

WORLD TRADE ORGANIZATION

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**Council for Trade in Services
Special Session**

ELEMENTS REQUIRED FOR THE COMPLETION OF THE SERVICES NEGOTIATIONS

Report by the Chairman

1. Following the circulation of my informal Report of 13 February 2008 contained in JOB(08)/5, I have continued informal consultations on elements required for the completion of the services negotiations, and which could be reflected in a possible text for adoption by Members.
2. A preliminary discussion of my informal Report took place at an informal consultation held on 28 February 2008. At that meeting, delegations agreed to circulate in writing any drafting suggestions on the elements, in order to prepare for a further consultation on 7 March. Written drafting suggestions were circulated by the following groups of Members: Australia et al ("Group A"), Brazil et al ("Group B"), Chile et al ("Group C"), ACP, ASEAN, SVEs, and RAMs.¹ To facilitate further discussion, the Secretariat compiled these drafting suggestions in a room document dated 6 March 2008.
3. Based on the written suggestions and comments received from delegations, I have undertaken to modify certain of the elements of my informal Report, in order to propose language that could attract a consensus among Members. This proposed language appears in the draft Annex to this Report. I have maintained brackets in paragraph 4 of the Annex, where further discussion is needed.
4. Paragraphs 7 and 8 of the Annex refer to dates that will be decided at the time of the expected agreement on modalities in agriculture and NAMA. I have not thought it productive at this point to modify these draft elements.
5. Paragraph 12 of the Annex refers to the special situation of RAMs. The ultimate treatment of this issue may eventually be decided on a horizontal basis.
6. Throughout my consultations, three Members have continued to express disagreement with the drafting of a text in services. In their view, the principles and essential elements to conclude the negotiation had already been agreed, and there was no mandate for any negotiating text, nor a consensus to draft one.

¹ The composition of the first three groups is: Group A: Australia, Canada, the European Communities, Japan, Korea, New Zealand, Norway, Chinese Taipei, Switzerland and the United States; Group B: Brazil, China, India, Pakistan and South Africa; and Group C: Chile, Peru, Singapore, Turkey, and Hong Kong, China.

ANNEX

Elements Required for the Completion of the Services Negotiations

– DRAFT –

1. Members recall and reaffirm the negotiating mandates and objectives as stipulated in GATS Articles IV and XIX, the Doha Ministerial Declaration, the Hong Kong Ministerial Declaration, the Guidelines and Procedures for the Negotiations on Trade in Services adopted by the Special Session of the Council for Trade in Services on 28 March 2001, and the Decision of the General Council adopted on 31 July 2004. Members reiterate that the negotiations shall be intensified and proceed to their conclusion in accordance with the Objectives and Approaches set out in Annex C of the Hong Kong Ministerial Declaration.
2. Members recall that the request-offer approach is the main method of negotiation in the current Round and that, prior to the Hong Kong Ministerial Conference, such negotiations had been proceeding on a bilateral basis. Members further recall that, pursuant to paragraph 7 of Annex C of the Hong Kong Ministerial Declaration, in addition to bilateral negotiations, request-offer negotiations were also pursued on a plurilateral basis. Accordingly, 21 collective requests were submitted by co-sponsors to other groups of Members in the following sectors and modes: Air Transport; Architectural, Engineering and Integrated Engineering Services; Audiovisual Services; Computer and Related Services; Construction Services; Distribution Services; Education Services; Energy-Related Services; Environmental Services; Financial Services; Legal Services; Logistics Services; Maritime Transport Services; Postal and Courier Services; Services Related to Agriculture; Telecommunication Services; Tourism Services; Cross-Border Supply (Modes 1 and 2); Mode 3; Mode 4; and MFN Exemptions. On the basis of these requests, 21 related plurilateral groups convened four rounds of meetings. Since the Hong Kong Ministerial Conference, participants also held six rounds of bilateral request-offer meetings.
3. Members have participated actively in the request-offer negotiations. They exchanged indications of possible new commitments that might be reflected in the next round of revised offers, in response to various individual and collective requests. Some Members considered that the progress achieved to date in the services negotiations was satisfactory compared to other areas of the DDA. Others took the view that so far progress fell well short of responding adequately to their requests. Members shared the view that substantial efforts were needed to reach a successful conclusion of the negotiations. They acknowledged that the outcome of the request-offer negotiations would eventually have to be assessed by each participant, including in relation to other areas of the single undertaking.
4. Members reaffirm that the services negotiations are an essential part of the DDA. They recognize that an ambitious and balanced outcome in services would be integral to the overall balance in the results of the DDA single undertaking. Accordingly, the negotiations shall aim at a progressively higher level of liberalization of trade in services with a view to promoting the economic growth of all trading partners, and the development of developing and least-developed countries. There shall be no a priori exclusion of any service sector or mode of supply. With due flexibility for individual developing countries, Members should to the maximum extent possible expand the sectoral and modal coverage of their commitments and improve their quality by making deeper or full commitments. In doing so, they shall be guided by paragraph 1 of Annex C of the Hong Kong Ministerial Declaration. **[Negotiations must be driven by the same level of ambition and political will as reflected in the agriculture and NAMA modalities. While respecting the existing structure and principles of the GATS, Members shall respond to bilateral and plurilateral requests by offering commitments that substantially reflect current levels of market access and national treatment and provide new market access and national treatment in cases where significant trade impediments exist.]** In this regard, particular attention shall be given to sectors and

