

ANNUAL REPORT OF THE COUNCIL FOR TRADE IN SERVICES TO THE GENERAL COUNCIL (2012)

1. Since its Annual report of 2011 to the General Council¹, the Council for Trade in Services (CTS) held four formal meetings, respectively on 3 November 2011, 23 March, 29 June and 5 October 2012.² During the period covered by this report, the Council addressed the following matters.

I. NOTIFICATIONS MADE TO THE COUNCIL PURSUANT TO GATS ARTICLES III:3, III:5, V:7 AND VII:4

2. At its meetings held on 3 November 2011, 23 March 2012, 29 June 2012 and 5 October 2012 the Council for Trade in Services took note, altogether, of the following notifications:

(a) Notifications pursuant to Article III:3 of the GATS

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|-----------------------------------------------------------------------|--------------------|
| Thailand | S/C/N/603 |
| The Kingdom of Saudi Arabia | S/C/N/604-607 |
| Morocco | S/C/N/608-609 |
| Albania | S/C/N/610, 623-641 |
| Peru | S/C/N/611 |
| The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu | S/C/N/620 |
| Hong Kong, China | S/C/N/645 |
| Nepal | S/C/N/647-650 |
| Norway | S/C/N/651-652 |

(b) Notification pursuant to Article III:5

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| Norway | S/C/N/653 |
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(c) Notifications pursuant to Article V:7 of the GATS

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|---------------------------------------------------------------------------------------|-----------|
| Canada and Colombia | S/C/N/602 |
| Chile and Honduras | S/C/N/612 |
| Peru and Chile | S/C/N/613 |
| The Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua | S/C/N/614 |
| New Zealand and Malaysia | S/C/N/615 |
| Peru and Mexico | S/C/N/616 |

¹ S/C/36, dated 11 November 2011.

² Reports of these meetings are contained in documents S/C/M/108 to 111, and should be read in conjunction with this report.

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|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Japan and Peru | S/C/N/617 |
| China and Costa Rica | S/C/N/618 |
| China and Hong Kong, China | S/C/N/264/Add.5 and Add.6 |
| China and Macao, China | S/C/N/265/Add.5 and Add.6 |
| The Republic of Korea and the United States | S/C/N/621 |
| Chile and Guatemala | S/C/N/622 |
| Peru and Panama | S/C/N/642 and Rev.1 |
| Australia, Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, New Zealand, The Philippines, Singapore, Thailand and Viet Nam | S/C/N/545/Add.1 |
| Colombia and the United States | S/C/N/643 |
| Ukraine, Iceland, Liechtenstein, Norway and Switzerland | S/C/N/644 |
| El Salvador, Guatemala, Honduras and Colombia | S/C/N/646 |

3. At the June and October meetings of the Council, a few questions were raised, notably by the delegation of India, in respect of the Korea-United States and Colombia-United States agreements, to which the delegations concerned provided answers.

(d) Notification pursuant to Article VII:4 of the GATS

Ecuador S/C/N/619

II. TRANSITIONAL REVIEW UNDER SECTION 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

4. At its meeting held on 3 November 2011, the Council for Trade in Services conducted and concluded the ninth, and final, Transitional Review of the Implementation by China of its WTO Commitments, pursuant to section 18 of the Protocol on the Accession of the People's Republic of China (WT/L/432). The Council took note of the report of the Committee on Trade in Financial Services (S/FIN/26), which formed part of the Council's report on this matter to the General Council, contained in document S/C/37.

III. SECTORAL AND MODAL DISCUSSIONS

5. Under this agenda item, the Council for Trade in Services continued debating the role of small and medium-sized enterprises (SMEs) in services trade, including on the basis of a communication submitted by the delegation of Switzerland titled "The services sector, small and medium-sized enterprises and their activities related to electronic commerce: the case of Switzerland" (S/C/W/345). The Council addressed the Swiss submission at its March and June meetings, when several other Members also shared information on the e-commerce activities of their SMEs and the challenges these operators were confronted with when performing such activities. The submission by Switzerland was also deemed relevant to the Council's deliberations under the Work Programme on Electronic Commerce.

