

**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.

**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,

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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.

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.