



**Committee on Specific Commitments**

**REPORT OF THE MEETING HELD ON 28 OCTOBER 2019**

NOTE BY THE SECRETARIAT<sup>1</sup>

The Committee on Specific Commitments (CSC) held a meeting on 28 October 2019 chaired by Mr. Tamás Vattai from Hungary. The agenda for the meeting, contained in document WTO/AIR/CSC/10, was adopted.

**1 ITEM A - CLASSIFICATION ISSUES**

1.1. The Chairperson recalled the agreement adopted at the Committee's meeting of 16 November 2010 that the Committee should regularly be updated on changes and developments in services classification and in statistical systems relating to international services trade. In this context, the Secretariat would give a presentation on recent developments in the measurement of digital trade under this agenda item. The international statistical community was making efforts to develop the methodology to better measure trade that was digitally ordered and/or digitally delivered. The presentation, to be delivered by a representative of the Secretariat, would cover the conceptual framework developed by the international statistical community on digital trade, with focus on services and related classification issues.

1.2. A representative of the Secretariat presented the recent work of the international statistical community in developing a statistical framework to measure digital trade. The presentation focused on the measurement of cross-border transactions. Although this was not a new question, statistical frameworks had never dealt explicitly with the measurement of digital trade. With the increasing digitalization of the economy and globalization, digital trade had been given more attention in recent years. Many challenges pertained to the statistical compilation and classification of relevant trade in services transactions. Following a request by the G20 in 2017, the United Nations Inter-agency Task Force on International Trade Statistics had been tasked to produce a statistical framework to measure digital trade and conduct an inventory of pilot studies. The development of the statistical guidelines was led by the OECD and the WTO Secretariat, as co-chairs of the Task Force. The resulting draft Handbook on Measuring Digital Trade would be finalized by the end of 2019. It would be submitted to the UN Statistical Commission that would be meeting at the beginning of 2020.

1.3. Various agencies' past work could be used as inputs for this new statistical framework, namely: a joint effort of OECD, UNCTAD, UPU and the Secretariat to exploit a UPU database; WCO work on the Framework of Standards on Cross-Border E-Commerce; the UNCTAD work relating to the Partnership on Measuring ICT for Development and the Intergovernmental Working Group on E-commerce Measurement; and the OECD/IMF stocktaking of country pilot projects to measure digital trade. Also, the draft framework was built upon existing statistical manuals, in particular those used to measure trade in goods and trade in services, namely: the International Merchandise Trade Statistics Manual: Concepts and Definitions, 2010 edition, and the Manual on Statistics of International Trade in Services, 2010 edition.

1.4. The representative of the Secretariat continued by raising several services-related questions in developing the new statistical guidelines: how to know that services were being traded; who was trading, i.e. the importance of the location of the consumer and supplier as well as the increasing role of intermediaries; how to separate digital from non-digital transactions; the identification of new ways of delivering pre-existing services; and the classification and valuation of services transactions

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

where the end-user was not charged a fee, but revenue was generated through advertising or making available to third parties the data collected on users/clients. There were also some measurement issues in relation to goods trade: how digitally ordered goods could be identified; and, because of the growing use of the Internet and apps by end-consumers to buy consumer goods, the rapid increase of small shipments using the postal network and how these could be identified. All these questions and issues pointed to the need to develop better data sources.

1.5. The first step to develop the Handbook on Measuring Digital Trade was the statistical operationalization of the digital trade concept, with a focus on trade in services. The statistical definition of digital trade was defined as all goods and services that were digitally ordered and/or services digitally delivered. The other dimensions of the statistical framework covered the products traded (goods and services), and the actors (i.e. the trading entities, whether firms, households, government entities and non-profit institutions). Identifying actors would enable the identification of, for instance, Business-to-Business (B2B), Business-to-Consumer (B2C) or Consumer-to-Consumer (C2C) transactions. It was estimated that B2B transactions represented 90% of total e-commerce transactions (be it cross-border or not).

