

Services Negotiations in the Doha Round:
Promise and Reality

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The Doha Round is the first of the nine multilateral trade rounds since the creation of the General Agreement on Tariffs and Trade (GATT) in 1947 to fully embrace services. The previous round of negotiations, the Uruguay Round, produced in 1994 the body of rules for international trade in services called the General Agreement on Trade in Services (GATS), stipulating however that additional negotiations to obtain more extensive commitments to free trade in services would follow.

Before the Uruguay Round services had no place in the structure of rules and agreements governing trade among nations. Services were termed “invisibles” and considered an insignificant factor in global trade. Concomitantly, government statistics agencies made little effort to measure their countries’ foreign trade and investment in services, or to understand the contribution of services to GDP and employment.

The Path to the Doha Round

All WTO Members signed the GATS at the conclusion of the Uruguay Round, but Members’ actual commitments to free trade in services, contained in the “Schedules of Specific Commitments”, were in general poor. Lack of time and the sheer novelty and complexity of negotiating services precluded negotiating better commitments.

Recognizing that much work remained to be done in services, the Uruguay Round provided that negotiations continue immediately after the Round in four sectors: financial services, telecommunications, maritime and professional services.

The negotiations on telecommunication and financial services concluded successfully in February and December 1997 respectively.¹ The telecommunications agreement was notable for creating new market access opportunities but especially for its “Reference Paper” which contained principles by which many Members agreed to regulate their telecommunications sectors. This statement of fair and transparent regulatory principles provides an important model for other sectors.

¹ Maritime negotiations ended unsuccessfully, and professional services negotiations concluded with agreements on mutual recognition and related issues.

The financial services negotiations concluded successfully as well. A previous effort to negotiate a financial services agreement was terminated in 1995, when the United States decided that the agreement did not contain sufficient new liberalization to allow it to agree to the deal. The breakdown of the 1995 talks produced a storm of criticism of the United States, which was accused of undermining both the new GATS, and the infant World Trade Organization (WTO).

Industry Engages in Services Trade Negotiations

The 1997 financial services negotiations were notable for another reason besides the very fact that they succeeded. They were the first negotiations in which a multinational industry group, in this case the major financial services companies and associations of the U.S., Canada, the UK, and continental Europe, organized to advocate liberalization of services trade. They formed the Financial Leaders Group (FLG) and the Financial Leaders Working Group (FLWG), to present a common agenda to their governments' negotiators. This agenda included the presentation to negotiators of agreed lists of barriers in banking, insurance, securities, fund management and other financial services. The united industry group asked their negotiators to remove specified barriers in these sectors in 20 key markets in Asia, Latin America, Africa, and Eastern Europe.

The FLG and its working group were created by several financial services industry leaders in the US and the UK. They reached the conclusion in 1996 that the most promising way to get the US and the EU trade negotiators to work together after the failure and acrimony surrounding the 1995 negotiations, would be to present their negotiators with detailed objectives and a united request to secure them. The FLG and FLWG continue to be active in advocating further liberalization in the Doha Round, and now include representatives of Japan, Hong Kong, and Australia.²

The 1997 financial services negotiations took place over 8 months, ending on December 13, that year. Members of the financial services community visited Geneva during six of the monthly negotiating sessions, to meet with the 20 Member delegations the FLWG had targeted as of most interest. *Industry representatives from as many as 40 companies and associations in Europe and North America regularly met jointly with the chief financial services negotiators of both the EU and the US, and with representatives of the EU member states.* This remarkable industry/government cooperation resulted in a well sustained common position until virtually the last two days, when US interests diverged somewhat over the need for it to obtain a satisfactory outcome in a matter of Malaysia's treatment of a certain US wholly owned financial institution.

These two sectoral negotiations were in part successful because they were the main activity in the WTO at the time. Delegations could focus on these two sectors and learn the issues, and work with ministries and regulators in their capitals to obtain commitments to open their markets.

² More information about the FLG can be found at www.flwg.org.

Because developed Members like the EU and the US had already made substantial commitments in these two sectors in the Uruguay Round their negotiators, and industry participants, developed arguments why the binding of unilateral liberalization was most immediately in the interest of the liberalizing economy. Telecommunications and financial services, they argued, are essential if developing economies are to compete in global trade. Liberalization of trade and investment would stimulate foreign investment and concomitant technical advance in the liberalizing countries. The FLWG commissioned studies, including a computational model, showing how certain Asian economies would benefit from financial services liberalization. It presented case studies of the beneficial effects of liberalization, for example, how consumers benefited from reform of Japan's consumer finance market.

Many delegations responded to these arguments positively. In all, the two negotiations created a new sense of optimism about the potential for successful services negotiations in a broader round. They certainly spawned the model for collaborative effort by industry groups from different Member countries.

