

## ANNUAL REPORT OF THE COUNCIL FOR TRADE IN SERVICES TO THE GENERAL COUNCIL (2011)

1. Since its last report to the General Council, the Council for Trade in Services held seven formal meetings, on 17 November 2010, 18 November 2010, 7 March 2011, 9 March 2011, 2 May 2011, 24 June 2011 and 30 September 2011.<sup>1</sup> During this period, the Council addressed the following matters.

### I. NOTIFICATIONS MADE TO THE COUNCIL PURSUANT TO GATS ARTICLES III:3 AND V:7

2. At its meetings held on 18 November 2010, 7 March, 24 June and 30 September 2011 the Council for Trade in Services took note of the following notifications:

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

United States	S/C/N/569
Japan	S/C/N/571
Colombia	S/C/N/572-576
Kingdom of Bahrain	S/C/N/579
Togo	S/C/N/580 to 593
Switzerland	S/C/N/596-597

(b) Notifications pursuant to Article V:7 of the GATS

Colombia and Mexico	S/C/N/563
India	S/C/N/570
China and Chile	S/C/N/577
China and Hong Kong, China	S/C/N/264/Add.4
China and Macao, China	S/C/N/265/Add.4
Hong Kong, China and New Zealand	S/C/N/578
Republic of Korea and Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam	S/C/N/559/Add.1 and S/C/N/560/Add.1
European Union and Republic of Korea	S/C/N/594
Guatemala and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	S/C/N/595
Peru and Republic of Korea	S/C/N/598
India and Malaysia	S/C/N/599
Colombia, Liechtenstein and Switzerland	S/C/N/600
India and Japan	S/C/N/601

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<sup>1</sup> Reports of these meetings are contained in documents S/C/M/101 to 107, and should be read in conjunction with this report.

## **II. COMPLIANCE WITH GATS NOTIFICATION REQUIREMENTS**

3. The Council for Trade in Services addressed the issue of compliance with GATS notification requirements at its November 2010 and March 2011 meetings.

4. At the meeting held on 18 November, the delegation of Switzerland reported that the open-ended, informal group it had formed to exchange experiences with regard to notifications had met the previous day.

5. At the March 2011 meeting, the Council decided, given the particular intensity of WTO work at that juncture, to revert to this issue at a later time.

## **III. SECTORAL AND MODAL DISCUSSIONS**

6. The Council for Trade in Services continued with its discussions on a number of services sectors and modes of supply, on the basis of a series of Background Notes the Secretariat had been tasked to produce addressing salient regulatory and economic developments.

7. At its meeting held on 18 November 2010, the Council considered the Background Notes on "Road freight transport services" (S/C/W/324, and Corrigendum 1) and "Distribution services" (S/C/W/326).

8. At the meeting held on 7 March 2011, the Council addressed the last two Background Notes prepared by the Secretariat, dealing with "Engineering services" (S/C/W/334) and "A review of statistics on trade flows in services" (S/C/W/329 and Addendum 1).

9. At that meeting, the delegation of Switzerland suggested that an additional Note could be produced, on the role of Small and Medium-sized Enterprises (SMEs) in services trade. In response to the Swiss proposal, the Secretariat indicated that it would be pleased to undertake some work on the issue, but would need to reflect further on what it could usefully prepare.

10. At the meeting held on 2 May, and again at the following meeting in June, a representative of the Secretariat provided an overview of the limited information that it had been able to gather on the role of SMEs in services trade. It thus solicited additional inputs from Members, in order to complement its own research and be in a position to produce a meaningful piece of work.

11. On 20 September, the delegation of Switzerland submitted a communication titled "The Services Sector, Small and Medium-sized Enterprises and Employment: the Case of Switzerland"(S/C/W/340). The Council addressed the Swiss submission at its 30 September meeting, when several other Members also shared information on the role of SMEs in their economies.