1.6. The draft Handbook focused on the role of digital intermediary platforms, and how their transactions should be recorded. Digitalisation had enabled the emergence of major actors that facilitated transactions (be it B2B, B2C, or C2C). In other words, these actors did not own the goods and/or supply services that clients bought through these platforms, but rather had an intermediation role in the transactions. They helped match the demand of buyers and the offer of sellers/suppliers. The current recommendation in the draft Handbook was to record transactions net from the perspective of the jurisdiction where the intermediary would be located. However, there was no guidance at that point in time as to which entity should be charged for implicit fees. One difficulty faced by compilers was that the platforms often had no commercial presence in the economy of the buyer and/or the seller (e-residency). In addition, survey respondents would not necessarily be aware where they were buying their products from, nor being able to identify the location of the intermediaries. Also, for platforms, including those through which services were provided (e.g. audio-visual products, software/apps) without charging a fee to the end-user, different approaches were under discussion as to how to account (or not) for the services in national accounts and trade statistics.

1.7. The classification of transactions as goods or services was already covered by existing statistical guidelines and classifications, be it the CPC Rev.2.1, ISIC rev. 4, the 6th edition of the Balance of Payments Manual, or the Manual on Statistics of International Trade in Services 2010 edition. Nevertheless, as previously indicated, digitalization had raised other statistical classification issues. The recent UNCTAD work on measuring ICT-enabled services was identified as being relevant when focusing on services digitally delivered. The draft Handbook also suggested that intermediary platforms be classified together with the industry that they served with intermediary activities separately identified.

1.8. With respect to data sources, there were still many practical challenges for compilers, and the traditional data sources were not fit for the purpose of measuring digital trade. There were on-going pilot projects and experiences to build upon, but compilers would need to be innovative, and there was scope for inter-country cooperation in that field.

1.9. The representative of the Secretariat ended the presentation by pointing out that useful data sources had already been used to build some rough estimates, such as the recent UNCTAD pilot studies on ICT-enabled services, or the new experimental dataset on Trade in Services by Modes of Supply (TiSMoS) that had been released at the end of July 2019. To illustrate, he presented a rough estimation, based on TiSMoS, of the value of services digitally delivered across borders. The total accounted for USD 2250 billion, with distribution and financial services representing the largest share. He concluded by indicating that more work was needed, in particular at the national level, to have the necessary data in order to measure digital trade.

1.10. The Chairperson thanked the representative of the Secretariat for the interesting and informative presentation. He asked whether there were efforts by statisticians to estimate data flows. Although data were often acquired for free by the end-consumer, they had value for firms, for example, to generate advertising revenues. He also asked the extent of the measurement challenges with respect to intermediary platforms, as they could be either located in the country of one of the players involved in transactions or in a third economy.

1.11. The representative of Brazil queried how the definition of digital trade used by statisticians would match the definition of e-commerce used under the Work Programme. A clear understanding of this would enable better informed discussions on electronic commerce in the WTO.

1.12. The representative of Bangladesh asked what types of consumers the "C" in B2C referred to: whether they covered businesses as consuming entities, or only referred to individual consumers?

1.13. The representative of China raised two questions relating to the estimations presented. First, what did distribution services refer to? Second, was the total estimated figure of "about 2.25 trillion dollars of services digitally delivered cross-border" drawn from the newly released TiSMoS experimental dataset?

1.14. The representative of Ecuador recalled the example of the intermediary platform. He asked what transactions would be recorded if this intermediary was located in the same territory as the buyer. While similar discussions had taken place in other groups, it was still unclear how it would be possible to register the transactions.

1.15. The representative of the Secretariat outlined the importance of these questions, many of which had been addressed or were being analysed by statisticians.

1.16. Concerning the valuation of data flows, there had been many discussions in the statistical community. Some of these data were clearly covered by the concept of "digital trade", as they were part of, or were in themselves, the actual products being traded. Other data flows concerned data flowing from the client to the producer and used as inputs to the production of goods or the supply of services. Estimating the size of these data flows crossing borders was still an open question among statisticians. It might be interesting to measure the volume of data crossing borders for specific types of industries, and this could support discussions or research work relating to data flows. However, establishing a direct link between data flows and the value of trade would be extremely difficult.

