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# Briefing Session on Market Access Negotiations

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Trade in Services and Investment Division

22 March 2019



# The market access negotiations

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- 1) The GATS negotiating mandate
- 2)

# 1) GATS negotiating mandate (Art XIX)

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- Successive rounds of negotiations (first no later than 2000)
- Progressively higher level of liberalization
- ...“ with a view to promoting interests of all participants”
- Flexibilities
  - due respect for the level of development of individual Members
  - Developing country Members: appropriate flexibility for opening fewer sectors, liberalizing fewer types of transactions...
  - Reference to Article IV
    - Increasing participation of DCs through negotiated commitments... relating to: strengthening of their domestic services capacity and its efficiency; improved access to distribution channels and information networks; market access in sectors and modes of interest to them.
    - Special priority to LDCs; account taken of their serious difficulty in accepting negotiated commitments.

# 1) GATS negotiating mandate (Art XIX)

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- Negotiating guidelines and procedures to be established, including discussion of
  - assessment of trade in services
  - modalities for autonomous liberalization
  - modalities for the special treatment of LDCs
- Process of progressive liberalization advanced through bilateral, plurilateral or multilateral negotiations

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### 3) Beginning of the Negotiations (2000-2002)

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- Negotiations begin in 2000, Council subsequently proceeds with:
  - Negotiating Guidelines (S/L/93)
    - Drawing on Art. XIX and IV, as well as GATS preamble
    - Objectives: needs of SMEs; respect for structure and principles of GATS
    - Scope: MFN; no a priori exclusion of any sector or mode
    - Modalities/Procedures: current schedules as starting point; R-O as main method of negotiation.
  - Modalities for Autonomous Liberalization (TN/S/6)
  - Modalities for the Special Treatment of LDCs (TN/S/13)
  - Discussions on assessment of trade in services
  - Scheduling Guidelines (updated) (S/L/92)

### 3) Beginning of the Negotiations (2000-2002)

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- Members begin submitting negotiating proposals
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## 4) Exchange of requests and offers (2002-2005)

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- Request-offer process based on Doha timeline
- CSC agreed editorial conventions; Secretariat issued synopses of negotiating proposals
- Failure of Cancun Ministerial meeting (2003)
  - General Council later agrees on the “July Package” (2004), which sets deadline for revised offers to May 2005
- Special Session Chair reported ‘poor’ quality of initial/revised offers (TN/S/20, July 2005)
  - Members set out their ‘Sectoral and Modal Objectives’ (Annex B of TN/S/23)
- CTS SS prepared draft text for Annex C of the Hong Kong ministerial declaration



## 5) Annex C and the Hong Kong Ministerial Declaration (2005)

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- Objectives
  - Guidance for commitments, by mode of supply
  - Schedules: Ensure clarity, adhere to Scheduling Guidelines
  - Economic needs tests: Ensure adherence to Scheduling Guidelines
  - MFN exemptions: Remove or reduce, clarify scope of remaining ones
  - As a reference for the request-offer negotiations, the sectoral and modal objectives as identified by Members may be considered (TN/S/23)
- Recognition of difficulties faced by LDCs and acknowledge they are not expected to undertake new commitments.

## 5) Annex C and the Hong Kong Ministerial Declaration

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### Objectives in para. 1: modes 1 to 3

- No requirement of commercial presence (mode 1)
- Commitments at existing levels of access (modes 1 & 2)
- Removal or substantial reduction of ENTs (mode 3)
- Enhanced levels of foreign equity, more types of legal entity (mode 3)

## 5) Annex C and the Hong Kong Ministerial Declaration

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### Objectives in para. 1: mode 4

- Commitments on:
  - Contractual service suppliers & independent professionals, delinked from commercial presence
  - Intracorporate Transferees & Business Visitors
- Removal or substantial reduction of ENTs
- Indication of duration of stay and possibility of renewal