## **IV. THIRD REVIEW OF MFN EXEMPTIONS**

12. The Council held two meetings dedicated to the third review of Article II (MFN) exemptions, on 17 November 2010 and 9 March 2010. It then pursued its discussion under the review as an item on the Council's agenda, rather than in a dedicated session, on 2 May 2011.

13. For the purpose of the review, the Secretariat had circulated three background documents: two updated compilations of all MFN exemptions listed, one organised by sector (JOB/SERV/29), and one organised by Member (JOB/SERV/30), and a document providing updated statistical information on MFN exemptions (JOB/SERV/31).

14. At the November meeting, the Council addressed the MFN exemptions inscribed for: all sectors; business services; communication services; construction and related engineering services; and distribution services. A number of delegations had submitted questions in writing in advance of the meeting, namely: China (in document S/C/W/321); Hong Kong, China and Japan (S/C/W/322); Chile (S/C/W/323 and Corr.1); and the Republic of Korea (S/C/W/325 and Corr.1).

15. In March 2011, the Council examined the remaining exemptions, i.e. those listed for: educational services; financial services; health-related and social services; tourism and travel-related services; recreational, cultural and sporting services; and transport services. A few delegations had submitted written questions for the purpose of the meeting, namely Switzerland (in document S/C/W/330), Hong Kong, China (S/C/W/331) and Norway (S/C/W/336).

16. Pursuant to the mandate in paragraph 4(b) of the relevant GATS Annex, that the Council determine "the date of any further review", at the meeting held on 2 May the Council agreed to close the third review and hold its next review of Article II (MFN) exemptions no later than 2016.

## **V. RE-OPENING OF THE FIFTH PROTOCOL FOR ACCEPTANCE BY THE PHILIPPINES**

17. Following the request of the Philippines contained in document S/C/W/332, at its meeting on 7 March 2011 the Council decided to reopen the Fifth Protocol to the GATS, relating to financial services, for acceptance by the Philippines. The relevant decision is contained in document S/L/382.

## **VI. DEDICATED DISCUSSION ON INTERNATIONAL MOBILE ROAMING**

18. At the Council meeting held in March, the delegations of Australia, Norway and the United States submitted a communication (in document S/C/W/335) containing a proposal for a workshop on international mobile roaming (IMR) and the applicability of the GATS. Though Members expressed considerable support for and interest in the proposed workshop, a few questions were raised with regard to its timing and agenda.

19. Following informal consultations and further discussions at the May meeting, the Council agreed that it would hold a dedicated discussion on IMR, and tasked the Secretariat to produce a Background Note on the issue. Accordingly, the Secretariat prepared the Note titled "International Mobile Roaming: Possible Implications for GATS" (contained in JOB/SERV/77, subsequently re-issued as a formal document with the symbol S/C/W/337).

20. The Council held a first dedicated discussion on IMR at its June meeting, using the Secretariat Note as a basis. At its September meeting, the Council also addressed an informal Note on the issue by the International Telecommunication Union, contained in document JOB/SERV/85.

## **VII. WORK PROGRAMME ON ELECTRONIC COMMERCE**

21. The Work Programme on Electronic Commerce was placed on the Council's agenda in May at the request of the delegation of the United States. Members expressed wide support for resuming deliberations under the Work Programme and agreed that, as an initial background to the discussion, the Secretariat would prepare a compilation of elements related to the electronic supply of services drawn from the Background Notes that the Secretariat had issued on a number of sectors, modes of supply, and statistics on trade flows in services.

22. The Secretariat Note (contained in document JOB/SERV/78 and Corrigendum 1), was first addressed at the June meeting. On that occasion, Members agreed that, in light of the mandate contained in the Ministerial Decision on the E-commerce Work Programme of December 2009, the

Chairman would produce, under his own responsibility, a Chairman's Report to the General Council of the discussions the Council for Trade in Services had had under the Work Programme. The Report is contained in document S/C/35, dated 30 June 2011.