1.17. The recording of international transactions involving intermediary platforms would depend upon the location of the platform, the supplier of the product being intermediated, and the client. First, there would be an export of the product being intermediated only if the supplier and the final client were in two different jurisdictions. If the product traded was a service, the transaction would be recorded as trade in services in the balance of payments (transactions between residents and non-residents). For the intermediary service, it would be recorded as an international transaction between the platform and the supplier and/or the client depending on the location of the platform. In other words, only when it represented a transaction between residents of two different economies. There was at that point in time no clear recommendation to whom implicit intermediation fees should be charged – either to the buyer, to the seller or both. Another important issue that had not been covered in the presentation, was the relationship between the entities – were the transactions between affiliated or non-affiliated entities? This would also be an important dimension to consider.

1.18. The representative of the Secretariat then repeated that the definition included in the draft Handbook was a statistical definition of "digital trade". It addressed the information needs of users (including in the context of the Work Programme on Electronic Commerce), as well as what was possible to measure from a practical perspective. This definition not only covered digital ordering of goods and services (as defined by prior OECD definitions of e-commerce), but also the digital delivery of services. Statistics developed according to this statistical definition (both aggregates and breakdowns) would therefore be useful in the e-commerce discussions.

1.19. With respect to what was meant by "C" in C2C, he explained that this referred to "end consumers", which would correspond to "households" or its members as defined in statistical frameworks such as the national accounts or the balance of payments. Firms or enterprises would be covered by "B" in B2B or B2C.

1.20. Finally, he clarified that the data used to approximate cross-border digitally delivered services were drawn from the TiSMoS experimental dataset. Those services whose supply required the physical presence of the supplier were not covered (e.g. transportation) therein. Distribution services referred to the margins of retailers and wholesalers on goods sold cross border. These margins were used to estimate the value of the distribution services that were digitally provided.

1.21. The Chairperson concluded that the presentation and follow up discussions had helped to have a clearer understanding of the impact of digitalization on trade in services, as well as its policy implications. This would continue to be one of the key challenges for the trade community. He then suggested that the Committee take note of the presentation and the statements made and revert to this agenda item at the next meeting.

1.22. It was so agreed.

## **2 ITEM B - SCHEDULING ISSUES**

2.1. The Chairperson recalled that at the last meeting, the Committee had continued to discuss scheduling issues under mode 4, further to a Communication from the Kyrgyz Republic (contained in JOB/SERV/287). The Kyrgyz Republic had also circulated a room document sharing its thoughts on how to improve transparency and clarity of mode 4 commitments. Other Members had exchanged information on how labour market tests (LMTs) were operated in practice. Previous discussions confirmed that transparency and clarity of mode 4 commitments could be improved by specifying ENT or LMT entries and adding definitional elements to the categories of mode 4 persons. While it was difficult to reach agreement on common definitions, there might be pragmatic approaches to addressing ambiguity and uncertainty of mode 4 commitments. For example, he asked whether it would be desirable and workable for the Committee to suggest a list of specific elements that could be incorporated into mode 4 commitments with respect to ENTs/LMTs or categories of natural persons. He also invited Members to exchange information on how ENTs or LMTs were operated in practice.

2.2. The representative of the Kyrgyz Republic thanked all the delegations that had made interventions at the meeting of 24 June 2019 with respect to his delegation's Communication on scheduling issues under mode 4 (JOB/SERV/287). He recalled that in the last two meetings of the Committee, the Kyrgyz Republic had drawn the Committee's attention to the issues raised in the Communication, which required clarification and better understanding of many vague and ambiguous Mode 4 entries. These entries might lead to significant administrative discretion. To some degree, lack of clarity and transparency in mode 4 commitments would entail legal uncertainty and thus undermine the value of specific commitments. More specifically, his delegation had raised the following issues: Should a Member decide to specify its ENT entries under mode 4, what might have been the common elements, especially for LMTs inscribed in the horizontal section? Would it be desirable to develop common definitions of the categories of mode 4 persons? If so, what might be the basis for such common definitions? Alternatively, how could clarity and predictability be enhanced for scheduled mode 4 categories? Could a checklist of key definitional elements be developed, for instance? Would it be useful to clarify the relationship between horizontal and sector-specific commitments in the case of mode 4? To add clarity and accuracy to commitments under mode 4, would Members consider applying the Procedures for the Certification of Rectifications or Improvements to Schedules (S/L/84)? During the last two Committee meetings, there was a lively discussion, active participation and valuable feedbacks from Members. The Kyrgyz Republic particularly appreciated delegations' efforts in addressing the questions raised in its Communication, and the information shared on LMTs.