modes of supply of export interest to developing countries. **[Members reiterate that the next offers shall provide market access in sectors and modes of supply of export interest to developing countries, such as Modes 1 and 4, as indicated in bilateral and plurilateral requests, in accordance with Article IV of the GATS.]**

5. In accordance with paragraph 5 of Annex C of the Hong Kong Ministerial Declaration, Members are called upon to develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current Round of negotiations. Members welcome the progress achieved since the Hong Kong Ministerial Conference and, in particular, that the negotiations have moved into a text-based phase. In light of the extensive and constructive discussions that have taken place, Members call upon the Working Party on Domestic Regulation to intensify its work and finalize text for adoption. Members invite the Chairman to continue to consult on drafting revisions, with a view to developing and adopting text before the end of the negotiations.

6. Members reaffirm their commitment as made in the Hong Kong Ministerial Declaration to conclude negotiations on GATS Rules pursuant to Articles X, XIII, and XV, in accordance with their respective mandates and timelines. Members take note of the efforts made since Hong Kong, including through the submission of specific and concrete proposals, to facilitate consideration and engagement in all three areas. Members recognize the importance attached by some delegations to the objectives and principles contained in these proposals. While there has been more focused work, efforts must be stepped up for enhanced engagement with the objective of advancing the work in the three areas as expeditiously as possible.

7. In order to conclude the negotiations in a timely fashion, Members shall submit revised offers by [.....].

8. Final draft schedules of commitments shall be submitted by [.....].

9. Members shall fulfil the requirement laid out in paragraph 9 (a) of Annex C of the Hong Kong Ministerial Declaration regarding the development of appropriate mechanisms for according special priority to LDCs. They shall strive to do so prior to the submission of revised offers.

10. Members shall continue to give due consideration to proposals on trade-related concerns of small economies.

11. Members shall complete the consideration of proposals on special and differential treatment, referred to the Special Session of the Council for Trade in Services by the Special Session of the Committee for Trade and Development, with a view to making clear recommendations for a decision by the General Council prior to the conclusion of the DDA negotiations.

12. Members recognize the special situation of recently-acceded Members who have undertaken extensive market access commitments at the time of accession. This situation will be taken into account in the DDA negotiations.

13. Members recall and reaffirm that targeted technical assistance as agreed in paragraph 10 of Annex C of the Hong Kong Ministerial Declaration is intended to enable developing countries and LDCs to participate effectively in the negotiations. In this regard, Members request the WTO Secretariat to prepare, prior to the submission of revised offers, a comprehensive report of technical assistance activities it has carried out in services since the Hong Kong Ministerial Conference, to enable Members to identify further required activities, on the basis of which the Secretariat, in consultation with Members, could provide a roadmap for future efforts.
