

CHECKLIST OF QUESTIONS FOR THE ANALYSIS OF INITIAL OFFERS

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I. INTRODUCTION

1. This note focuses on the analysis of initial offers for specific commitments that Members have started submitting since March 2003 in the context of the current services negotiations. Indeed, in order to facilitate and streamline the analysis of the initial offers it may be useful to identify several key questions that can be used as a guide in the analysis of offers.
2. The questions that have been identified try to provide an analysis of offers that is useful to all developing country WTO Members, irrespective of whether they have already submitted their requests and/or their offers or not. Indeed, a country which has already submitted a request to the offering country can check whether the offer of its trading partners answers its expectations. A country which has not yet submitted its request but is in the process of doing so can also assess whether its trading partners has sufficiently offered or whether the country should ask them to improve their initial offers in the requests it formulates.
3. The questions could be categorised in several main groups (so far 3 have been identified: factual questions, analytical questions, and questions relating to the value of the offers for individual Members). Some questions may not be relevant to a specific offer but wherever possible the following checklist of questions could be used. Under the heading other issues that need to be

addressed are listed a couple of elements that may need to be developed in the analysis of the offers.

II. CHECKLIST OF QUESTIONS

A. Factual Questions Relating to Offers

- a) What is being offered as horizontal commitments?
- b) Are there any conditions and limitations attached to the offer in the horizontal commitments?
- c) What are the sub-sectors and modes where commitments are being offered?
- d) Are there any conditions and limitations attached to the offer in a specific sector or mode?
- e) Are additional commitments being offered, either in terms of annexes or reference papers?¹
- f) Are commitments offered in terms of mode 4, both in specific sectors and/or in the horizontal commitments?
- g) Are new classifications being used? In those sectors where a new classification is introduced is there a pre-existing, generally accepted classification or are different classifications under discussion?
- h) Is there a request to extend MFN exemptions?

B. Analytical Questions Relating to Offers

- a) Does the offer present new liberalisation commitments or does it merely aim to bind existing liberalisation?
- b) Does the offer go back on previous commitments?
- c) Does the offer constitute a 'meaningful' commitment?
- d) Are developmental aspects taken into account?

The answers to the next set of questions will vary on a country-by-country basis. The questions relate to individual Members' national interest and can only be answered on this basis.

C. Questions Relating to the Value of the Offers for Individual Members

- a) Is the offer in a sector of economic importance to the Member (in the case of exporting developing countries) - i.e. existing exports or "potential future" exports? Is there any evidence, that this is a "real interest"?
- b) What is the economic importance of the offer in the offering (importing) country, and what are the market conditions there (i.e. would it at all be possible for a developing country Member to enter into that market)?

¹ This question may overlap with the issue of annexes listed under other issues.

- c) If the offer is offered on an MFN basis, which WTO Members will truly be benefiting from the liberalisation offered? Will there be competition amongst developing country Members in this regard?

III. OTHER ISSUES THAT NEED TO BE ADDRESSED

A. Separate Negotiating Tracks

- a) How do we deal with the MNF Exemptions lists (they belong to a separate negotiating track but they are presented with the offer)?
- b) How do we deal with annexes (RP for telecoms, maritime transport, etc.)?
- c) How do we deal with the withdrawal and/or modification of previous commitments (under Article XXI.1 (b) solely or within the GATS 2000 negotiations)?

B. Regulatory Concerns

4. Since domestic regulation is one area where many of the concerns are concentrated can we identify questions relating to regulatory concerns, either to be included under factual questions or as a separate issue to be addressed? The questions could relate to such specific elements as transparency (there were requests for transparency so has transparency been reflected in offers?) and licensing procedures.
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Chemin du Champ d'Anier 17
Case postale 228, 1211 Geneva 19
Switzerland

Telephone : (41 22) 791 8050
Fax : (41 22) 798 8531
Email : south@southcentre.org

Website:
<http://www.southcentre.org>