#### C. RESULTS OF THE NEGOTIATIONS

21. The outcome of these negotiations should be instruments, commitments and measures designed to:

- (a) Facilitate the effective participation of all Members in the supply of energy services, and in particular liberalize access to energy service markets for suppliers from developing countries, and eliminate the barriers which have prevented these countries from benefiting from trade opportunities in these services;
- (b) strengthen the capacities, efficiency and competitiveness of suppliers of energy services from developing countries and improve instruments for their access to technology on a commercial basis;
- (c) improve the transparency of government measures which affect the supply of energy services;

- (d) implement GATS Articles IV and XIX through significant trade commitments, and provide for the Council for Trade in Services to assess on an ongoing basis the effective application of these Articles and the extent to which developing countries are benefiting from increased participation in trade in energy services.

D. CLASSIFICATION OF ENERGY SERVICES

22. The adoption of a classification of energy services is of key importance for any negotiation of commitments. The services sectoral classification list contained in document MTM.GNS.W/120, does not reflect the current reality of the market in energy services.

23. In the energy sector, both at the international level and within countries, there are different, clearly differentiated subsectors, with different levels of development, regulatory frameworks and technological characteristics.

24. Members will be able to make significant specific commitments in such an important, complex and strategic sector as this, insofar as they may do so progressively and selectively. The availability of a classification with greater disaggregation for energy services, taking into account the current market, regulatory and technological situations, is something that could facilitate the making of possible commitments.

25. Consequently, a clear, precise and unambiguous classification of energy services is required. We therefore propose that the WTO Members consider the following approach:

- (a) To begin to revise the classification included in W/120, dividing services by subsectors associated with energy sources;
- (b) subsequently, to incorporate a series of other criteria so as to be able to specify the activities which correspond to the production, transformation, transportation, distribution and sales processes;
- (c) finally, to attempt to identify and organize energy services so as to be able to distinguish between those which constitute or can be included in the category of core processes in the energy chain, and those which belong to or support non-core processes of the chain.<sup>1</sup>

26. The classification needs to be drawn up with great care so as not to alter the balance of rights and obligations negotiated during the Uruguay Round on the basis of other classifications.

27. Venezuela will in due course submit for consideration by the other Members of the Council more precise contributions concerning the classification of energy services.

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<sup>1</sup> According to this conception, core services are those which are directly involved in the main processes of the value chain, whereas non-core services correspond to processes which support this chain.