

**Council for Trade in Services
Special Session**

**MODALITIES FOR THE SPECIAL TREATMENT FOR LEAST-DEVELOPED COUNTRY
MEMBERS IN THE NEGOTIATIONS ON TRADE IN SERVICES**

Adopted by the Special Session of the Council for Trade in Services on 3 September 2003

I. OBJECTIVES AND PRINCIPLES

1. In pursuance of the objectives of the GATS and as required by Article XIX:3 of the GATS special treatment for least-developed country Members (LDCs) shall be granted by providing special priority to LDCs in the implementation of paragraphs 1 and 2 of Article IV of the GATS. Particular account shall be taken of the serious difficulty of LDCs in undertaking negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.
2. The importance of trade in services for LDCs goes beyond pure economic significance due to the major role services play for achieving social and development objectives and as a means of addressing poverty, upgrading welfare, improving universal availability and access to basic services, and in ensuring sustainable development, including its social dimension. LDCs are facing serious difficulty in addressing a number of complex issues simultaneously, and lack institutional and human capacities to analyse and respond to offers and requests. This should be factored into the negotiating process in general and regarding the individual requests made to LDCs.
3. Together with the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93), the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services shall ensure maximum flexibility for LDCs and shall form the basis for the negotiations.

II. SCOPE

4. Members shall take into account the serious difficulty of LDCs in undertaking negotiated specific commitments in view of their special economic situation, and therefore shall exercise restraint in seeking commitments from LDCs. In particular, they shall generally not seek the removal of conditions which LDCs may attach when making access to their markets available to foreign service suppliers to the extent that those conditions are aimed at achieving the objectives of Article IV of the GATS.
5. There shall be flexibility for LDCs for opening fewer sectors, liberalizing fewer types of transactions, and progressively extending market access in line with their development situation. LDCs shall not be expected to offer full national treatment, nor are they expected to undertake additional commitments under Article XVIII of the GATS on regulatory issues which may go beyond their institutional, regulatory, and administrative capacities. In response to requests, LDCs may make commitments compatible with their development, trade and financial needs and which are limited in terms of sectors, modes of supply and scope.

6. Members shall, as provided for in Articles IV and XIX of the GATS, give special priority to providing effective market access in sectors and modes of supply of export interest to LDCs, through negotiated specific commitments pursuant to Parts III and IV of the GATS. LDCs should indicate those sectors and modes of supply that represent priority in their development policies, so that Members take these priorities into account in the negotiations.

7. Members shall work to develop appropriate mechanisms with a view to achieving full implementation of Article IV:3 of the GATS and facilitating effective access of LDCs' services and service suppliers to foreign markets.

8. Members shall take measures, in accordance with their individual capacities, aimed at increasing the participation of LDCs in trade in services. Such measures could include:

- strengthening programmes to promote investment in LDCs, with a view to building their domestic services capacity and enhancing their efficiency and export competitiveness;
- reinforcing export/import promotion programmes;
- promoting the development of LDCs' infrastructure and services exports through training, technology transfer, enterprise level actions and schemes, intergovernmental cooperation programmes, and where feasible, financial resources; and
- improving the access of LDCs' services and service suppliers to distribution channels and information networks, especially in sectors and modes of supply of interest to LDCs.

9. It is recognized that the temporary movement of natural persons supplying services (Mode 4) provides potential benefits to the sending and recipient Members. LDCs have indicated that this is one of the most important means of supplying services internationally. Members shall to the extent possible, and consistently with Article XIX of the GATS, consider undertaking commitments to provide access in mode 4, taking into account all categories of natural persons identified by LDCs in their requests.

10. LDCs shall be granted appropriate credit for their autonomous trade liberalization. In addition, Members shall refrain from requesting credits from LDCs.

11. In developing any multilateral rules and disciplines, including under GATS Articles VI:4 (Domestic regulation), X (Emergency safeguard measures), XIII (Government procurement) and XV (Subsidies), Members shall take into account the specific interests and difficulties of LDCs.

III. PRINCIPLES FOR THE PROVISION OF TECHNICAL ASSISTANCE WITH REGARD TO TRADE IN SERVICES

12. Targeted and coordinated technical assistance and capacity building programmes shall continue to be provided to LDCs in order to strengthen their domestic services capacity, build institutional and human capacity, and enable them to undertake appropriate regulatory reforms. In pursuance of Paragraph 14 of the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93), technical assistance shall also be provided to LDCs to carry out national assessments of trade in services in overall terms and on a sectoral basis with reference to the objectives of the GATS and Article IV in particular.

IV. MECHANISMS AND PROCEDURES

13. The Special Session of the Council for Trade in Services shall review, as necessary, the implementation of these modalities under the standing item on "Review of Progress in the Negotiations".

14. In his report to the Trade Negotiations Committee, the Chairman of the Special Session of the Council for Trade in Services will include the issues raised by Members with regard to these modalities.
