Briefing Session on Market Access Negotiations

Trade in Services and Investment Division

22 March 2019
The market access negotiations

1) The GATS negotiating mandate
4) Exchange of requests and offers (2002-2005)
5) Hong Kong Ministerial Conference (2005)
6) From Hong Kong to the Signalling Conference (2005-2008)
7) Period between 2008-2011
8) 2011 Ministerial Conference
9) Bali, Nairobi & Buenos Aires Ministerial Conferences
1) GATS negotiating mandate (Art XIX)

- Successive rounds of negotiations (first no later than 2000)
- Progressively higher level of liberalization
- “with a view to promoting interests of all participants”
- Flexibilities
  - due respect for the level of development of individual Members
  - Developing country Members: appropriate flexibility for opening fewer sectors, liberalizing fewer types of transactions...
- Reference to Article IV
  - Increasing participation of DCs through negotiated commitments... relating to: strengthening of their domestic services capacity and its efficiency; improved access to distribution channels and information networks; market access in sectors and modes of interest to them.
  - Special priority to LDCs; account taken of their serious difficulty in accepting negotiated commitments.
1) GATS negotiating mandate (Art XIX)

- Negotiating guidelines and procedures to be established, including discussion of:
  - assessment of trade in services
  - modalities for autonomous liberalization
  - modalities for the special treatment of LDCs
- Process of progressive liberalization advanced through bilateral, plurilateral or multilateral negotiations

- Members engage in exchange of information to facilitate forthcoming round of negotiation.
- Secretariat issued background notes to improve information base for delegations (documents in range S/C/W/37-75).
- Scheduling and classification issues were discussed in Committee on Specific Commitments, including
  - Classification of certain services
  - Discussion of revisions to UR scheduling guidelines
  - Discussion of revisions to CPC
3) Beginning of the Negotiations (2000-2002)

• Negotiations begin in 2000, Council subsequently proceeds with:
  – Negotiating Guidelines (S/L/93)
  – Drawing on Art. XIX and IV, as well as GATS preamble
  – Objectives: needs of SMEs; respect for structure and principles of GATS
  – Scope: MFN; no a priori exclusion of any sector or mode
  – Modalities/Procedures: current schedules as starting point; R-O as main method of negotiation.
  – Modalities for Autonomous Liberalization (TN/S/6)
  – Modalities for the Special Treatment of LDCs (TN/S/13)
  – Discussions on assessment of trade in services
  – Scheduling Guidelines (updated) (S/L/92)
3) Beginning of the Negotiations (2000-2002)

• Members begin submitting negotiating proposals

• Doha Ministerial Declaration (2001) reaffirms Negotiating Guidelines and sets timeframe:
  – Initial requests (June 2002)
  – Initial offers (March 2003)
  – End of negotiations (January 2005)
4) Exchange of requests and offers (2002-2005)

- Request-offer process based on Doha timeline
- CSC agreed editorial conventions; Secretariat issued synopses of negotiating proposals
- Failure of Cancun Ministerial meeting (2003)
  - General Council later agrees on the “July Package” (2004), which sets deadline for revised offers to May 2005
- Special Session Chair reported ‘poor’ quality of initial/revised offers (TN/S/20, July 2005)
  - Members set out their ‘Sectoral and Modal Objectives’ (Annex B of TN/S/23)
- CTS SS prepared draft text for Annex C of the Hong Kong ministerial declaration
5) Annex C and the Hong Kong Ministerial Declaration (2005)

- Objectives
  - Guidance for commitments, by mode of supply
  - Schedules: Ensure clarity, adhere to Scheduling Guidelines
  - Economic needs tests: Ensure adherence to Scheduling Guidelines
  - MFN exemptions: Remove or reduce, clarify scope of remaining ones
  - As a reference for the request-offer negotiations, the sectoral and modal objectives as identified by Members may be considered (TN/S/23)

- Recognition of difficulties faced by LDCs and acknowledge they are not expected to undertake new commitments.
5) **Annex C and the Hong Kong Ministerial Declaration**

Objectives in para. 1: modes 1 to 3

- No requirement of commercial presence (mode 1)
- Commitments at existing levels of access (modes 1 & 2)
- Removal or substantial reduction of ENTs (mode 3)
- Enhanced levels of foreign equity, more types of legal entity (mode 3)
5) Annex C and the Hong Kong Ministerial Declaration

Objectives in para. 1: mode 4

• Commitments on:
  – Contractual service suppliers & independent professionals, delinked from commercial presence
  – Intracorporate Transferees & Business Visitors
• Removal or substantial reduction of ENTs
• Indication of duration of stay and possibility of renewal
5) **Annex C and the Hong Kong Ministerial Declaration**

- **Approaches**
  - Request-offer: remains main method of negotiation
  - Plurilateral request-offer: new process established
  - LDC modalities: develop methods for full and effective implementation (striving to complete mechanisms before end-July)

- **Timelines**
  - Outstanding initial offers as soon as possible
  - Plurilateral requests by end-February 2006
  - 2\textsuperscript{nd} Revised offers by end-July 2006
  - Final offers by end-October 2006
6) From Hong Kong MC to the Signalling Conference (2008)

- After Hong Kong MC, plurilateral request-offer process initiated
  - 22 plurilateral groups, two rounds of negotiations

