The WTO: towards Hong Kong

What type of effects can developing countries expect from the Doha Round?

The WTO ministerial will be held from 13 to 18 December 2005 in Hong Kong, China. A successful outcome is far from certain as there are some difficult issues to overcome. The Overseas Development Institute (ODI) will hold a series of meetings looking into key unresolved issues at the WTO. This will include meetings on Special and Differential Treatment, Regionalism, Services and Agriculture. Examining these issues in more detail, each meeting will seek to explore what developing countries can expect from the current proposals in the lead up to the WTO conference.

Wednesday, 23 November (1.00pm–2.15 pm) at ODI, 111 Westminster Bridge Road

Services and the WTO

Speakers: **Pascal Kerneis**, Managing Director, European Services Forum

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Chair: **Dirk Willem te Velde**, Research Fellow, Overseas Development Institute

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Services at the WTO

Presentation by

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In looking at whether the current round of negotiations will deliver for developing countries, this paper is based on a matrix that looks at the capacity to implement current proposals made through the request and offer process on three main groups in the WTO membership developed countries, developing countries (with a focus on the larger more advanced economies) and least developed countries.

The main trends that appear in the negotiations are that

- Focus has been on export interests of developed countries with very few consideration given to the export interest of developing countries and LDCs and no effort made at all on export potential of the latter group that could be improved by delinking mode 3 from mode 4, removal of impediments to mode 2 and technological improvements required to make mode feasible and viable in the same group of members.
- Plurilateral and sectoral proposals totally ignore the fact that developing and LDCs countries lack the regulatory capacity to manage sudden rises in trade volumes and effects of existing liberalization model is yet to be assessed and thus a new model can only be discussed with an informed review of the effects of both models
- appropriate technical assistance in terms of trade and sectoral services negotiators leave much more to be desired and direct domestic regulatory (home grown and driven) capacity building being virtually non existent

ASSESSING THE SECTORAL AND MODAL OBJECTIVES IDENTIFIED BY WTO MEMBERS AS AT NOVEMBER 2005

Main Proponents	Sector	proposing	Capacity to implement			More positive effect on					
			developed countries	Large developing countries	LDCs	developed countries		Large developing countries		LDCs	
						Private returns (capitalist to trans-national corporations)	Public returns (poverty reducing)	Private returns (capitalist returns to trans-national corporations)	Public returns (poverty reducing)	Private return (capitalist benefits to trans-national corporations) s	Public returns (poverty reducing)
Developed countries and a few large developing	Legal services	Allow foreign lawyers and law firms to provide legal advisory services in foreign and international law through commercial association and employment of domestic lawyers	High	Medium and dependent on recognition and licensing Requirements	Low and dependent on recognition and licensing requirements regulatory environment	High and sector dominance	High as mode 4 is linked to mode 3	Medium due to stringent licensing requirements in developed countries for mode 3 establishment and bit more capacity to provide modes 1 and 2	Only positive if delinked from mode 3	Low due to stringent licensing requirements in developed country markets for mode 3 establishment and less capacity to provide via modes 1 and 2	Only positive if delinked from mode 3 and if visa requirements are also reduced
Developed countries and a few large developing	Other professional services	More commitments in modes 1 and 2 and unimpeded cross-border trade for all	High given ICT levels	Medium given ICT levels and regulatory capacity	Low and given ICT levels and regulatory capacity	High given ICT levels and sector dominance	High given ICT levels	Medium given ICT levels increasing if focus is on independent professionals	Medium given ICT levels	Low given ICT levels	Low given ICT levels increasing if focus is on independent professionals and

