
Briefing Session on Market Access Negotiations

Trade in Services and Investment Division

22 March 2019



The market access negotiations

- 1) The GATS negotiating mandate
- 2) Preparation for first Round (1998-2000)
- 3) Beginning of negotiations (2000-2002)
- 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

2) Preparation for first round: Information Exchange (1998-2000)

- 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
 - 2nd 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...

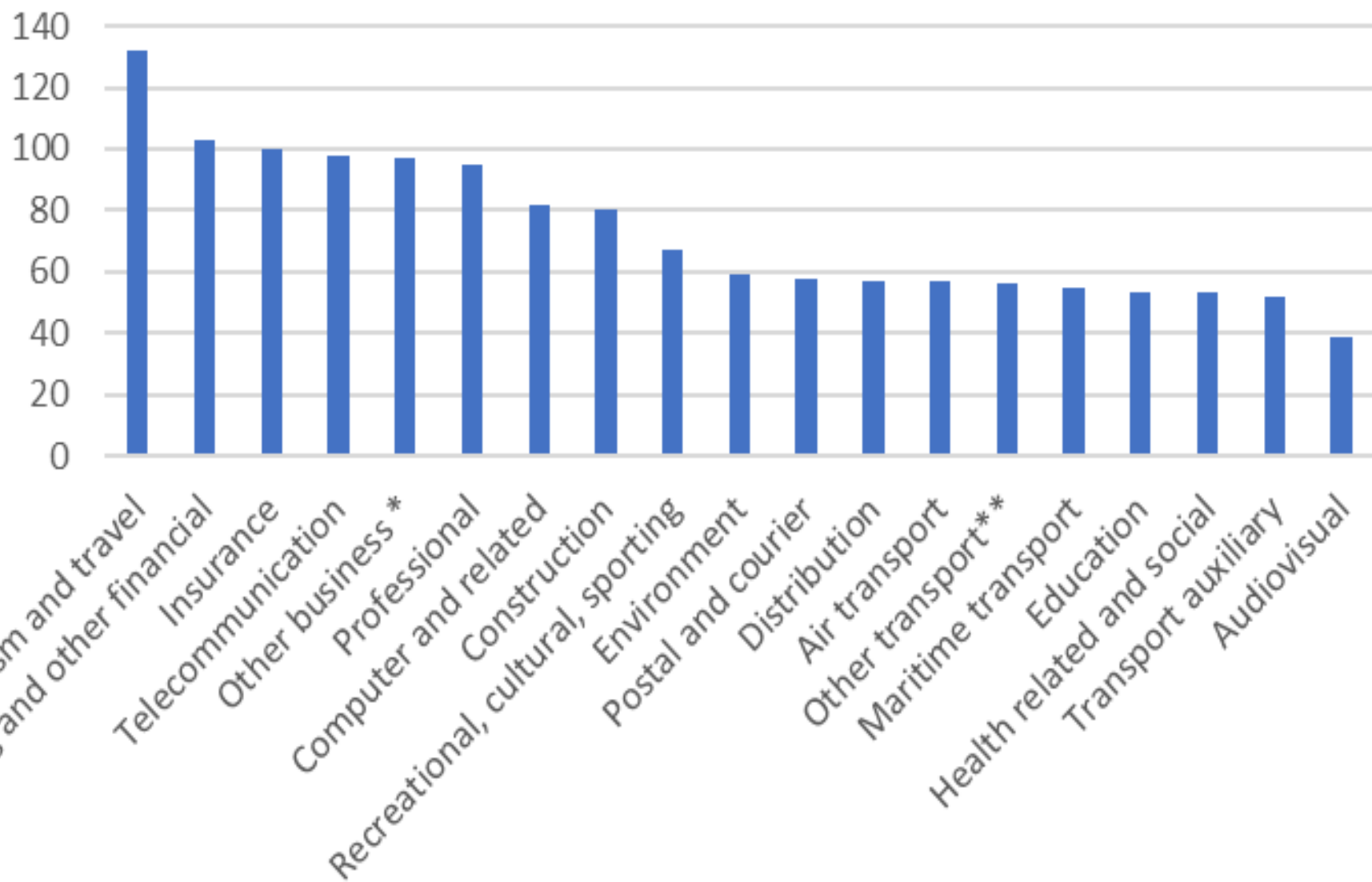
- Bali Ministerial (2013)
 - Ministers instructed the TNC to:
 - Prepare “clearly-defined” post-Bali Work Programme covering remaining DDA issues
 - Achieve this in a way consistent with the guidance provided at the 2011 Ministerial Conference
 - Chair reports in July 2015 that no convergence could be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

9) Bali, Nairobi, Buenos Aires...

