

ANNUAL REPORT OF THE COUNCIL FOR TRADE IN SERVICES TO THE GENERAL COUNCIL (2009)

1. Since its last report to the General Council, the Council for Trade in Services held three formal meetings, on 5 December 2008, 2 April 2009 and 23 June 2009.¹ 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 5 December 2008, 2 April 2009 and 23 June 2009, the Council for Trade in Services took note of the following notifications.

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

Republic of Albania	S/C/N/452 to 461, S/C/N/485
Republic of Armenia	S/C/N/464
Switzerland	S/C/N/467, S/C/N/474-482
The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	S/C/N/468
Thailand	S/C/N/486-489
Brazil	S/C/N/492-493
Egypt	S/C/N/494-496

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

Japan and Indonesia	S/C/N/462
China and Singapore (on behalf of the ASEAN Members)	S/C/N/463
Iceland	S/C/N/465
Brunei and Japan	S/C/N/466
CARIFORUM States and the European Communities	S/C/N/469 and Rev.1
China and Hong Kong, China	S/C/N/264/Add.2
Japan and the Philippines	S/C/N/470
Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and the United States	S/C/N/471
China and Macao, China	S/C/N/265/Add.2
The United States and Oman	S/C/N/472
Peru and the United States	S/C/N/473
China and Singapore	S/C/N/483
Australia and Chile	S/C/N/484
Costa Rica and Panama	S/C/N/490
China and New Zealand	S/C/N/491

¹ Reports of the meetings are contained in documents S/C/M/92 to 94, and should be read in conjunction with this report.

II. NOTIFICATION PURSUANT TO GATS ARTICLE XXI

3. At its meeting on 5 December 2008, the Council for Trade in Services considered a notification from Bolivia made pursuant to GATS Article XXI (Modification of schedules). In keeping with the agreed procedure, the exchange of views on this issue is contained in document JOB(08)/131.

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

4. At its meeting held on 5 December 2008, the Council for Trade in Services conducted and concluded the seventh 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/21), which formed part of the Council's report on this matter to the General Council, contained in document S/C/31.

IV. FUTURE WORK OF THE COUNCIL FOR TRADE IN SERVICES

5. At its meeting held on 5 December 2008, Members of the Council for Trade in Services discussed how best to allocate their time and efforts in the following months. It was decided that the Chairperson would conduct open-ended informal consultations on the issue at the beginning of 2009. Following these consultations, Members agreed that the Council would address the issue of compliance with GATS notification requirements and undertake sectoral and modal discussions on the basis of Background Notes prepared by the Secretariat.

V. COMPLIANCE WITH GATS NOTIFICATION REQUIREMENTS

6. At its meetings held on 2 April 2009, the Council for Trade in Services held a first round of discussions on the issue of compliance with GATS notification requirements. This item had been placed on the Council's agenda following a request made by several delegations during informal consultations held at the beginning of 2009. Two documents had been circulated at the April meeting: a Secretariat Note (JOB(09)/10/Rev.1), which provided a statistical account of the notifications made under relevant GATS provisions; and a communication from Switzerland (S/C/W/297), on "Compliance with notification requirements under the GATS". At the subsequent meeting, held on 23 June 2009, the Council pursued its discussions of this issue.

VI. SECTORAL DISCUSSIONS

7. Following informal consultations held at the beginning of 2009, the Council for Trade in Services had requested that the Secretariat produce a series of Background Notes containing information and analysis on services sectors and modes of supply, by way of an update of similar Notes produced in 1998. At its meeting held on 23 June 2009, the Council considered the first three Background Notes produced by the Secretariat, on tourism services (S/C/W/298), telecommunication services (S/C/W/299) and computer and related services (S/C/W/300).

VII. WORK OF THE SUBSIDIARY BODIES

8. 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/22)
Annex II	Report of the Committee on Specific Commitments (S/CSC/15)
Annex III	Report of the Working Party on Domestic Regulation (S/WDPR/12)
Annex IV	Report of the Working Party on GATS Rules (S/WPGR/19)

ANNEX I

**WORLD TRADE
ORGANIZATION**

S/FIN/22
2 October 2009

(09-4732)

