

General Council

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PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Proposals Regarding the GATS Agreement in terms of Paragraph 9(a)(i) of the Geneva Ministerial Declaration

Communication from India

The following communication, dated 2 July 1999, has been received from the Permanent Mission of India.

Issues

1. Articles IV and XIX:2 of the General Agreement on Trade in Services provide for S&D treatment for developing countries. But the actual history of implementation since the conclusion of the Uruguay Round Agreements do not evidence the extension of such treatment to the developing countries. Also, the importance of Mode 4 for developing countries is obvious; and yet commitments made by the developed countries in this area were far from satisfactory. An assessment by the Council for Trade in Services under Article XIX is mandatory before embarking on negotiating guidelines for the new round of negotiations. Such an assessment must be carried out by CTS in collaboration with UNCTAD who have already commenced such work. Until such an assessment is complete, both in overall terms and sector-wise, it is very difficult to conclude that developing countries have gained from the GATS so far.

Proposals

2. Mode 4 commitments undertaken by developed countries being modest, there is a need for making substantially higher commitments in this area if the balance of benefits under GATS is to be preserved. Higher levels of commitments can be achieved on the basis of: rules that are transparent, no additional tariff/tax or other regulatory restrictions on the nationals of foreign countries that do not apply to one's own nationals, no quantitative limits on temporary movement of natural persons, fees/charges applicable for providing social security nets should not apply to temporary movement of natural persons, no non-tariff barriers and no regulatory restrictions on the movement of natural persons.

3. At least in sectors of interest to developing countries, the Economic Needs Test would not apply; where it would apply exceptionally, it would be based on transparent and objective criteria.

4. Need to list those sectors where visas would be issued automatically for temporary movement of natural persons; also certain occupations to be exempt from the work permit/ residency requirement for short periods of trade-related presence.

5. In modes other than Mode 4, developing countries to be given S&D treatment as outlined in Articles IV and IX of GATS.

6. Any future negotiations in GATS to be guided by the same architecture based on positive list, request and offer approach, no prior exclusion of any mode and by the principles outlined in Article IX for developing countries. For Mode 4, a new list of occupations using the ILO International Standard Classification of Occupations could be established. It is also incumbent on the CTS to establish modalities for treatment of autonomous liberalization undertaken by Members since the Uruguay Round. And finally, Article IV to be given real meaning in any new commitments by developed countries. Also, a monitoring mechanism to be set up for tracking implementation of Article IV of the GATS Agreement.