The successful 1997 sectoral negotiations in short led to high expectations that substantial reductions in barriers to services trade could be achieved in a larger negotiation starting in 2000 as required by the built in agenda.

“Services 2000”

Besides mandating sectoral negotiations, the Uruguay Round, or, more precisely, Article XIX: 1 of the GATS, stipulated that multilateral services talks resume in January 2000. A similar starting date had been agreed for agriculture. In spite of the debacle at the Seattle Ministerial in November, 1999, they did so, but more in form than in substance.

Regrettably a number of Members had little interest in this negotiation. The EU was not at that time willing to trade necessary concessions in agriculture for gains in services and elsewhere.

Key developing countries had not yet identified a commercial interest in securing more open services trade, with the exception that some sought to liberalize treatment of temporary entry. Some agriculture exporters had no interest in engaging in services negotiations until they obtained tangible progress in securing greater agriculture exports.

Thus the time from early 2000 when the new required services negotiations formally began, and the Doha Ministerial Meeting in November, 2001, was mainly spent in desultory discussions of rules and other “necessary” preconditions for launching market access negotiations for services.

By the Doha Ministerial Meeting, it had become evident that declaration of a new trade negotiations round, embracing a broader set of issues, would be necessary if there was to be any serious liberalization in agriculture or services. The ministerial declaration thus called for a new multilateral trade round to be called the Doha Development Agenda, in

deference to the increased influence of developing and least developed Members, and their demands for special and differential treatment.

Progress in the Doha Round

Since the end of the Uruguay Round the Coalition of Service Industry's overriding objective has been to obtain commercially significant trade liberalization in financial and payments services, express delivery and logistics, telecommunications, energy, computer-related, travel and tourism, audio-visual, accounting and legal services.

Generally this means commitments that will create new business opportunities and increased trade. These can be achieved by allowing greater freedom of cross border trade (mode 1),³ particularly for IT based business services, of which the US is the world's largest exporter. It can also be achieved by allowing freedom for consumption abroad (mode2), which complements mode 1 in IT services, but stands on its own as the major category in which most countries trade. The bulk of world trade in services has traditionally been travel and tourism, which are considered mode 2.

It also means facilitating direct foreign investment, by giving companies the right to establish (mode 3) in whatever corporate form best suits their operations in a given market, to own at least a majority share in their investment, and to be treated the same as local businesses.

These rights of establishment and national treatment are essential for services, because foreign direct investment generates more sales than does cross-border trade. Sales by US owned foreign affiliates in foreign markets were \$400 billion (in 2002), whereas US cross-border exports were \$340 billion (in 2004).

New commercial opportunities can also be achieved by allowing greater freedom of movement of business personnel for temporary assignments (mode 4). Important trading partners are demanding changes in US law and procedure to allow greater freedom of movement into this country for managers, highly skilled experts, independent contractors and professionals. It is also very much in the interest of US industry to allow greater freedom of entry to the US for key business personnel on temporary assignments.

In the Doha Round negotiations most WTO Members start from a low base of existing commitments.

The United States has prepared an unpublished analysis of Members' existing commitments which "grades" those commitments, giving full marks for full

³ The GATS recognizes four modes in which services can be supplied in international commerce. Mode 1 is cross-border trade, for example, back office services like call centers. Mode 2 is consumption abroad, for example, tourism. Mode 3 is commercial presence, for example, foreign direct investment to establish a business. Mode 4 is movement of persons, for example, a lawyer who visits a foreign client to provide advice.

commitments on market access and national treatment, partial marks for partial commitments, and zero for no commitments. Most developing countries thus evaluated score between 15-20 percent, and most developed countries between 55-63 percent. Norway scores highest at about 63 percent, followed by the EU and the US at about 62 percent.

To date the effort to improve this base of existing commitments in the Doha Round has not been successful.

Sixty-nine Members have made initial offers (the EU counts as one but represents 25 Members). According to the Doha Declaration, initial offers were to have been made by March 2003. By July 2004 only 43 had been tabled. Revised offers were to have been submitted by May this year but at this writing only 28 Members have done so.

While the quantity of offers would seem to be sufficient, the quality of offers is poor. The Chairman of the Council on Trade in Services in Special Session (CTS-SS), Ambassador Alejandro Jara, in a report to the Trade Negotiations Committee in July, said:

If current offers were to enter into force, the average number of sub-sectors committed by Members would increase only from 51 to 57.... Less than half of the schedules would contain commitments of any kind in sectors such as distribution, postal-courier, or road transport.... Less than half of the offers envisage improvements...on mode 4 [temporary movement of people].... the overall quality of initial and revised offers is unsatisfactory. Few, if any, new commercial opportunities would ensue for service suppliers.⁴

Reasons for Lack of Progress

Why have the services negotiations made so little progress, after almost 6 years of effort? There are many reasons: political, economic, bureaucratic and methodological.

