



MODE 4 IN THE GATS NEGOTIATIONS

STATE OF PLAY BEFORE THE HONG
KONG MINISTERIAL CONFERENCE

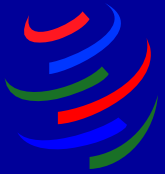
Geneva, 30 November 2005



Structure of the Ministerial Declaration

- Draft Ministerial Text
- Annex C: Services
 - Objectives
 - Approaches: bilateral and plurilateral request and offer
 - Timelines: to be agreed in Hong Kong
 - Review of progress
- Annex B to TN/S/23: Sectoral and Modal Objectives as identified by Members
 - To provide guidance to the request and offer negotiations

Draft Ministerial Text



9. We are determined to intensify the negotiations in accordance with the above principles and the Objectives, Approaches and Timelines set out in Annex C to this document with a view to expanding the sectoral and modal coverage of commitments and improving their quality. In this regard, particular attention will be given to sectors and modes of supply of export interest to developing countries.

Annex C: Services Negotiations



Objectives

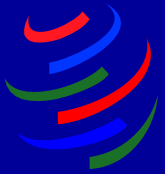
In order to achieve a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing country Members, we agree that Members should strive to ensure that their new and improved commitments adhere to the following objectives:

...

(d) Mode 4

- (i) new or improved commitments on the categories of Contractual Services Suppliers, Independent Professionals and Others, de-linked from commercial presence, to reflect inter alia:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any
- (ii) new or improved commitments on the categories of Intra-corporate Transferees and Business Visitors, to reflect inter alia:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any

TN/S/23 Annex B



Sectoral and Modal Objectives as Identified by Members

Mode 4. Members have identified individually or in groups the following objectives:

Categories of natural persons

- commitments to be undertaken in all main categories: Business Visitors (BVs); Intra-corporate Transferees (ICTs); Contractual Service Suppliers (CSSs); Independent Professionals (IPs); Others
- commitments on each of the main categories to be based on common definitions and parameters and to provide for specific market access conditions
- coverage of commitments to be extended to better cover categories of persons not linked to commercial presence (CSSs and IPs), with adequate sectoral coverage
- commitments on ICTs to be extended
- Commitments on Installers to be undertaken
- scope of commitments to be extended to lower skilled workers⁵

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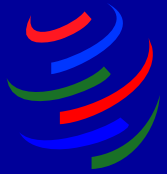


Sectoral and Modal Objectives as Identified by Members

Limitations for reduction or elimination

- economic needs/labour market tests (LMTs); if not possible, specify non-discriminatory and objective criteria in the schedule
- quantitative restrictions; where quotas cannot be removed, increase quotas
- measures preventing longer periods of stay tailored to the specific needs of each category of natural persons
- non-renewal of periods of stay
- excessive formalities where renewal is permitted
- citizenship and residency requirements
- pre-employment conditions; where removal is not feasible, period of prior employment with home country juridical person to be clearly specified and not to exceed a particular time period
- labour market conditions, including wage parity requirements (without prejudice to other employment laws, such as minimum wage requirements)
- discriminatory tax treatment

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Sectoral and Modal Objectives as Identified by Members

Regulatory issues and additional commitments for negotiation

- transparency of entry procedures and provision of information relevant to entry, temporary stay and work authorization for each of the categories of natural persons scheduled
- administrative procedures affecting entry and stay, especially regarding visas
- recognition and qualification requirements

TN/S/23 Annex B



Sectoral and Modal Objectives as Identified by Members

Scheduling issues to be addressed

- commitments on the basis of common categories, using similar terminology and parameters
- sector-specific commitments to complement the horizontal section and bind deeper levels of liberalization
- transparency of commitments: templates for providing readily available information on a voluntary basis