

**ANNUAL REPORT OF THE COUNCIL FOR TRADE IN SERVICES
TO THE GENERAL COUNCIL (2005)**

1. Since its last report to the General Council, the Council for Trade in Services has had five formal meetings on 26 November 2004, 30 November 2004, 9 February 2005, 23 February 2005 and 24 June 2005¹. During this period, the Council addressed the following matters:

I. REVIEW OF MFN EXEMPTIONS

2. At its dedicated meetings held on 30 November 2004 and 23 February 2005, the Council undertook the second review of MFN exemptions mandated under the Annex on Article II Exemptions. The review was conducted on a sector-by-sector basis through a question-and-answer process, following the previous practice. At its regular meeting on 24 June 2005, the Council addressed outstanding questions on MFN exemptions and concluded the second review by deciding that the next review should begin in 2010 and no later than June 2010.

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

3. At its meeting held on 26 November 2004, the Council conducted and concluded the third 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 (S/FIN/13) of the Committee on Trade in Financial Services, which formed part of the Council's report on this matter to the General Council, contained in document S/C/23.

III. REPORT TO THE COUNCIL BY ALBANIA

4. At the meeting held on 26 December 2004, Albania made a report to the Council on its preparations to fulfil its GATS commitments in international public voice telephone services, as required by the General Council's waiver decision (WT/L/567).

IV. DERESTRICTION OF DOCUMENTS

5. At its meeting held on 26 November 2004, the Council reached an agreement that, with respect to any future discussion relating to the invocation of Article XXI of the GATS, the record of the discussion would be contained in an informal document and would subsequently be circulated as an addendum to the formal report of the meeting after the conclusion of the negotiations under Article XXI and the certification of any changes to the relevant schedule of commitments.

¹ Reports of the meetings are contained in documents S/C/M/75, S/C/M/76, S/C/M/77, S/C/M/78 and S/C/M/79. These should be read in conjunction with this report.

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

6. At its meetings held on 26 November 2004, 9 February 2005 and 24 June 2005, the Council took note of the following notifications:

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

Uruguay	(S/C/N/306-308)
Hong Kong, China	(S/C/N/312-320)
Albania	(S/C/N/321-324 & 329-342)
Honduras	(S/C/N/326-327)

(b) Notifications pursuant to Article V:5 of the GATS:

The European Communities	(S/SECRET/9& S/SECRET/9/Corr.1)
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(c) Notifications pursuant to Article V:7 of the GATS:

The EFTA States and Chile	(S/C/N/309)
The Unites States and Australia	(S/C/N/310)
Thailand and Australia	(S/C/N/311)
Panama and El Salvador	(S/C/N/325)
Japan and Mexico	(S/C/N/328)

VI. WORK OF THE SUBSIDIARY BODIES

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

Annex I	Report of the Committee on Trade in Financial Services (S/FIN/14)
Annex II	Report of the Working Party on Domestic Regulation (S/WPDR/8)
Annex III	Report of the Working Party on GATS Rules (S/WPGR/15)
Annex IV	Report of the Committee on Specific Commitments (S/CSC/11)

ANNEX I

**WORLD TRADE
ORGANIZATION**

S/FIN/14
20 September 2005

(05-4145)

**ANNUAL REPORT OF THE COMMITTEE ON TRADE IN FINANCIAL SERVICES TO
THE COUNCIL FOR TRADE IN SERVICES (2005)**

1. Since its last annual report to the Council for Trade in Services (S/FIN/12), the Committee on Trade in Financial Services has held three formal meetings, on 23 November 2004, and 10 February and 23 June 2005.² In this period, the Committee addressed the following matters: the acceptance of the Fifth Protocol to the General Agreement on Trade in Services; technical issues; recent developments in financial services trade; and a joint statement by a group of Members on financial services liberalization. Additionally, the Committee carried out the third 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.

I. ACCEPTANCE OF THE FIFTH PROTOCOL TO THE GATS

2. Three Members have not yet accepted the Protocol: Brazil, Jamaica, and the Philippines. Some Members expressed concern that the three Members have not yet accepted the Fifth Protocol. At the Committee's request, these Members provided periodically information on the situation of their domestic acceptance procedures.

