

## WTO Tourism Negotiations: Steady Does It

THE RECENT spate of stories about the 'agreement' on global trade at the World Trade Organization (WTO) have created a perception of 'success', however the actual arrangements are worth closer scrutiny. The countries have only agreed on the 'framework' under which to conduct the complex negotiations for trade liberalisation. The negotiations themselves are still to come.

These negotiations are of considerable importance to the travel and tourism industry because services are included in the package of economic sectors facing liberalisation. Tourism falls under the services sector, along with advertising, telecommunications, legal firms, accountancy, finance, insurance and many others.

This edition of *Issues & Trends* attempts to simplify some of the issues involved, outline the implications for travel and tourism and suggest points to ponder.

### What is the WTO?

Set-up in 1995, the WTO is the only global forum dealing with the rules of trade between nations. It seeks to liberalise global trade by providing a platform of trade rules for negotiation and dispute settlement between member governments. Everything the WTO does is as a result of negotiations.

At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations. These documents provide the legal ground-rules for international commerce. They are essentially contracts, binding governments to keep their trade policies within agreed limits. Although negotiated and signed by governments, the goal is to help producers of goods and services, exporters and importers conduct business, while allowing governments to meet social and environmental objectives.

### How does it work?

In its simplest form, WTO member countries exchange concessions by submitting conditional offers to their trading partners to freeze or improve current levels of access to particular sectors. They also make requests of other countries to reduce what they consider to be trade barriers.

This offer-and-request process may appear simple, but behind it is a large and complex legal and administrative system designed to govern negotiations to ensure that there is not just free trade, but also fair trade.

### How does tourism get involved?

Tourism is included in the WTO's General Agreement on Trade in Services (GATS). Services have been included in the WTO talks because they represent the fastest growing sector of the global economy and account for 60% of global output, 30% of global employment and nearly 20% of global trade. GATS defines four ways (or "modes") to trade services:

- Services supplied from one country to another, such as international telephone calls; officially known as "crossborder supply" (in WTO jargon, "mode 1")
- Consumers or firms making use of a service in another country, such as tourism; officially termed "consumption abroad" ("mode 2")
- A foreign company setting up subsidiaries or branches to provide services in another country, such as foreign banks; officially named "commercial presence" ("mode 3")
- Individuals travelling from their own country to supply services in another, such as consultants; officially referred to as "presence of natural persons" ("mode 4").

Liberalising trade in these services is designed, in theory, to allow smoother and easier movement of companies, capital and people across boundaries and borders.

**Are there any examples?**

The 'wish-list' of items circulated by the United States offers a clear indication of what many developed countries want to see liberalised. In a December 2000 communication to Members of the Council for Trade in Services, the US presented its wish-list for three sub-sectors: Hotels and lodging, duty-free services, and the meetings, incentives, conventions and exhibitions (MICE) industry.

The US argued that as modern hotels are indispensable to attracting further investment in destinations, "removing obstacles to the establishment and operation of hotels and other lodging places; by making it easier for travellers to visit and make purchases in other countries and by reducing the problems faced by organisers of international conferences and conventions" was important.

The US position urged WTO members to respond in ways that place "no limitations" on market access and national treatment, "as some members, including the United States, already have done", and proposed that all members "consider undertaking additional commitments relating to travellers and international conferences". It identified the following "obstacles" to liberalisation in this sector:

- Overly burdensome exit-fees or taxes, or similar restrictions on the departure of outbound travellers
- Lack of information for travellers on applicable duty-free allowances on merchandise purchased abroad for personal or household use
- Limitations on the participation of foreign capital
- Measures that restrict or require specific types of corporate, partnership, or other business organisation structure
- Limitations on the purchase or rental of real estate
- Economic needs test on suppliers of hotel and lodging services
- Suppliers of hotel and lodging services are not permitted to enter into and exit from joint ventures with local or non-local, private or government partners
- Measures requiring the use of local partners
- Where government approval is required, exceptionally long delays are encountered and, when approval is denied, no reasons are given.
- Lack of national treatment for financing the construction and operation of hotels and lodging places
- Denial of access to and use of public services on reasonable and non-discriminatory terms and conditions
- Denial of access to government programmes available to domestic service providers
- Tax treatment that discriminates against foreign service providers
- Discrimination against foreign service suppliers with respect to choice of business organisations available to domestic suppliers
- Discrimination against foreign partners in a joint venture
- Discrimination against franchises as opposed to other forms of business organisation

