

## Summary of the EU's revised services offer in the Doha negotiations: June 2 2005

*Today the European Commission has transmitted to the WTO the EU's revised services offer in the Doha Development Agenda (DDA) negotiations. The revised offer outlines how the EU is prepared to further open access to its services market in exchange for improved access to other WTO Members' markets. While ambitious in scope, and responding in many ways to requests for access from developing countries the EU's offer safeguards public services such as education, health and audio-visual services. The offer is fully public, and can now be consulted on the DG Trade website.*

Services are critical for any economy. The services sector is already contributing more to economic growth and job creation worldwide than any other sector. In the EU services constitute the single most dynamic sector of the economy, accounting for at least two thirds of GDP and employment. No country can prosper today without an efficient service infrastructure.

An effective service sector is the prerequisite for economic performance. Producers and exporters of textiles, cars or computers will not be competitive without access to efficient banking, insurance, accountancy, telecom or transport system. It is a prerequisite for development: access to world class services helps exporters and producers in developing countries to capitalise on their economic strength. It leads to consumer savings, faster innovation and technology transfer and it contributes to long term investment – all crucial for sustainable economic growth.

The great majority of WTO members agree that genuine new market access opportunities in services as part of the Doha Round would be a key contribution to development. A substantive outcome for services is therefore critical for a balanced outcome of the current round.

### **Sectoral Commitments in the EU Services Offer**

#### **Professional services**

The revised offer confirms, and extends to the new Member States, the market opening provided for in the initial offer in the sub-sectors for which developing countries have expressed a major interest: accounting and bookkeeping services, architectural services, engineering & integrated engineering services and urban planning & landscape architectural services. Subject to the fulfilment of the necessary qualifications required by EU law, foreign accountants will be allowed to compile financial statements and other accounting information for EU clients and foreign architects and engineers will be able to provide plans, designs, projects, specifications or cost estimates to their clients in the EU, without being discriminated against on the basis of their nationality.

In the sub-sector of legal services, the initial offer has been further improved by extending market opportunities not only to foreign lawyers practicing in law firms but also to self-employed lawyers. Foreign lawyers and law firms will be able to establish a commercial presence in any Member State and provide legal services, whether from abroad, through that commercial presence or through temporary entry into the EU, in respect of the law of any country in which the lawyers are qualified to practice. The practice of EC law and of the national law of Member States remains subject to admission to a Bar in the EC and the commitments do not cover notary services.

As regards the sub-sectors of auditing services, medical and dental services, veterinary services, and services provided by nurses, midwives, physiotherapists, paramedical personnel and pharmacists, the market access conditions remains unchanged.

### **Computer and related Services**

In line with the "Lisbon strategy" goals and with a view to benefit from the best computer services at the lowest cost, the revised offer confirms, now for the 25 Member States, the initial offer of full market access for foreign services suppliers, including high skilled self employed computer experts. These new opportunities should particularly benefit services suppliers from developing countries.

### **Business Services**

The revised offer confirms, now for 25 Member States, the market opening provided for in the initial offer in the sub-sectors for which developing countries have expressed a major interest: advertising, management consulting and related services, technical testing and analysis services, surveyors and geologists services, maintenance and repair of equipment services and translation and interpretation services. Subject to the fulfilment of the necessary qualifications required by EU law, foreign surveyors will for example be allowed to perform explorations activities within the EU territory. The translation of documents will no longer be determined by nationality but by possession of sufficient knowledge of the languages concerned.

In addition, following the trend set by the initial offer, the EU continues to improve its commitments and to eliminate market access and national treatment limitations such as nationality or residency requirements in other sub-sectors. As a result, foreign services suppliers will enjoy broad market access on a non-discriminatory basis to the EU territory to provide packaging services, printing and publishing services and research and development on social sciences and humanities.

It is important to note that foreign services suppliers already enjoy large market access opportunities under the current regime in many other sub-sectors such as real estate services, rental and leasing services, market research and opinion polling services, building cleaning or convention services.

### **Postal and Courier services**

On postal and courier services, foreign operators access to markets which have already been opened to competition by the first postal directive of 1997 (EC 97/67)) - notably parcels, newspapers, express delivery, letters above 350 grams, is further reconfirmed and extended to the fast-growing market of the 10 new Member States. In addition, the EU is ready to internationally subscribe to basic pro-competitive principles (which already exist in the EU), provided that other Members are ready to do the same.