## 5) Annex C and the Hong Kong Ministerial Declaration

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- Approaches
  - Request-offer: remains main method of negotiation
  - Plurilateral request-offer: new process established
  - LDC modalities: develop methods for full and effective implementation (striving to complete mechanisms before end-July)
- Timelines
  - Outstanding initial offers as soon as possible
  - Plurilateral requests by end-February 2006
  - 2<sup>nd</sup> Revised offers by end-July 2006
  - Final offers by end-October 2006

## 6) From Hong Kong MC to the Signalling Conference (2008)

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- After Hong Kong MC, plurilateral request-offer process initiated
  - 22 plurilateral groups, two rounds of negotiations
- But no Ag/NAMA modalities by April, and negotiations slow down
- July 2008 mini-Ministerial meeting
  - Chairman reports on 'Elements required for the completion of the services negotiations' (TN/S/34)
    - new dates for revised offers and final draft schedules
    - agreement to proceed with option of LDC waiver
  - Signalling Conference among 32 delegations at Ministerial level, TNC Chairman reports on signals exchanged (JOB(08)/93)

## 7) Period between 2008-2011

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- Special Session Chair report on Stocktaking exercise finds “little or no progress” on market access (TN/S/35, March 2010).
- Secretariat updates Sectoral Background Notes, (S/C/W/298 - 334).
- A year later, further Chair report finds little additional progress made; contains reports by rapporteurs of plurilateral request-offer groups (TN/S/36, April 2011)

## 8) 2011 Ministerial Conference

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- Ministers recognize that negotiations have reached an “impasse”, and that there is a need to:
  - more fully explore different negotiating approaches
  - commit to advance negotiations where progress can be achieved (WT/MIN(11)/11)
- Ministers adopt decision on waiver for LDC preferences (WT/L/847)

## 9) Bali, Nairobi, Buenos Aires...

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- Bali Ministerial (2013)
  - Ministers instructed the TNC to:
    - Prepare “clearly-defined” post-Bali Work Programme covering remaining DDA issues
    - Achieve this in a way consistent with the guidance provided at the 2011 Ministerial Conference
  - Chair reports in July 2015 that no convergence could be found on services element of WP (TN/S/39)