**ANNUAL REPORT OF THE COMMITTEE ON TRADE IN FINANCIAL SERVICES TO
THE COUNCIL FOR TRADE IN SERVICES (2009)**

1. Since its last Annual Report to the Council for Trade in Services (S/FIN/20), the Committee on Trade in Financial Services has held three formal meetings (on 1 December 2008, 31 March and 24 June 2009), and several informal meetings. The reports of the formal meetings are contained in documents S/FIN/M/57 to 59.¹ In this period, the Committee addressed the following matters: the acceptance of the Fifth Protocol to the GATS; technical issues; and recent developments in financial services trade. It also organized a workshop to commemorate the entry into force of the said Protocol, and conducted the transitional review of the implementation by China of its WTO commitments.
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. At the Committee's request, these Members have reported periodically on the situation of their domestic acceptance procedures.
3. A workshop to commemorate the entry into force of the Fifth Protocol to the GATS was held on 31 March under the Committee's auspices. Speakers at the workshop included financial regulators, as well as representatives from academia and the private sector. Issues raised during the discussion included the following: main factors behind the crisis, both from a regulatory and industry perspectives; possible changes to financial regulation; prospects for the financial services industry; and challenges for the financial services negotiations. The workshop was followed by a formal meeting of the Committee in the afternoon of 31 March, on which occasion Members discussed some of the issues raised at the workshop.
4. As part of the Committee's work on technical issues, the Chair held informal discussions on the following topics: issues related to mode 1 and 2 commitments on financial services; Islamic finance; and microfinance. The background documents for those discussions are contained in documents Job(09)/6, Job(09)/7, and Job(09)/8. Following up on those discussions, the Committee decided to held dedicated discussions on Islamic finance and microfinance at a future meeting, with a view to considering issues related to trade in financial services, such as classification, trade barriers, and scheduling of commitments.
5. At the meeting on 24 June, several suggestions for further work were made in the context of Members' discussions under the agenda items on technical issues and recent developments in financial services trade. The United States proposed an information exchange programme on trade in non-life insurance services with the goal of increasing Members' understanding of this sector. South Africa

¹ These reports should be read in conjunction with this annual report.

announced the intention to submit a proposal to discuss certain aspects of the financial crisis and the policy response to it from the perspective of trade in financial services. Finally, Pakistan also announced its intention to submit a proposal to discuss issues related to the development of e-banking.

6. At its meeting on 1 December 2008, the Committee carried out the seventh transitional review of the implementation by China of its WTO commitments and of the related provisions of the Protocol on the Accession of the People's Republic of China (WT/L/432), pursuant to section 18 of the said Protocol. The report of that review is contained in document S/FIN/21.

ANNEX II

**WORLD TRADE
ORGANIZATION**

S/CSC/15
2 October 2009

(09-4716)

**ANNUAL REPORT OF THE COMMITTEE ON SPECIFIC COMMITMENTS
TO THE COUNCIL FOR TRADE IN SERVICES (2009)**

1. Since its Annual Report of 2008 to the Council for Trade in Services, the Committee on Specific Commitments held three formal meetings: on 3 December 2008, 2 April 2009, and 24 June 2009. 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/47, S/CSC/M/48, and S/CSC/M/49, which should be read in conjunction with this report.

I. RELATIONSHIP BETWEEN OLD AND NEW COMMITMENTS

2. The Committee held substantive discussions on the relationship between existing commitments currently in force and new commitments that would result from the current negotiations. Issues addressed under this item included: the incorporation methods and their implications; the incorporation instrument; and the verification exercise. It was agreed at the meeting on 24 June 2009 that the replacement method should be the working assumption to incorporate the results of the current market access negotiations into the GATS. The Secretariat was requested to prepare a compilation of past practice in terms of incorporation and verification.

II. SCHEDULING ISSUES

3. The Committee briefly touched upon issues related to economic needs tests (ENTs). The Secretariat was requested to update the background note on ENTs (S/CSS/W/118) of 2001, but the Committee had yet to agree upon the scope of this updating.

III. CLASSIFICATION ISSUES

4. A suggestion was made at the meeting of 24 June 2009 that the Committee discuss new services in various sectors based on the sectoral research undertaken by the Secretariat. It was agreed that the suggestion would be subject to the Chair's consultations.