IV. DEDICATED DISCUSSION ON INTERNATIONAL MOBILE ROAMING

6. During the reporting period, the Council continued with its deliberations on international mobile roaming (IMR). Several Members shared national experiences with their own roaming markets and many conveyed their views on whether and how the GATS applied to IMR. Delegations expressed their appreciation for the informative and well-balanced symposium on the issue that had been organised by the delegation of Australia on 22 March.

7. The Council also considered an informal Note on the work that the International Telecommunication Union was undertaking on IMR services, contained in document JOB/SERV/93, and heard oral updates on proposals related to IMR submitted to the World Conference on International Telecommunications, for possible inclusion in the International Telecommunications Regulations.

V. WORK PROGRAMME ON ELECTRONIC COMMERCE

8. Discussions under the Work Programme on Electronic Commerce continued throughout the reporting period. The Council carried on with its examination of the communications that had been submitted in September 2011 by the European Union and the United States on ICT trade principles (S/C/W/338), and by the United States on cloud computing and mobile applications (S/C/W/339). The Council also considered the submission by Switzerland on the e-commerce activities of SMEs (S/C/W/345), which had been originally tabled under the agenda item dealing with sectoral and modal discussions.

9. Additionally, at the meeting held in October, the Council addressed a communication from the European Union (S/C/W/348) focusing on a particular ICT trade principle, namely authorizations and licences, and a communication from Australia (S/C/W/349) suggesting three additional ICT principles for consideration. Several Members also shared information on their own experiences with regard to the issues discussed in the two submissions.

10. The Council duly noted the Ministerial Decision on the Work Programme on Electronic Commerce adopted on 17 December 2011 (WT/L/843). In view of the mandate therein that the General Council periodically review progress with the Work Programme, the Council agreed that the Chairman would produce, under his own responsibility, a purely factual report of the essence of the Council's discussion under that item. The report is contained in document S/C/38.

VI. SERVICES DATABASE – PRESENTATION BY THE WORLD BANK

11. At its meeting of 29 June, the Council heard a presentation by a representative of the World Bank on the work the organisation had recently completed on a services database (available at iresearch.worldbank.org/servicestrade). Members were particularly appreciative of the candid description of the methodology used and of the fact that the World Bank was seeking delegations' feedback in order to further improve its database.

VII. RE-OPENING OF THE FIFTH PROTOCOL FOR ACCEPTANCE BY JAMAICA

12. Following the request of Jamaica contained in document S/C/W/346, at its meeting on 5 October 2012 the Council decided to reopen the Fifth Protocol to the GATS, relating to financial services, for acceptance by Jamaica. The relevant decision is contained in document S/L/395.

VIII. WORK OF THE SUBSIDIARY BODIES

13. The activities of the subsidiary bodies in 2012 are reflected in their respective reports, which are annexed to this report, as follows:

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| Annex I | Report of the Committee on Trade in Financial Services (S/FIN/27) |
| Annex II | Report of the Committee on Specific Commitments (S/CSC/18) |
| Annex III | Report of the Working Party on Domestic Regulation (S/WPDR/15) |
| Annex IV | Report of the Working Party on GATS Rules (S/WPGR/23) |

WORLD TRADE ORGANIZATION

S/FIN/27
5 December 2012

(12-6712)

ANNUAL REPORT OF THE COMMITTEE ON TRADE IN FINANCIAL SERVICES TO THE COUNCIL FOR TRADE IN SERVICES (2012)