## 9) Bali, Nairobi, Buenos Aires...

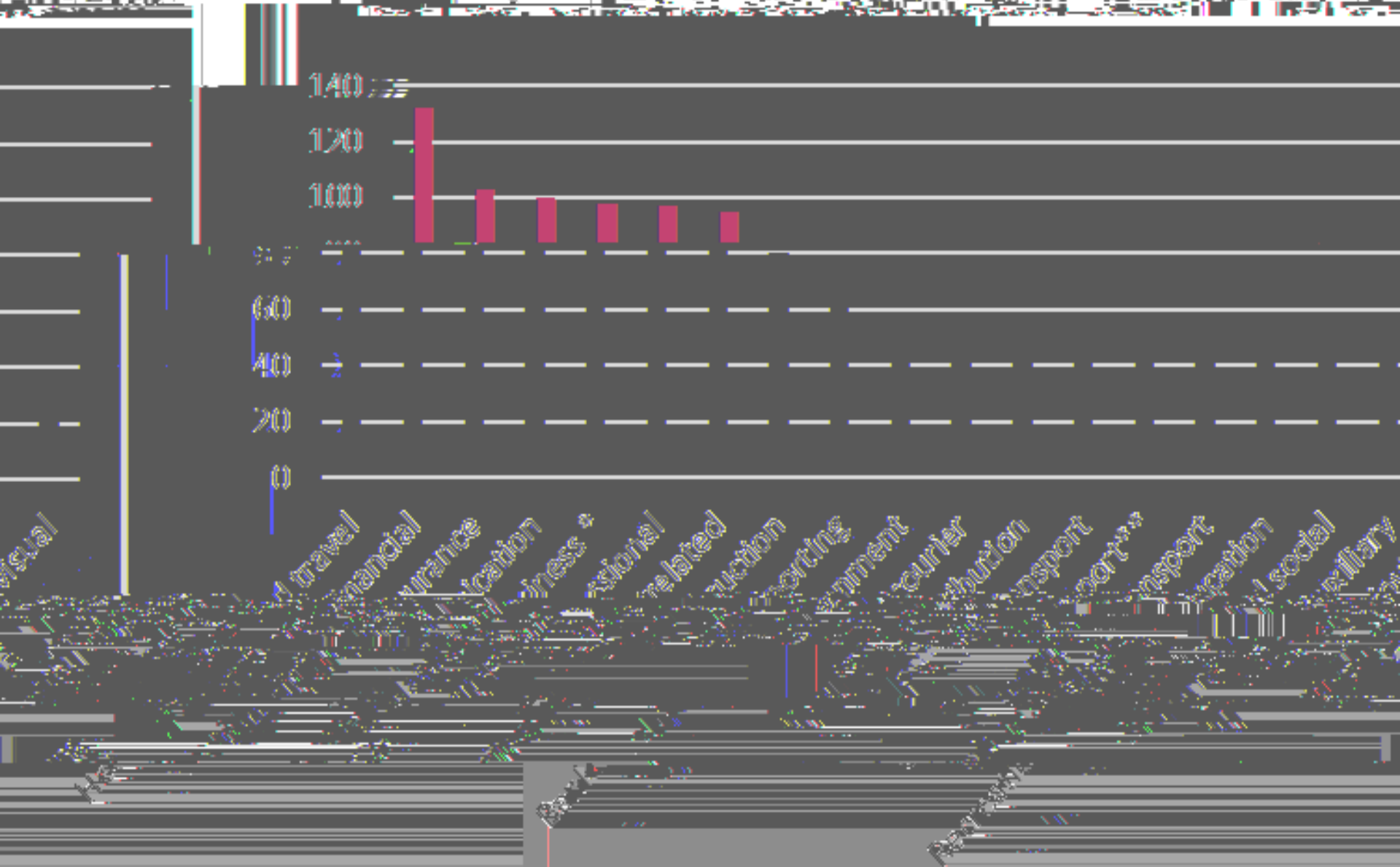
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- Nairobi Ministerial (2015)
  - No convergence on services text for consideration by Ministers (TN/S/40)
  - Many Members reaffirm the DDA, but others do not reaffirm the Doha mandates, as they believe new approaches are necessary.
  - Commitment to advance negotiations on the remaining Doha issues, including services
- Buenos Aires Ministerial (2017)
  - No Ministerial Declaration. Chair's concluding statement reflects positions of Nairobi Ministerial

