

**COMMUNICATION FROM THE REPUBLIC OF KOREA**

A Proposal on the Complementary Negotiating Methods: "The Bi-dimensional Approach"

The following communication, dated 28 September 2005, from the delegation of the Republic of Korea, is being circulated to the Members of the Council for Trade in Services.

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**I. INTRODUCTION**

1. Korea has prepared this paper in relation to paragraph 18 of the Report by the Chairman of the Special Session of the Council for Trade in Services (TN/S/20), which was presented to the Trade Negotiations Committee on July 21, 2005. This paper proposes an approach to the negotiating methods which could be used to complement the current bilateral request-offer process within the parameters of the GATS and the Negotiating Guidelines. This paper is without prejudice to Korea's final position in the negotiations.

**II. BACKGROUND**

2. There is a growing degree of recognition among Members that the current bilateral request-offer method alone is not producing satisfactory results. As of 20 September 2005, only 69 initial offers and 25 revised offers have been submitted. Setting aside the LDCs, 24 developing Members have yet to submit their initial offers. Amongst the submitted offers, sectoral coverage is narrow and market access (MA) and national treatment (NT) restrictions still remain prevalent.

3. Owing to its resource-intensive and time-consuming nature, the bilateral request-offer process has many weaknesses. Since it does not give a clear indication about the level of ambition expected on a multilateral basis, Members may not have a gauge as to how much they can come forward until they have received the offers of all the others. The current approach also lacks a mechanism in terms of providing political impetus to yield high quality offers. This necessitates countless exchanges of offers to meet individual levels of ambition. Furthermore, the limited time available for bilateral meetings discourages Members to achieve overall balance in the negotiations across all of their trading partners and interested sectors/modes. This is even more so for developing Members who are faced with resource constraints.

4. It should be noted that Article XIX of the GATS and the Negotiating Guidelines stipulate that the process of progressive liberalization shall be advanced in each round through bilateral, plurilateral, or multilateral negotiations. Hence, utilizing a complementary approach to the bilateral request-offer process is to execute the mandate of the current round of negotiations.

### III. A SHARED OBJECTIVE: WIDENING AND DEEPENING

5. As stated in the preamble and Article XIX of the GATS, achieving a progressively higher level of liberalization is the central objective of the negotiations on trade in services. Korea envisages that widening the scope and deepening the level of commitments undertaken by Members can help accomplish this central objective. Pursuing the reduction or elimination of trade barriers in both dimensions simultaneously serves to promote the interests of all participating countries in a mutually advantageous way that secures an overall balance of rights and obligations.

6. Out of the 160-odd sub-sectors, the coverage in the offers is on average about 65 percent for developed members and 30 percent for developing members. This low level of sectoral coverage reflects that, in the last 10 years since its inception, the GATS has not provided sufficient predictability for trading conditions. Therefore, tabling binding commitments in particular sub-sectors that have already been liberalized will be the first step in the market access negotiations on those sub-sectors, while at the same time maintaining the possibility of being revisited in the successive rounds of negotiations in order to achieve higher levels of commitment.

7. Broadening the sectoral coverage alone does not guarantee new business opportunities. To create new opportunities for market entry, it is necessary that the level of commitments go beyond the status quo. In this respect, it should be emphasized that liberalizing infrastructure services will be beneficial in promoting economic development and competitiveness of the economy, as highlighted by UNCTAD and the WTO Secretariat.<sup>1</sup> This is so because infrastructure services are used as inputs to other sectors of the economy, including manufacturing. Therefore, from the development perspective, it is essential to provide a more business-friendly environment in infrastructure services through further liberalization.

### IV. PROPOSED ELEMENTS

#### A. WIDENING – A MULTILATERAL BASIS

8. To achieve the objective of 'widening', it is important that Members share the load of making new commitments, if not equally in strictly quantitative terms. In this regard, Korea proposes that Members shall commit 'x' percent of their uncommitted sub-sectors securing the existing level of market openness for each mode. Commitments offered should be commercially meaningful.

9. The magnitude (quantitative target) of the 'x' will reflect the *collective* level of ambition for the services negotiations. Contrary to some concerns expressed by a few Members, this will not impinge on the right of Members to specify the sectors/sub-sectors (i.e. a positive list approach), because Members will still possess the right to choose from which uncommitted sub-sectors they will fulfill the x percent.

10. Flexibilities shall be appropriately guaranteed for individual developing country Members in line with their level of development, as provided for by Article XIX:2, and special priority shall be granted to least-developed country Members as stipulated in Article IV:3. Flexibility can be either in the form of a differential parameter of x compared with that of developed countries, or in the form of phased-out commitments with a longer implementation period. Additional channel of flexibility could be considered for Members who have undertaken relatively higher levels of autonomous liberalization.

11. To guarantee the commercial meaningfulness of the commitments offered, they should reflect both the degree of market development of the Member concerned and the commercial interests of its trading partners. Accordingly, the specific sub-sectors to be included in the x percent should be

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<sup>1</sup> "Trade in Services and Development Implications," Section II, UNCTAD, TD/B/COM.1/71, 20 January 2005 and *World Trade Report 2004*, Chapter 2.B, WTO Secretariat, 2004.

determined through the bilateral request-offer process, where Members should be in line with the requests of other Members for commercially meaningful commitments. In this respect, Members should give particular attention to paragraph 5 of the Negotiating Guidelines that there shall be no *a priori* exclusion of any service sector or mode of supply, and special attention shall be given to sectors and modes of supply of export interest to developing countries. This is a way to ensure an overall balance of rights and obligations in the current round through the *positive reciprocity* towards an expansionary equilibrium of the global trade in services, while departing from the *negative reciprocity*, where each member seeks to exclude all of their sensitive sectors reciprocally.

B. DEEPENING – A PLURILATERAL BASIS

12. In attaining 'deepening' liberalization in infrastructure services, Korea recognizes the constructive role of each informal group organizing voluntarily during the course of the negotiations. In order to enhance transparency, each informal group is requested to report their activities to the Special Session regularly, and for the sake of inclusiveness, to endeavour to open participation to other interested Members.

13. These informal groups are called upon to develop possible minimum target levels (qualitative benchmarks) for liberalization or model schedules for individual sectors or modes for commitments beyond the current level of liberalization and make them available to a wider audience. A critical mass should be attained for their adoption. Appropriate flexibilities should be inherent in each model schedule and the specific degree of flexibilities for each Member should be agreed upon by their trading partners through the bilateral request-offer process.

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