23. At its September meeting, the Council addressed two new documents: a communication from the European Union and the United States (document S/C/W/338) titled "Contribution to the Work Programme on Electronic Commerce"; and a communication from the United States (document S/C/W/339) titled "Work Program on Electronic Commerce: Ensuring that trade rules support innovative advances in computer applications and platforms, such as mobile applications and the provision of cloud computing services".

## **VIII. WORK OF THE SUBSIDIARY BODIES**

24. The activities of the subsidiary bodies in 2011 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/25)
Annex II	Report of the Committee on Specific Commitments (S/CSC/17)
Annex III	Report of the Working Party on Domestic Regulation (S/WPDR/14)
Annex IV	Report of the Working Party on GATS Rules (S/WPGR/22)

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# WORLD TRADE ORGANIZATION

S/FIN/25  
1 November 2011

(11-5521)

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## ANNUAL REPORT OF THE COMMITTEE ON TRADE IN FINANCIAL SERVICES TO THE COUNCIL FOR TRADE IN SERVICES (2011)

1. Since its last Annual Report to the Council for Trade in Services (S/FIN/24), the Committee on Trade in Financial Services has held five formal meetings and several informal meetings.<sup>1</sup>
2. The Committee continued to monitor the status of acceptance of the Fifth Protocol to the GATS, which has yet to be accepted by Brazil and Jamaica. Following a decision by the Council for Trade in Services contained in document S/L/382 to reopen the Protocol, the Philippines accepted it on 16 March 2011. The Protocol entered into force for the Philippines on that date, as stated in document WT/Let/759.
3. At its meeting on 16 November 2010, the Committee continued its discussion on "Impact of Technological Developments on Regulatory and Compliance Aspects of Banking and other Financial Services under the GATS", on the basis of a Background Note prepared by the Secretariat (S/FIN/W/74), as well as Members' perspectives *inter alia* on the incorporation of technology and the necessary regulatory requirements in their financial sectors. Upon a suggestion by the Chairperson, the Committee agreed that any follow up to this discussion be conducted in further detail under the agenda item on Technical Issues.
4. At its meeting on 9 March 2011, under the agenda item on "Recent Developments in Financial Services Trade", the Committee discussed a communication from Barbados entitled "Unintended Consequences of Remedial Measures taken to correct the Global Financial Crisis: Possible Implications for WTO Compliance" (JOB/SERV/38), which suggested potential amendments to the GATS in light of issues arising from the financial crisis. The Committee took note of the statements made on this submission.
5. Following an initial proposal by China, on 12 May 2011, the Committee held a Dedicated Discussion on Trade in Financial Services and Development. The purpose of the discussion was to allow Members to share their experiences and perspectives on the relationship between trade in financial services and economic development, concerning *inter alia* the impact of the liberalization of trade in financial services on economic growth and development, the relationship between international and domestic liberalization of the financial sector, and the role of financial sector policy and regulation in promoting economic development. As requested by the Committee, the Secretariat had prepared a Background Note containing a review of the literature on the role of trade in financial services in economic growth and development (S/FIN/W/76). Discussions on this issue continued in subsequent meetings. In light of the interest shown by Members in deepening specific aspects further, the Committee decided to organize a workshop in 2012.

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<sup>1</sup> The reports of the formal meetings are contained in documents S/FIN/M/66 to 70 and should be read in conjunction with this report.

6. The Committee renewed its consideration of classification issues in financial services. With a view to supporting those discussions, the Secretariat prepared a Background Note overviewing classification issues raised in the past (JOB/SERV/79). As agreed by Members, the discussions were held in informal mode. Informal summaries of the discussions held on 21 June and 26 September 2011 have been prepared by the Chairperson under his own responsibility, and circulated as documents JOB/SERV/83 and 87, respectively.