The universal service provisions existing within the EU are fully safeguarded.

### **Telecommunications Services**

Non-EU operators will enjoy practically full access to the enlarged EU's internal market for the supply of telecommunications services which are now largely defined in such a way as to allow adaptation to technological evolution. All services consisting of the transmission and reception of signals by any electromagnetic means excluding broadcasting will be committed, with practically no substantial limitations on markets access and on national treatment, and the pro-competitive principles applicable to telecommunications services are confirmed by the enlarged EU.

The EU's right to define universal service obligations continues to be fully safeguarded.

### **Audiovisual Services**

The revised offer leaves the current regime unchanged. The sector will continue to be uncommitted and the MFN (Most Favoured Nation) exemptions to cover cultural policies will be maintained. These MFN exemptions concern *inter alia* co-production agreements and privileged treatment for audio-visual works originating from the EU and other European countries.

### **Construction Sector**

Following the trend of the initial offer, the revised offer reduces market access and national treatment limitations applying to the commercial presence and temporary movement of foreign services suppliers, who will enjoy a very broad access to most of the EU Member States.

### **Distribution Sector**

The revised offer confirms, now for the 25 Member States, very comprehensive market access opportunities for foreign services suppliers, in particular as regards setting up commercial presences within the EU to provide commission agent's services, wholesale and retailing activities and franchising. Commitments proposed by the EU confer on non-EU services suppliers the same treatment granted to EU services suppliers when applying for the opening of new department stores. Thus, licences for new department stores will be granted on the merits of each application regardless of the nationality.

### **Education Sector**

The current regime remains unchanged. The EU is not proposing any new commitments and Member States fully retain the right to decide on the most appropriate organisation of their education system.

### **Environmental Services Sector**

In environmental services, the revised offer grants broad access in most EU Member States to foreign providers in services such as waste water, solid waste, remediation of oil and water, noise and vibration abatement, protection of biodiversity and landscape. Moreover, foreign companies who have a contract to provide environmental services for a client in the EU will be able to send skilled personnel to the EU to provide these services (notably consulting or environmental impact assessments) for up to six months at a time.

A feature of the revised offer is the addition of a new commitment allowing foreign suppliers to provide consultancy services in all EU Member States on a cross-border basis without having to set up a commercial presence in their territories. This new commitments are intended to help the diffusion of know-how and could be of special benefit to developing countries.

### **Financial Services Sector**

On financial services, the revised offer complements the already substantial access enjoyed by foreign financial institutions to the EU market. As a result, they can set up and develop their businesses in the EU without any discrimination, in all sectors (insurance, banking, investment services), subject to usual prudential requirements. For example, it offers the possibility for foreign financial institutions to provide, through a subsidiary or a branch, all banking and insurance services. Moreover, they can set up investment funds that benefit fully from the harmonisation achieved within the single market. Also, it guarantees their ability to provide directly from their home countries truly international services, such as reinsurance. The revised offer further expands market access for a large variety of financial services throughout the EU (including the new Member States).

### **Health-related and Social Services sector**

The current regime remains unchanged. The EU is not proposing any new commitments and Member States fully retain the right to decide on the most appropriate organisation of their health and social system.

### **Tourism and Travel-related Services Sector**

Non-EU services suppliers wishing to establish travel agencies in the territory of the European Union are granted the same treatment as EU services suppliers. The nationality of the companies or their managers will not be considered for the authorisation of new travel agencies. Some Member States offer to lift specific restrictions affecting hotels and restaurants, travel agencies and tour operators, tourist guides' services and catering services.

### **Recreational, Cultural and Sporting Services Sector**

In the sub-sector of news agency services, the initial offer to remove some foreign ownership limitations and nationality requirements is maintained. For entertainment services, libraries, archives, museums and other cultural events, and sporting and other recreational services, the current market access regime resulting from Uruguay Round commitments remains practically unchanged.

### **Transport Services Sector**

In the revised offer, the 25 Member States subscribe to the principle of unlimited access to international maritime transport and provide non-discriminatory use of their ports. As regards the establishment of commercial presence for the supply of maritime transport services and maritime auxiliary services, the EU maintains its initial offer to re-introduce commitments offered in 1996 and then withdrawn at the end of the extended maritime negotiations, and enlarges that reintroduction to cover those new Member States that had submitted and then withdrawn an offer in those negotiations. As a result foreign services suppliers will, for example, be able to establish a commercial presence in the EU territory to provide a very wide range of activities ranging from cargo handling to maritime agency services on the same footing as EU services suppliers.