		categories						and improved recognition requirements			improved recognition requirements
Developed countries and a few developing	Computer and related services	More commitments in all modes and removal of mode 1 and 3 impediments	High given ICT levels and regulatory capacities	Medium given ICT levels and regulatory capacity	Low given ICT levels and regulatory capacity	High given ICT levels and sector dominance	High given ICT levels and sector dominance	Medium given ICT levels and regulatory capacity	Medium given ICT levels and regulatory capacity	Low given ICT levels	Low given ICT levels increasing if Delinked from mode 3
Developed countries and a few developing	Other business services	Inclusion in commitments	High given market dominance	Medium given that is emerging sector Would increase if commitments cover modes 1 and 2 and	Low given that sector isn't so well developed	High given market dominance	High given that market dominance has led to more individuals and sole proprietor entities	Medium given that sector is an emerging sector as long as mode 1 and 2 and 4 impediments are removed	Medium as long as mode 4 is delinked to mode 3	Low but could improve if right of establishment impediments are reduced , other minimum capital requirement issues are reduced, registration and licensing requirements made more available and notified	Low but could be improved if mode 4 delinked from mode 3 is committed
Developed countries and a few developing	Postal and courier services	Removal of monopolies and expansion of coverage under modes 1 , 2 and 3	High given the market dominance	Medium Could be t Universal access could threatened	Low given that still in public hands effects need to be well studied in particular effect on Universal	High given market dominance	Customers already used to private services provision	Low given that sector still in public sector domain	Effects of private entry and universal access obligations need to be fully assessed	Low given that sector sill in public domain and regulatory capacity needs improvement	Effects of private entry and universal access obligations need to be fully assessed

					access threats						
Developed countries and a few developing	Telecommunication services	Expansion of coverage in all modes of supply but with focus on 1, 2 and 3	High given market dominance	Medium Could be Universal access could threatened and regulatory capacity needs improvement	Low given that still in public hands effects need to be well studied in particular effect on Universal access threats and regulatory capacity needs improvement	High given market dominance and ICT levels	Customers already used to private services provision	Low given that sector still in public sector domain and regulatory capacity needs improvement	Effects of private entry and universal access obligations need to be fully assessed	Low given that sector sill in public domain and regulatory capacity needs improvement	Effects of private entry and universal access obligations need to be fully assessed
Developed countries and a few developing	Audio-visual services	Commitments focusing on modes 1 and 3	High given market dominance	Medium giving that it is an expanding sector and could benefit from liberalization of mode 2 so that service used in 3rd countries as part of the production of audio-visual services such as foreign filming and foreign content	Low given that autonomous liberalisation is threatening local content and needs to be reviewed	High given market dominance	High given that consumer choice is high and well regulated sector	Medium depending on liberalisation of modes 2 and	Medium and depends to a large extent on mode 4 liberalisation	Low given that sector sill in public domain and regulatory capacity needs improvement	Effects of private entry and universal access obligations need to be fully assessed

				limitations in developed countries							
Developed countries and a few developing	Construction and related engineering	Removals of mode 3 impediments and mode 4 linked to mode 3	High given market dominance	Medium if mode 4 delinked from mode 3 and other mode 4 impediments such as recognition requirements are	Low given that public sector is major player in market	High given market dominance	High given that consumers have wide choice	Medium if restrictions on licensing and registration procedures and nationality requirements in developed markets are removed	Medium if mode 4 is delinked and recognition procedures are improved	Low given that still dominated by public sector could be improved and donor aid is delinked from nationality requirements and special provisions given to small and medium scale entrepreneurs in GP	Has potential if mode 4 is delinked from mode 4
Developed countries	Distribution services	Expansion in modes 1 , 2 and 3	High given market dominance	Medium if access to information on distribution networks made more available	Low and could improve if mode 3 is qualified e.g. joint venture requirements and local content requirements	High given market dominance	Consumers used to private provision and regulatory capacity well developed	Medium with commitments made after careful assessment	Consumers could benefit if coupled with strong regulatory environment	Low looking at modes being proposed and poor regulatory capacity	Consumers could be victims of poor services with poor regulatory capacities
Developed countries	Education services	Increase to secondary, , higher tertiary and other education services	High given market dominance	Medium given that well developed sector	Low given the poor regulatory capacity	High given market dominance	Consumers affected by reduction of subsidies and need sector to be	Medium if mode 2 is committed in terms of coverage of social	South to south trade to be encouraged to given beneficiaries	Could be improved with accreditation and recognition requirements	Could be improved if FDI is increased, mode 2 exports