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# WORLD TRADE ORGANIZATION

S/CSC/17  
4 November 2011

(11-5618)

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## ANNUAL REPORT OF THE COMMITTEE ON SPECIFIC COMMITMENTS TO THE COUNCIL FOR TRADE IN SERVICES (2011)

1. Since its Annual Report of 2010 to the Council for Trade in Services, the Committee on Specific Commitments has held five formal meetings: on 16 November 2010, 10 March 2011, 11 May 2011, 23 June 2011, and 29 September 2011. During the reporting period, the Committee addressed three items: classification issues; scheduling issues; and the relationship between old and new commitments.<sup>1</sup>

### I. CLASSIFICATION ISSUES

2. Delegations engaged in informal discussions on classification issues, based on the Secretariat's sectoral Background Notes. Four sectors were examined during the reporting period: computer and related services; telecommunication services; audiovisual services; and environmental services. To facilitate the discussions, for each sector under examination, the Secretariat prepared an informal note providing an overview of relevant classification issues (JOB/SERV/39, JOB/SERV/73, JOB/SERV/76, JOB/SERV/84). After the discussions of each meeting, an informal, non-attributable summary was circulated to Members under the Chairman's responsibility.

### II. SCHEDULING ISSUES

3. The Committee examined issues related to economic needs tests (ENTs) on a modal basis. Delegations first considered ENTs relevant to mode 4 by addressing issues in three aspects: (i) what kind of measures might qualify as an ENT for mode 4, (ii) which elements would constitute the criteria for assessing "economic needs" under this mode, and (iii) how relevant measures should be scheduled in a manner consistent with the Scheduling Guidelines? The Committee agreed to continue the exercise.

### III. RELATIONSHIP BETWEEN OLD AND NEW COMMITMENTS

4. Discussions under this agenda item focused on procedural issues related to the verification exercise at the end of the DDA negotiations, based on the Secretariat's informal Note on the Roadmap for the Verification Exercise (JOB/SERV/21/Rev.1 and JOB/SERV/21/Rev.2). The Note presented two scenarios: (1) the exercise to take place before the formal adoption of the negotiating results, and (2) the exercise to take place after the formal adoption of the negotiating results. Delegations examined different procedures in the two scenarios as well as their possible implications. There was no discussion under this item since May 2011.

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<sup>1</sup> The reports of these meetings are contained in documents S/CSC/M/56, S/CSC/M/57, S/CSC/M/58, S/CSC/M/59, and S/CSC/M/60, which should be read in conjunction with this report.

# WORLD TRADE ORGANIZATION

S/WPDR/14  
24 October 2011

(11-5327)

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## ANNUAL REPORT OF THE WORKING PARTY ON DOMESTIC REGULATION TO THE COUNCIL FOR TRADE IN SERVICES (2011)

1. Since the Annual Report of 2010<sup>1</sup>, the Working Party on Domestic Regulation (WPDR) held five formal meetings and several informal meetings.<sup>2</sup>
2. In the period covered by this report, the Working Party continued with its work on the development of a draft text of regulatory disciplines pursuant to GATS Article VI:4, as mandated by the Hong Kong Ministerial Declaration. Following the call by Members at the General Council meeting of December 2010 for renewed engagement across all areas of the Doha Development Agenda, the Working Party undertook an intensified phase of negotiations during the first quarter of 2011.
3. A key point in the intensification of the process was the "sweeping exercise" of 10 and 11 February 2011, in which Members undertook a paragraph by paragraph reading of the draft provisions contained in the Chair's March 2009 text<sup>3</sup> and related proposals, with the aim of identifying parts of the draft that were stabilized, and those on which further work would be required. Following the "sweeping exercise", which saw a reduction in the number of language options, three separate weeklong intensive drafting sessions were organised to further resolve differences regarding the content and levels of ambition of the various provisions. The first session was held from 28 February to 4 March, the second session was held from 7 to 10 March and the third session from 4 to 8 April 2011.
4. In these sessions, Members discussed and explored language options for all the disciplines envisaged in the Chair's March 2009 text. Proposals have also been submitted to add new paragraphs to the Chair's March 2009 text. Considerable efforts were made in the intensive drafting sessions to identify areas where differences could be isolated by introducing brackets into either the paragraphs of the Chair's March 2009 text or in an alternative language proposal. All language proposals, submitted either in a written form or introduced orally during the intensive phase of negotiations were contained in the Chairman's Consultative Note.<sup>4</sup>
5. Members had constructive and engaged discussions during the intensified negotiations but were not in a position to agree on a revised text. During the meeting of the Special Session held on 15 April, the Chairman of the Working Party on Domestic Regulation made a Progress Report under his

