

## ANNUAL REPORT OF THE COUNCIL FOR TRADE IN SERVICES TO THE GENERAL COUNCIL (2010)

1. Since its last report to the General Council, the Council for Trade in Services held six formal meetings, on 5 October 2009, 5 November 2009, 11 February 2010, 28 April 2010, 30 June 2010 and 30 September 2010.<sup>1</sup> During this period, the Council addressed the following matters.

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

2. At its meetings held on 5 October 2009, 5 November 2009, 11 February 2010, 28 April 2010, 30 June 2010 and 30 September 2010, the Council for Trade in Services took note of the following notifications:

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

India	S/C/N/497-499 and S/C/N/543
New Zealand	S/C/N/503-507, and S/C/N/518-521
Paraguay	S/C/N/510-511
Albania	S/C/N/516 and S/C/N/528
China	S/C/N/522-527, S/C/N/529-534, and S/C/N/564-566
Chile	S/C/N/536
Australia	S/C/N/540 and Corr.1, S/C/N/541-542
Peru	S/C/N/546-550
Barbados	S/C/N/552-556
Nicaragua	S/C/N/561-562
Switzerland	S/C/N/567-568

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

Nicaragua and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	S/C/N/500
Panama and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	S/C/N/501
Peru and Singapore	S/C/N/502
Peru and Canada	S/C/N/508
China and Macao, China	S/C/N/265/Add.3
Colombia and Chile	S/C/N/509
Japan and Switzerland	S/C/N/512
China and Hong Kong, China	S/C/N/264/Add.3
Japan and Viet Nam	S/C/N/513

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<sup>1</sup> Reports of these meetings are contained in documents S/C/M/95 to 100, and should be read in conjunction with this report.

European Union and the Former Yugoslav Republic of Macedonia	S/C/N/514
European Union and Albania	S/C/N/515
European Union and Croatia	S/C/N/517
Honduras and Panama	S/C/N/535
Peru and China	S/C/N/537
El Salvador, Honduras and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	S/C/N/544
Australia, Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, New Zealand, the Philippines, Singapore, Thailand and Viet Nam	S/C/N/545
China and Pakistan	S/C/N/551
European Union	S/C/N/557
Republic of Korea	S/C/N/558-559
Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam	S/C/N/560

(c) Notifications pursuant to Article VII:4 of the GATS

Australia	S/C/N/538
United States	S/C/N/539

## 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 5 November 2009, the Council for Trade in Services conducted and concluded the eighth 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/23), which formed part of the Council's report on this matter to the General Council, contained in document S/C/33.

## III. COMPLIANCE WITH GATS NOTIFICATION REQUIREMENTS

4. At its meetings held on 5 October 2009, 11 February 2010, 28 April 2010, 30 June 2010 and 30 September 2010, the Council for Trade in Services addressed the issue of compliance with GATS notification requirements. At the April meeting, the Council requested the Secretariat to update its informal Note providing a statistical account of the notifications made under relevant GATS provisions. The revised Note (circulated in document JOB(09)/10/Rev.2) was addressed at the meeting held on 30 June. At the meeting held on 30 September 2010, the delegation of Switzerland drew attention to its proposal, contained in document S/C/W/297, and announced its intention of inviting Members to participate in an open-ended, informal group to exchange experiences with regard to notifications.

## IV. SECTORAL AND MODAL DISCUSSIONS

5. 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 it had requested the Secretariat to produce, by way of an update of similar Notes produced in 1998.

6. At its meeting held on 5 October 2009, the Council considered the following Background Notes:

Modes 1 and 2 (S/C/W/304)  
Mode 4 (S/C/W/301)

Architectural services (S/C/W/303)  
Construction and related engineering services (S/C/W/302).

7. At the meeting held on 11 February 2010, the Council considered the following Background Notes:

Audiovisual services (S/C/W/310 and Corr.1)  
Energy services (S/C/W/311).

8. At its meeting held on 28 April 2010, the Council considered the following Background Notes:

Financial services (S/C/W/312 and Corr.1)  
Education services (S/C/W/313)  
Mode 3 (S/C/W/314).

9. At its meeting held on 30 June 2010, the Council considered the following Background Notes:

Maritime transport services (S/C/W/315)  
Logistics services (S/C/W/317)  
Accountancy services (S/C/W/316)  
Legal services (S/C/W/318).