II. TECHNICAL ISSUES

3. The Committee discussed a communication from Brazil on electronic commerce and financial services (Job(05)/103), whose aim was to revisit the issue of the distinction between modes 1 and 2 in the case of cross-border financial transactions conducted through electronic means.

III. RECENT DEVELOPMENTS IN FINANCIAL SERVICES TRADE

4. During the period under consideration, the Committee heard presentations by the Chairperson of the Financial Supervisory Commission in Chinese Taipei, and the Vice-Chairman of the Cairo & Alexandria Stock Exchange.

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

5. At its meeting on 23 November 2004, the Committee carried out the third transitional review of the implementation by China of its WTO commitments, pursuant to section 18 of the Protocol on

² Reports of these meetings are contained in documents S/FIN/M/47 to 49. They should be read in conjunction with this report.

the Accession of the People's Republic of China. The report submitted by the Committee to the Council for Trade in Services on this matter is contained in document S/FIN/13.

V. JOINT STATEMENT ON FINANCIAL SERVICES LIBERALIZATION

6. At the meeting held on 23 June 2005, Members addressed a communication by Australia, Bahrain, Canada, Chinese Taipei, the European Communities, Japan, Norway, Oman, Panama, Singapore, Switzerland, and the United States on the liberalization of financial services (TN/S/W/43). Some Members expressed concern with the presentation of this communication at the Committee on Trade in Financial Services.

ANNEX II

**WORLD TRADE
ORGANIZATION**

S/WPDR/8
23 September 2005

(05-4209)

**ANNUAL REPORT OF THE WORKING PARTY ON DOMESTIC REGULATION
TO THE COUNCIL FOR TRADE IN SERVICES (2005)**

1. Since the Annual Report of 2004³, the Working Party on Domestic Regulation (WPDR) held three formal meetings and four informal meetings⁴. Both formal and informal papers were submitted to the Working Party. Some Members also submitted proposals in the form of room documents.

2. At the formal meeting held on 22 June 2005, Members approved the appointment of Mr. Peter Govindasamy of Singapore as the new Chairman of the WPDR, replacing the previous Chairman, Mr. David Cairns of the United Kingdom.

I. ORGANIZATION OF WORK

3. In the period covered by this report, the Working Party received several submissions by Members on the development of regulatory disciplines under GATS Article VI:4. At the formal meeting on 22 June 2005, the Chairman gave an overview of the informal meetings held on 31 March and 2 May 2005.

4. Until the formal meeting of 22 June 2005, the discussions were organized on a proposal-by-proposal basis; at the informal meeting held on 6 and 7 September 2005 Members began discussing the elements contained in the proposals on a thematic basis, based on a framework proposed by the Chairman in document JOB(05)/169. The themes put forward by the Chairman for this first round of thematic discussions were: Licensing Requirements; Licensing Procedures; Qualification Requirements; Qualification Procedures; Technical Standards; Transparency; Objectives; Scope; Application; Definitions; and Development Considerations (including S&D and Technical Assistance) with regards to the above items.

II. DEVELOPMENT OF REGULATORY DISCIPLINES UNDER GATS ARTICLE VI:4

5. In the period covered by this report, the negotiations on regulatory disciplines under Article VI:4 of the GATS gained momentum with the submission of several formal and informal papers by Members. Members re-stated in various occasions their commitment to disciplines on domestic regulation in the Working Party preferably by the end of this Round of negotiations, without prejudice to horizontal or sectoral approaches.

6. The Working Party further examined Mexico's paper on technical standards, entitled *Mexico's Experience of Disciplines on Technical Standards and Regulations in Services* (S/WPDR/W/30, dated

³ S/WPDR/7, 26 November 2004.

⁴ Reports of these meetings are contained in documents S/WPDR/M/28 – 30. They should be read in conjunction with this report.