The reason most commonly given for lack of progress is the absence of “political will” in Members’ capitals, which of course drive their delegations in Geneva. It may be more precise to say that many Members do not expect trade liberalization to generate sufficient economic gains to make worthwhile the political effort to overcome domestic resistance to liberalization.

In some Member countries there is simply no domestic constituency pushing Member governments to liberalize. Or, constituencies favoring liberalization may be weaker than opposing interests.

⁴ Report by the Chairman to the Trade Negotiations Committee, Council for Trade in Services in Special Session. TN/S/20, July 2005.

Some Members actually do not understand how they might benefit from liberalization. Frequently developing and especially less developed Members have not made the effort or don't have the resources to identify their economies' services export potential.

Some Members simply do not choose to hear, or heed, the wishes of progressive sectors that might see advantage in liberalization of trade, preferring to drag their feet in services until they see some distinct advantage to be gained in agriculture or another sector.

Whatever the cause, the absence of clearly perceived economic benefits, has resulted in the submission of late, poor offers and a lack of interest in engaging in bilateral request-offer negotiations.

The Request-Offer Process

To understand the bureaucracies of Member government engagement in Geneva trade negotiations requires some understanding of the negotiating methodology that has been used for services negotiations -- the "request-offer" method. This process of repeated reiteration -- offer, negotiation, revision, resubmission, etc. -- has not yet really taken hold in this Round.

As a member of a delegation in Geneva expressed it, the request -- offer method entails the "excruciating" task of extracting commitments trading partner by trading partner, sector by sector, across the entire range of sectors and subsectors in which the Member seeks to obtain new commercial opportunities.

To be effective, the request-offer process requires that a Member bring to Geneva a team representing the major sectors being discussed between that Member and others. The team should for example be led by representatives of the trade ministry, backed by representatives of the financial regulators (banks, insurance, securities, etc.), representatives from telecommunications, transport, energy, environment, cultural agencies, and others. This team should be prepared for extended bilateral meetings, as they work through the requests made by other Members, sector by sector.

Full engagement of Member delegations in such a negotiation, undertaken Member by Member, sector by sector, would take at least a year of intense if not frenzied work around bargaining tables in Geneva.

But the fact is that most governments do not wish to budget for successive rounds of such negotiations. They have strongly resisted making the necessary commitment of money and time -- another manifestation of the lack of political will.

Another "bureaucratic" element sometimes cited as having an adverse effect, is that in a great many smaller delegations the services brief is relegated to the most junior officers. Heads of delegation often know little about the arcana of services, whereas most are likely to be highly conversant with agriculture or goods issues.

Another problem stems from the lower status sometimes enjoyed by trade ministries vis a vis others, particularly finance ministries. For example, China's MOFCOM (Ministry of Commerce) is low on China's official ranking of government ministries. The result is that a trade ministry may be strongly motivated, but not have the influence necessary to prevail in internal policy councils.

The Case of Financial Services

This is particularly true of the financial sector. Industry's experience in the 1997 WTO negotiations on financial services demonstrated conclusively that finance ministries must lead these negotiations or they will not succeed. In those negotiations the highest officers of the U.S. Treasury were committed to their success and worked aggressively with fellow finance ministers to secure commitments.

It is good to report that Treasury Secretary John Snow and the new Undersecretary of the Treasury for International Affairs, Timothy Adams, have taken a fresh interest in the negotiations, in part responding to the concern of the US financial services industry that Treasury leadership is urgently necessary, and to strong expressions of interest by the House Financial Services Committee and other members of Congress.

But as they have taken up in a more determined way the call for financial services liberalization, the new Treasury leaders report they have found a startling lack of interest among their counterparts in other governments. Demonstrating the gulf that exists in many governments between trade ministries and finance ministries, US Treasury officials have found many of their opposite numbers unaware of or simply disinterested in the Doha Round negotiations and the opportunities the Round presents.

This led to a series of statements during the Bank/Fund annual meetings at the end of September. Separate statements by the G-7 Finance Ministers and Central Bank Governors,⁵ by Secretary Snow⁶ following this meeting, by the International Monetary and Financial Committee of the IMF Board of Governors,⁷ and another statement by Secretary Snow at the latter meeting,⁸ called eloquently for financial services trade liberalization as an antidote to poverty and slow growth.

⁵ "Statement by G-7 Finance Ministers and Central Bank Governors," 23 September, 2005, Press Release JS-2943, <http://www.treas.gov/press/releases/js2943.htm>.

⁶ "Statement by Secretary John W. Snow Following the G-7 Meeting," 23 September 2005, Press Release JS-2944, <http://www.treas.gov/press/releases/js2944.htm>.