10. Finally, at the meeting of 30 September 2010, the Council considered the following Background Notes:

Postal and courier services (S/C/W/319)  
Environmental services (S/C/W/320).

## **V. THIRD REVIEW OF MFN EXEMPTIONS – ORGANISATION OF WORK**

11. At its meeting held on 28 April 2010, the Council agreed that the third review of Article II (MFN) exemptions, which was to start no later than June 2010, would commence at the Council meeting of 30 June 2010. Accordingly, on 30 June, the Council started the third review by discussing organisational issues. It agreed that the review would follow previous practice, with dedicated meetings, a sector-by-sector approach, a question-and-answer process and on the basis of updated documents to be prepared by the Secretariat. The Council also decided to hold the first dedicated meeting during the November 2010 services cluster of meetings.

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

12. The activities of the subsidiary bodies in 2010 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/24)
Annex II	Report of the Committee on Specific Commitments (S/CSC/16)
Annex III	Report of the Working Party on Domestic Regulation (S/WDPR/13)
Annex IV	Report of the Working Party on GATS Rules (S/WPGR/20)

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# WORLD TRADE ORGANIZATION

S/FIN/24  
8 November 2010

(10-6001)

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## ANNUAL REPORT OF THE COMMITTEE ON TRADE IN FINANCIAL SERVICES TO THE COUNCIL FOR TRADE IN SERVICES (2010)

1. Since its last Annual Report to the Council for Trade in Services (S/FIN/22), the Committee on Trade in Financial Services has held six formal meetings and several informal meetings. The reports of the formal meetings are contained in documents S/FIN/M/60 to 65.
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, Jamaica and the Philippines. No progress was reported by these Members during this period.
3. At its meeting on 2 November 2009, the Committee carried out the eighth transitional review of the implementation by China of its WTO commitments and the related provisions of the Protocol on the Accession of the People's Republic of China (WT/L/432), pursuant to section 18 of this Protocol. The report of that review is contained in document S/FIN/23. At the same meeting, the Committee held a dedicated discussion on trade-related aspects of Islamic finance. An informal Note prepared by the Secretariat, circulated as document JOB(09)/7 and Corr.1, served as background for the discussion.
4. At the meeting on 26 April 2010, the Committee discussed a Background Note on financial services prepared by the Secretariat (issued under double symbol S/FIN/W/73 and Corr.1, and S/C/W/312 and Corr.1). The Note was part of the ongoing sectoral discussions in the Council for Trade in Services, but was also placed on the agenda of the Committee upon Members' request. It provides an overview of GATS provisions of particular relevance to financial services; analyzes GATS commitments and MFN exemptions; highlights the main trade barriers affecting the sector; reviews the long-term trends shaping the sector prior to the financial crisis; and discusses main causes of the crisis, the remedial actions taken by governments, and their impact on trade in financial services.
5. On the basis of a proposal by the United States, the Committee organized a seminar on trade in non-life insurance services, held on 28 June 2010. The event featured speakers from government, regulatory agencies, and the private sector. It benefited also from the participation of the Secretary-General of the International Association of Insurance Supervisors (IAIS). The programme was divided into four sessions to address the following topics: economic and commercial trends in the non-life insurance sector, regulatory aspects, national experiences with the liberalization of non-life insurance services, and challenges raised by the supply of non-life insurance in foreign markets.
6. Following an initial proposal by Argentina, Ecuador, India and South Africa, the Committee held a dedicated discussion on the financial crisis and trade in financial services on 29 June 2010. The outline is contained in document JOB/SERV/9 and Add.1. The purpose of that discussion was to allow Members to exchange information on their experiences, and to be informed about research

activities carried out by other international organizations. The session was divided into two segments; one devoted to presentations by four international organizations (the Bank for International Settlements, the Financial Stability Board, the International Monetary Fund, and the Organization for Economic Cooperation and Development), followed by a Q&A session; and the second allowing for a discussion among Members. The papers and other material presented by the invited international organizations was circulated to Members in documents JOB/SERV/12 to 15.