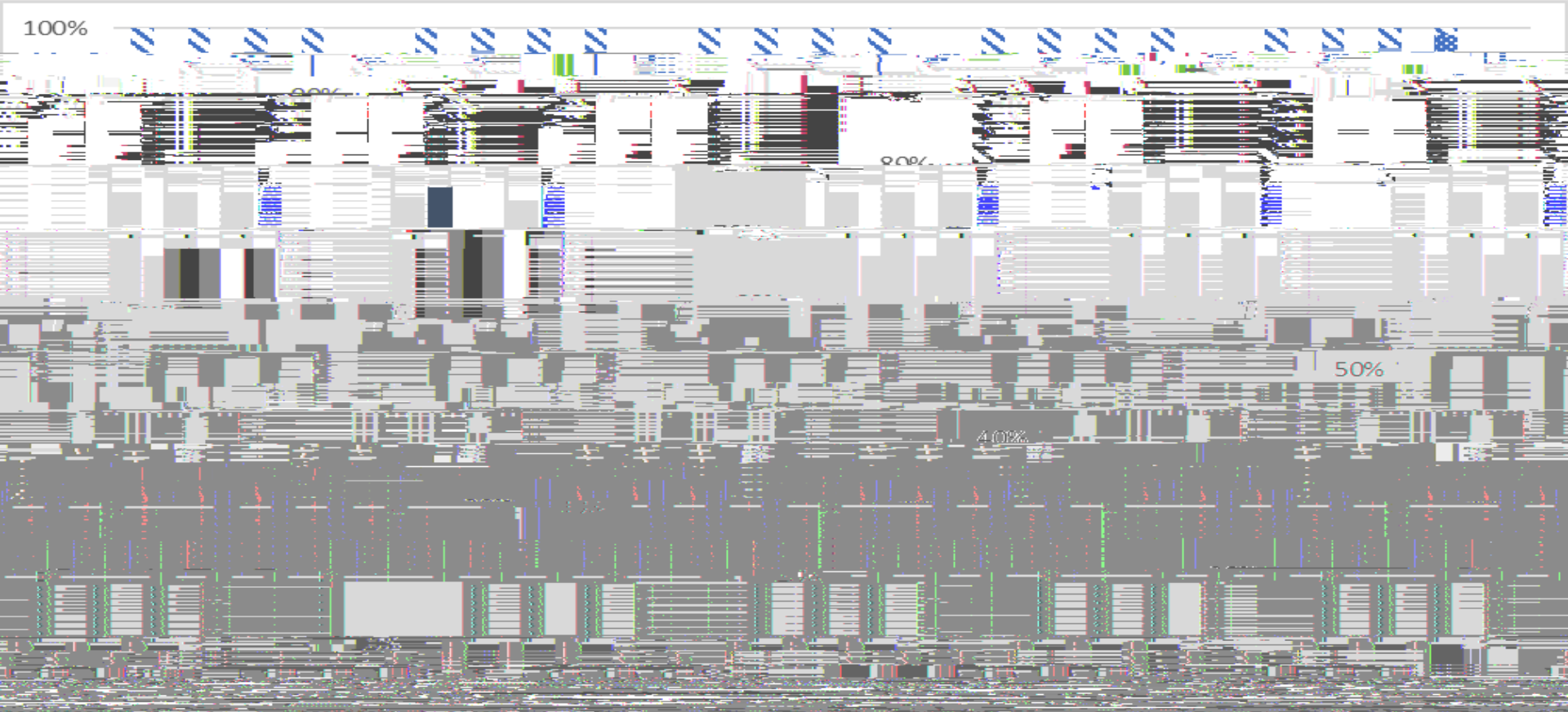
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# **The Starting Point: Existing Schedules**

# Number of Schedules with Specific Components



# Average Levels of Commitment by Mode of Supply for Subsectors Scheduled (%), by Groups of Members



# Average Levels of Sector-Specific Commitments by Mode

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# Overview of Initial/Revised Offers Tabled







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# Some useful documents, by period:

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## Preparatory Work (1998-2000)

- Secretariat Background Notes (S/C/W/37-75)

## Beginning of Negotiations

- Scheduling Guidelines (S/L/92)
- Negotiating Guidelines (S/L/93)
- Modalities for Autonomous Liberalization (TN/S/6)
- Modalities for Special Treatment of LDCs (TN/S/13)
- Synopsis of negotiating proposals (JOB(01)/63 and Add. 1-4)

# Some useful documents, by period:

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## *Exchange of requests and offers (2002-2005)*

- Editorial Conventions (JOB(02)/88)
- Information Tools (range: JOB(05)/190-299)
- Chair Reports to TNC prior to 6<sup>th</sup> MC (TN/S/20 and 23)

## *From MC6 to Signalling Conference (2006-2008)*

- Chair report to TNC, preceding 2008 mini-Ministerial meeting (TN/S/34)
- Report on the Signalling Conference (JOB(08)/93)

# Some useful documents, by period:

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*Period after Signalling Conference:*



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Thank you

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