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<sup>1</sup> S/WPDR/13 dated 8 November 2010.

<sup>2</sup> The reports of the meetings are contained in documents S/WPDR/M/47-51 and should be read in conjunction with this report. Chair's summaries of informal meetings can be found in the RD/SERV/32, 45, 56 and 57.

<sup>3</sup> Second Revision, Draft Disciplines on Domestic Regulation Pursuant to GATS Article VI.4, Informal Note by the Chairman, Room Document, 20 March 2009.

<sup>4</sup> RD/SERV/46/Rev.2. This Note included language proposals up to 23 March 2011.



own responsibility providing his assessment of the overall situation. Various views were expressed by Members on the Chairman's Progress Report.<sup>5</sup> These views are reflected in the Report by the Chairman of the Special Session to the Trade Negotiations Committee and recorded in the minutes of that meeting.<sup>6</sup>

6. Subsequent meetings of the Working Party in July and September have focused on discussing how future work on domestic regulation disciplines would be conducted, as well as the topics for discussion. The Chairman has requested Members to submit their ideas on this matter and will hold further consultations, as appropriate.

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<sup>5</sup> S/WPDR/W/45.

<sup>6</sup> TN/S/36 and TN/S/M/42.

# WORLD TRADE ORGANIZATION

S/WPGR/22  
10 November 2011

(11-5809)

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## ANNUAL REPORT OF THE WORKING PARTY ON GATS RULES TO THE COUNCIL FOR TRADE IN SERVICES (2011)

1. Since the Annual Report of 2010 to the Council for Trade in Services (S/WPGR/20), the Working Party on GATS Rules (WPGR) held five formal meetings (on 24 November 2010, 14 February, 24 March, 22 June and 28 September 2011) and several open-ended informal meetings.<sup>1</sup>
2. During the period covered by this report, the Working Party continued to engage in focussed discussions on all three GATS Rules subjects, in line with Annex C of the 2005 Hong Kong Ministerial Declaration. Following the call at the General Council meeting of December 2010 for renewed engagement across all areas of the Doha Development Agenda (DDA), the Working Party undertook an intensified phase of deliberations during the first quarter of 2011. The WPGR Chair submitted a Progress Report to the Special Session of the Council for Trade in Services, contained in document S/WPGR/21 of 14 April 2011. Following the April 2011 "Easter package", Members confirmed their readiness to pursue their work on all three GATS Rules subjects. Details on the work undertaken on each of them are provided below.

### **I. NEGOTIATIONS ON EMERGENCY SAFEGUARD MEASURES (ARTICLE X)**

3. On emergency safeguard measures (ESM), at the March 2011 meeting, Members delved further into the question of statistics for possible use in emergency safeguard actions in the services' field. The discussion was introduced by two presentations by Secretariat experts: one on the availability, at the international level, of disaggregated statistics on services trade flows that could be potentially relevant in the safeguards context; the second on the types of statistics used in safeguards investigations in the goods sector under the WTO Safeguards Agreement. It was hoped that those two presentations could provide a possible gateway for subsequent contributions by Members on their national experiences in the compilation and use of services statistics, and on how current statistical deficiencies might be overcome. During the period reviewed by this report, however, no further presentation on ESM-related matters, including statistics, was announced.
4. In the debate on ESM-relevant statistics, a number of conceptual questions resurfaced, such as the definition of "domestic industry", indicators and criteria for the determination of serious injury, and the "causal link" between a surge in the volume of services imports and serious injury of the domestic industry. It was agreed that the Secretariat would prepare a documentation guide to assist delegations in making use of the wealth of information contained in Members' submissions, Secretariat Notes and meeting reports issued since the inception of this Working Party in 1995. The documentation guide would be ready by the end of 2011.

