

**EP delegation
to the WTO Hong Kong Ministerial
13-18 December 2005**

SERVICES

State of Play

Services are dealt with in **paragraphs 19-21** and in **annex C** of the **current HK Declaration** conveyed by the General Council. The relevant text:

- does **not** set a specified **level of ambition** for services;
- does **not** include any reference to possible **numerical targets**;
- is **vague** on the objectives and process of **plurilateral negotiations** on sectors of interest to Members;
- includes unbalanced language as regards modes of supply, to the **detriment of mode 3** (commercial presence), which represents more than 60% of world trade in services and is crucial to our companies.

Overall, the text is cast in **best endeavour language**.

The inclusion of the "Annex C on Services" in the final HK Declaration has even been put into doubt by the insertion of "brackets" around the reference to that Annex in paragraph 21 of the main body of the Declaration, by the General Council on 2 Dec., further to a request made by many DCs.

The current HK draft declaration is therefore **highly unsatisfactory**, and, if left unchanged, would not enable the EC to pursue its legitimate offensive trade interests in an effective manner. EU Member States have unanimously criticized the current text for being too weak.

Objectives

1. Reinforce Paragraph 21 of the draft HK Declaration by

Priority 1 – inserting language on the principle of an effort to be made by all members, except LDCs, in the context of the negotiations in order to ensure a minimum threshold of commitments. This could be in strong guidance type language.

Priority 2 – inserting language asking for the development for HK2 of **specifics on the level of ambition and individual contributions by Members** (hook for our numerical targets).

Priority 3 – removing the **brackets** (hence keeping the reference to the Annex on Services)

2. Reinforce the Annex C on Services by

Priority 4 – aligning language for **Mode 3** (commercial presence) on the language for Modes 1 and 2 (cross-border supply / consumption abroad), which asks for the binding of existing levels of market openness.

Priority 5 – reinforcing language for **plurilateral negotiations**, which should recognise that plurilateral negotiations are aimed, on a sectoral basis, at achieving deeper liberalisation commitments on the basis of a critical mass of WTO Members. This could also be done through amendments to paragraph 21 of the declaration.

Priorities 1 and 2 will be the toughest challenges. This is the last opportunity to save the possibility to develop **numerical targets** (even if non mandatory and of a lower level than our original targets). What is important is the combination of 1 and 2 i.e. the possibility to come back to services at the time of the adoption in HK2 of the full modalities for agriculture and NAMA.

If this is not achieved the services negotiations will effectively be disconnected from the discussion of the broader package and follow their separate (slow) pace.

Priority 3 (removing the brackets) will not be easy, but is not a battle we should engage in openly since we have been consistently criticizing the weaknesses of the annex. Others will fight for removing the brackets either because they want to have the Annex (India, several friends of services like Japan) or because they want to present the preservation of Annex C as a big effort/concession in the area of services (Brazil).

Priority 4 (reinforcing Mode 3) will oppose developed countries on one side to developing countries on the other side, but there is a strong argument to support that Mode 3 should not be treated more badly than Modes 1 and 2. A trade-off with a somewhat more ambitious language on Mode 4 to satisfy India might in the end appear possible (after Portman's strong support to your plea on Mode 3 at the G4+ meeting of 3 December, US seems to be less negative for such trade-off as well).

Priority 5 (reinforcing language for plurilateral negotiations) is not easier to achieve although the discussion was so far less focused on this issue, since by definition plurilateral negotiations will be for "coalitions of the willing". Short of the possibility of ensuring that a WTO member will be part of the critical mass in a given sector, the concrete impact of reinforced language will be limited; hence we could drop as a concession for getting satisfaction on other priorities above.

Line to take

1. Agree to develop full specifics on services for HK2

- We won't have full modalities for Agri and NAMA in HK. So we have to accept that we won't have the equivalent for Services either.
- What we do need at this stage is to reflect in the text the principle that there will be an effort by members, taking into account their level of development, in order to increase the number/quality of commitments and thus contribute to a progressively higher level of liberalisation. Not to set a ceiling for our ambition, but a threshold.
- However, we should also agree, and explicitly add in paragraph 21 of the draft Declaration on Services, that we'll develop full specifics on such an effort for HK2.