2.3. The representative of India reiterated its appreciation for the delegation of the Kyrgyz Republic for having tabled a useful proposal on "Scheduling issues under mode 4", as contained in document JOB/SERV/287. India recommended Members to jointly work in the identified areas. The criteria for administering ENTs should be transparent and objective and not on a discretionary basis. India agreed that it would be desirable to jointly develop a list of specific elements such as criteria and details of ENT/LMT requirements, and procedures and guidelines for administration of such tests. India welcomed the suggestion by the European Union that there should be no ENTs for the category of Intra-Corporate Transferees (ICTs). As to developing agreed definitions for scheduled mode 4 categories, India agreed that this would be difficult at the multilateral level, given different domestic legislations among Members. However, it might be workable to develop key definitional elements or some common criteria for committed categories of Mode 4. As suggested by the Kyrgyz Republic, it would be useful to specify the degree of education or specialization. Service suppliers from India had faced difficulties due to subjective and arbitrary assessment of qualifications, especially in the case of the "specialist" sub-category of ICTs. India recalled that many Members had agreed at the last meeting that it would be helpful to clarify the relationship between horizontal and sector-specific commitments on mode 4.

2.4. The representative of Turkey noted that the Kyrgyz Republic's Communication became the catalyst reinvigorating the work of the Committee and drew attention to the need for enhancing certainty and predictability in mode 4 related services trade. Turkey agreed with the Kyrgyz Republic that lack of clarity and specificity constituted the main scheduling problem in relation to ENT entries in Members' schedules. She reiterated that no LMTs were applied to the categories of natural persons on which Turkey had undertaken commitments. For other categories, information on qualifications and job requests of the unemployed was published on the website of the Turkish Employment Agency. If an employer wanted to apply for a work permit for a possible foreign worker, he/she needed to first check the website of the Turkish Employment Agency to ensure that no Turkish applicant would fulfil the employment requirements. Turkey was ready to support any work that would be undertaken in this Committee to make the operation of ENTs more transparent, in the hope of a common understanding reached on this issue.

2.5. The representative of the Kyrgyz Republic stated that the Government of his country issued work permits annually to attract and hire foreign persons. The system was established on a sectoral and regional basis. The agency responsible for issuing work permits for foreign persons was the State Migration Service of the Kyrgyz Republic. Two types of work permits were issued: (1) employer permit - a document giving the right to legal entities and individuals to hire foreign persons in the territory of the Kyrgyz Republic; (2) worker permit - a document confirming the right of foreign persons to carry out labour or entrepreneurial activities in the Kyrgyz Republic. Individuals and legal entities of the Kyrgyz Republic planning to attract and hire foreign workers should obtain an employer permit before hiring. Foreign persons who had lawfully entered the territory of the Kyrgyz Republic and planned to work or conduct an entrepreneurship in the Kyrgyz Republic needed to apply for a worker permit. Each permit application was scrutinized at the regular meetings of the Interagency commission. The main criteria for the worker permit included the level of qualification, knowledge of foreign languages, financial and intellectual contribution, etc. The list of necessary documents for obtaining a work permit was on the website of the State Migration Service of the Kyrgyz Republic.

2.6. The representative of Canada thanked the Kyrgyz Republic for sharing the information on their domestic experience. While acknowledging the usefulness of additional information on some specific questions and the existence of a scheduling issue, she thought that any future work of the Committee should not be limited to only one mode of supply and that all modes of supply should be considered.

2.7. The representative of the United States thanked Kyrgyz Republic for raising the issues. Some information provided at the last meeting, particularly Turkey's practical experience on the operation of certain elements of ENTs/LMTs, was helpful. Sharing experiences and information by other Members was also welcome. He agreed that it would be difficult for the Committee to develop common definitions or common elements in relation to mode 4. He also echoed Canada's statement that the Committee's work should not be limited to mode 4 as scheduling problems existed for other modes of supply as well.