Those innovative elements of the initial offer, such as the access guaranteed by some Member States to “feeder of international cargo” and to “movement of empty containers” are also maintained.

In the air transport sector, the new commitments proposed in the initial offer, such as the inclusion of market access for “groundhandling” and “ airport management”, are maintained and further specified. A large number of Member States are ready to for example guarantee to foreign services suppliers that the conditions that they have to fulfil in order to invest in airport management services in the EU will not be made more restrictive in the future.

For other transport services, access to the EU market by foreign services suppliers will continue to be governed by the current regime resulting from the Uruguay Round.

### **Beauty and Well-being services**

In the revised offer, the EU is proposing to undertake commitments for the first time in this sector identified in the requests of several developing countries. Foreign services suppliers will have broad market access opportunities to set up a commercial presence with a view to provide hairdressing services, manicure and other beauty treatment services and relaxation services such as spas.

### **Energy Services Sector**

The revised offer makes the establishment of foreign undertakings possible within the territory of the European Union in order to offer a number of technical services which are incidental to mining, such as drilling, well testing, rig installation. These activities are essential in order to achieve the highest efficiency, safety and reliability in the management of mining fields.

## **Horizontal Commitments in the EU Services Offer**

### **Mobility of natural persons (Mode 4)**

“Mode 4” commitments allow people to travel to the EU to provide services for a short period of time. Mode 4 is not about access to local labour markets and should therefore be clearly distinguished from economic immigration. While the EU has important offensive interests in this area, developing countries have placed a particular emphasis on Mode 4. By furthering the improvements contained in the initial offer, which the EU had tabled in 2003, the revised EU offer provides additional opportunities as regards the movement of highly qualified natural persons.

In particular, it liberalises access conditions in a large number of sectors within a larger market. Following the 2004 enlargement of the EU, the revised offer will extend access conditions offered in the EU to the new Member States. The offer therefore contains a significant number of commitments on the part of the new Member States, which they take in order to match the degree of liberalisation already offered in the rest of the EU. This notably concerns the permitted length of stay, the number of sectors that are covered and the length of the underlying contract. In general no economic needs test can be applied within a numerical ceiling whose level will be determined in the course of the negotiations..

As a result, services companies will for example be able to transfer management trainees to their affiliated companies in the enlarged EU, so as to allow them to get up to one year of European work experience. Overseas companies with a contract to provide services in 21 important sectors will be able to send skilled employees to the EU to provide these services for up to six months at a time. Another improvement brought by the revised offer is to add legal services to those sectors where self-employed services suppliers based overseas will be able to enter the EU for up to six months at a time to provide services to clients based in any of the 25 EU Member States.

In all such cases, EU and national working conditions, minimum wage requirements and collective wage agreements will apply. EU Member States will also continue to be able to refuse entry to persons that pose a security threat or are considered to be at risk of abusing the terms of their entry.

### **Public utilities**

Like in the initial offer, the current regime on public utilities remains unchanged. Services considered as public utilities, such as infrastructure environmental services or health services, may be subject to government monopolies or to exclusive rights granted to private operators.

### **Legal entities**

The number of limitations is further reduced and those Member States which prohibited that foreign services suppliers set up direct branches in their territory will now allow this type of commercial presence in a number of services sectors.

### **Investment and exchange regime**

The attractiveness and openness of the EU as an investment location is further confirmed through the elimination of the most important market access and national treatment limitations that remained, such as discriminatory authorisations or economic needs tests

### **Real estate**

Several of the limitations on the acquisition of real estate by foreign services suppliers have been eliminated in the initial offer. Those not removed at that time, which essentially relate to authorisation procedures, are maintained in the revised offer.

### **Subsidies**

Like in the initial offer, the ability of the EU to provide subsidies in services sectors in pursuance of legitimate objectives is maintained. This allows the EU and its Member States to develop their regional and research policies and to preserve the sustainability of the public sector.

### **MFN exemptions**

The revised offer proposes to eliminate one exemption that expired on 01/01/2005 and one exemption in Transport, which is not relevant anymore, as its beneficiaries are now Member States of the EU. The revised offer also proposes to merge two exemptions in the audiovisual sector.