⁷ "Communiqué of the International Monetary and Financial Committee of the Board of Governors of the International Monetary Fund," 24 September, 2005, Press Release No. 05/210, <http://www.imf.org/external/np/sec/pr/2005/pr05210.htm>.

⁸ "Statement of the U.S. Secretary of the Treasury John W. Snow, International Monetary and Financial Committee Meeting," 24 September, 2005, Press Release JS-2947, <http://www.treas.gov/press/releases/js2947.htm>.

The Effort to Generate Momentum

During 2003 it became obvious that the services negotiations had no momentum. The majority of Members had not observed the March 31 timeline for submission of offers. There was little if any serious bilateral negotiation.

By May, 2004, in an effort to stimulate activity, Ambassador Jara in his capacity as Chair of the CTS-SS held a series of “confessionals” with senior representatives of larger Member delegations, that had not yet tabled offers, to try to identify the reasons. Jara reported that the meetings gave him a fuller understanding of the political and technical difficulties being faced. These difficulties included, among others, the technical complexities involved in preparing an offer, the necessary domestic coordination process involving government departments and other stakeholders, the overwhelming effect of voluminous requests, and the dampening of progress resulting from the missed deadlines and the Cancún Ministerial meeting.

Problems with the request-offer process were not unforeseen. In papers prepared for the negotiations to begin in 2000, US negotiators asked other Members to consider the use of approaches like model schedules or formulas that would provide solutions across an entire sector or subsector, thus simplifying the negotiations.

Industry has supplied models and checklists to be used as guides by those willing to make offers. The US insurance industry in October, 2001, gave USTR negotiators a model schedule for insurance services, and then supplemented that with a checklist of objectives that it asked be obtained in US free trade agreements and in the GATS negotiations.

Early in the negotiations the US Energy Services Coalition provided a detailed paper stating the industry’s objectives in the Round, and has subsequently worked closely with the US energy services negotiator.

In the fall of 2004, CSI supplied USTR with checklists of objectives for a number of key industry sectors represented within its membership. These included insurance, banking and asset management, telecommunications, computer and related services, audio visual services, express delivery services, and legal services.

At annual meetings held under the auspices of the Commerce Department and CSI, representatives of most sectors have come together with US negotiators and other officials to explain their objectives in the round. The checklists referred to above were the basis for discussion at the January 12, 2005, CSI-Commerce Department conference on US service industry objectives in the GATS negotiations.

The Role of Friends Groups: Essential?

Early in the negotiations that began in 2000 under the mandate of the built-in agenda WTO delegations with particular interests in a given sector or sectors began to form informal groups to discuss their common interests. These “Friends Groups” have proven their value. The Friends of Telecommunications Services provided much of the impetus for the 1997 telecommunications negotiations.

Energy services is again a useful example. Formed in 1999 The Friends of Energy Services is one the earliest groups. It consisted initially of the QUAD countries, Norway, Venezuela and Chile, then grew to include Taipei, Indonesia, Oman, and Kuwait. The Friends of Energy Services have met at every “cluster” of services negotiations in Geneva. It has generated useful proposals on energy services classification and negotiating objectives for the Doha Round. The Energy Friends have also organized several widely attended seminars on energy services and a week devoted entirely to bilateral energy services negotiations in which a number of energy experts from capital participated.

The role of Friends Groups in Financial Services is somewhat confused. The Friends of Financial Services was formed in 2002. Chaired by Canada, the Group consists of Australia, Chile, the EU, Hong Kong, Norway, Korea, Switzerland and the US. The leadership of the group is considered desultory and the group lacks a plan of action.

In addition there is a “Co-Sponsors Group” consisting of Australia, Bahrain, Canada, the EU, Japan, Norway, Oman, Panama, Singapore, Switzerland, Taiwan and the US. It produced in February this year a paper titled “Liberalization of Financial Services” which restates widely accepted, broad objectives for liberalization for the sector but does not propound model schedules or detailed checklists Members can use in scheduling commitments.

Thirdly there is the “Quad Plus” group, consisting of Canada, the EU, Japan, and the US, plus Australia, Switzerland and Norway which exists, it is reported, for the purpose of coordinating strategy and requests of others in the financial sector.

Nowhere in this clutch of informal gatherings is there a well-organized leadership group driving toward liberalization in this most important sector.

There are fourteen Friends Groups, among which Computer Services, Logistics and Energy Services are considered the most productive.

If the services negotiations produce good results, it might well be because of ideas generated by Friends Groups. To be effective, however, they must energetically recruit a larger circle of Members, in order to reach a “critical mass” which will allow them to go public with their proposals and secure wide acceptance of them. These groups should make a conscious effort to keep the full membership, and the secretariat, informed of what they are doing. This will help dampen resentment among some Members of their

exclusiveness, and allow Members to understand and prepare for proposals which the friends may eventually offer.