Proposed language to be inserted in paragraph 21 of the declaration: "No later than [...], we will determine the sectoral coverage that Members, except LDCs, shall, in line with their individual level of development, strive to achieve by the end of the negotiations and the number of new or improved commitments that they shall strive to make during the current round of negotiations."

2. Reinforce the language of the Annex on Services for Mode 3 (commercial presence)

- Language for Modes 1 and 2 (cross-border supply and consumption abroad) in the Annex on services, asks for the binding of existing levels of openness.
- Language for Mode 3 (commercial presence) is much weaker and needs to be put on a par with Modes 1 and 2.
- This would actually not even result in commitments in Mode 3 as high as in Modes 1 and 2 since there is usually a much higher level of openness in Modes 1 and 2 than in Mode 3.

Proposed language to be inserted in point 1 c) of annex C: “*Substantial reduction or elimination of limitations on foreign equity participation*”. This is an amendment put forward by the US during the preparatory process – we had a different suggestion- and we should let them take the lead in pushing for this request.

Trade-off: accept to improve / align Mode 4 language.

3. Reinforce the language of the Annex on Services for plurilateral negotiations

- I feel we should be giving more details on the objectives and process of plurilateral negotiations on sectors of interest to Members.
- The Annex on Services should recognise the very reason for plurilateral negotiations i.e. that “*plurilateral negotiations shall aim, on a sectoral basis, at achieving deeper liberalisation commitments on the basis of a critical mass of WTO Members*”.

Proposed language: insertion of the drafting above as a new second sentence in the chapeau of point 7 of annex C. Alternatively, equivalent language could be added in paragraph 21 of the declaration.

Bottom-line: drop request if trade-off can be made with other objectives above.

4. Agree to have an Annex on Service

- EC cannot accept that services travel in coach class whilst NAMA and agri travel in business or first.
- I agree with all those, and that seems to be a huge majority, that consider the proposed Annex on service as unsatisfactory.
- An improved Annex on services needs therefore to be agreed upon and attached to the Ministerial declaration.

Position of other participants and possible lines

- Australia has interests in services. They have supported us on numerical targets most likely because they understand we need services in order to deliver more in agriculture. More recently, they have been siding with the US. You need to play Australia by stressing need for balance in the Round.
- Japan is interested in services, but is not a useful ally. It will not be in the front in defending our position. They rather seem happy to preserve what is on the table.
- India is very keen to keep the annex C as it is. Their interest is not in extending coverage of sectors, but in improving quality of commitments in Modes 1, 2 and 4. Therefore, they will not support our request on numerical targets for fear of losing annex C. Annex C as it stands gives them what they want in Modes 1 and 2 (binding of existing levels of liberalisation) and less than what they wanted on Mode 4, but they know they stand little chance of getting more given the sensitivities of the US. On Mode 3, the most sensitive for India, annex C also gives them a lot of comfort because it is treated with less ambition than Modes 1 and 2.
- Brazil is completely defensive on services and is hiding behind the GATS flexibility and structure to object any specificity of level of ambition in services. Your line with Brazil is to insist on the need for balance across the market access pillars of the DDA.
- US has a narrow interest in terms of number of sectors and countries. For this reason, they let us carry the flag on services and more particularly on the multilateral approach. They are very sensitive on Mode 4. In the G4+ meeting of 3 December they have, however, been quite cooperative and we are now trying to build on this.
- Korea, Switzerland, New Zealand, Taiwan, Singapore, Canada, Turkey, Norway and Chile are friends of services and would support more openly a common EC/US line.
- Argentina as well as ASEANs (minus Singapore) are very defensive on services. ASEANs sometimes have a public line which is even tougher than Brazil's.
- Brazil has also rallied LDCs, G90, ACP and African countries in its opposition to numerical targets although the reality is that our targets would not apply to those countries. This message is, however, not always easy to convey.