



GATS: Some Gains But A Long Way to Go

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Issues

- ▶ Doha to Cancun: What's New?
- ▶ Special Modalities for LDCs: Dividend for Persistence
- ▶ What is Left?
- ▶ Home Work for LDCs

Doha to Cancun: What's New?

Doha [Article 7]

- ▶ Reaffirm of the right of Members under the GATS to regulate, and to introduce new regulations on, the supply of services.
- ▶ The negotiations shall be conducted with a view to promoting ...the development of developing and least-developed countries.
- ▶ Recognition of the work already undertaken in the negotiations ... on a wide range of sectors and several horizontal issues, as well as on **movement of natural persons**.

Cancun [Article 6]

- ▶ There shall be due respect for the right of Members to regulate and to introduce new regulations in pursuance of national policy objectives.
- ▶ Due regard shall be given to the quality of offers, particularly in sectors and modes of supply of export interest to developing countries.
- ▶ Noting the interest of developing countries, as well as other Members, in **Mode 4**.

Doha to Cancun: What's New?

Doha [Article 7 and 15]

- ▶ Reaffirmation of the Guidelines and Procedures as the basis for continuing the negotiations, with a view to achieving the objectives of the GATS, as stipulated in the Preamble, Article IV and Article XIX of that Agreement.

- ▶ Schedule: Requests: by 30 June 2002 and initial offers by 31 March 2003.

Cancun [Article 6]

- ▶ No Text

- ▶ Committed to intensifying efforts conclude negotiations on specific commitments. New Deadline for offer-request process: by [...]

Doha to Cancun: What's New?

Doha [Article 4]

Cancun [Article 24]

▶ No Text

- ▶ Commitment to intensifying efforts to conclude the negotiations on rule-making under GATS Articles VI:4, X, XIII, and XV: by 15 March 2004 for emergency safeguard measures.
- ▶ Priority to the sectors and modes of supply of export interest to LDCs, **particularly in regard to movement of service providers under Mode 4.**
- ▶ Further commitment to provide effective TRTA and CB to LDCs on a priority basis in helping to overcome their weak human, institutional and trade-related capacity.

Doha to Cancun: What's New?

- ▶ Little Improvement in Cancun Text
 - ▶ Failure in Deadlines
 - ▶ Less Priority in Services Negotiations
 - ▶ Jeopardy in Sequence
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- ▶ Priority to the sectors and modes of supply of export interest to LDCs, particularly in regard to movement of service providers under Mode 4.]

Special Modalities for LDCs: Dividend for Persistence !

- ▶ Adoption of Special Modalities is a SUCCESS of PERSISTENCE
- ▶ Special Modalities for LDCs set good tone for upcoming Negotiations.
- ▶ Fulfillment of One of the Pre-conditions of Market Access negotiations
- ▶ Out of 20 Demand points 14 are met in the Special Modalities with various degree of ambiguity

Special Modalities for LDCs: Achievements

- ▶ The language of the text uses “shall”, which ensures binding nature of obligations under the modalities
- ▶ Provision for special priority to LDCs
- ▶ Recognition of “serious difficulties” of LDCs in undertaking special commitments
- ▶ Recognition of Trade in services in addressing poverty, upgrading welfare, improving universal availability and access to basic services
- ▶ Recognition of serious difficulty in addressing a number of complex issues simultaneously, and lack of institutional and human capacities to analyse and respond to offers and request

Special Modalities for LDCs: Achievements

Unconditional: ■

Conditional:

- ▶ Members... shall exercise restraint in seeking commitments from LDCs due to achieving the objectives of Art. IV ■
- ▶ Flexibility to LDCs for opening few sectors, liberalising fewer types of transactions ■
- ▶ LDCs shall not be **expected** to offer full **NT**, nor are they expected to undertake **additional commitments** under Article XVIII of the GATS on regulatory issues which may go beyond their institutional, regulatory, and administrative capacities.
- ▶ **Alternative text: Members shall not demand full NT and additional commitments from LDCs**

Special Modalities for LDCs: Achievements

Unconditional: ■

Conditional:

- ▶ In response to requests, LDCs **may** make commitments compatible with their development, trade and financial needs and which are limited in terms of sectors, modes of supply and scope.
- ▶ Alternative text: **LDCs shall have flexibility to make...**
- ▶ Members shall [Articles IV and XIX] give special priority to providing effective market access in sectors and modes of supply of export interest to LDCs, **through negotiated specific commitments** pursuant to Parts III and IV of the GATS.
- ▶ Proposal: **Omit blue lined text [should be provided multilaterally]**