1. Since its Annual Report of 2011 to the Council for Trade in Services¹, the Committee on Trade in Financial Services (CTFS) held four formal meetings, respectively on 31 October 2011, 19 March, 27 June and 1 October 2012.²
2. The Committee continued to monitor the status of acceptance of the Fifth Protocol to the GATS. Following a decision by the Council for Trade in Services contained in document S/L/395 to reopen the Protocol, Jamaica accepted it on 16 October 2012. The Protocol entered into force for Jamaica on that date, as stated in document WT/Let/866. The Protocol has yet to be accepted by Brazil.
3. At its meeting on 31 October 2011, the Committee discussed a proposal by Ecuador for furthering work on regulatory measures in financial services (S/FIN/W/80). The proposal called for the inclusion of a paragraph in the Declaration of the Eighth WTO Ministerial Conference whereby Ministers would "instruct the Committee on Trade in Financial Services to continue to review the WTO rules so as to promote and ensure the preservation of policy space for macroprudential regulations and the integrity and stability of the financial system". The proposal received the support of several Members, while some others considered it unnecessary to include the issue in a Ministerial Declaration. Members continued discussing the issues raised in the Ecuadorian proposal in subsequent meetings. In the course of those discussions, different suggestions were made to complement that proposal, and divergent views were expressed on what to discuss and how to proceed. On 26 June 2012, Ecuador submitted a new proposal "for discussing progress in respect of macroprudential regulation and its relationship with GATS rules" (S/FIN/W/84). During the discussions, many Members showed their willingness to share their experiences with macroprudential regulation. However, positions diverge on the proposed preparation of a Background Note by the Secretariat and the participation of experts from international organizations. At the meeting held on 1 October 2012, Ecuador agreed to present a revised proposal taking into account the comments made by Members.
4. A Workshop on Trade in Financial Services and Development was held on 26 June 2012, under the auspices of the Committee. The Workshop, originally proposed by China, was a follow-up to a dedicated discussion on the topic held in 2011. The programme (JOB/SERV/99/REV.1) was organized on the basis of three broad topics identified by Members, namely: a) the contribution of trade in financial services to economic growth and development; b) ways to (i) enhance Members' capacity to carry out effective and efficient supervision and regulation over the financial sector

¹ S/FIN/25, dated 1 November 2011.

² The reports of the formal meetings are contained in documents S/FIN/M/71 to 74 and should be read in conjunction with this report.

(including of foreign financial institutions), and (ii) promote information exchange and cooperation between home and host country regulators; and c) the relationship between financial services liberalization, the regulatory framework, and financial stability. Speakers at the Workshop came from academia, international organizations (IMF, FSB, UNCTAD), and national governments (nominated by Members). An informal summary of the main issues addressed in the Workshop was prepared by the Secretariat (JOB/SERV/116). The Committee will continue exploring the relationship between financial services trade and development.

5. The Committee continued with its consideration of classification issues in financial services. As agreed by Members, the discussions were held in informal mode. Informal summaries have been prepared by the Chairperson under his own responsibility.

6. Pursuant to section 18 of the Protocol on the Accession of the People's Republic of China, on 31 October 2011 the Committee conducted the final review of the implementation by China of the WTO Agreement and of related provisions of the Protocol. The report of that review is contained in document S/FIN/26.

7. At the meeting held on 1 October 2012, Panama made a statement regarding "Argentina - Certain Measures that Affect Trade in Financial Services". Argentina replied and the Committee took note of the statements made.

WORLD TRADE ORGANIZATION

S/CSC/18
6 December 2012

(12-6720)

ANNUAL REPORT OF THE COMMITTEE ON SPECIFIC COMMITMENTS TO THE COUNCIL FOR TRADE IN SERVICES (2012)

1. Since its Annual Report of 2011 to the Council for Trade in Services¹, the Committee on Specific Commitments (CSC) held four formal meetings, respectively on 2 November 2011, 20 March 2012, 25 June 2012, and 4 October 2012.² During the period covered by this report, the Committee addressed three items: classification issues; scheduling issues; and the review of procedures under Article XXI.