The Search for Leadership in GATS Negotiations

In past rounds and up until perhaps the Seattle Ministerial the “Quad” group of countries including Canada, the EU, Japan, and the US could provide direction for negotiations by resolving major issues among themselves and then securing support for their position from other delegations.

For some time it has been obvious that the old Quad could no longer play that role. Partly because the WTO Membership has become so large and unwieldy, and because new blocs of Members have formed to represent regional and other interests (e.g., the G-20, formed prior to Cancun and led by Brazil), there has been a need for some other small group to provide leadership.

The “Really Good Friends of Services” was formed to try to fill this void. But its membership grew too large – about 20 – and included Members that did not share similar interests.

The “New Quad”

On September 23, in Paris, Brazil, the EU, India and the US met to form a new “core group” of Members. Co-Chaired by India and the US, the group includes Brazil, China, EU, Mexico, Australia, South Korea, Malaysia, Singapore, Japan, Argentina, Chile and Canada. Already dubbed “the New Quad”, it remains to be seen whether this group can provide the leadership necessary to overcome the impediments to progress in the services negotiations.

Complementary Approaches – Benchmarks and Formulas

Wide recognition that the services talks have been stagnating has led over the last six months or so, to a search for complementary approaches that would augment the request-offer process by setting “benchmarks” or creating formulas that Members would accept as guidelines in scheduling commitments.

The EU has taken a lead in proposing such an approach to scheduling. The aim is to provide a common baseline of commitments, thus injecting an element into the services negotiations that it has heretofore lacked. It has been widely remarked that agriculture and NAMA (non-agricultural market access, or goods) negotiations have each been driven by an effort to agree on a modality or formula, which would then guide Members’ commitments. Services has had no such overarching modality.

Under one EU proposal, here grossly simplified, Members would agree on quantitative targets for liberalization in a given percentage of the 12 sectors and the 156 subsectors

embraced by GATS. Developed countries would have to make commitments in x percent of subsectors, and developing countries in some lesser percentage.

The fatal flaw in the quantitative proposals is that they do not assure quality of offers. Simply requiring commitments in a given percentage of subsectors would allow a reticent Member not to make commitments in the services of most commercial importance within the subsector. It could also mean that a Member could make a certain percentage of commitments as required but reduce the trade value (quality) of those commitments by stipulating certain exclusions to protect domestic interests.

One EU proposal makes an effort to address this problem by the addition of a qualitative element. This would encourage a number of Members to seek a more ambitious outcome than provided by the formula. It would allow the negotiation of a higher level of commitments in a number of sectors and subsectors of key interest with a critical mass of other Members, thus improving the quality of commitments. Further it proposes that the Friends Groups could provide the point of departure for such additional negotiations.

At this time the effort to find agreement on a formula approach to scheduling services liberalization seems to have stalled under a heavy burden of criticism. There is good reason to believe that it will never be possible to reach agreement, that once again an obsession with process will have taken the place of hard bargaining.

The reason this approach is not likely to succeed is that no matter what formula is used, the result is that developing countries would have to give more than developed countries. This “leveling up” may seem to make sense, but it is easily attacked by developing countries that claim that it runs counter to the spirit and letter of the GATS, especially Article XIX which provides developing and least developed countries with more flexibility in liberalizing sectors and modes of supply. It is also criticized on grounds it is not compatible with the GATS “positive list” scheduling process, which allows Members to choose in which sectors they wish to make specific commitments.

Some Members object that the developed countries in calling for leveling up, seek double credit for commitments already taken in the Uruguay Round. According to a report from India on October 4: “India has categorically said that commitments made at the Uruguay Round could not be loaded in this Round and all WTO negotiating guidelines and rules should be followed in letter and spirit.”⁹

The United States has proposed an approach which calls for an overall target, rather than sectoral and subsectoral targets. The US proposal seeks to increase substantially the overall coverage of each Members GATS commitments but suggests that Members should seek to emphasize scheduling services sectors that have been identified as important by Members, and that they be “meaningful”. The US proposal encourages

⁹ India Daily, 4 October 2005.

“plurilateral”¹⁰ efforts that would seek liberalization in specific sectors and modes of supply. This means that groups of Members, which could include existing or new Friends Groups, should come together to agree on a formula or model for trade liberalization in a given sector.

Though the EU’s formula proposals have met very sharp criticism in Geneva sessions of the CTS-SS, the EU continues to insist that a quantitative mechanism to drive offers must be an essential element of the Hong Kong Ministerial’s declaration on services. It has accused the US of undermining the services negotiations by refusing to agree with its approach. Continued EU adamancy on this seemingly technical matter could have serious implications for the services negotiations and for a success at Hong Kong. It raises the possibility that the EU might find it useful to create a crisis in services to mask its unwillingness to make progress in agriculture.

