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Permanent Delegation

ACP/GEN/TEW/III

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H.E. Mr. Fernando DE MATEO Y VENTURINI  
Chairman  
Council for Trade in Services  
World Trade Organisation  
Rue de Lausanne 154  
1211 Geneva 21

Your Excellency,

We, the Heads of Delegations of African, Caribbean and Pacific (ACP) States represented in Geneva, wish to extend first and foremost our sincere congratulations and appreciation for your ardent efforts during these negotiations as Chairman of the Council for Trade in Services. We pledge our continued support to you at this critical juncture, in the discussions under the Doha Development Round.

As you will appreciate, we need not over emphasize that development should be at the focus of the Doha Round for it to truly make a difference to improving the multilateral trading system. Services trade is an important factor within the Round and therefore important to development for ACP countries and all developing countries. It is with this in mind that we present to you, the clear position of ACP States on issues of major concern in the Services negotiations.

### Principles

The ACP Group of countries remain committed to progressive services liberalisation as a means of promoting the economic growth of all trading partners and the development of developing countries. ACP further reiterate the development principles as outlined in Article XIX:2, Article IV of GATS and the Guidelines and Procedures for Negotiations on Trade in Services (S/L/93).

### Objectives

ACP countries consider that the objectives that would be advantageous to all WTO Members are the following:

- a. progressive liberalisation on a mutually beneficial basis;
- b. the recognition and inclusion of all national policy objectives and levels of development and size of economies for individual Members of the WTO;

- c. all Members have the right to regulate, and to introduce new regulations on supply of services where necessary;
- d. developed countries should “*level the playing field*” by facilitating the increasing participation of developing countries in trade in services recognising that it would be beneficial to both developed and developing countries;
- e. implementation of LDC Modalities by according market access in sectors and modes of interests to them; and
- f. Members shall ensure that the basic architecture of GATS is preserved;

These objectives must be maintained in a pure request-offer process that shall be based on several rounds and shall not be supplemented or replaced by any other approach that seeks to undermine the principles and objectives set out above.

### APPROACHES

#### ENTs and MFN Exemption

ACP countries recognise that some Members of the WTO may wish to eliminate existing ENTs and may also wish to refrain from introducing new ENTs. ACP also notes that some Members may wish to clarify and reduce MFN exemptions. ACP commends these efforts by countries to offer more clarity and certainty in the negotiations and in Members’ commitments. These however must be based on the objectives of development goals of countries where ENTs and MFN exemption of a non-discriminatory nature may be necessary. ACP considers that this should be a unilateral decision of each individual Member of the WTO.

#### Modal liberalisation

ACP countries commend those countries that may be at a level of development such that they could bind present levels of commitments in all modes of supply of services. ACP countries reserve the right to decide to commit subsectors according to their level of development and their development goals. We encourage developed countries to open sectors of interest to developing countries. These principles shall apply to all modes of supply.

#### Mode 4

ACP countries can only give consideration to some Members’ request for mode 4 opening in Contractual Services Suppliers, Independent Professionals, Intra-Corporate Transferee and Business Visitors, when presented with a reciprocal balance of subsectors of interest to ACP countries in areas that may include construction services, health care service providers, and mutual recognition of professional services providers from developing countries, among others. This will present balance in mode 4 that would be beneficial to both the developed and developing countries.

### Plurilateral Approaches

ACP countries note that nothing at present prevents the practice of a plurilateral methodology in the services negotiations that would be multilateralised at the end of the negotiations. This is clearly outlined in the Guidelines and Procedures for Negotiations. ACP countries do not therefore consider it necessary or beneficial to all Members if such plurilateral methodologies were imposed on a mandatory basis. Such an approach would give stronger Members the license to coerce a weaker Member into unplanned liberalisation of services.

### Quantitative and/or qualitative targeting, benchmarking, "complimentary approaches", modal qualitative parameters

ACP countries take note that some Members have shown dissatisfaction with the first two rounds of the request and offer process. ACP countries have also been dissatisfied with the poor quality of offers that many developed countries have submitted. ACP countries do not support any "complementary approaches" and consider that such approaches pay no attention to allowing WTO Members to fulfil the objectives in the Preamble, Article IV, or Article XIX.2 of the GATS.

ACP countries consider that the discussion on these approaches has so far served as a distraction and has detracted from the real negotiations as they do not benefit any Member. Approaches that require countries to liberalise sectors to which there is inadequate domestic regulations and institutional framework, or to which countries have a national policy objective that does not require sector opening, would lead to that country's economic dislocation. ACP countries do not consider the proposals on "benchmarking" to introduce any real flexibility and that the approach in fact diminishes flexibility in its attempt to persuade poor countries to liberalise sectors of interest to developed countries. This also reverses GATS Article IV provision for developed countries to open sectors of interest to developing countries. ACP countries note that WTO Members have no mandate to renegotiate GATS in this round.

### Approaches to Services Negotiations

ACP countries therefore maintain that the request-offer approach shall continue to be the only approach suitable for negotiations of services.

### Safeguards

The ACP Group favours the development of a safeguard measure with the necessary flexibility to protect their export interests. ACP encourages further discussion on how such safeguards would be operationalise especially from developing countries' perspective.

### Subsidies

Members may wish to consider an examination of subsidies in services to determine any possible trade distorting effect to services supplied by developing countries.

### Domestic Regulation

The ACP countries notes the importance of the development of horizontal disciplines under domestic regulations mainly due to the role such disciplines could play in making mode 4 commitments more certain. Such disciplines would also clarify market restrictions in export markets such that Article IV could be fully operationalised.

### Government Procurement

Governments should be able to have control of their own national policy including freedom to control their domestic procurement. ACP does not see the value of transparency as this could create undue burden on poor countries. It may be better to have transparency on a voluntary basis for Members who so desire.

### Timelines

ACP Members affirms the importance of undertaking a review of progress of the negotiations and assessment of the work programme periodically during 2006.

ACP further notes the importance of completing the rules track of the negotiations prior to any market access in the same sector.

ACP shall require as part of the review of progress an assessment of the level and quality of assistance to developing countries for effective regulatory framework. Members that make requests shall provide assistance for adequate regulatory framework where so required.

The 79 Members of the WTO comprising the ACP States are of the view that the positions above creates an important vehicle to promote the economic growth of all trading partners and the development of developing countries. It is with this belief in the GATS architecture and its support toward true development, Chairman that we request that these positions be included in whatever report and/or text for a declaration you may wish to send to the TNC, the General Council and the Ministerial Conference in Hong Kong.

Accept, Your Excellency, the assurances of our highest consideration.



H.E. Mr. Shree Baboo Chekitan SERVANSING  
Permanent Representative of Mauritius and Coordinator of the ACP Group

cc. H.E. Mrs. Amina Mohamed, Chair, General Council  
Mr. Pascal Lamy, Director General of the WTO Secretariat and Chairman of the Trade Negotiations Committee