INDUSTRY SECTOR ADVISORY COMMITTEE
ON SERVICES FOR TRADE POLICY MATTERS
ISAC 13

November 19, 1999

The Honorable William M. Daley
Secretary of Commerce
14th Street & Constitution Avenue
Washington, D.C. 20230

Ambassador Charlene Barshefsky
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Mr. Secretary and Madame Ambassador:

The members of the Industry Sector Advisory Committee on Services for Trade Policy Matters (ISAC 13) met on November 10, 1999 to formulate its recommendations for the Seattle Ministerial and the Services 2000 negotiations. These recommendations relate to cross-cutting issues, as well as to sectoral issues.

The Committee believes that the Seattle Ministerial Declaration must give an unqualified, strong impetus to the start of services negotiations in January 2000. It believes that the inclusion of benchmarks, or a timetable for these negotiations in the Declaration itself is useful, and urges the U.S. Trade Representative to insist on their inclusion.

The Committee believes that negotiations on services in the WTO present governments with the opportunity to liberalize trade in services by committing themselves to reducing barreirs to market entry in all modes of supply and to reform domestic regulations that hinder fair and open markets. The WTO negotiations on services should be used to achieve an open, competitive market in every services sector in every WTO member country.

Services trade liberalization is in the interest of all WTO members. The liberalization of services markets enhances economic growth, and helps provide developing countries with essential infrastructure to speed their modernization. It provides increased choice and opportunities for consumers of the broadest range of products and services at the lowest cost.

It is particularly important for the United States. We are the world's most competitive supplier of traded services. Successful multilateral trade negotiations in services can materially improve our export performance and progressively offset our persistent trade deficit in goods.

For the United States to achieve its goals in services, however, its negotiators must be able to offer concessions. As U.S. services markets are essentially open to foreign competition, there are, with the exception of mobility of business personnel, few concessions in services that we are able to offer. Thus we urge you not to rule out the negotiation of issues that foreign governments express interest in negotiating.

To achieve these objectives, we urge US negotiators to:

- Implement and enforce all GATS commitments and in particular the services agreements already negotiated. All WTO members should undertake and implement commitments to open markets for the supply of telecommunication services and adopt the regulatory principles of the reference paper. All signatories of the Financial Services Agreement should ratify and implement their commitments under that agreement.

- Secure binding commitments in as many sectors as possible for market access and national treatment.

- Seek to use innovative, time-saving negotiation techniques to obtain market opening commitments including horizontal commitments, agreement on models for sectoral liberalization, as well as the traditional "request/offer" technique.

- In reviewing MFN exemptions, countries should exclude only the most sensitive issues from liberalization.

- The Declaration should provide that the negotiation should conclude in three years.

With regard to regulatory issues, we urge that:

- Horizontal disciplines for domestic regulation that result in transparent and predictable regulatory institutions and outcomes, and the imposition of the least burdensome or least trade restrictive rules based on objective criteria, be developed under Article VI of the GATS.

- On a sector by sector basis where appropriate, regulatory principles that promote competition and open and efficient markets be developed.

- USTR & the Department of Commerce should work with state and local regulatory agencies to educate them of the benefits of allowing access to the U.S. market by foreign service providers, particularly professional service providers.

With regard to electronic commerce issues, we believe that:

- Unrestricted commitments on cross-border supply of services (mode 1) and consumption of services abroad (mode 2) should be obtained in order to expand electronic commerce.

- Unnecessary restrictions on the ability of U.S. firms established in a market to supply services electronically in that country under both existing and future commitments on commercial presence, should be removed.

- Delivery of services via the Internet is covered by existing GATS commitments, unless specified otherwise.

- The moratorium on customs duties on electronic transmissions should be extended indefinitely with a view to making it permanent.

- WTO trade negotiations should not be used to attempt to establish carveouts for the regulation of internet service providers or of internet services including access and fee structures.

- The WTO work program on electronic commerce should be re-established.

With regard to labor mobility (mode 4), we recommend:

- That the temporary movement of key business personnel should be a priority agenda item for the 2000 round.

- A precise definition of "key business personnel," including those with technical and managerial skills, should be agreed by the WTO.

- Governments should make their regulatory regimes governing movement of key business personnel transparent; each signatory should publish a simple explanation of its visa and work permit requirements and should publish annually statistics showing the numbers of temporary working visas granted and available to be granted.

- There is an urgent need for the establishment of expedited procedures for short-term transfers of personnel.

Finally, we believe that:

- Governments, international organizations, and industry organizations should extend technical assistance to developing countries to enable their participation in services negotiations.

- The Ministerial Declaration should include an agreement that transparent procedures should apply to public procurement.

- The classification of services should be reformulated where necessary to describe accurately the structure of service industries.

- And the transparency and openness of the WTO should be improved, including access to WTO proceedings, documents and decisions on a timely basis.

SECTORAL ISSUES

The 2000 round of services negotiations is the first opportunity to include virtually all service sectors in liberalization negotiations, and to apply the lessons learned since the Uruguary Round on how to negotiate in the complex services field. Because it is a comprehensive negotiation, it gives us the opportunity to negotiate in new areas such as energy services, express delivery services, health and legal services, and aspects of financial services, such as pensions and financial security products.