It will be far more productive to concentrate on obtaining commitments for liberalization in strategically important sectors in key markets, rather than attempting an approach which may capture many additional commitments, but commitments of limited if any commercial value. One delegate recently asked rhetorically: “What good is a commitment to satellite services from Nigeria?”

It is unlikely that a quantitative benchmark or formula approach will be the key to a successful negotiation.

Other Creative Approaches

Another approach has been suggested in a “non-paper” prepared for discussion at a conference in India. Titled “Securing Openness of Cross-Border Trade in Services: A Possible Approach”, the paper proposes two ways of scheduling commitments in modes 1 and 2 to secure open markets for IT and business process outsourcing (BPO) services.

One approach would be to create a list consisting of those IT and BPO services already identifiable in the existing CPC, to which all Members would be asked to commit to no restrictions.

This approach to scheduling would be productive, but has the disadvantage that it would not cover a number of services that are being traded. And, by operating within the existing static classification system it likely will not embrace many new services that will be traded tomorrow.

The paper suggests another, more ambitious and unorthodox approach that would correct these deficiencies. This would have Members adopt a horizontal commitment to no limitations on market access or national treatment for almost all services supplied through modes 1 and 2. This would apply to all services, including services not yet invented, and not just those listed in the CPC.

¹⁰ Plurilateral here means negotiations that include many but not all Members. But the results of these plurilateral negotiations would be generalized among all members on the MFN basis.

The latter approach is startling, because it entails abandonment of the positive list approach to scheduling used in the GATS. It would offer great promise for liberalization, were it to be adopted. India has not proposed it in Geneva.

Solution: Offer Sufficient Incentives to Liberalize

The solution to the stalemated services negotiations almost certainly lies in parsing the major developing Members from which we seek liberalization into groups, then identifying the incentives that will motivate those groups to offer liberalization of services. In other words, if the United States and other developed countries want liberalization of services, they must be willing to pay for it with meaningful concessions.

The Members in whose markets the US has most interest can be divided into three groups, determined by their own overriding interests:

Agriculture: A group of Members including Brazil and other Latin American Members will respond to liberalization of agriculture, when and if that can be agreed. This reminds us once again that agriculture, though only slightly more than 7 percent of world trade, holds the key to the Doha Round.

Temporary Entry: Another group, including India and perhaps a dozen other developing countries, will respond to liberalization of developed countries' rules on temporary entry for independent consultants and professionals.

The United States has not been able to make an offer on temporary entry because of opposition in Congress. It correctly points out that its existing commitments are better than any other WTO Member, but this position does not now win points. It will be necessary for the US to fashion a proposal that permits temporary special business visitor permits for key business personnel, by which we mean professionals, managers, consultants and highly skilled experts and technicians. The business community is united in an effort to make it possible to do so, by cultivating support as necessary in the Congress.

Emergency Safeguards: A third group of countries, including Malaysia, Thailand and other ASEAN Members, may respond to concessions by the developed countries that would provide for some sort of emergency safeguard measures.

The United States and a large number of other Members have taken the position that an emergency safeguard for services is neither feasible nor desirable. Industry's view is that the creation of an escape clause for services is technically impossible in most sectors, because escape clause actions depend on findings of injury or likely injury as the result of increased imports. Services imports are generally very hard to measure (official statistics are estimates based on samples and surveys). Proving increased imports makes a services safeguard very difficult to make operable. There are many other problems with this concept. The record of the use and abuse of the escape clause for goods should make anyone interested in global free trade hesitate before trying to apply it to services.

On the other hand, there are other kinds of measures that could be fashioned to assure Members that they have some protection against foreign interests that seek to “dominate” their markets.

This approach might require difficult concessions by the United States – in particular in agriculture, visa policy, and possibly safeguards - but it could bring valuable compensating concessions in the sectors of greatest commercial value to our service industries.

A Successful Ministerial at Hong Kong?

It is now questionable that the Hong Kong Ministerial can succeed. Preparations for it are even less advanced than they were for the Seattle or Cancun Ministerials. There is no draft declaration. Major issues remain to be resolved, especially in agriculture, but also in services and NAMA.

For services the United States seeks to gain other Members’ support for a four-part work plan that it hopes will secure endorsement in the Declaration of Ministers at Hong Kong.

The first plank is a strong statement that the goal of the services negotiations must be the creation of new commercial opportunities. Some Members, especially the EU, seek to augment this with a statement endorsing the adoption of a formula approach to augment the request-offer process as discussed above.

The second plank would endorse an effort to secure transparency in domestic regulation, and movement on some aspects of domestic regulation. Industry strongly supports the effort to secure widespread adoption of transparency disciplines. India has insisted on slowing momentum on transparency until it secures certain elements affecting domestic regulation. These are qualification requirements as they affect visa applicants, and licensing procedures. India has not, however, elucidated its proposals on these two items.