- Discrimination against foreign franchises
- Lack of readily available information on zoning and lack of an opportunity for service suppliers to meet with local officials and community representatives to discuss location of facilities
- Lack of transparency of domestic laws and regulations and fairness of administration
- Denial of full consumer access to electronic means for making hotel reservations
- Denial of freedom for service providers to select sources of supply of services
- Denial of freedom for service providers to offer incentives, rewards, and other promotional programmes
- Minimum requirements for local hiring that are disproportionately high, causing uneconomic operations
- Lack of means to facilitate temporary entry and exit of specialised, skilled personnel (including managers)
- Restrictions or excessive fees/taxes on international currency transactions
- Lack of means to facilitate temporary entry and exit of event organisers and specialised, skilled personnel (including managers) needed to conduct international conferences and conventions efficiently
- Restrictions or excessive fees/taxes on licensing or royalty payments
- Lack of means to facilitate temporary entry and exit of conference and convention participants from various countries
- Lack of information on provisions for the temporary entry and exit of equipment and supplies related to prospective international conferences and conventions.

**What is the response of developing countries?**

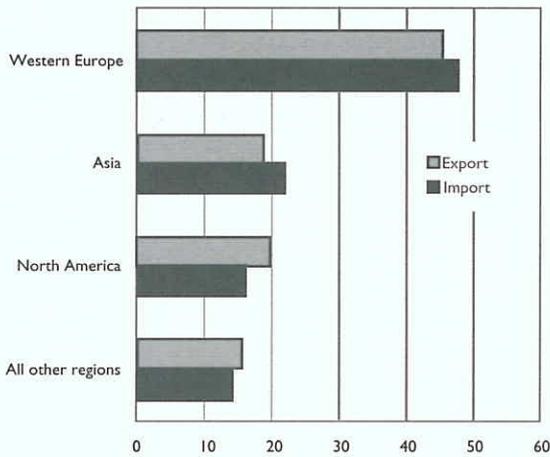
On October 9, 2001 a group of WTO members including Cuba, the Dominican Republic, Haiti, India, Kenya, Pakistan, Peru, Uganda, Venezuela and Zimbabwe reminded the WTO of an agreement to do "an assessment of trade in services, both in overall terms as well as on a sectoral basis." No such assessment has yet been done.

At the same time, they noted that many developing countries have made a number of offers and commitments to liberalise tourism. In the negotiations to come, they sought firm adherence to the "guiding principles" of the WTO agreements, which are that liberalisation should take place "on a progressive basis"; promote the interests of all participants "on a mutually advantageous basis"; and secure "an overall balance of rights and obligations, while giving due respect to national policy objectives". The group of members also sought:

- Help with the strengthening of their domestic services capacity and its efficiency and competitiveness through access to technology
- Improvement of their access to distribution channels and information networks

- Increased market access in sectors and modes of supply of export interest to them
- Respect for their own national policy objectives.

**Regional shares in world trade in travel services, 2002 (%)**



Source: World Trade Organization --www.wto.org

The countries asked to be shown “appropriate flexibility for opening few sectors, liberalising fewer types of transactions, progressively extending market access in line with their development and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives”.

The communication also noted that all WTO members have a right to “regulate” their national industries “in order to meet national policy objectives” and urged recognition of “the particular need of developing countries to exercise this right”.

A more recent communication by the least developed countries (LDCs) noted that they are “facing serious difficulty in addressing a number of complex issues simultaneously” and “they lack institutional and human capacities to analyse and respond to offers and requests. This should be factored into the negotiating process.”

It added: “Considering the serious difficulty of LDCs in undertaking negotiated specific commitments in view of their special economic situation, WTO members shall present requests which are compatible with the developmental, economic and financial needs of the LDCs and which are limited in terms of numbers of sectors and modes of supply and scope of commitments.

“LDCs shall retain maximum flexibility in undertaking commitments in a manner consistent with their development needs. Members shall not seek the removal of conditions, which LDCs may attach when making access to their markets available to foreign services suppliers ... For so long as they remain LDCs, no LDCs shall be required to offer national treatment. LDCs shall not be requested to undertake additional commitments on regulatory issues, which may go beyond their institutional, regulatory and administrative capacities.”

Another communication from the Dominican Republic, El Salvador and Honduras noted the “bewildering series of mergers and take-overs of tour operators and airlines”, which it said “places tourist destinations at the mercy of abuse of a dominant position, without being able to count on any internationally binding mechanism to counter its effects”.