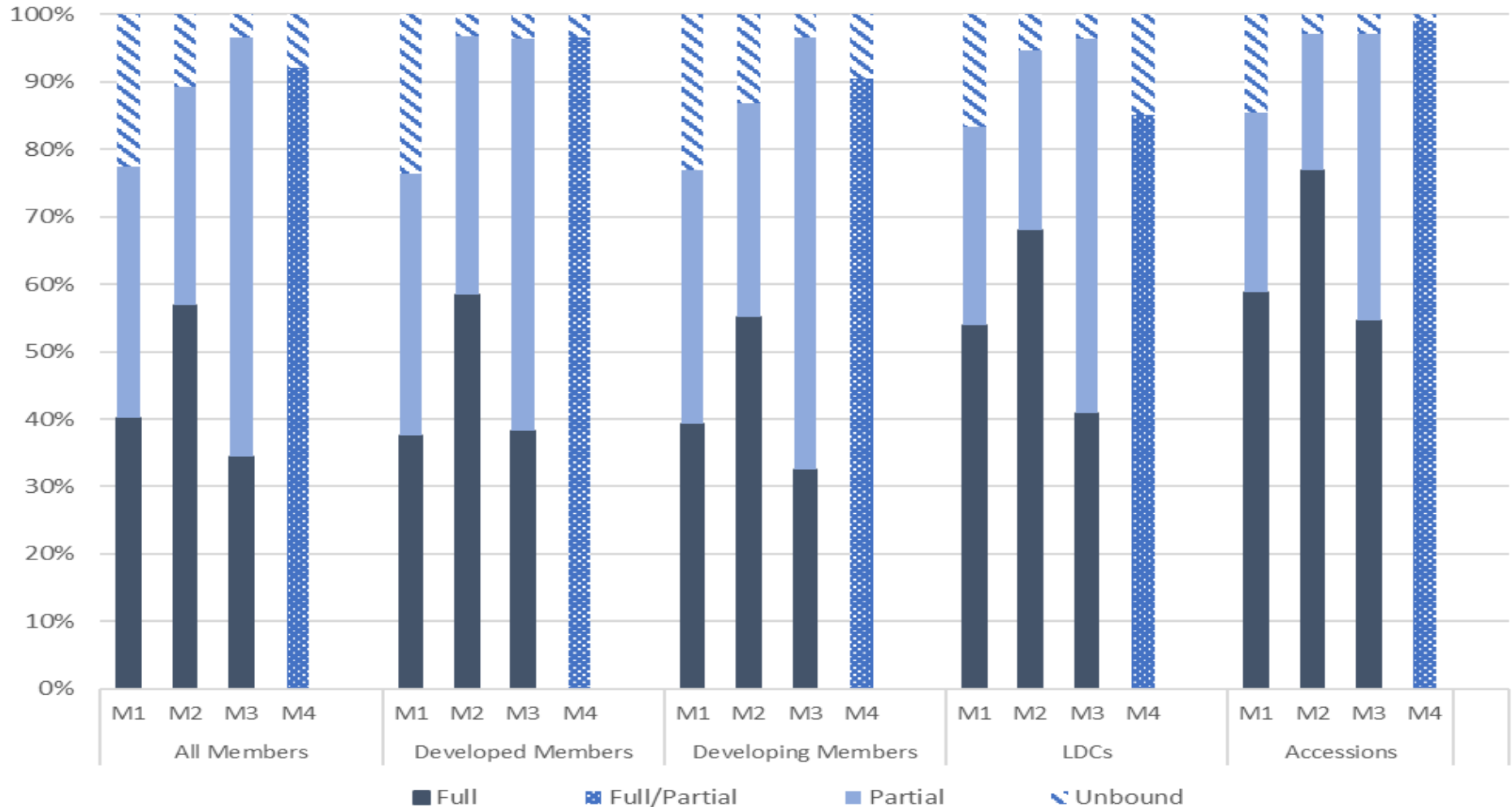
- Nairobi Ministerial (2015)
 - No convergence on services text for consideration by Ministers (TN/S/40)
 - Many Members reaffirm the DDA, but others do not reaffirm the Doha mandates, as they believe new approaches are necessary.
 - Commitment to advance negotiations on the remaining Doha issues, including services
- Buenos Aires Ministerial (2017)
 - No Ministerial Declaration. Chair's concluding statement reflects positions of Nairobi Ministerial

