

**COMMUNICATION FROM THE EUROPEAN COMMUNITIES
AND ITS MEMBER STATES**

Elements for "Complementary Approaches" in Services

The following communication dated 27 October 2005, from the delegation of the European Communities and its Member States, is being circulated to the Members of the Council for Trade in Services.

-
1. Services negotiations should bring about new commercial opportunities / effective market access, in line with other areas of the DDA.
 2. The Services Core Group, which met at Ministerial level on 12 October, prepared an issues paper, which addresses guiding principles and objectives for the negotiations as well as qualitative parameters, numerical targets and sectoral negotiations to ensure a meaningful outcome.
 3. Now is the time to start translating the general principles in the issues paper into concrete proposals. From the outset it should be clear that the following targets will not be applicable to LDCs and to other small and vulnerable developing countries in a similar situation.

I. TARGET FORMULA

4. The issues paper refers to quantitative targets related to improvements in a certain number of sectors/sub-sectors either through new commitments or improvements from existing commitments.
5. The issues paper refers to lower **differential targets** for developing countries compared to developed countries. The basis for targets will be the 163 services sub-sectors as listed in the GATS Annex for Financial Services and in the W/120 for all other services.

A. PROPOSED QUANTITATIVE TARGETS:

- (a) Offers of developed Members shall include new or improved commitments in at least 139 sub-sectors (85 per cent of the 163 services sub-sectors).
- (b) Offers of developing Members shall include new or improved commitments in at least 93 sub-sectors ($\frac{2}{3}$ x 139 sub-sectors).

B. PROPOSED QUALITATIVE PARAMETERS:

6. The issues paper suggests developing modal qualitative parameters in order to provide guidance for the scheduling of new and improved commitments referred to in Part I.A. These modal qualitative parameters could be as follows:

- (a) Mode 1: make commitments, without limitations when possible, in commercially meaningful sectors and remove commercial presence requirements.
- (b) Mode 2: make commitments, without limitations when possible, in commercially meaningful sectors.
- (c) Mode 3: make commitments, without limitations when possible, in commercially meaningful sectors, and remove or reduce one or more of the following key limitations: discriminatory economic needs tests, discriminatory limitations on types of legal entity, foreign ownership limitations (authorising at least 51 per cent foreign ownership).
- (d) Mode 4: make one or more of the following improved commitments: enhanced coverage, removal of economic needs tests, prescribing length of stay, including in those categories de-linked from commercial presence (i.e. CSS and IP).

II. CAPPING

7. Only sub-sectors where market access commitments comply with the following minimum qualitative thresholds are considered as *de facto* bound:

Minimum qualitative thresholds:

- (a) Mode 1: Where technically feasible, no commercial presence requirement that applies to the entirety of the commitment of the sub-sector concerned.
- (b) Mode 2: Where technically feasible, no “Unbound” that applies to the entirety of the commitment of the sub-sector concerned.
- (c) Mode 3: no discriminatory economic needs tests that applies to the entirety of the commitment of the sub-sector concerned.
- (d) Mode 4: no nationality requirement that applies to the entirety of the commitment of the sub-sector concerned.

8. In all their commitments, Members shall grant market access conditions that are more favourable than the above minimum threshold.

9. Nevertheless, developing countries will have the right to declare 18 per cent of the 163 sub-sectors as sensitive sectors which will be authorised to escape the minimum threshold. Developed countries will have the right to do so for 10 per cent of the 163 sub-sectors.

III. SECTORAL TARGETS

10. The issues paper refers to sectoral approaches allowing for higher levels of ambition in specific sectors of interest to Members. In those sectors, critical masses of WTO Members would make commitments according to Model Schedules, Checklists etc. In this regard, some Members have referred to the Note of the WTO Secretariat on Sectoral and Modal Objectives as contained in

the Chairman's report to the TNC (JOB(05)/237), as identifying some objectives for a number of sectors.

- (a) There shall be negotiations on sectors of interest to Members.
 - (b) Developed Members shall participate in sectoral negotiations in at least $\frac{3}{4}$ of those sectors.
 - (c) Developing Members shall participate in sectoral negotiations in at least half of those sectors.
 - (d) A process and procedures should be developed so as to allow all Members to know in which of the sectoral negotiations each Member will participate.
-