							liberalized with expansion of mode 2 via overseas qualifications being more recognized and o	security and student loan coverage, exit permits etc and recognition requirements improved	broader choice	improvement and mode 2 trade impediments removed	increased with less stress on public sector delivery which would be more concentrated on poorer groups
Developed countries and a few developing	Energy services	Increase commitments , regulatory issues and scheduling guidelines	High given market dominance	Low given public sector dominance regulatory capacity and universal access obligations	Low given public sector dominance regulatory capacity and universal access obligations	High given market dominance	Consumer welfare is under threat in highly privatized regimes	Low given public sector dominance regulatory capacity and universal access obligations]	Consumer welfare need to be fully assessed	Low given public sector dominance regulatory capacity and universal access obligations]	Consumer welfare need to be fully assessed
Developed countries	Environmental services	Increase in commitments particularly in modes 1, 2 and 3	High given market dominance	Low given public sector dominance and regulatory capacity	Low given public sector dominance and regulatory capacity	High given market dominance	Consumer welfare increasing and due to increased regulatory capacity	Low given public sector dominance and regulatory capacity	Consumer welfare needs to be assessed and more mode 4 commitments in lower skilled jobs reflecting existing situation	Low given public sector dominance and regulatory capacity	Consumer welfare needs to be assessed and more mode 4 commitments in lower skilled jobs reflecting existing situation
Developed countries	Financial services	Increased commitments in mode 3 and modes 1 and 2	High given market dominance	Low given regulatory capacity and ICT levels and universal access	Low given regulatory capacity and ICT levels and universal	High given market sector dominance	Consumer welfare has been known to be at risk where regulatory	Low given public sector dominance regulatory capacity and universal	Consumer welfare needs to be assessed and more mode 4	Low given public sector dominance regulatory capacity and universal	Consumer welfare needs to be assessed and more mode 4

				obligations	access obligations		system has failed	access obligations]	commitments delinked from mode 3	access obligations]	commitments delinked from mode 3
	Health services	Removal of portability of insurance under modes 1 and 2	High given market dominance	Medium given that it is an emerging sector but could be improved with more commitments in mode 3 in developed countries	Focus should be on exporting services rather on importing services	High	With portable national insurance consumers could benefit from expedited services	Could increase with more patients from developed countries If modes 1 and 2 are liberalised in developed markets , but regulatory capacities and domestic policy review required after assessment	More commitments in mode 4	Public sector driven and therefore low	More commitments required in mode 4 and recognition requirements need to be addressed to enable training of health services providers from developed country markets
Japan	Maritime transport services	Expanded commitments in modes 1, 2 and 3	High given market share	Low given market share	Low given market share	High	Focus needs to include mode 4	Low but could be expanded if take into consideration comparative advantages of emerging providers particularly in auxiliary services	More commitments in mode 4	Public sector driven and therefore low	More commitments in mode 4
Developed countries	Air transport services	Full liberalization	High given market dominance	Low given public participation	Low given public ownership	High	Services quality compromised due to poor service	Low given public participation	Consumers could benefit from more choice, but only in a	Low given public participation	Consumers could benefit from more choice, but only in a

							delivery supported by hidden subsidies		sound regulatory environment and if universal access and coverage is upheld to ensure the trickle down effect s of connectivity in particular linked to tourism services and more commitments in mode 4		sound regulatory environment and if universal access and coverage is upheld to ensure the trickle down effect s of connectivity in particular linked to tourism services and more commitments in mode 4
Developed countries	Other transport services	Expansion of mode 3	High given market dominance	Low given public participation	Low given public ownership	High	Services quality compromised due to poor service delivery supported by hidden subsidies	Low given public participation	Consumers could benefit from more choice, but only in a sound regulatory environment and if universal access and coverage is upheld to ensure the trickle down effects of connectivity in particular	Low given public participation	Consumers could benefit from more choice, but only in a sound regulatory environment and if universal access and coverage is upheld to ensure the trickle down effect s of connectivity in particular

									linked to tourism services and more commitments in mode 4		linked to tourism services and more commitments in mode 4

ANNEX I

Making Hong Kong a Success: Europe's Contribution -Brussels, 28 October 2005

Comments from the COMESA Secretariat on EU Position on Services

EU Position

Hong Kong must achieve modalities and targets in the services sector that will result in new or substantially improved market access. This will require agreement on:

. • A quantitative target applicable to the offers of all WTO Members, except LDCs and other small and vulnerable developing countries in a similar situation. A target for new or improved commitments of developed members would be 139 of the 163 services sub-sectors; for developing countries a lower target would apply that is equivalent to two thirds of the target for developed members, i.e. 93 sub-sectors.