2.8. The representative of Australia appreciated the information shared by the Kyrgyz Republic and other Members, which would be useful to build an understanding of ENT practices. Different practices among Members made it difficult to identify and establish common criteria or checklists for ENT. It would not be workable to decide on common categories or checklists of natural persons.

2.9. The representative of the European Union welcomed future work in the Committee that could add value to what had been done over the past years. In this respect, she appreciated the Communication from the Kyrgyz Republic and information on their practices. She reiterated her delegation's comments on the four questions put forward in the Kyrgyz Republic's Communication. On the first question, the European Union's approach would be not to impose ENTs for the category of intra-corporate transferees. For the other categories, it would be very difficult to establish common ENT criteria as practices amongst Members differed, rendering the identification of common elements difficult. But Members could be encouraged to be as clear as possible when scheduling mode 4 commitments. With respect to the second question on common definitions of categories of mode 4 persons, the European Union's position had always been that this would be a valuable exercise. An existing communication by the European Union and other Members of 18 February 2005 (TN/S/W32) suggested the adoption of common categories for mode 4 commitments. Concerning the third question on the relationship between horizontal and sectoral commitments, the European Union did not see the issue at stake. The fourth question might be premature for discussion at this stage.

2.10. The representative of the Kyrgyz Republic thanked delegations for their valuable interventions. He reiterated that the purpose of his delegation's Communication was to bring mode 4 related issues to Members' attention. He hoped that the Committee would continue to work on these issues in future discussions.

2.11. The representative of Japan stated that, while sharing the importance of clarifying ENT entries in schedules to improve transparency, his delegation wondered whether it was worth investing time on this issue at this stage. He shared the view that it would be difficult to reach consensus on common definitions of natural persons, due to different domestic laws and regulations. Japan was therefore not enthusiastic about further advancing this exercise.

2.12. The Chairperson proposed that the Committee take note of the statements made and revert to this agenda item at the next meeting.

2.13. It was so agreed.

### **3 ITEM C – POSSIBLE FUTURE WORK OF THE COMMITTEE**

3.1. The Chairperson recalled that he had been holding extensive consultations with delegates on possible future work since the Committee's last meeting on 24 June. He thanked delegates for their trust and support. He noted some constructive ideas put forward to him, which, in line with the mandate of the Committee, could warrant a meaningful work in the Committee. One idea was to examine those commitments which conditioned their entry into force, implementation or improvement to the adoption of new legislation or the review of the pre-existing regime. Most of these commitments dated back to the 1990s. Since more than 20 years had passed, the value of these commitments became questionable. It would be beneficial to Members' collective interest if these commitments could be updated or, at least, information could be provided about their implementation. This would improve the transparency and legal certainty of commitments. Another idea for the Committee's future work pointed to the well-known fact in the services world: "water" in the GATS commitments, i.e. the gaps between GATS commitments and the applied regime. The idea suggested that the Committee examine the "water" issue by analysing WTO Members' services commitments in FTAs which, to a large extent, were believed to bind the status quo of regulatory conditions in services. These exercises, long overdue, concerned the relevance of GATS commitments. He sought Members' views on these ideas, including how the Committee could proceed with these, should the exercises be desirable.

3.2. The representative of the United States stated that his delegation had raised the first idea in the Committee before. He noted the indications contained in some schedules that commitments would be updated when pending legislation was adopted. However, these schedules had not been updated after more than 20 years. Those Members concerned should fulfil their commitments. His delegation would welcome those Members concerned to provide information on implementation and support the Secretariat to help identify which areas and commitments were most impacted by this scheduling technique. His delegation was open to further discussing how to move this issue forward.

3.3. The representative of the Russian Federation sought clarification on the first idea of examining conditional commitments. It would be unlikely for anyone to oppose this work as it would improve transparency of commitments. Her question was how the exercise would be organized, including the format of discussion, and who would conduct the study.

