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## **COMMUNICATION FROM BRAZIL, COLOMBIA, DOMINICAN REPUBLIC, EL SALVADOR, INDIA, INDONESIA, NICARAGUA, THE PHILIPPINES AND THAILAND**

### Review of Progress in Negotiations, Including Pursuant to Paragraph 15 of the Guidelines for Negotiations

#### *Tourism Services*

The following communication, dated 27 September 2004, from the delegations of Brazil, Colombia, Dominican Republic, El Salvador, India, Indonesia, Nicaragua, the Philippines and Thailand is being circulated to the Members of the Council for Trade in Services.

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#### **I. INTRODUCTION**

1. Pursuant to paragraph 15 of the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93), this contribution is intended to continue discussions in the Council for Trade in Services in its Special Session about the extent to which Article IV of the GATS is being implemented in the on-going negotiations.

2. The Doha Work Programme seeks to place the needs and interests of developing and least-developed Members at the centre of the negotiations. Paragraph 2 of the Doha Ministerial Declaration states, "...*The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration...*". In this regard, the effective implementation of the objectives established in the Preamble, and Articles IV and XIX of the GATS namely to increase the participation of developing Members in world trade - through the negotiation of specific commitments - with a view towards promoting their economic growth and development, is necessary.

3. In light of the above, this contribution attempts to address the extent to which initial offers tabled by developed members pertaining to "Tourism and Travel Related Services" have contributed to the operationalisation of the obligations established in Article IV of the GATS. Consequently, it focuses on the question of whether these initial offers provide meaningful improvement in this sector where a number of developing country Members have expressed specific interests through their proposals and initial requests.

4. Tourism represents significant interests for many developing country Members as an important contributor to their economic development. Many developing countries have made

proposals relating to the Tourism sector, and several of them have followed these proposals with specific request to trading partners.<sup>1</sup> The issues they have raised are, *inter alia*, as follows:

- (a) Facilitation of movement of natural persons supplying services in tourism and recognition of their qualifications
- (b) Elimination of economic needs tests in all sub-sectors and modes of supply
- (c) Elimination of requirement for commercial establishment or presence
- (d) Elimination of nationality or residency requirement
- (e) Elimination of anti-competitive practices and unfair competition
- (f) Access to technology distribution channels and information network
- (g) Undertake broader and more in depth commitment on all modes of supply

## **II. ASSESSMENT OF PROGRESS ON COMMON ELEMENTS IDENTIFIED IN NEGOTIATING PROPOSALS AND REQUESTS MADE BY DEVELOPING MEMBERS**

5. To date, the interest expressed by developing country Members through negotiating proposals and requests allow them to identify common elements to address the main issues of concern in tourism. The following elements included in various communications presented by developing country Members could be used as criteria to assess the extent of commercially meaningful market access and national treatment commitments being offered, and thus ensure the effective implementation of paragraph 15 of the Guidelines.

- (a) *Facilitation of movement of natural persons supplying services in Tourism and recognition of their qualifications:* As was indicated in an earlier communication by a group of developing countries pursuant to paragraph 15 of the Guidelines and Procedures for the Negotiations on Trade in Services, liberalization in mode 4 has been identified as a common interest by many developing countries.<sup>2</sup> Initial offers relating to mode 4 were shown to fall short of the needs identified by developing countries during the current services negotiations. Mode 4 has also been the most conservative mode in all the commitments relating to tourism services. Almost all the initial offers scheduled “unbound” or “unbound except in the horizontal commitment”. The commitments in the horizontal sections are very restrictive and confined mainly to the ICT (Intra Corporate Transferees) and Business Visitors. Only a few initial offers introduced additional categories into their horizontal commitments, and there is almost no specific improvement under the Tourism sector. Other elements for improving mode 4 commitments that are not reflected in the initial offers include: de-linking mode 4 commitments to mode 3; removing the restrictions and requirements attached to previous commitments; and simplifying the

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<sup>1</sup> Communication from Colombia to the Council for Trade in Services Special Session (S/CSS/W/122), Communication from Costa Rica to the Council for Trade in Services Special Session (S/CSS/W/128), Communication from Cuba to the Council for Trade in Services Special Session (TN/S/W/1), Communication from MERCOSUR to the Council for Trade in Services Special Session (S/CSS/W/125), Communication from the Dominican Republic to the Council for Trade in Services (S/C/W/149).

<sup>2</sup> Communication from Bolivia, Brazil, Chile, China, Colombia, Cuba, Dominican Republic, Ecuador, Egypt, Guatemala, India, Indonesia, Mexico, Nicaragua, Pakistan, Peru, Philippines and Thailand to the Council for Trade in Services (TN/S/W/19).

cumbersome and non-transparent administrative procedures and regulations for work permits and visas.

- (b) *Elimination of anti-competitive practices and unfair competition:* This element is expressed in almost all the proposals from developing country Members. Anti-competitive practices can take many forms, such as the exclusive use or abuse of Global Distribution System (GDS) and Computer Reservation System (CRS), de-racking, and price-fixing through monopoly of access.
- (c) *Elimination of requirements for commercial establishment or presence:* Those limitations appear frequently under mode 1 and mode 4, which substantially weaken the commitments. In the initial offers, only a few Members removed some of the limitations, but those limitations still exist in many areas.
- (d) *Elimination of nationality or residency requirement:* These limitations appear frequently under mode 3 and mode 4, which substantially weaken the commitments under these modes. Among the initial offers, only a few Members removed some of the limitations, but those limitations still exist in many sectors.

### **III. CONCLUSIONS**

6. After reviewing the initial offers presented to date by developed countries, in our assessment, those offers are still far from containing improvements and elements that concern the developing countries. Many initial offers still bear the above mentioned limitations, and quite a few did not make any improvement in the sector of Tourism.

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