



## **Briefing on content and process of the draft services text**

### **Key problems with the negotiating process for Annex C**

In the run up to the WTO Ministerial in Hong Kong there was deep disagreement over the production of the 'annex' on services. Eventually after much wrangling it was put in square brackets, meaning it remained under dispute. In addition, the Chair of the WTO General Council wrote a letter to accompany the full draft Ministerial text to make it clear that Annex C on services was not an agreed text. In other words, there was no consensus over its inclusion as an Annex to the draft ministerial text.

Yesterday, Minister Kim of South Korea (the Chair of the Services talks) told WTO members that negotiations would proceed on Annex C because there is no consensus for it to be dropped. This represents a bizarre and illegitimate inversion of the consensus principle.

Minister Kim today released a new draft Annex C on services despite continuing objection by several developing country WTO members.

Sources inside the talks also claimed that the WTO Secretariat has not been acting impartially. Instead of acting as a neutral facilitator of negotiations the Secretariat has been actively promoting and pushing for the adoption of Annex C.

An alternative proposal submitted by the G90 group of developing countries (the poorest countries) was not circulated to members by the Chair of the talks and doubts were raised by the WTO Secretariat over its legitimacy as a formal negotiating proposal.

The negotiating process at Ministerial conferences makes it hard enough for groups of developing countries to effectively represent their interests at the best of times but this attempt to prevent the G90 from tabling their proposal for discussion is an outrage.

When he was Trade Commissioner of the European Union, Pascal Lamy complained of the medieval process at two WTO Ministerial Conferences. This current situation is worse than medieval and he is in a position to do something about it.

Today (Saturday) NGOs have written to Pascal Lamy and the Chair of the Conference to call on them to address these abuses of fair and transparent negotiating process.

***MORE***

## **Key Changes to the Draft Declaration and the Annex C**

In the Annex, the opening section of Paragraph 1 on 'qualitative targets' (i.e. the nature of liberalization commitments desired) has changed from members being required to "strive to ensure new and improved commitments adhere to the following objectives" to members being required to "be guided, to the maximum extent possible, by the following objectives in making their new and improved commitments." This represents little substantive change. Paragraph 1 still opens the way for increased pressure to be applied on countries to make deeper GATS commitments.

Paragraph 2 on sectoral and modal objectives has changed from, "In order to provide guidance for the request-offer negotiations, the sectoral and modal objectives as identified by members may be considered" to, "As a reference for the request-offer negotiations, the sectoral and modal objectives as identified by members may be considered". A footnote referencing a report containing the sectoral and modal objectives is included and it has been made clear that this document has no legal standing. This is a weakening of the status of this document and is likely to be a result of US concern over the content on Mode IV (movement of people).

In paragraph 4 (b) on government procurement, the reference to a possible framework (i.e. agreement) on government procurement in services has been deleted. However, the text still requires countries to increase engagement in the talks and "put greater emphasis on the proposals by Members." The proposals currently on the table are largely from industrialized countries demanding national treatment rules for government procurement. The whole basis of a new agreement has been challenged by developing countries. This text will therefore be used to increase pressure for new rules.

Paragraph 6(b) on plurilateral negotiations has been amended. Rather than saying members receiving plurilateral (i.e. group) liberalization requests "shall enter into plurilateral negotiations", the text now says such members "shall consider such requests in accordance with Article XIX:4 of the GATS and paragraph 11 of the Guidelines and Procedures for the Negotiations on Trade in Services." These documents are existing agreements which, together say that countries shall negotiate on a bilateral, plurilateral or multilateral basis and that request-offer (i.e. bilateral) will be the main method of negotiation.

While this represents slightly weaker language, and references existing agreements, the intention is still to provide greater leverage to increase pressure on countries to engage in a plurilateral negotiating process. There is nothing currently stopping those countries that wish to engage in plurilateral negotiations from doing so, but that is not enough for the European Union and other industrialized countries.

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