3.4. The representative of Brazil echoed the questions raised by Russia about how the suggested exercise should be organized and what would be its basis and framework. Noting that this was a Member-driven committee, he encouraged any Member interested in discussing these ideas to elaborate and table a communication which would provide a better basis for Members' consideration.

3.5. The representative of the European Union stated that her delegation had no particular interest or concern regarding the phase-out of specific commitments. Her delegation's experience from working with trading partners in bilateral or regional contexts was that Members respected the phase-out of commitments. Her delegation had not experienced the opposite. She wondered whether other Members had real concerns in this area.

3.6. The representative of Canada was supportive of having new discussions in the Committee and was interested in other Members' views on potential areas for discussion. She echoed Brazil's comments about having more information on the idea suggested by the United States. The same question would be raised with respect to the second proposal on the issue of "water". She sought any further information from the proponent and asked how the proposal would relate to a past work done by the Secretariat. Having more information would be useful for her delegation to consider all the proposals.

3.7. The representative of Australia stated that her delegation was open to engaging in new proposals from Members and thanked the United States for its explanation regarding examining commitments which conditioned their entry into force on the adoption of new legislation. She also sought further information on this proposal and the proposal regarding "water" in Members' GATS commitments as well.

3.8. The representative of the United States explained that the idea suggested by his delegation was not a matter of phase-out in schedules, which was a legitimate scheduling technique. The idea suggested by his delegation was about the commitment language that specifically conditioned the scheduling of commitments on the passage of legislation. It would be important for this Committee to understand the scope and scale of the issue. It would be straightforward to address this issue, should Members agree to have more clarity in the schedules. His delegation could work on a submission for the Committee to consider at a future date.

3.9. With respect to the second idea mentioned by the Chair, the representative of the United States stated that a written proposal with more information was needed in order to flesh out the proposed exercise. Recalling that the World Bank might have done some work on the issue of "water" in the GATS commitments, he thought that it would be interesting as an initial step to see if this type of work had been extended by other organizations to examine whether and to what extent "water" had been "drained" by Members FTA practices. His delegation was open to working with other delegations should this exercise be introduced into the Committee at a future date.

3.10. The representative of the Russian Federation said that her delegation was also interested in the second idea mentioned by the Chair. The result of the suggested exercise would be positive and delight everyone. The original Members would get the best "marks" for improvement, especially those who were actively involved in RTAs. She however noted that "water" to be identified in the GATS commitments would be approximate as the comparison would be made between MFN commitments and preferential ones. The latter would be deeper and more comprehensive since the level of integration and the possibility of exchange was higher in RTAs. Therefore, the interpretation of such comparison should be done carefully.

3.11. The suggested exercise would also draw attention to the dataset based on which such work could be carried out. She noted the data on GATS and RTAs on WTO I-TIP webpage. While the dataset served as a good base for research, it needed to be developed. She noted that her delegation had repeatedly found errors on GATS commitments in I-TIP and had to rely on original documents. The RTAs dataset in I-TIP contained only a limited set of agreements concluded before September 2016. Some Members and even some regions were missing. Under such circumstances, this dataset was neither informative nor relevant. She recalled that during the Public Forum, the DG had mentioned the intensification of work on database in the WTO. The latest improvements on database were all about goods, and very few on services. Services database should be updated on a regular basis and more user-friendly. This was important for governments and business, and relevant for the transparency of trade and the creditability of the Organization. She hoped that the proposed exercise in the Committee would give an additional input to the improvement of services database on a regular basis.

3.12. The representative of Brazil agreed that the idea on the issue of "water" was a good one and that a lot of work could be done to better inform Members of the differences between GATS commitments and RTAs commitments as well as the applied regimes of the Members. He however asked whether the CSC was the right place to conduct the exercise. Referring to its terms of reference contained in S/L/16, he noted that the Committee was established to "oversee the implementation of specific commitments in all modes of supply, including specific commitments relating to Movement of Natural Persons, contained in Members' Schedules; examine, at the request of Members, schedules of specific commitments and list of Exemptions from Article II of the GATS particularly with a view to improving their technical accuracy and coherence in the future; and

