

A paper submitted to participants by the European Union in May 2012, shortly after the start of the process.

On one page it sets out objectives and concepts (such as elimination of capital caps; or additional rules on postal and courier services) for the process.

An Annex to the previous paper, also submitted by the European Union in May 2012, provides details on the proposed additional rules on postal and courier services.

A Plurilateral Negotiation Built on GATS

Non- Paper for Discussion

Objectives

A plurilateral initiative on services, as currently discussed among a group of WTO members, can make an important contribution to improving the multilateral governance of services trade if the conditions are set right. In order to achieve this objective, a plurilateral agreement would need to

- a) be designed in a way that does not create an alternative to the GATS and facilitates progressive multilateralisation. Therefore, a plurilateral agreement would need to build on the structure and obligations that are laid down in the GATS;
- b) aim at ambitious results in terms of market access;
- c) develop rules underpinning those market access commitments.

Concepts

- a) A plurilateral agreement should pave the way for its progressive multilateralisation. To this end, it should build on the GATS obligations and techniques with which WTO Members are all familiar, in particular regarding the scheduling of commitments. The following core GATS provisions and obligations are important in this regard: scope (Art I), market access (Art XVI) and national treatment (Art XVII), exceptions (Art XIV and XIV bis), definitions (Art XXVIII) as well as the obligations contained in the GATS Annexes. Using a different approach in an agreement among countries accounting for the bulk of international trade in services would result in the development of an alternative set of services trade rules, which would undermine the multilateral trading system.
- b) A plurilateral agreement should add value in terms of market access by consolidating openness as well as addressing particularly harmful barriers to trade in services. A clear starting point, such as extending the openness consolidated in participants' FTAs, as well as standards, such as the substantial elimination of foreign equity caps, are important tools in this regard.
- c) A plurilateral agreement would also be an opportunity to develop **strong rules** underpinning services liberalisation. The GATS contains **built-in mandates** to develop rules, e.g. on domestic regulation and government procurement. Plurilateral negotiations should advance the creation of such disciplines and thus further the work in the WTO committees. **Additional disciplines**, e.g. of a regulatory nature, can be designed for individual sectors on the basis of Article XVIII – Additional Commitments. Examples would be an enhanced reference paper for telecommunications / ICT services or a new reference paper on postal and courier services (see more details in annex). Members could also explore the incorporation of rules on **related topics** such as electronic commerce, for example.

<p style="text-align: center;">Postal and Courier Services: Potential Elements for a Reference Paper</p>

The postal and courier services sector, which offers a key communications infrastructure with high economic and social importance, has undergone liberalisation in many countries over the last two decades. In a communication of the European Communities and their Member States to the CTS SS in 2005 (S/CSS/W/61), the European Union proposed the possibility of devising a reference paper on postal and courier services which WTO Members could adhere to by inscribing the principles as additional commitments in their schedules of commitments, as foreseen in Article XVIII of GATS.

The European Union has further developed the idea and gained experience with such principles in its bilateral free trade agreements, such as the EU-Cariforum EPA, which includes a specific regulatory chapter on postal and courier services.¹

For a discussion about additional commitments on postal and courier services following Article XVIII of GATS, the following questions are particularly relevant:

- the classification of postal and courier services, particularly whether a distinction of postal and courier is necessary or whether the services should be classified by types of postal items delivered, combined with additional qualitative differences in the provision of the service;
- definitions, such as individual licence/individual authorisation scheme, universal service etc.;
- minimum regulatory principles, such as the elimination of anti-competitive practices, access to universal service/exclusive rights if such are used by a Member, basic principles for licensing, if licensing is used, in particular as regards non-discrimination and transparency of procedures and independence of the regulator.

¹ See http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc_137971.pdf, starting at page 34