The third plank would endorse some movement on an emergency safeguard. For this to be acceptable to US industry, the nature of the safeguard and the circumstances in which it could be deployed would have to be very carefully thought through.

The fourth plank is to engage more fully the developing countries in reaping the benefits of global services trade.

Securing the Ministerial’s endorsement of the work program will be useful, but will not in itself create the incentives and energy necessary to secure a good outcome for services. That will require a willingness by the US and others to bargain for new services advantages using compensating offers in the three areas mentioned above.

Why Are We Doing This?

There is an imperative reason for the United States to obtain meaningful services trade liberalization. The US is highly competitive in services, having enjoyed a consistent surplus in its services trade since such statistics have been published. It is the largest single cross border exporter of services, and the largest single supplier of services from foreign based facilities.

We maintain this edge even in the face of very substantial foreign barriers. As Catherine Mann of the Brookings Institution has pointed out, the rest of the world has a very high propensity to consume US services. If barriers to that consumption were reduced, we would export more. She and others have suggested that US services trade could someday offset substantially the chronic structural imbalance in US trade in goods.¹¹

The global economy consists of about 70 percent services, but world trade in services is about 20 percent of total world trade. Manufactures comprises about 28 percent of the world economy, but account for about 75 percent of world trade. The potential for US, and for global services trade expansion is very great.

The study titled "*Computation Analysis of the Free Trade Area of the Americas*", prepared by professors Robert Stern, Drusilla Brown and Kozo Kiyota, shows that global welfare would increase by \$2.4 trillion as a result of global free trade. Elimination of services trade barriers will account for a \$1.7 trillion gain in welfare, significantly larger than the gains from agricultural and goods liberalization. US welfare gains would be \$543 billion, including \$466 billion due to free trade in services. Achieving total free trade is not of course likely. But the study reminds us of the importance that governments bend every effort to make as much progress as possible.

Conclusion

On October 10, in a meeting of trade ministers at Zurich, Ambassador Portman made an important proposal intended to break the stalemate in agriculture negotiations. It was followed quickly by a counter-proposal by the EU. Both offers are important because they signaled movement on both sides perhaps toward agreement. There is no question that agriculture is the lynch-pin of the Doha Round, and that the EU and US must agree if agriculture negotiations are to succeed. The US proposal was greeted most favorably by the US goods and services sectors, which fully understand the need for movement in agriculture.

While services may be a much larger share of the global economy, and of world trade, agriculture is politically more sensitive and more volatile. And agriculture trade also has an enormous impact on the poor in emerging markets. Agriculture is 30-60 percent of GDP in many developing markets and tariffs (or tariff equivalents) are up to ten times those applicable to manufactured goods. Agriculture will simply have to be allowed a higher percentage of world trade if emerging markets are to compete in what they can an

¹¹ Catherine Mann, "Is the US Trade Deficit Sustainable?" Institute for International Economics, 1999.

do produce. While services suppliers may regret the focus on agriculture in the Round, developing countries understandably demand sharp reductions in the subsidies, domestic supports and market access barriers maintained by many developed countries. And of course greater prosperity in such countries will enable their propensity to consume US services because services are an essential adjunct to international trade in agriculture commodities.

At the International Trade Center in Montreux on October 5, the new Director General of the WTO, Pascal Lamy, made an excellent address devoted to services. He made many useful observations in his remarks, but the most important was his comment that “a satisfactory result [for services] is a condition sine qua non for the whole [Doha Round] project”. And he acknowledged the need to improve offers now, rather than wait for a solution in agriculture, because there may not be sufficient time to do so for all the reasons advanced above.

There is a slowly growing appreciation in Geneva and capitals that a solid achievement in services is essential if the Round is to succeed.

Services industry associations in the United States, the European Union, Australia, Hong Kong and other countries have made it clear to their governments and to WTO officials that a Doha Round that does not contain substantial benefits for services is a Round that will have failed. The Board of Directors of CSI has taken the position that a Doha Round package without a strong services element will not have industry’s support when brought back for Congressional implementation.

Ambassador Portman, the US Trade Representative, said on September 22, that “we cannot accept a final package...that does not have a meaningful services element.” It is good to have this commitment, and to have his leadership and that of M. Lamy. But we know that it will be very difficult for them to deliver a package that gives full weight to the importance of services and that begins to realize the enormous benefits projected by Dr. Stern and his colleagues in the study referenced above.

Success in services will require a serious commitment of time and effort in detailed bilateral negotiations that could be made easier and more productive by the adoption of model schedules. These models could emanate from the Friends Groups, or from individual delegations. The solution to the lack of energy and engagement in services bargaining does not lie in a single formula that can guide all Members, whether developed or developing, in scheduling commitments. Freer global trade in services depends on a determined effort to build a package of concessions that so appeals to the major developing countries that they will offer meaningful, trade creating liberalization in exchange.