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<sup>1</sup> The reports of the formal meetings are contained in documents S/WPGR/M/71 to 75 and should be read in conjunction with this report.

## II. NEGOTIATIONS ON GOVERNMENT PROCUREMENT (ARTICLE XIII)

5. Since the latter part of 2010, the Working Party has pursued a series of dedicated discussions on the broader economic and developmental importance of government procurement in services, based on a proposal by the European Union (RD/SERV/23).<sup>2</sup> During the period covered by this report, the Working Party held three dedicated discussions: on the economic importance of government procurement in services in developed and developing countries (introduced by a presentation from an academic expert); on services aspects of the Plurilateral Agreement on Government Procurement (GPA) and the latter's impact on international procurement markets (preceded by a presentation by a Secretariat GPA expert); and on sharing national experiences regarding the reform and opening of domestic procurement systems, as well as access to foreign procurement markets.<sup>3</sup> At the latter session, four delegations gave presentations on the opening of their domestic/internal procurement markets and access of their suppliers to foreign markets. Further such presentations were deemed to be useful.

6. Several initial suggestions for future work were made at the WPGR meeting of 28 September 2011: notably to develop a comparative typology of market access barriers in commercial and procurement services transactions, by modes of supply; examine the services that were most relevant for international procurement; and improve the statistical situation, including data on the participation of developing countries in international procurement markets.

## III. NEGOTIATIONS ON SUBSIDIES (ARTICLE XV)

7. In the area of subsidies, the Working Part held one dedicated discussion on the information provided by Members concerning their subsidy programmes under the Information Exchange mandated by Article XV of the GATS. The objective was to identify systemic issues that could be relevant for the negotiations on necessary multilateral disciplines.<sup>4</sup> While that session contributed to Members' understanding of how subsidies functioned and their potential trade effects, delegations acknowledged that more work needed to be done. Discussions also continued on Switzerland's proposal for disciplines on export subsidies (JOB/SERV/36) and on the Communication by the United States with questions for Members on concrete examples of trade-distortive effects (S/WPGR/W/59).

8. Regarding the possible way forward, some Members favoured entering into negotiations to develop necessary multilateral disciplines to avoid trade-distortive effects of subsidies. A communication from India, Chile and Mexico proposed developing a roadmap for future discussions to that end (JOB/SERV/37 of 24 January 2011). Other Members argued that, in the absence of concrete evidence of trade-distortive effects, Members should refrain from entering into negotiations to devise any disciplines. Others were of the view that there was still useful conceptual and technical work that could be done short of starting negotiations on new disciplines. Overall, there appeared to be broad agreement on the desirability of obtaining more and better information on the potential or actual trade-distortive effects of subsidies. One unresolved question was whether any such identification of trade-distortive effects should be undertaken before Members embarked upon further technical work or negotiations.

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<sup>2</sup> The EU's proposal, dated 24 September 2010, proposes a range of topics on the economic importance of government procurement in services in developed and developing countries, for discussion over several months.

<sup>3</sup> The three WPGR dedicated sessions were held, respectively, during the formal meetings of 24 November 2010 (S/WPGR/M/71) and 14 February 2011 (S/WPGR/M/72), and at the informal meeting of 20 September 2011 (report to be issued).

<sup>4</sup> WPGR meeting of 24 November 2010, see S/WPGR/M/71. Since the launch of the Work Programme, 18 submissions covering 44 WTO Members have been received, circulated in JOB/SERV/1/Add.1-12.