ANNEX III

**WORLD TRADE
ORGANIZATION**

S/WPDR/12
2 October 2009

(09-4723)

**ANNUAL REPORT OF THE WORKING PARTY ON DOMESTIC REGULATION
TO THE COUNCIL FOR TRADE IN SERVICES (2009)**

1. Since the Annual Report of 2008¹, the Working Party on Domestic Regulation (WPDR) held three formal meetings and several informal meetings².
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. To facilitate this task, the Chairman of the Working Party prepared a revised draft text of possible regulatory disciplines, which was contained in a Room Document dated 20 March 2009.
3. At the meeting of 26 November 2008, the Chairman provided an account of the work that had taken place, in informal consultations, during the first half of 2008, on the basis of the revised draft text of possible regulatory disciplines. Focussed work, in informal mode, had been carried out during the first half of the year, but had slowed after the summer. At the meeting, several delegations called for a speedy resumption of technical work.
4. At the meeting on 1 April 2009, the Chairman introduced his second revised draft text, which contained only changes to a handful of paragraphs of the text on which discussions had indicated wide support for new language, and which left the overall balance of the text intact. At the present stage of the negotiations, the Chair could not offer "solutions" to those areas where differences among Members were still broad. Numerous delegations stressed that a lot of work remained to be done, but all accepted that the Chair's revised draft was a basis for future work.
5. At the meeting on 26 June 2009, the Chair reported on her consultations with Members on future work. She reported that large gaps in ambition for the disciplines remained, and progress of work was linked to progress on the market access negotiations. Several delegations were open to the idea of a reality check on the disciplines as a complementary element to technical work. In informal mode, delegations engaged on an exchange of views on the development chapter of the Chairman's draft text.

¹ S/WPDR/11, 28 November 2008.

² The reports of the meetings are contained in documents S/WPDR/M/39-41, and should be read in conjunction with this report.

ANNEX IV

**WORLD TRADE
ORGANIZATION**

S/WPGR/19
2 October 2009

(09-4730)

**ANNUAL REPORT OF THE WORKING PARTY ON GATS RULES
TO THE COUNCIL FOR TRADE IN SERVICES (2009)**

1. Since its last Annual Report to the Council for Trade in Services in 2008 (S/WPGR/18), the Working Party on GATS Rules has held three formal meetings: on 2 December 2008, 30 March 2009 and 22 June 2009. The three negotiating mandates entrusted to the Working Party were put on the agenda of each meeting: emergency safeguard measures (Article X), government procurement (Article XIII) and subsidies (Article XV).

2. Throughout 2009, consultations were conducted by the Chairman on the organization of future work by the Working Party in fulfilment of the GATS Rules mandate as contained in Annex C of the Hong Kong Ministerial Declaration. In this connection, at the formal meeting of 22 June 2009, Members discussed the topics for informal technical discussions in all three areas. Following this meeting, an informal Chairman's Note, as contained in JOB (09)/82, was circulated providing a list of topics for commencing such discussions. A first round of informal technical discussions was conducted on 16 September 2009 on the definition of "domestic industry" for emergency safeguard measures (ESM) and a provisional working definition for subsidies in services.

I. NEGOTIATIONS ON EMERGENCY SAFEGUARD MEASURES (ARTICLE X)

3. At the meeting of 30 March 2009, delegations continued to exchange views on the communication from the delegations of Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, Thailand and Viet Nam on a draft Annex on Article X Emergency Safeguard Measures, as contained in JOB (07)/155. The same delegations also presented an additional contribution, in the form of a room document, on their views on the way forward in the ESM discussions. Preliminary views on the contribution were exchanged by delegations in informal mode. At the meeting of 22 June 2009, delegations discussed a communication from China on the issue of a "limited window" for emergency safeguard measures. Delegations also considered a Secretariat Note on "Safeguard-type Provisions in Economic Integration Agreements", as contained in S/WPGR/W/4/Add.2.

II. NEGOTIATIONS ON GOVERNMENT PROCUREMENT (ARTICLE XIII)

4. At the meetings of 30 March 2009 and 22 June 2009, delegations continued to exchange views on the proposal from the European Communities, concerning a legal text for an Annex to the GATS on Government Procurement (S/WPGR/W/54). Members also considered the topics and the approach to be taken up in informal technical discussions on government procurement.

III. NEGOTIATIONS ON SUBSIDIES (ARTICLE XV)

5. At the meetings of 30 March 2009 and 22 June 2009, delegations continued their consideration of the topics to be taken up in informal technical discussions, as well as the communication from Hong Kong, China and Mexico on non-actionable subsidies (JOB(07)/27). Delegations also considered a Secretariat Note providing an "Overview of Subsidy Disciplines Relating to Trade in Services in Economic Integration Agreements", as contained in S/WPGR/W/46/Add.1 and Corr.1. At the meeting of 30 March, a representative from the OECD presented a study on subsidies for services, in particular the case of export subsidies.