I. CLASSIFICATION ISSUES

2. The Committee continued to consider classification issues, based on the Secretariat's sectoral Background Notes. Discussions were carried out in informal mode. The following sectors were examined during the reporting period: environmental services; energy services; climate-related services; postal and courier services; and distribution services. To facilitate discussions, for each sector under examination, the Secretariat prepared an informal Note providing an overview of relevant classification issues and suggesting specific questions for Members' consideration (JOB/SERV/84, JOB/SERV/94, JOB/SERV/100, JOB/SERV/110, and JOB/SERV/111). After the informal discussion at each meeting, an informal, non-attributable summary was circulated to Members under the Chairman's responsibility.

3. At the meeting on 25 June 2012, the Chairman reported to the Committee on the consultations his predecessor and he had undertaken with interested Members concerning some classification issues arising in the Committee's discussion on three sectors: computer and related services (CRS), telecommunication services, and audiovisual services. The Chairman's Report is contained in document JOB/SERV/101.

4. Also at the meeting on 25 June, the representatives of the Corporate Secretariat International Association (CSIA) made a presentation to the Committee drawing attention to "Corporate Governance, Compliance and Secretarial Advisory Services" which were not explicitly mentioned in the generally used Services Sectoral Classification List (W/120).

5. At the meeting on 4 October 2012, statistical experts from the WTO Secretariat informed the Committee of important services classification changes brought about by the new IMF Balance of Payments Manual (BPM6). The focus of the presentation was on the statistical treatment of manufacturing services on a fee basis, as well as of maintenance and repair services.

¹ S/CSC/17, dated 4 November 2011.

² The reports of the formal meetings are contained in documents S/CSC/M/61-64 and S/CSC/M/64/Corr.1&2, and should be read in conjunction with this report.

II. SCHEDULING ISSUES

6. The Committee continued to discuss issues related to economic needs tests (ENTs) relevant to mode 4. Delegations were invited to consider: (i) what kind of measures might qualify as an ENT for mode 4; (ii) which elements would constitute criteria for assessing "economic needs" under this mode; and (iii) how relevant measures should be scheduled in a manner consistent with the Scheduling Guidelines. Labour market tests were identified as a type of measures that qualified as an ENT relevant to mode 4. It was also pointed out that most entries related to labour market tests in schedules needed to be specified in order to be consistent with the Scheduling Guidelines.

III. REVIEW OF PROCEDURES UNDER ARTICLE XXI

7. At the meeting on 25 June 2012, Australia requested that the Committee undertake a review of the operation of the procedures for the implementation of GATS Article XXI, contained in document S/L/80, and the procedures for the certification of rectifications or improvements to schedules, contained in document S/L/84. At the meeting on 4 October 2012, Australia also submitted a communication for this purpose (S/CSC/W/59), proposing that Members share experience with using these procedures and that, in order to facilitate discussions, the Secretariat produce a factual report on their operation to date.

WORLD TRADE ORGANIZATION

S/WPDR/15
5 December 2012

(12-6713)

ANNUAL REPORT OF THE WORKING PARTY ON DOMESTIC REGULATION TO THE COUNCIL FOR TRADE IN SERVICES (2012)

