



Government of India  
Department of Commerce



### ***Brief Summary on How Negotiations Progressed Since The Doha Ministerial Declaration Till The Latest Modalities on Services***

<b>Doha Mandate</b>	<b>Hong Kong Ministerial</b>	<b>Draft Text (May 2008)</b>
<p>The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least developed countries.</p> <p>The members recognized the work already undertaken in the negotiations, initiated in January 2000. Large number of proposals were submitted by the members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons.</p>	<p>Significant development in during Hong Kong Ministerial is that of strong push to establish mandatory minimum market access commitments (benchmarks)</p> <p>Proponents of benchmark suggested that complementing the bilateral request and offer approach by multilateral and plurilateral modalities, which reflect 'collective level of ambition' for negotiations.</p> <p>A date for the submission of a round of revised offers should be established as soon as feasible.</p>	<p>Existing offers do not have liberalising content and has not even reached the level of openness</p>

<p><u>Market Access</u> Negotiations on market access in services will conclude as part of the ‘single undertaking’ when the Doha Round does.</p>	<p><u>Market Access</u> Members agree to achieve a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing country. Members agree that they should be guided, to the maximum extent possible, by the following objectives in making their new and improved commitments:</p> <p><u>Mode 1:</u> I) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members II) Removal of existing requirements of commercial presence</p> <p><u>Mode 2:</u> I) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members II) commitments on mode 2 where commitments on mode 1 exist</p> <p><u>Mode 3:</u> I) commitments on enhanced levels of foreign equity participation II) Removal or substantial reduction of economic needs tests II) Commitments allowing greater flexibility on the types of legal entity permitted</p> <p><u>Mode 4:</u> (I) new or improved commitments on the categories of Contractual Services Suppliers, Independent Professionals and Others, de-</p>	<p><u>Market Access</u> Mode 1: reportedly poor response from developed countries about binding of existing degree of their markets under mode 1</p> <p>Mode 4: Reportedly there is no movement on part of developed countries on the issues of interest and concern to developing countries under Mode 4, both in respect of enhanced commitments and procedural reform in visa and work permit</p>
---	---	--

	<p>linked from commercial presence, to reflect <i>inter alia</i></p> <ul style="list-style-type: none"><li>• removal or substantial reduction of economic needs tests</li><li>• indication of prescribed duration of stay and possibility of renewal, if any</li><li>• new or improved commitments on the categories of Intra-corporate Transferees and Business Visitors, to reflect <i>inter alia</i>:- removal or substantial reduction of economic needs tests</li><li>• indication of prescribed duration of stay and possibility of renewal, if any</li></ul>	
--	---	--

<p><u>Rule Making (Outstanding Issues)</u>  Prior to the conclusion of the market access negotiations Members “<i>shall aim to conclude</i>” negotiations on GATS Articles VI: 4 (domestic regulation), Article X (emergency safeguard measures ESM), Article XIII (government Procurement) and Article XV (subsidies).</p>	<p><u>Rule Making (Out standing issues)</u>  Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles X, XIII, and XV in accordance with their respective mandates and timelines:</p> <p>(A) Members should engage in more focused discussions in connection with the technical and procedural questions relating to the operation and application of any possible emergency safeguard measures (ESM) in services.</p> <p>(B) On government procurement (GP), Members should engage in more focused discussions and in this context put greater emphasis on proposals by Members, in accordance with Article XIII of the GATS.</p> <p>(C) On subsidies, Members should intensify their efforts to expedite and fulfil the information exchange required for the purpose of such negotiations, and should engage in more focused discussions on proposals by Members, including the development of a possible working definition of subsidies in services.</p> <p>(D) Members shall 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. It is also suggested that Members to develop text for adoption. In so doing, Members shall</p>	<p><u>Rule Making (Outstanding Issues)</u>  (A) In case of ESM, in spite of a most prolific engagement, there is still no clarity on the three fundamentals of who to protect, from what and in what manner</p> <p>(B) In Government Procurement, there is no understanding even on the scope of the negotiating mandate.</p> <p>(C) In case of subsidies negotiations is also not moved much further. There has been no response by members to sharing information on existing subsidies, as required by the mandate.</p>
---	---	--