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- ▶ Proposal: **Omit blue lined text [should be provided multilaterally]**

Special Modalities for LDCs: Achievements

Unconditional: ■

Conditional:

- ▶ Members shall take measures, **in accordance with their individual capacities**, aimed at increasing the participation of LDCs in trade in services
- ▶ **Proposal: Capacity in terms of % of GDP**
- ▶ LDCs shall be granted **appropriate** credit for their autonomous trade liberalization.
- ▶ In addition, Members shall refrain from requesting credits from LDCs. ■

Special Modalities for LDCs: Achievements

Unconditional: ■

Conditional:

- ▶ It is recognized that the temporary movement of natural persons supplying services (Mode 4) provides potential benefits to the **sending and recipient Members**. LDCs have **indicated** that this is one of the most important means of supplying services internationally. Members shall **to the extent possible**, and consistently with Article XIX of the GATS, **consider** undertaking commitments to provide access in mode 4, taking into account all categories of natural persons identified by LDCs in their requests.
- ▶ Proposal: **Omit blue text. Adopt ISCO-88 Classification of Occupation as the basis of inclusion**

Special Modalities for LDCs: Achievements

Unconditional: ■

Conditional:

- ▶ Targeted and coordinated technical assistance and capacity building programmes shall **continue**
- ▶ ?- **be introduced substantially**
- ▶ Technical assistance shall also be provided to LDCs to carry out national assessments of trade in services in overall terms and on a sectoral basis ■

What Left?

- ▶ Assessment of Services Liberalization
- ▶ Completion of Rules Making Negotiations
 - Preference for Domestic Companies in Government Procurement
 - LDCs should be allowed to provide subsidies to nascent services industries
- ▶ Completion of ESM Negotiations
- ▶ Full market access and national treatment to LDCs in the sectors and modes of supply of export interest to them.
- ▶ Meaningful Market Access in Mode 4 depends on Classification: Adoption of ISCO-88 Classification
- ▶ Elimination of economic needs test and quantitative restrictions, de-linking of temporary movement of natural persons from commitments on commercial presence and introducing simplified visa schemes.

What Left?

- ▶ Development of Appropriate mechanism for full implementation of Article IV:3
- ▶ Revision of modalities for recognition of autonomous liberalisation: automatic, not through negotiations
- ▶ Necessity for regulatory reforms should be identified independently by LDCs
- ▶ No additional commitments by LDCs on regulatory issues, which may go beyond their institutional, regulatory and administrative capacities.
- ▶ To achieve effective implementation of the provisions contained in Article IV:3, preferential market access mechanism shall be established for ensuring effective access of LDCs to markets of other Members.
- ▶ Additional commitments ensuring increasing participation of the LDCs in the sectors of their trading interest shall be offered by developed countries.

What Left?

- ▶ In pursuance of Article XV of the GATS, developed country members shall notify their subsidies, adopt a standstill commitment on trade distorting subsidies and reduce substantially such subsidies by 2005.
- ▶ Commitments on MNP should be complemented by the ratification by all governments of the UN Convention on the Protection and Promotion of the Rights of all Migrant Workers and the Members of their Families.
- ▶ Effective application of the access to technology provisions of Article IV of GATS [as well as operationalisation of the technology transfer provisions of Article 66 of the TRIPs Agreement, and paragraph 7 of the Doha Declaration on TRIPS and Public Health] through the providing monetary incentives to the suppliers of technology.

What Left?

- ▶ All negotiations, which were agreed to be multilateral, must not be converted into bilateral.
- ▶ Re-launching negotiations under Annex on the Temporary Movement of Natural Persons at Multilateral level.
- ▶ DUE TO lack of assessment, unfinished rule making negotiations, the lack of agreement on special modalities for LDCs, the lack of safeguard measures, and the importance of these negotiations for LDCs and DCs design a realistic schedule to address the real needs of LDCs and DCs.

Final Evaluation

- ▶ LDC Modalities is Necessary Condition, but not Sufficient
- ▶ Offer-Request Negotiations Only After Fulfillment of Above Sufficient Conditions

Home Work LDCs

- ▶ LDCs should indicate sectors and modes of supply of export interest that represent priority in their development policies, so that Members take these priorities into account in course of the negotiations
- ▶ Identification of
 - export-import promotion programme
 - Identify specific distribution channels for promotion of services export
 - Preparation of plan for national assessment