24 September 2004)⁵; an informal paper by the United States, entitled *Proposal for Transparency Disciplines in Domestic Regulation* (JOB(04)/128, dated on 15 September 2004); a paper by Colombia, entitled *Examples of Measures Relating to Administrative Procedures for Obtaining Visas or Entry Permits* (S/WPDR/W/29, dated 7 July 2004); an informal paper by Hong Kong, China, entitled *Relationship of Regulatory Disciplines with National Treatment* (JOB (04)/24, dated 31 March 2004); a paper by the European Community and Its Member States, entitled *Proposal for Disciplines on Licensing Procedures*, (S/WPDR/W/25, dated 10 July 2003); as well as an informal paper by Japan, entitled *Draft Annex on Domestic Regulation* (JOB(03)/45/Rev.1, dated 2 May 2003).

7. The Working Party examined new submissions relating to the development of Article VI:4 disciplines: a paper by Switzerland, entitled *Proposal for Disciplines on Technical Standards in Services* (S/WPDR/W/32, dated 1 February 2005); an informal paper by Bolivia, Chile, India, Mexico, Pakistan and Thailand, entitled *Proposed elements for disciplines on Qualification Requirements and Procedures* (JOB(05)/50, dated 30 March 2005); an informal paper by Switzerland, entitled *Initial Elements for Modalities for Negotiations on Disciplines on Domestic Regulation* (JOB(05)/68, dated 2 May 2005); a paper by Australia, entitled *Development of Disciplines on Domestic Regulation for the Legal and Engineering Sectors* (S/WPDR/W/34, dated 6 September 2005); and a paper from Chinese Taipei, entitled *Transparency Disciplines on Domestic Regulation in the Telecommunications Sector*, S/WPDR/W/36, dated 14 September 2005.

8. As well Canada submitted a paper entitled *Transparency Template - Canada's Revised Horizontal Mode 4 Offer* (S/WPDR/W/33, dated 25 May 2005).

9. The Working Party also further reviewed the measures, including the additional examples provided by delegations, listed in the informal Secretariat paper on *Examples of Measures to be Addressed by Disciplines under GATS Article VI:4* (the latest version is JOB(02)/20/Rev.10, dated 31 January 2005). The discussion on the examples also benefited from two new informal papers submitted by Brazil, entitled *Examples of Measures to be addressed by disciplines under GATS Article VI:4* (JOB(04)/169, dated 19 November 2004) and Hong Kong, China, entitled *Comparison of Regulatory Examples with Accountancy Disciplines and Proposals for Regulatory Disciplines* (JOB(04)/166, dated 19 November 2004).

10. The Secretariat updated its compilation of the results of the consultations with international professional organizations concerning the potential suitability of the *Disciplines on Domestic Regulation in the Accountancy Sector* (S/L/64, dated 17 December 1998) for other professions. The most recent version of this compilation is JOB(03)/126/Rev.6, dated 15 September 2005.

III. PRESENTATION ON TECHNICAL STANDARDS BY THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO)

11. At the formal meeting held on 22 June 2005, at the request of the Working Party, the Secretary General of the International Organisation for Standardization (ISO), Mr. Alan Bryden, gave a PowerPoint presentation on ISO's work and its relevance for the WPDR discussions on technical standards. Members expressed their appreciation for the presentation, which was followed by a question and answer session.

⁵ At the formal meeting on 7 February 2005, Mexico gave a PowerPoint presentation on technical standards.

ANNEX III

**WORLD TRADE
ORGANIZATION**

S/WPGR/15
22 September 2005

(05-4190)

**ANNUAL REPORT OF THE WORKING PARTY ON GATS RULES
TO THE COUNCIL FOR TRADE IN SERVICES (2005)**

1. Since its annual report for 2004, the Working Party on GATS Rules held three formal meetings: on 24 November 2004, on 7 February 2005, and on 20 June 2005.⁶ The three negotiating mandates the Working Party is entrusted with were put on the agenda of each meeting: emergency safeguard measures (Article X), government procurement (Article XIII), and subsidies (Article XV). The Working Party also held one informal meeting.