Appendix I

Service Industry Support for Global Trade Liberalization

The Coalition of Service Industries and its counterparts in Europe and other countries have been working together for several years to build a global base of support for liberalization of services trade. The Financial Leaders Group and the Financial Leaders Working Group have been described above. In addition the Global Services Coalition, the Global Services Network, and the Friends of Services were organized to support liberalization.

Global Services Coalition

The Global Services Coalition includes the services associations of Australia, Canada, Chile, the EU, Hong Kong, India, Japan, Singapore and the U.S. The Coalition has conducted several joint advocacy missions to Geneva to press for greater progress in the WTO negotiations. It played a key role in ensuring the proper treatment of services in the 2004 WTO “July Package” which put the Doha Round back on track following the Cancun Ministerial.

The Global Services Network (GSN)

The GSN is a global online community that includes leaders in business, government and academia. There are about 1100 individuals in the GSN.

The Friends of Services

The Friends of Services is a list serve, numbering about 6000 email addresses.

Appendix II

The Structure for Services Negotiations in the WTO

At the outset of the 2000 services negotiations under the built-in agenda the WTO created a structure to conduct negotiations. It kept in place the Council on Trade in Services (CTS), which already existed, with its own chair selected annually. It also created a parallel body called the Council on Trade in Services in Special Session (CTS-SS) with a continuing chair. The first CTS-SS chair, Ambassador Alejandro Jara, permanent representative of Chile, stepped down at the end of September, 2005 to assume duties as Deputy Director General of the WTO. He was replaced by Ambassador Ferdinand de Mateo, permanent representative of Mexico. The decision that the chair of the CTS-SS not change annually was a wise one, as Ambassador Jara's service showed.

Under the CTS there are four bodies that were established soon after the creation of the WTO and which continue to this day. They are the Committee on Financial Services, the Working Party on Domestic Regulation (WPDR), the Committee on Specific Commitments and the Working Party on GATS Rules.

The first of these was very useful during the 1997 negotiations on financial services, but has atrophied because several key members, notably Brazil, refuse to allow it to seriously address the financial services liberalization agenda.

The WPDR is the forum in which the United States Delegation has introduced its ideas for advancing U.S. interests in transparency, and has engaged other Members in a constructive discussion that may lead to a concrete outcome in this Round. The goal is to secure other Members' commitment to integrate transparency disciplines into their domestic regulatory regimes. These include the right to notice and comment before promulgation of regulations, among other provisions.

The WPSC acts as a forum in which members discuss issues relating to the modalities of scheduling commitments in the GATS. One of the many disadvantages of the GATS is that it relies on a classification of services, called the W-120, which sets out 12 broad categories of services that were to be covered by the GATS (Business, Communication, Construction and Engineering, Distribution, Education, Environment, Financial, Health, Tourism and Travel, Recreation, Cultural, and Sporting, Transport, and Other.) Each of these contains subsectors that in most cases make numerical reference to a 1991 UN document called the Provisional Central Product Classification (CPC). The number of subsectors totals 156. The CPC is not sufficiently inclusive or flexible to embrace all the new products that are being constantly created, especially in the realm of IT- based business services. One of the many flaws of the negotiating structure required by the GATS is the out of date, static CPC.

The fourth subgroup under the Council on Trade in Services is the Working Party on GATS Rules. This group deals with emergency safeguard measures (EMS), subsidies, and government procurement. It has devoted the greatest part of its attention since 1995

to discussing emergency safeguard mechanisms (i.e., a safeguard for services, like the escape clause allowed for goods), as required by the built-in agenda. Over this time it has been unable to reach consensus whether such safeguards for services are either feasible or desirable. The position of the United States and many Members is that they are not. But it may be necessary to fashion some form of safeguard to offer certain governments, which for political reasons will be unable to make offers without one.

“Clusters” of Negotiations

With the impetus of the Doha Round Declaration, the CTS-SS set a schedule for periodic negotiations in Geneva, called “clusters”. Normally of two weeks’ duration, these clusters allow a first week for meetings of the four subgroups referred to above, for bilateral meetings between Members (where the real business of request-offer negotiations should take place), and meetings of the full CTS-SS, where issues of general concern, including assessments of the state of play, take place.

In addition, during clusters and between them, the secretariat has helped structure seminars on various aspects of the negotiations. On February 10, 2005, the Financial Leaders Working Group offered a seminar on financial services issues, presenting the benefits to developing countries of liberalization in that sector. There have been seminars devoted to cultural services, energy services and logistics services, express delivery and the computer and related services sectors.