oversee the application of the procedures for the modifications of schedules pursuant to Article XXI of the GATS". Having studied the documents of this Committee, his delegation found that past discussions had focused on the implementation of specific commitments, classification issues, and procedures for the incorporation of new commitments resulting from the DDA negotiations. It showed that this Committee dealt with matters of technical nature. However, the current proposal was to discuss the substance of market access and national treatment and there was no precedent for such discussion in the Committee. Referring to the paragraph 3.4 of the Annotated Agenda, he thought it interesting to understand what "water" meant, because to examine the gaps between GATS commitments and applied regimes of Members and to analyse services commitments in FTAs were different ideas. He noted in the previous working documents of the Committee that some past discussions involved a comparison between specific commitments under the GATS and those in FTAs, but such comparison was only related to classification. The current proposal was completely different because it was to address the substance of the commitments on market access and national treatment. This would be better served in other bodies of the WTO, such as the CTS or the CTS-SS, or even the Committee on Regional Trade Agreements. Or, as suggested by Russia, the Secretariat could deal with this by improving the database in cooperation with Members.

3.13. The representative of Mexico asked who the proponent of the second idea was. It was important for any proposal to be submitted in written form so that Members would be able to consult with their capitals. It would be difficult to discuss issues simply based on ideas. She sought clarification from the Secretariat on the mandate of the Committee, since it was unclear whether its mandate was sufficiently broad for Members to conduct the suggested exercise. While not opposing the exercise itself, her delegation believed that the terms of reference had to be agreed upon by all Members through consensus.

3.14. The representative of Hong Kong, China stated that his delegation had questions about the scope, purpose and objectives of the suggested exercise. He therefore sought more information from the proponent. Referring to the comments made by Brazil and Mexico, he said that his delegation also had doubts on the mandate of this Committee. He wondered whether it was appropriate to consider this issue in this Committee. Nevertheless, he welcomed clarification from other Members or the Secretariat. Recalling the comments made by the United States, he also noted some studies undertaken outside of the WTO, such as the Services Trade Restriction Index (STRI) by the OECD. He also noted that the STRI did not cover all WTO Members and that its objective was different. He therefore sought clarification from the proponent about the purpose, scope and objectives of the suggested exercise.

3.15. The representative of Panama echoed the statements made by Mexico and Brazil. It was unclear whether the Committee had the mandate for the suggested exercise. If its aim was only to make a comparison between binding commitments and applied regimes, a report would be sufficient for it. The question was whom the report was intended to address. If the purpose was for evaluation or for market access negotiations, the proposal needed to be submitted in writing to the CTS-SS. She also sought clarification from the Secretariat on the mandate of the Committee.

3.16. The representative of the Secretariat stated that in 2008, the Secretariat had done some studies comparing GATS commitments and FTA commitments on sectoral basis and that some of the studies had been reflected in the Secretariat sectoral papers of 2010. But this was not done in the framework of this Committee or any other committees. Now that nearly 10 years had passed, these studies could be updated only if Members so wished. With respect to the questions concerning the mandate of this Committee, as noted by Brazil, the Committee had a mandate in three aspects and its work had indeed focused on classification issues and scheduling issues since 1995. The first aspect of the Committee's mandate, i.e. to oversee the implementation of GATS commitments, had never been exploited in this Committee. Regarding Russia's suggestion that the database of GATS commitments be updated regularly, she noted that many Members' original schedules had several supplements and that some supplements were meant to replace previous ones. In maritime transport, some Members' commitments were contained in S/L documents. One way to address the fragmentation of commitments was to create a consolidated version for schedules and publish the consolidated schedules on-line, if Members so wished.

3.17. The representative of Brazil thanked the Secretariat for the clarification. It was useful to confirm that this Committee had never addressed the substance of the commitments. While he agreed with Russia on the usefulness of updating the database, the work should not be done under



the mandate of this Committee. His delegation was open to considering the ideas in another body such as the CTS if a Member would submit a written proposal.

3.18. The Chairperson concluded by stating that he would hold further consultations on the issues raised and reported back to the Committee at its next meeting.

3.19. It was so agreed.

#### **4 ITEM D – OTHER BUSINESS**

4.1. No issue was raised under this item. The meeting was adjourned.

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