7. At its meeting on 29 September 2010, following a proposal by Pakistan (JOB(09)107), the Committee held a dedicated discussion on the "Impact of technological developments on regulatory and compliance aspects of banking and other financial services under the GATS". The outline is contained in an informal Note by the Chairperson (JOB/SERV/20). Issues discussed included the following: the impact of technological innovation and related market trends on national financial services sectors, the regulatory and supervisory challenges raised by technological developments, the regulatory approaches adopted by Members with regard to the domestic supply of e-finance and the cross-border supply of financial services through electronic means, as well as scheduling and classification aspects. A Note by the Secretariat, circulated as S/FIN/W/74, provided background information on these issues.

8. In addition, the Committee has been considering recently a proposal by China to discuss the relationship between trade in financial services and development.

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# WORLD TRADE ORGANIZATION

S/CSC/16  
10 November 2010

(10-6012)

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## ANNUAL REPORT OF THE COMMITTEE ON SPECIFIC COMMITMENTS TO THE COUNCIL FOR TRADE IN SERVICES (2010)

1. Since its Annual Report of 2009 to the Council for Trade in Services, the Committee on Specific Commitments has held six formal meetings: on 8 October 2009, 6 November 2009, 9 February 2010, 29 April 2010, 2 July 2010 and 28 September 2010. During the reporting period, the Committee addressed three items: the relationship between old and new commitments; scheduling issues; and classification issues. The reports of these meetings are contained in documents S/CSC/M/50, S/CSC/M/51, S/CSC/M/52, and S/CSC/M/53, S/CSC/M/54 and S/CSC/M/55, which should be read in conjunction with this report.

### I. RELATIONSHIP BETWEEN OLD AND NEW COMMITMENTS

2. The Committee continued to focus its discussions on the relationship between existing commitments currently in force and new commitments that would result from the Doha Round negotiations. Four proposals from delegations contributed to the discussions. The Secretariat, upon request, prepared a Background Note on past practice in incorporation and verification of the results of market access negotiations (S/CSC/W/55). Members continued to have divergent views on how to ensure that the level of existing commitments would not be undermined after the new schedules entered into force. The Committee also began to consider the procedural issues relating to the verification exercise, based on the Secretariat's informal Note (JOB/SERV/21).

### II. SCHEDULING ISSUES

3. The Committee briefly touched upon issues related to economic needs tests (ENTs), and upon request, the Secretariat updated the Background Note on ENTs (S/CSS/W/118) of 2001. The update is contained in document S/CSS/W/118/Add.1. There was no discussion on any other scheduling issues.

### III. CLASSIFICATION ISSUES

4. Delegations supported the initiative of holding informal discussions on classification issues, based on the Secretariat's sectoral Background Notes. To facilitate the discussions, the Secretariat, upon request, prepared a compilation of the classification issues raised in these Notes, which is contained in document JOB/SERV/22.

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# WORLD TRADE ORGANIZATION

S/WPDR/13  
8 November 2010

(10-5998)

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## ANNUAL REPORT OF THE WORKING PARTY ON DOMESTIC REGULATION TO THE COUNCIL FOR TRADE IN SERVICES (2010)

1. Since the Annual Report of 2009<sup>1</sup>, the Working Party on Domestic Regulation (WPDR) held six 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. Technical discussions were undertaken on all chapters of the Chairman's revised draft text of possible regulatory disciplines, as contained in the Room Document dated 20 March 2009.
3. At the meeting of 9 October 2009, the focus was on the possible disciplines contained in the chapter on "Technical Standards". In this regard, Members made two proposals for additional disciplines. The Chairman of the Working Party also provided an account of the informal consultations which had taken place before the meeting, noting that further discussion on "Definitions" appeared necessary.
4. The meeting of 11 November 2009 was devoted to a technical discussion of four chapters of the revised draft text namely that of: "Licensing Requirements"; "Licensing Procedures"; "Qualification Requirements"; and "Qualification Procedures". A group of Members proposed merging chapters V-VIII of the revised draft text into two chapters on Licensing Requirements and Qualification Requirements, and Licensing Procedures and Qualification Procedures, respectively. Preliminary reactions at the meeting were generally in favour of such an approach though certain concerns were expressed with regard to its potential effect on the overall architecture and substance of the disciplines.
5. During the formal meeting of 2 February 2010, technical discussions continued in informal mode with a focus on the "Development" chapter of the revised draft text. A revised version of the proposal on streamlining the chapters on Licensing and Qualification Requirements and Procedures was submitted. Preliminary discussions were also held on text proposals on appropriate language for paragraph 2 of the draft text. To assist Members to address outstanding issues, the Chairperson announced her intention to produce an Annotated Text which would reflect all proposals and text-related views expressed over the last year. The Secretariat was also requested to provide an overview

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<sup>1</sup> S/WPDR/12, 2 October 2009.