Summarized below are some key objectives for liberalization in a number of sectors:

Insurance

Governments should pursue full market access and national treatment commitments from all WTO members, according to the GATS Understanding on Financial Services, as well as additional commitments that result in a pro-competitive market environment for foreign insurers in those markets. Insurance underwriters, intermediaries, reinsurance providers and others believe it is critical for the WTO to address issues that relate to the restrictive nature of insurance regulation in many markets. Insurers do not dispute the necessary role of regulation. They focus on developing regulation that promotes competition. Key elements of such regulatory reform include:

- Full market access and freedom of form of establishment an operations;

- National treatment for foreign insurance providers and intermediaries;

- Transparent legal, administrative and regulatory environments;

- Focus on solvency and prudential standards, not micro-management of price and form;

- Freedom to introduce new products and services;

- Standstill on new restrictions and grandfathering of existing investments;

- Cross-border trade and free access to international reinsurance markets.

Financial Services

Although a good first step, the 1997 financial services annex to the GATS did not eliminate all barriers to international trade in financial services. The next services negotiations should attempt to achieve important new liberalization commitments including all financial services products and many more countries, with special regard to the opportunities offered by electronic commerce. WTO members should seize the opportunity offered by the new round to unleash the positive force of electronic delivery of financial services.

- More countries should make commitments in financial services and financial information, and existing commitments should be expanded to cover more services and more modes of supply. Existing exemptions should be reduced or eliminated.

- More countries should commit to unrestricted flows of financial information.

- The relationship between telecommunications liberalization and electronic trade in financial services must be recognized.

- In telecommunications, existing commitments need to be implemented, more countries need to make commitements, and discriminatory tariffs should be eliminated. Additional commitments to greater unbundling by communication providers should be made. There should be more specificity on reasonable rates for leased lines, and affirmation that existing commitments apply to internet access.

- Internet providers should not be regulated as common carriers.

- WTO members should reaffirm that existing commitments are technology-neutral and that financial service providers may use any protocol, including the Internet to supply a service.

- A common legal infrastructure of certification, disclosure, payment and privacy standards is also important; until such infrastructure is developed, national regulators should forebear in the imposition of new regulatory barriers to cross-border financial services.

- WTO members should recognize that national-based regulation of items such as safety and soundness and consumer protection measures can become barriers to cross-border provision of financial servioces. Review of best practices, harmonization of regulatory standards, mutual recognition of regulatory regimes, and recognition of the greater sophistication of wholesale customers as compared to retail customers would help reduce these barriers.

- WTO members should therefore evaluate how well their regulation of financial services providers advances the goals of competition, fairness, and transparency.

Financial Services: Pensions

The global problem of aging populations will be a major challenge to most WTO members governments in the next century. The WTO can help member nations cope with this problem by incorporating pension products and services and management of pension assets.

- WTO classifications should be improved to cover the provision of pension products and services as well as efficient management of pension assets.

- WTO members should schedule phase-in plans and market access improvements consistent with the pension reform recommendations of the World Bank and Organization for Economic Cooperation and Development.

Energy Services

The WTO Ministerial should increase substantially global market access opportunities for energy services providers through all appropriate modalities in the new round of negotiations.

- Clarification of the application of existing GATS commitments to certain energy services, the extension of existing GATS commitments to other energy services, and the development of new disciplines as necessary to ensure meaningful market access commitments, including an open regulatory environment that covers such areas as interconnection guarantees and transparent, non-discriminatory licensing procedures, should be the goal of negotiations in this sector.

Air Cargo and Express Delivery Services

Air cargo and express delivery operators are key players in ensuring the development of global commerce, especially electronic commerce. The globalization of the manufacturing process and the growth of e-commerce have created a need for a globally integrated air cargo network. Further multilateral liberalization in the air cargo sector, and particularly with respect to the services provided by integrated cargo carriers, is urgently needed and should be a priority of governments.

- Air transport services should continue to be treated separately under the GATS Aviation Annex. The required review of the annex should focus on the best way to liberalize that sector.

- Cargo service providers and shippers worldwide would benefit from an open international air cargo market, and also an open regime for express delivery services.

- Express delivery services should be a negotiating priority for the next round of WTO negotiations.

- Express delivery services should be adequately classified.

- Express services, with the exception of air transport services, should be treated as a separate new sector under GATS.

Entertainment

Entertainment and media services are an important trade strength for the United States. The U.S. must continue to press hard for liberalization commitments in this sector.

- The services classification list must be revised to better describe the range of service industries that are relevant to trade in audiovisual services.

- Negotiators should seek to open global markets to trade in audiovisual services while at the same time taking care to promote and preserve cultural diversity.

- WTO members should fully implement TRIPS to ensure that audiovisual works of all nations are protected from piracy. Negotiators should avoid weakening, reopening or delaying implementation of TRIPS.

Conclusion

The 2000 round of services negotiations offers a fresh new opportunity to secure trade liberalization commitments in a wide range of services, not limited to those discussed above. We hope that these views provide useful guidance to our trade negotiators.

Sincerely,

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