COMESA Secretariat Comments

*First the recognition that should be taken into consideration is that **developed countries are by far and large source countries** for services with **developing countries being recipient countries.***

Even though there seems to be some S&D for LDCs and small and vulnerable developing countries, the quantitative approach is fundamentally flawed as it totally fails to take into consideration the fact that this approach is not being matched with similar assessment work being completed. Assessment work has not been done, not even on even half of the 163 services sub-sectors. The benefits of a proposal for a quantitative approach can only be determined after the completion of comprehensive quantitative and qualitative assessments in all LDC and developing countries in order to assess the real commercial value of such an approach. This would enable all beneficiaries even those not obligated to use it at this moment to participate in a more informed way.

*In addition to this, the quantitative approach has as already been pointed out by various developing country member States of the WTO is a fundamental change from the **progressive liberalization process** and has some fundamental implications.*

One major implication is that to meet quantitative targets envisioned would require a full appreciation of the offer and requests being made and specifically would require that all requests be notified to all members and no longer be made on a bilateral process to improve transparency and the assessment of commercial value. How else can an expedited process of commitments in more sectors be done in a more transparent manner?

EU Position

Specific qualitative parameters for the services offer that will strike a balance in terms of ambition between the 4 modes of supply.

The launch of sectoral negotiations in key sectors to achieve quality offers for critical masses of WTO Members, in particular construction, computer and related services, distribution services, environmental services, financial, telecommunications, maritime transport plus certain sub-sectors of professional and business services.

Participation of developed WTO Members in these sectoral negotiations for at least 12 of the 16 sectors identified by the Chair of services negotiations; and of developing WTO Members in at least 8 sectoral negotiations out of the 16 sectors. LDCs and other small and vulnerable developing countries would have no obligation to participate.

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COMESA Secretariat Comments

Sectoral negotiations in these key sectors cannot be undertaken without comprehensive assessment being completed in the same sectors. In particular assessment which deals with the supply-side constraints, regulatory capacities and existing market access conditions in both source and recipient countries.

In addition to this, what then becomes the role of existing Ministerial Decisions annexed to the GATS and Reference Papers already developed for some sectors, taking into consideration that the adoption of reference papers is a significant step in expanding the coverage of the multilateral agreement on trade in services. What efforts have developed members of the WTO made in assisting developing countries dealing with understanding the full implications of the adoption of the papers on their domestic services regimes?

It is appreciated the efficient functioning of modern economies is dependent to a large extent on the efficiency of infrastructural services. In this regard, the capacity constraints and the required technical and financial assistance needed by the majority of the WTO membership to modernize their infrastructural services requires more resources being made available by developed country partners and other multilateral development agencies in particular the World Bank and IMF. These are the elements that are crucial and missing from new propositions such as the 'Aid for Trade' document.

There is no doubt that the modernization of services has got positioned spill over effects in both source and recipient countries, in both developed and developing countries as has been illustrated through the 'Outsourcing' developments made possible through modern ICT. These developments lie outside the scope of increased and quantitative sectoral commitments in the WTO and thus require a more integrated and holistic approach. Developed countries need more modern developing countries and sudden surges in trade in services liberalization without accompanying assistance to deal with supply side constraints and regulatory capacities may nullify and reverse the existing modernization efforts in the latter group, which would be contrary to the intended purpose of the GATS and WTO.

EU Position

. • Revised services offers, to be submitted by [xx/yy] 2006, reflecting the qualitative and quantitative parameters and the outcome of sectoral negotiations.

COMESA Secretariat Comments

The participation of developed and developing WTO members must be guided by both requests being received and offers being made.

Although LDCs and small and vulnerable developing countries have no obligation to use this approach they must be beneficiaries of any changes being brought into the mode of negotiations. This reiterates the need for
Changes to be made only when their levels of participation have improved significantly.

In addition to this, the quantitative and qualitative approaches are in essence accelerated liberalization of trade in services which has huge implications for both source and recipients countries in terms of the negotiations on rules and domestic regulation.

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Liberalization of services requires sound regulatory systems in both source and recipient countries. Given the fact that the regulatory capacities of most LDC and developing countries are still being developed and in some sectors and totally non-existent, and are far from being able to manage current levels of services liberalization. Sudden surges in trade in services liberalization would send a shockwave of increased burden on their fragile and in some cases non-existent regulatory capacities.

This is not compatible with the progressive liberalization process which also requires the development of appropriate GATS RULES and DISCIPLINES. An expeditious liberalization process would need to have first of all in place agreed disciplines on Domestic Regulation, Emergency Safeguard Measures, Subsidies and Government Procurement to make the approach to be viable and beneficial to all.