	consider proposals and the illustrative list of possible elements for Article VI:4 disciplines	
<p><u>Domestic Regulation</u> In-built mandate in GATS, adopted in Doha Developmental Agenda - Article VI: 4 for development of disciplines covers</p> <ul style="list-style-type: none"> <li>• Qualification Requirements and Procedures (QRP)</li> <li>• Licensing Requirements and Procedures (LRP); and</li> <li>• Technical Standards (TS)</li> </ul>	<p><u>Domestic Regulation</u> Specific mandate for developing disciplines before end of Round</p> <ul style="list-style-type: none"> <li>• Call for intensification by developing tests</li> <li>• Basis – proposals and Illustrative List of Elements</li> </ul>	<p><u>Domestic Regulation</u> Move from proposals to textual language proposals. Texts put on the table namely on:</p> <ul style="list-style-type: none"> <li>• Qualification Requirement Procedure</li> <li>• Licensing Procedure</li> <li>• Technical Standards</li> <li>• Transparency</li> <li>• Special and Differential Treatment</li> <li>• General Principles including Right to Regulate</li> <li>• Draft text under negotiation.</li> </ul>
<p><u>Horizontal issues</u> An evaluation “<i>shall be conducted</i>” of the implementation of GATS Article IV (on increasing developing countries’ participation in the global services trade).</p>	<p><u>Horizontal issues</u> No such evaluation has been undertaken so far</p>	<p><u>Horizontal Issues</u> No development in this area.</p>

### **India's interest in Services Negotiations\***

- India has been a demandeur in services. It has also offered substantial sectoral and modal coverage in its Initial Offer (January, 2004) and the first Revised Offer (August, 2005) of the ongoing Services negotiation.
- As a part of the plurilateral (where more than two countries are involved) process, decided at the Hong Kong Ministerial Meeting, 22 plurilateral groups have been formed at the WTO in service sectors/areas. India has received plurilateral requests for greater liberalisation in 14 different services sectors, including Telecom, Finance, Maritime, Environment, Education, Air transport, Energy, Audio Visual and Retail. India is the coordinator of the plurilateral requests on Mode 1 (cross border supply) and Mode 4 (Movement of Natural Persons) - the core areas of its interest in the services negotiations - India is also a co-sponsor of plurilateral requests on Computer and Related Services (CRS) and Architectural, Engineering and Integrated Engineering Services.
- India has received Requests for liberalisation of services from 27 countries. These Requests cover all the major service sectors such as express delivery services, telecommunication services, audio visual services, financial services, distribution services, legal services, energy services, environmental services etc. and are in all modes of supply of service. The core interest of most of India's trading partners, as evident from their requests, is in Mode 3, in which the request is either for binding the presently applicable FDI policy, or for offering a more liberal policy than is currently prevailing or for opening up new sectors.
- Developed countries, particularly the US and the EC have not been forthcoming in offering substantial openings to our professionals in Mode 4. Even where these commitments have been offered, they lack in sectoral spread. The US has not made any improvements in its Offer on Mode 4 since the Uruguay Round. The US has also not offered any commitments in the categories of CSS and IP. Though the EC has offered commitments for CSS, its offer lacks sectoral spread. Other developed countries have also not offered substantial improvement in their commitments in Mode 4. Without adequate disciplines in Domestic Regulations, our Mode 4 access gets severely impeded. This crucial area is also not effectively addressed by our trading partners in their Revised Offers. In the case of Mode 1 also not much improvement has been offered by our trading partners in their Revised Offers.
- One of the areas of crucial interest to India is development of disciplines in Domestic Regulations involving qualifications and licensing requirements and procedures, without which Mode 4 access gets severely impeded. Negotiations on this subject are proceeding on the basis of the Chairman's text tabled recently. India has argued to strike a balance between the right to regulate and regulations becoming unnecessary barriers to trade.
- In order to take the negotiations forward, a fresh round of Offers would need to be tabled at the WTO by Member countries. A timeline for the submission of the second Revised Offers in Services would be decided after a breakthrough is achieved in Agriculture and NAMA. An ambitious outcome in services has to be an essential part of any breakthrough package. India has stated repeatedly that any future work in Services must be anchored in Annex C of the Hong Kong Ministerial text. Members need to spell out clearly how they intend to meet the modal objectives outlined in Annex C. In particular, developed countries need to provide clear signals of market openings in sectors and modes of interest to developing countries, particularly in Modes 1 and 4.

---

\* Source: Department of Commerce, Government of India