- But no Ag/NAMA modalities by April, and negotiations slow down

- July 2008 mini-Ministerial meeting
  - Chairman reports on ‘Elements required for the completion of the services negotiations’ (TN/S/34)
    - new dates for revised offers and final draft schedules
    - agreement to proceed with option of LDC waiver
  - Signalling Conference among 32 delegations at Ministerial level, TNC Chairman reports on signals exchanged (JOB(08)/93)
7) Period between 2008-2011

- Special Session Chair report on Stocktaking exercise finds “little or no progress” on market access (TN/S/35, March 2010).
- Secretariat updates Sectoral Background Notes, (S/C/W/298 - 334).
- A year later, further Chair report finds little additional progress made; contains reports by rapporteurs of plurilateral request-offer groups (TN/S/36, April 2011)
8) 2011 Ministerial Conference

- Ministers recognize that negotiations have reached an “impasse”, and that there is a need to:
  - more fully explore different negotiating approaches
  - commit to advance negotiations where progress can be achieved (WT/MIN(11)/11)
- Ministers adopt decision on waiver for LDC preferences (WT/L/847)
9) Bali, Nairobi, Buenos Aires...

- Bali Ministerial (2013)
  - Ministers instructed the TNC to:
    - Prepare “clearly-defined” post-Bali Work Programme covering remaining DDA issues
    - Achieve this in a way consistent with the guidance provided at the 2011 Ministerial Conference
  - Chair reports in July 2015 that no convergence could be found on services element of WP (TN/S/39)
9) Bali, Nairobi, Buenos Aires...

- **Nairobi Ministerial (2015)**
  - No convergence on services text for consideration by Ministers (TN/S/40)
  - Many Members reaffirm the DDA, but others do not reaffirm the Doha mandates, as they believe new approaches are necessary.
  - Commitment to advance negotiations on the remaining Doha issues, including services

- **Buenos Aires Ministerial (2017)**
  - No Ministerial Declaration. Chair’s concluding statement reflects positions of Nairobi Ministerial
The Starting Point: Existing Schedules
Number of Schedules with Specific Commitments

- Tourism and other financial
- Telecommunication
- Insurance
- Other business
- Professional
- Computer and related
- Construction, sporting
- Environment
- Postal and courier
- Distribution
- Air transport
- Maritime transport
- Other transport
- Education
- Transport auxiliary
- Audiovisual

Banking and other financial: 140
Telecommunication: 120
Insurance: 100
Other business: 90
Professional: 80
Computer and related: 70
Construction, sporting: 60
Environment: 50
Postal and courier: 40
Distribution: 30
Air transport: 20
Maritime transport: 10
Other transport: 5
Education: 4
Transport auxiliary: 3
Audiovisual: 2
Average Levels of Commitment by Mode of Supply for Subsectors Scheduled (%), by Groups of Members
Average Levels of Sector-Specific Commitments by Mode of Supply for All Subsectors (committed or not) (%), by Groups of Members
Overview of Initial/Revised Offers Tabled
Overview of Initial/Revised Offers Tabled

- 71 initial offers (EU as 1)
- 31 revised offers (EU as 1)
Offers in relation to existing commitments, by sector (all schedules)

- Professional: 39
- Computer: 36
- Other Business*: 44
- Postal + Courier: 46
- Telecommunication: 25
- Audiovisual: 24
- Construction: 23
- Distribution: 25
- Education: 38
- Environment: 35
- Insurance: 35
- Banking: 21
- Health: 30
- Tourism: 23
- Recreation: 22
- Maritime: 28
- Other Transport*: 21
- Auxiliary to Transport: 28

Legend:
- Existing commitments: unchanged
- Existing commitments: improved
- Offer of newly committed sector
Subsectors committed: before and after offers

% of total subsectors committed (average)

- All Members
- Members with offers

- Existing commitments
- With offers
Some useful documents, by period:

- Secretariat Background Notes (S/C/W/37-75)

**Beginning of Negotiations**
- Scheduling Guidelines (S/L/92)
- Negotiating Guidelines (S/L/93)
- Modalities for Autonomous Liberalization (TN/S/6)
- Modalities for Special Treatment of LDCs (TN/S/13)
- Synopsis of negotiating proposals (JOB(01)/63 and Add. 1-4)
Some useful documents, by period:

**Exchange of requests and offers (2002-2005)**

- Editorial Conventions (JOB(02)/88)
- Information Tools (range: JOB(05)/190-299)
- Chair Reports to TNC prior to 6th MC (TN/S/20 and 23)

**From MC6 to Signalling Conference (2006-2008)**

- Chair report to TNC, preceding 2008 mini-Ministerial meeting (TN/S/34)
- Report on the Signalling Conference (JOB(08)/93)
Some useful documents, by period:

**Period after Signalling Conference:**

- Chair report to TNC on stocktaking (TN/S/35)
- Secretariat sectoral background Notes (range: S/C/W/298-334)
- Chair report to TNC prior to 2011 Ministerial (TN/S/36)
- Secretariat Note on Overview of Specific Commitments by Mode and Sector (JOB/SERV/201)
- Chair reports to TNC prior to Nairobi MC (TN/S/39 and 40)
- Chair report to TNC prior to Buenos Aires MC (TN/S/41)
Thank you

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