1. Since its Annual Report of 2011 to the Council for Trade in Services¹, the Working Party on Domestic Regulation (WPDR) held four formal meetings, respectively on 4 November 2011, 21 March, 27 June and 4 October 2012.² During the period covered by this report, the Working Party continued with its work on the domestic regulation disciplines pursuant to GATS Article VI:4.
2. Following discussions at the end of 2011, the Working Party resumed substantive work in 2012 on the basis of issues submitted by Members for technical discussions. These issues, which are in the form of questions, have been compiled into a single list and can be found in an Informal Note by the Chairman entitled "List of Potential Technical Issues Submitted for Discussion" (RD/SERV/68) and in "Synopsis of Technical Issues Submitted for Discussion" (RD/SERV/70). A total of 93 questions have been submitted by Members.
3. To facilitate work, the Working Party agreed to organize discussions in accordance with a work plan proposed by the Chairman. The work plan is contained in an Informal Note by the Chairman entitled "Indicative Work Plan of Technical Issues Submitted for Discussion" (RD/SERV/71). The various questions have been grouped under eight separate meetings. So far, the Working Party has completed four meetings under the work plan. The issues submitted by Members seek to address questions that have arisen in the negotiations with respect to certain domestic regulation concepts and terms, as well as on the actual regulatory practices of Members. Certain Members, have also considered the implications of the information provided for horizontal disciplines. These discussions have been conducted in informal mode, and summaries are provided by the Chairman, together with any specific regulatory practices shared by Members.³ As requested, the Secretariat has also prepared a background Note on "Technical Standards in Services" (S/WPDR/W/49), which is intended to facilitate discussions amongst Members on these issues.
4. In addition to the technical discussions under the work plan, Members have also been considering a Secretariat Note on "Regulatory Issues in Sectors and Modes of Supply" (S/WPDR/W/48), which draws and builds upon the sectoral and modal notes prepared for the Council for Trade in Services.

¹ S/WPDR/14, dated 24 October 2011.

² The reports of the formal meetings are contained in documents S/WPDR/M/52-55 and should be read in conjunction with this report.

³ Chair's summaries of informal meetings can be found in RD/SERV/76 and JOB/SERV/97, 98 and 112, as well as related addendums.

WORLD TRADE ORGANIZATION

S/WPGR/23
29 November 2012

(12-6613)

ANNUAL REPORT OF THE WORKING PARTY ON GATS RULES TO THE COUNCIL FOR TRADE IN SERVICES (2012)

1. Since its Annual Report of 2011 to the Council for Trade in Services¹, the Working Party on GATS Rules (WPGR) held four formal meetings, respectively on 1 November 2011, 19 March, 25 June and 1 October 2012.² During the period covered by this report, the Working Party continued to engage in discussions on all three GATS-Rules subjects, in line with Annex C of the 2005 Hong Kong Ministerial Declaration.

I. NEGOTIATIONS ON EMERGENCY SAFEGUARD MEASURES (ARTICLE X)

2. On emergency safeguard measures (ESM), the proponents viewed the time as an opportunity for a period of reflection – while standing ready to continue the discussion on any ESM-related subject at the request of any delegation. Based on three documents prepared by the Secretariat (JOB/SERV/89, JOB/SERV/90 and JOB/SERV/106), which provided an overview of, and guide to, the considerable work and analysis devoted to the subject over the past sixteen years, Members took stock of the various concepts and options for a possible safeguard mechanism that had been raised since the Working Party's inception in 1995. The ESM-proponents reminded delegations of the evolution and current state of their proposal, focussing on the core elements of an ESM as identified in JOB/SERV/106.

II. NEGOTIATIONS ON GOVERNMENT PROCUREMENT (ARTICLE XIII)

3. Based on a series of dedicated discussions on the broader economic and developmental importance of government procurement in services that took place in the latter part of 2010 and 2011, several initial suggestions for future work had emerged: notably to develop a comparative typology of market access barriers in commercial and procurement services transactions; to examine the services that were most relevant for international procurement; and to improve the statistical situation, including data on the participation of developing countries in internationally contestable procurement markets. However, these issues were not further addressed during the reporting period.

III. NEGOTIATIONS ON SUBSIDIES (ARTICLE XV)

4. Members agreed to mandate the Secretariat to update its Background Note on "Subsidies for Services Sectors – Information contained in WTO Trade Policy Reviews" (S/WPGR/W/25/Add.5, last updated in March 2007). Regarding a possible way forward in this area, Members could not agree on whether the Working Party would first need to identify concrete evidence of trade-distortive effects of subsidies in services before entering into negotiations to develop multilateral disciplines to avoid such trade-distortive effects.

¹ S/WPGR/22, dated 10 November 2011.

² The reports of the formal meetings are contained in documents S/WPGR/M/76 to 79 and should be read in conjunction with this report.