The Starting Point: Existing Schedules

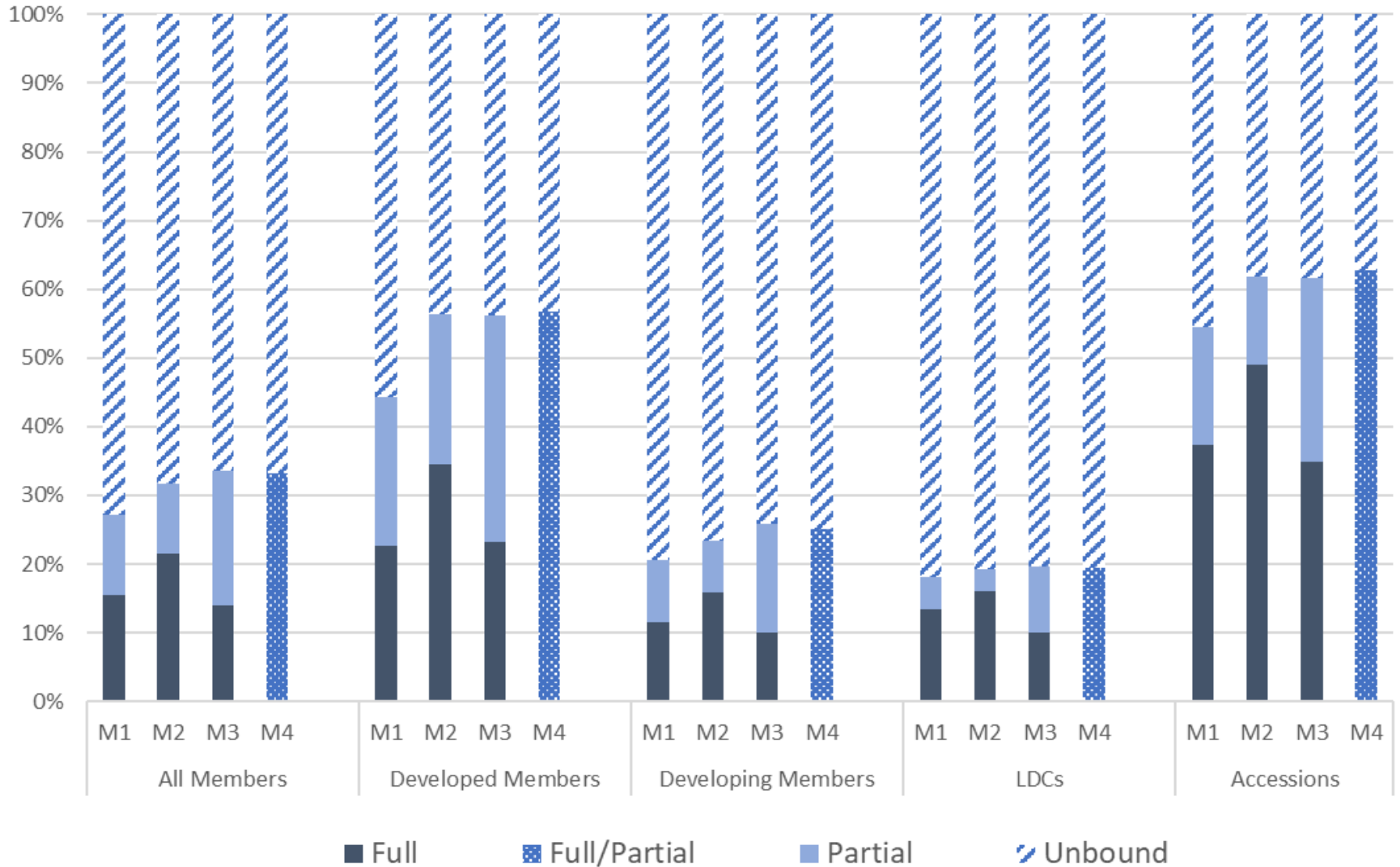
Number of Schedules with Specific Commitments