2. In the three areas, discussions referred to the need to consider work priorities in the context of upcoming key timelines and the current state of discussions, including as mentioned by the Chairperson in the annotated agenda circulated as JOB(05)/115. Various delegations expressed concerns regarding the lack of progress across the three areas of negotiations as well as the information exchange foreseen in paragraph 1 of Article XV.

**I. NEGOTIATIONS ON EMERGENCY SAFEGUARD MEASURES UNDER GATS
ARTICLE X**

3. At the meetings of November 2004 and February 2005, delegations continued their discussion on emergency safeguard measures on the basis of an informal communication from a group of ASEAN Members⁷ (JOB(04)/175), which presented answers to questions raised with respect to their proposal. Issues touched upon in the discussion included: situations justifying the use of a safeguard measure; the definition of domestic industry; availability of appropriate statistics; the relationship between safeguard measures and obligations in bilateral investment treaties; link to progressive liberalization; and the use of safeguard-type entries in schedules.

4. At the meeting of June 2005, a representative from UNCTAD presented a paper on emergency safeguard measures that the organization had earlier circulated. The ensuing discussion touched upon a number of issues, such as the purpose and effects of a safeguard mechanism in services, relevant comparisons with rules in the area of goods, special and differential treatment, domestic industry, procedures and indicators, compensation, as well as possible approaches for a way forward.⁸ Divergent views were expressed on the various aspects raised in relation to emergency safeguard measures, including desirability and feasibility.

⁶ Reports of these meetings are contained in documents S/WPGR/M/50, S/WPGR/M/51, and S/WPGR/M/52. They should be read in conjunction with this report.

⁷ Brunei Darussalam, Indonesia, Malaysia, Myanmar, the Philippines and Thailand.

⁸ Discussions on emergency safeguard measures are reflected in paragraphs 33-55 of S/WPGR/M/50, paragraphs 55-79 of S/WPGR/M/51, and paragraphs 4-37 of S/WPGR/M/52.

II. NEGOTIATIONS ON GOVERNMENT PROCUREMENT UNDER GATS ARTICLE XIII.

5. At the meetings of November 2004 and February 2005, delegations continued their discussion of an earlier proposal by the European Communities for a framework under GATS for government procurement in services (S/WPGR/W/48). At the meeting of June 2005, the European Communities presented a communication on the structure of an annex to the GATS on procedural rules for government procurement (S/WPGR/W/52). Issues raised in the discussion included the application of the MFN obligation, the relationship to the Government Procurement Agreement (GPA), modal application, the possibility of distinguishing between goods and services, scheduling approaches, comparisons with approaches taken in regional trade agreements, thresholds, and elements of procedural rules. As requested, the Secretariat prepared the following Note: *Main Approaches to the Undertaking of Commitments on Government Procurement in Economic Integration Agreements: Summary Observations* (S/WPGR/W/51).

6. A number of delegations continued to reiterate that, in their view, the negotiating mandate under Article XIII did not entail market access issues, while others thought that these were covered. Some delegations drew attention to the General Council's decision, in the July Package, that there be no negotiations on the Singapore issue of transparency in government procurement, while others pointed out that the July Package also called on Members to intensify efforts to conclude the rule-making negotiations, including those on Article XIII.⁹

III. NEGOTIATIONS ON SUBSIDIES UNDER GATS ARTICLE XV

7. At the meeting of November 2004, delegations pursued their discussion on issues relating to the information exchange, the definition of subsidy, and trade distortion, including in the light of a previous communication from the delegation of Hong Kong, China (JOB(04)/127). At the meeting of February 2005, delegations discussed an informal communication from the United States, which put forward some thoughts regarding the information exchange. The delegation of Singapore also presented an informal communication which enumerated a number of relevant issues for the negotiations, in particular with respect to definition (JOB(04)/180). At the meeting of June 2005, delegations discussed an informal communication from the delegations of Chile, Hong Kong, China, Mexico, Peru and Switzerland, which put forward suggestions regarding the development of a provisional definition of subsidy and suggested next steps for the information exchange, including timelines (JOB(05)/96).