The communication said international co-operation mechanisms like the WTO should seek to ensure, in a more holistic way, a pro-competitive environment in this sector. It added: “This cannot be achieved through more specific commitments but through the adoption of new disciplines applicable to the whole cluster of tourism industries.”

A communication by China (PRC) in December 2002, also raised concerns about the impact of competition by large foreign companies on small- and medium-sized enterprises, especially related to access to capital, staff and training. The Chinese also expressed concern that if investment only goes to those geographical regions where there are markets, a pool of qualified labour, infrastructure and purchasing power, it could impact other places in the country, thus widening the rich-poor income gap.

Developing countries are also concerned about double standards. For example, European countries are seeking liberalisation related to the movement of people. While this will see a large shift of people to the developing countries and help reduce unemployment in the European countries, Europe’s own list of offers places some very stringent restrictions about the qualifications and licensing of people who can work in Europe.

**What does this all mean?**

In a nutshell, it means that the developed countries want the developing countries to “liberalise” their markets but the developing countries want reciprocity, fairness, equal treatment and the ability to strengthen their own industries and negotiating capacities first. They also want the pace of liberalisation to be careful and progressive. In other words, they want a slow and steady scenario that will create a win-win situation for all.

They also complain about quotas and other restrictions that their manufactured products face in developed countries. Led by big players like India, Brazil and China (PRC), developing countries increasingly hold the view that no agreement is better than a bad agreement.

**What is the status?**

The same guiding principles related to reciprocity and mutual respect that the developing countries are demanding for an agreement on tourism and other services, they also want in other sectors like manufactured products and agriculture, which are much more important to developing countries than travel and tourism.

The WTO system has slowed over the past few years because the developing countries are now holding their

ground in terms of these requests. For example, they are complaining about the subsidies that developed countries give their agricultural producers.

Developing countries have received considerable assistance from global non-governmental organisations (NGOs) and United Nations (UN) organisations like the UN Conference on Trade and Development. They have become more careful about the fine print of what they are being asked to agree to. The NGOs and UN groups have also helped the developing countries band together in defence of their common interests. As a result, many developing countries are turning to regional and bilateral free trade agreements, which they believe allow them to liberalise trade and services in a more progressive manner without unnecessary external pressure and in a way more suited to local conditions.

**What happens next?**

The latest agreement reached on July 31, 2004 requires market liberalisation offers in the services sector to be placed on the record by May 2005. The agreement says:

- With a view to providing effective market access to all WTO members and in order to ensure a substantive outcome, WTO members shall strive to ensure a high quality of offers, particularly in sectors and modes of supply of interest to developing countries, with special attention to be given to LDCs
- Members shall aim to achieve progressively higher levels of liberalisation with no *a priori* exclusion of any service sector or mode of supply and shall give special attention to sectors and modes of supply of export interest to developing countries
- Members must intensify their efforts to conclude the negotiations on rule-making ... in accordance with their respective mandates and deadlines
- Targeted technical assistance should be provided with a view to enabling developing countries to participate effectively in the negotiations.

**What do PATA members have to be careful of?**

The travel and tourism industries in PATA countries need to be fully aware of the issues involved and ensure that they are getting a fair deal, locally and regionally. They must study the full implications of the liberalisation process, including competitive pressures and the impact on small- and medium-sized enterprises. Although there are deadlines involved, these should not pressure the industry into making concessions that will affect its long-term future.

The industry must demand full consultation with the national trade negotiators in order to know what commitments are being offered to liberalise. The industry must ensure that negotiators do not use concessions in travel and tourism as a bargaining chip for concessions in agriculture or other sectors. Negotiators must ensure they are familiar with the implications of what is being bargained away.

The private and public sectors in PATA countries must become closer partners to co-ordinate their positions at the local and regional levels. This is to ensure that no sectors or countries get played off against each other in an attempt to squeeze concessions out of them.

Once an agreement is signed, one has to live with the result. Many PATA countries already have very liberalised terms and conditions for investing and doing business in travel and tourism, including 100% ownership by foreign investors, tax concessions and capital repatriation.

PATA countries need to come up with their own wish-list of issues to raise in the upcoming talks. Until recently, the process and pace of liberalisation has been taken for granted, yet the terms and conditions need to be carefully and slowly negotiated to ensure a fair deal.

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