<sup>2</sup> The reports of the meetings are contained in documents S/WPDR/M/42-46, and should be read in conjunction with this report. For the meeting of 11 November 2009, all substantive discussions were conducted in informal mode. A summary of this meeting can be found in the RD/SERV document series containing Chair's summaries, under the summary for the meeting of 20 November 2009.



of cases, in which flexibility provisions that are contained in WTO agreements have been addressed in dispute settlement procedures.<sup>3</sup>

6. At the meeting of 27 April 2010, Members commented on the Annotated Text which had been circulated by the Chairperson as a Room Document on 14 March 2010. The Annotated Text reflected for each paragraph of the Chairman's March 2009 draft text, subsequent language proposals and text-related comments by Members, as well as comments and suggestions by the Chairperson. The Annotated Text was generally considered to provide a balanced and useful input to the negotiating process. With regard to future work, there was broad agreement that the efforts of the Working Party should focus in the near term on cross-cutting technical issues.

7. At the meeting of 1 July 2010, issues arising from the "Transparency" chapter of the Chairman's draft of March 2009, as well as the general obligations contained in paragraph 11 were discussed. Based on the work plan presented by the Chairman during the informal meeting of 16 June, the Working Party agreed to conduct future discussions on a thematic basis, which would also allow for a discussion of cross-cutting issues.<sup>4</sup> Members expressed openness to a proposal to organise a workshop on best regulatory practices at one of the upcoming clusters and the Chairman was requested to consult on the parameters and timing of such an event

8. At the meeting of 27 September 2010, the Chairman expressed concern with the wide divergence among delegations concerning the ambition of domestic regulation disciplines. He also noted that the decision to work on horizontal disciplines was not made to the exclusion of work on particular sectors, or specific regulatory problems, and encouraged Members to keep this possibility in mind. During the meeting, delegations engaged in a detailed exchange on the various draft obligations on licensing and qualification requirements and procedures, together with their relevant definitions. As in the past, the proposal by a group of Members to streamline chapters V-VIII of the Chairman's was received constructively, though several delegations noted inherent differences between licensing and qualification matters, and questioned whether all provisions lent themselves to harmonization. Members supported the idea of organizing a workshop on regulatory practices. In this regard, the Chairman indicated that he would be conducting further consultations on the precise objectives and format for the event, with a view to providing a clearer outline of the workshop.

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<sup>3</sup> The Secretariat circulated a Note with the requested content as JOB/SERV/8 on 31 May 2010. Discussions of the Note was undertaken in informal mode at a subsequent meeting.

<sup>4</sup> Summary of the meeting of 16 June contained in the Chair's informal summary of 2 August 2010.

# WORLD TRADE ORGANIZATION

S/WPGR/20  
8 November 2010

(10-6000)

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## ANNUAL REPORT OF THE WORKING PARTY ON GATS RULES TO THE COUNCIL FOR TRADE IN SERVICES (2010)

1. Since its last Annual Report to the Council for Trade in Services in 2009 (S/WPGR/19), the Working Party on GATS Rules held six formal meetings: on 6 October 2009, 10 November 2009, 1 February 2010, 27 April 2010, 1 July 2010 and 28 September 2010.<sup>1</sup>

2. During the latter part of 2009, as well as in 2010, the Working Party saw more focussed discussions on all three GATS Rules subjects. In the area of subsidies, considerable effort has gone into reviving the Work Programme on Information Exchange. The submissions currently on the table cover a significantly larger number of Members than the information previously provided between 1997 and 2005. On government procurement, the Working Party has examined in greater detail the proposal for an Annex, and agreed to hold dedicated discussions on the economic and developmental importance of government procurement in services. While on emergency safeguard measures, several rounds of technical discussions have been conducted on the definition of "domestic industry", and further work is envisaged on services statistics and data. Details on the work undertaken on each of the GATS Rules subjects are provided below.