8. During the three meetings, the issues raised, and on which various views were expressed, included the scope and depth of the information exchange provided for in Article XV:1, the selection of sectors and timelines for the provision of information, the relevance of the ASCM concepts for a provisional definition in services, the treatment of public services, and flexibility for developing countries pursuant to Article XV:1. As requested, the Secretariat prepared the following informal Note: *Synthesis of Views Expressed on the Definition of Subsidy* (JOB(05)/4).¹⁰

⁹ Discussions on government procurement are reflected in paragraphs 56-70 of S/WPGR/M/50, paragraphs 37-54 of S/WPGR/M/51, and paragraphs 38-58 of S/WPGR/M/52.

¹⁰ Discussions on subsidies are reflected in paragraphs 4-32 of S/WPGR/M/50, paragraphs 2-36 of S/WPGR/M/51, and paragraphs 59-81 of S/WPGR/M/52.

ANNEX IV

**WORLD TRADE
ORGANIZATION**

S/CSC/11
23 September 2005

(05-4208)

**ANNUAL REPORT OF THE COMMITTEE ON SPECIFIC COMMITMENTS
TO THE COUNCIL FOR TRADE IN SERVICES (2005)**

1. Since its annual report of 2004 to the Council for Trade in Services, the Committee on Specific Commitments held three formal meetings: on 25 November 2004, 11 February 2005, and 21 June 2005.¹¹ In the reporting period, the Committee addressed three items: classification issues; scheduling issues; and editorial conventions for the submission of revised offers.

I. CLASSIFICATION ISSUES

2. The Committee addressed a revised proposal on the classification of energy services from Indonesia (S/CSC/W/42/Rev.1 and S/CSC/W/42/Rev.1/Corr.1) at all meetings during the reporting period. At the meeting of 25 November 2004, the delegation of Japan submitted written comments and questions on Indonesia's initial classification proposal (JOB(04)/165). At the meeting of 21 June 2005, the delegation of Indonesia provided written replies to these comments and questions.

3. The Committee discussed submissions on the classification of telecommunication services by the European Communities (S/CSC/W/44) at its meetings on 11 February and 21 June 2005, and the United States (S/CSC/W/45 and Corr.1) at its meeting on 21 June 2005.

4. At its meeting of 21 June 2005, the Committee discussed a joint statement on legal services by a group of WTO Members (S/CSC/W/46).

5. Throughout the reporting period, the Committee discussed classification issues in informal mode. Issues in the following sectors were addressed: Consulting Services; Postal and Courier Services; Audiovisual Services; Construction and related Engineering Services; Distribution Services; Education Services; Energy Services; and Environmental Services.

¹¹ Reports of these meetings are contained in documents S/CSC/M/35, S/CSC/M/36, and S/CSC/M/37. They should be read in conjunction with this report.

II. SCHEDULING ISSUES

6. During the reporting period, several communications containing specific questions on initial offers were submitted to the Committee. Three submissions were tabled by Brazil, (JOB(03)/189, JOB(04)/12, and JOB(04)/174), and one by Hong Kong, China (JOB(04)/174). At the meeting of 21 June 2005, the delegation of Hong Kong, China provided written replies to questions on its initial offer (JOB(05)/116).

7. The Committee further addressed general scheduling questions on the basis of communications from Hong Kong, China (JOB(04)/81 and JOB(04)/133), and Chinese Taipei (JOB(04)/82 and JOB(04)/172).

8. The Committee took up technical issues related to the clarity and specificity of economic needs tests (ENTs) on the basis of contributions from Hong Kong, China (JOB(04)/171) and, with regard to Mode 4 specifically, a communication from Canada (S/CSC/W/47).

III. EDITORIAL CONVENTIONS FOR THE SUBMISSION OF REVISED OFFERS

9. At the meeting of 11 February 2005, the Committee considered editorial conventions suggested by the Chairman in JOB(05)/6. The Committee took note of the suggestions made by the Chairman, i.e. to continue the use of the editorial conventions for initial offers set out in JOB(02)/88, and, in addition, to facilitate the comparison between initial and revised offers by shading the background of any changes (new text; modified text; struck through text) introduced in the revised offers to the documents containing the initial offers.