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

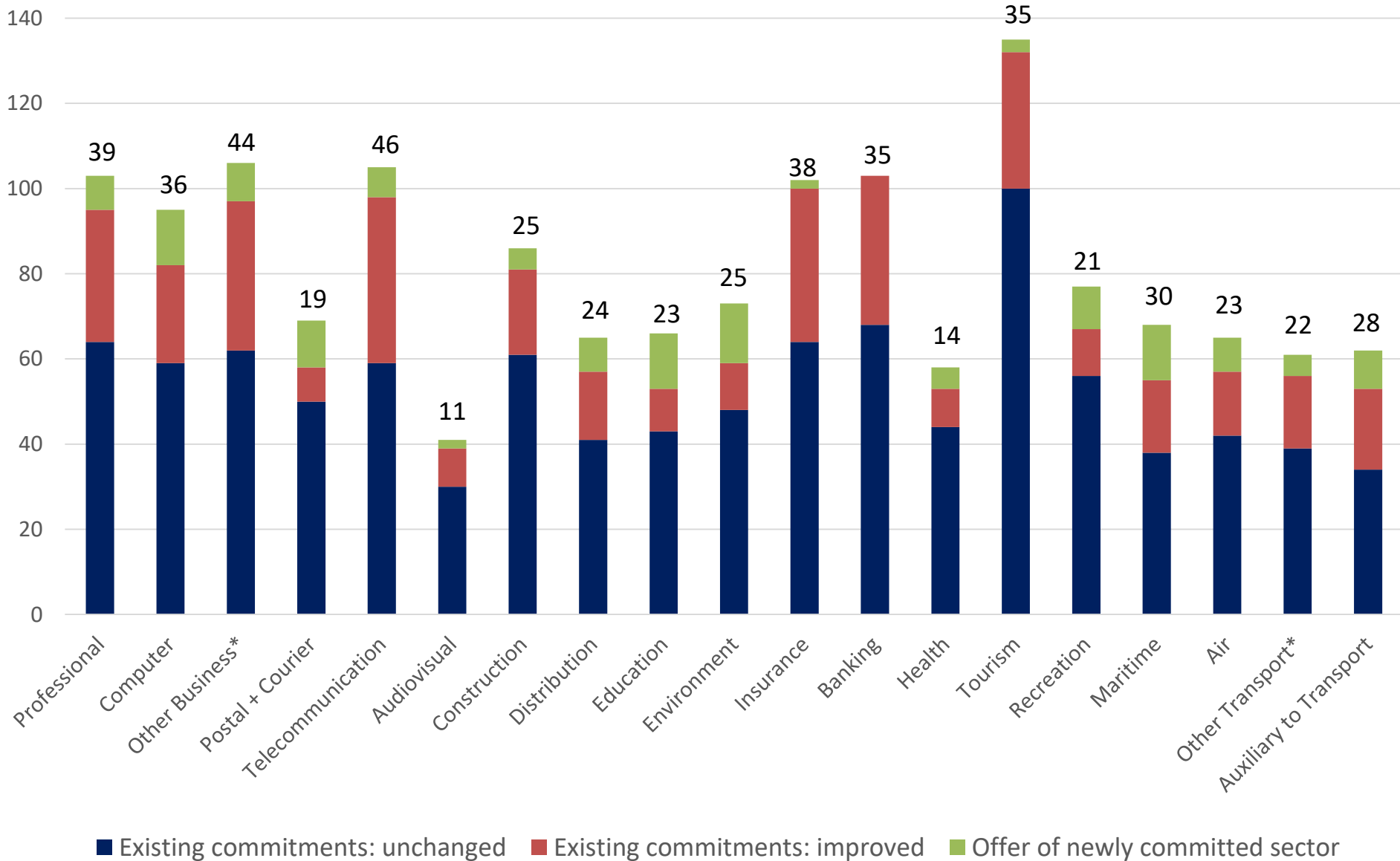


Overview of Initial/Revised Offers Tabled

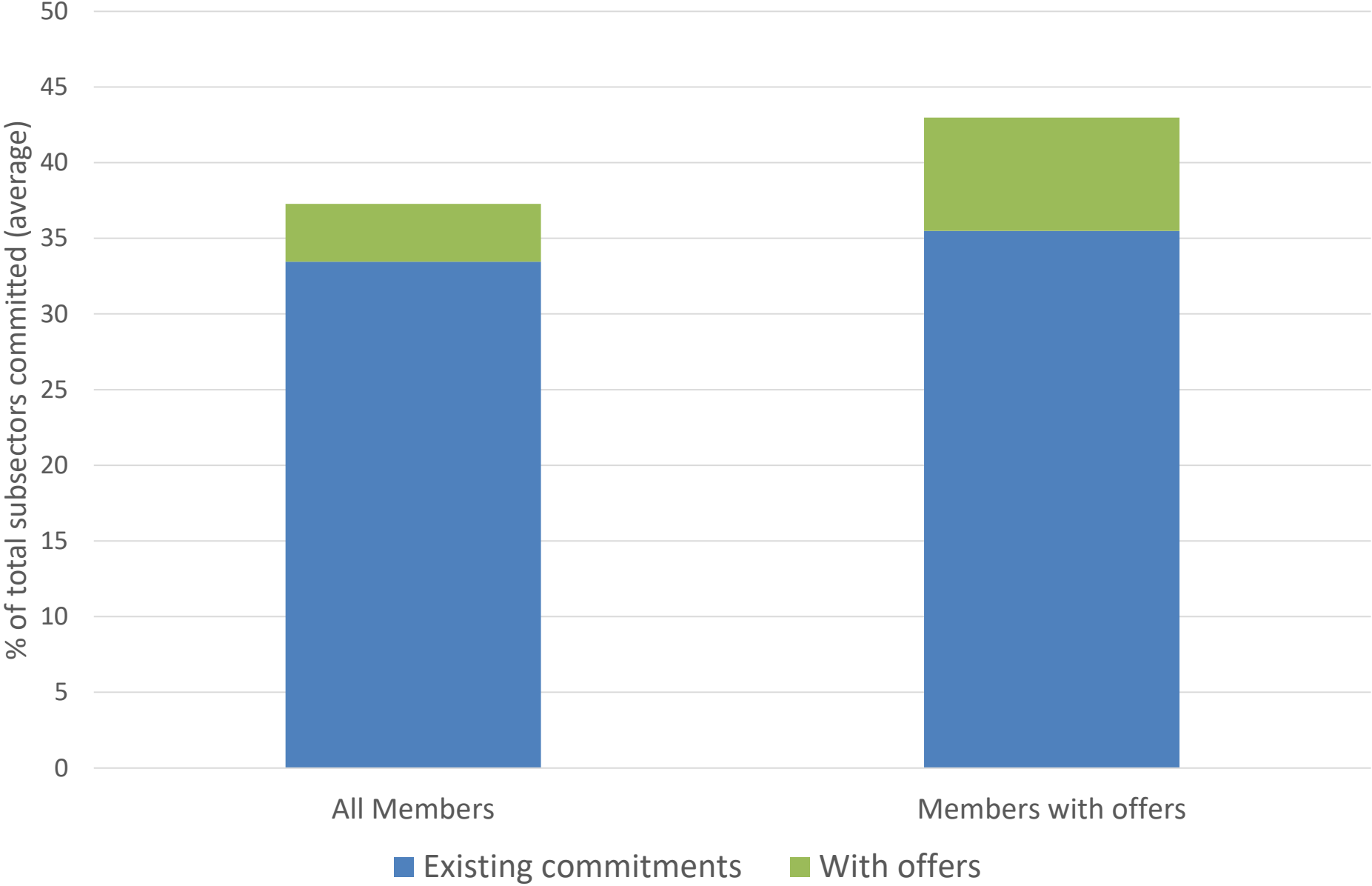
Overview of Initial/Revised Offers Tabled

- 71 initial offers (EU as 1)
- 31 revised offers (EU as 1)

Offers in relation to existing commitments, by sector (all schedules)



Subsectors committed: before and after offers



Some useful documents, by period:

Preparatory Work (1998-2000)

- 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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