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

3. During the last two meetings of the Working Party in 2009, Members continued to examine the relevance of the concept of "domestic industry" as treated under the anti-dumping, subsidies and safeguard agreements, to trade in services. In this connection, the Chairperson circulated an informal Note summarising past discussions on the definition of "domestic industry" (JOB(09)/95). A Secretariat Note on "domestic industry" in the anti-dumping, subsidies and safeguard agreements was also circulated in JOB(09)/146 and Corr.1. Discussions amongst Members focused on how the criteria of territory, control and ownership, and registration, as contained in the proposed draft Annex on Article X Emergency Safeguard Measures could be used to define "domestic industry". The technical discussions helped to clarify certain concepts and concerns with regard to the application of such criteria.

4. In 2010, the delegations of Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, Thailand and Viet Nam proposed continuing with technical work. Based on an earlier proposal, a presentation on the adequacy and availability of services data and statistics with respect to emergency safeguards was proposed. At the meeting of 28 September 2010, the Working Party agreed to postpone this presentation until after the discussion in the Council for Trade in Services of an updated Secretariat Background Note on international services statistics (S/C/W/27/Add.2).

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<sup>1</sup> The meeting reports are contained in documents S/WPGR/M/65 to 70.

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

5. During the reporting period covered by this Report, the Working Party discussed in greater detail the proposed Annex on Government Procurement in Services (S/WPGR/W/54). To facilitate Members' consideration of the proposal, the Chairperson circulated an informal Note which synthesised past exchanges on government procurement and highlighted several issues for discussion (JOB(09)/114). The delegation of the European Union provided a presentation of the procedural rules contained in its proposal, as well as the suggested format for scheduling government procurement commitments. Two rounds of informal discussions examined various aspects of the proposed Annex, including its relationship with the plurilateral Agreement on Government Procurement.

6. In recent months, the Working Party has been considering a programme of dedicated discussions on the economic and developmental importance of government procurement in services. At the meeting of 28 September 2010, a new proposal was circulated by the European Union proposing various topics, as well as the timing and organization of discussions on this subject over coming months. The topics include the economic importance of government procurement in developed and developing economies, the sharing of national experiences by Members on reforms in procurement practices, and conclusions for further work. The Working Party agreed to commence work on the first topic at the next cluster in November with a presentation by an academic expert.

## **III. NEGOTIATIONS ON SUBSIDIES (ARTICLE XV)**

7. In the area of subsidies, much time has been devoted to reviving the exchange of information as mandated by Article XV of the GATS. In this connection, during 2009, the Chairperson circulated an informal Note recalling a previously proposed definition of subsidies for the purpose of the information exchange (JOB(09)/96). Various ideas for a work programme on information exchange and a possible working definition of subsidies were suggested by the Chairperson. Following several rounds of consultations, the Work Programme on Information Exchange on Subsidies as contained in JOB/SERV/1 was endorsed by the Working Party at the meeting of 1 February 2010. Following the launch of the Work Programme, 15 Members (counting the EU as one) have, so far, submitted information on their subsidy programmes. The various submissions are contained in JOB/SERV/1/Add. 1 to Add. 9.<sup>2</sup> At the meeting of 28 September 2010, the Working Party agreed to conduct a dedicated discussion of the submissions at the next cluster in November, in accordance with the approach proposed by the Chairperson, as contained in document JOB/SERV/24.

8. During 2010, the Working Party also continued its consideration of other issues with respect to the negotiations mandated under Article XV. At the meeting of 1 February 2010, the delegation of Switzerland presented a proposal for disciplines on export subsidies. Preliminary discussions were undertaken with respect to the concept of such subsidies in services and the possible distortions created. At the same meeting, the delegation of the United States submitted additional questions with regard to the identification of possible trade-distortive effects of subsidies in services (S/WPGR/W/59).

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<sup>2</sup> Submissions were received from the delegations of Australia; Canada; the European Union; Chile; Colombia; Hong Kong, China; India; Japan; Korea; Mexico; New Zealand; Peru; Turkey; Chinese Taipei; and the United States.