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Working Party on GATS Rules

REPORT OF THE MEETING HELD ON 16 JUNE 2016

NOTE BY THE SECRETARIAT¹

The Working Party on GATS Rules (WPGR) held a meeting on 16 June 2016 opened by Mr Don McDougall of Canada and, thereafter, chaired by Mr Gustavo Héctor Mendez of Argentina. The proposed agenda and the Chairperson's annotated agenda for the meeting were circulated ahead of the meeting in documents WTO/AIR/WPGR/5 and JOB/SERV/234 respectively.

1 ITEM A – APPOINTMENT OF THE CHAIRPERSON FOR THE WORKING PARTY

1.1. The outgoing Chairman informed delegations that the Chairman of the Council for Trade in Services (CTS) had recently concluded his consultations on the slate of names for the Chairpersons of the CTS' subsidiary bodies. Mr Gustavo Héctor Mendez from Argentina had been proposed to chair the Working Party on GATS Rules. Consequently, he suggested that the Working Party elect him as its new Chairperson by acclamation.

1.2. The Working Party elected Mr Gustavo Héctor Mendez as its new Chairperson by acclamation.

2 ITEM B – NEGOTIATIONS ON EMERGENCY SAFEGUARD MEASURES UNDER ARTICLE X OF THE GATS

2.1. Turning to emergency safeguard measures (ESM), the Chairman recalled that the Working Party had held a dedicated discussion on Members' experiences with emergency safeguard provisions in their bilateral and regional trade agreements in the course of 2014. Since then, however, no substantive work had been undertaken. Yet, the proponents had reaffirmed their continued interest in pursuing work on emergency safeguards and recurrently invited Members to review their 2007 negotiating proposal contained in document JOB(07)/155. The proponents had also reiterated their readiness to engage anew in dedicated discussions, for instance on the latest developments in services statistics relevant for safeguard actions. Following these introductory remarks, the Chairman opened the floor for Members' interventions.

2.2. The representative of the Philippines, on behalf of the delegations of Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Thailand and Viet Nam, referred Members to their proposed draft disciplines for the use of emergency safeguard measures as contained in document JOB(07)/155 of October 2007, as well as to two previous dedicated discussions on, respectively, statistics for possible use in emergency safeguard actions in services (held in 2011) and safeguard-type provisions in bilateral and regional trade agreements (held in 2014). The 'Friends of ESM' reaffirmed the built-in mandate in GATS Article X as confirmed by subsequent Ministerial Declarations and suggested that work continued based on this mandate. Despite the absence of outcomes in services at MC10, the proponents remained committed to engaging constructively in all aspects of the services negotiations, including through continued work on emergency safeguard measures. They acknowledged that the period of reflection on the future of the overall negotiations had impacted progress in particular technical areas – among which the negotiations in the WPGR. Nevertheless, the proponents hoped to continue their consultations with interested Members on possible next steps, including a further dedicated discussion on relevant statistical developments.

¹ 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.

2.3. The Chairman thanked the proponents for their statement. He suggested that the Working Party take note of the statement made and revert to this issue at its next meeting.

2.4. It was so agreed.

3 ITEM C - NEGOTIATIONS ON GOVERNMENT PROCUREMENT UNDER ARTICLE XIII OF THE GATS

3.1. Turning to government procurement, the Chairman reminded Members that, in September 2015, the EU delegation had circulated a proposal for future work on government procurement (contained in document JOB/SERV/215). In its proposal, the EU suggested that Members exchange information on how they treat foreign-owned or -controlled established service suppliers in their government procurement procedures. The EU proposal aimed at a voluntary exchange of information among Members regarding their existing government procurement practices in this regard. Members had discussed the EU proposal at two formal meetings of the Working Party (in October 2015 and March 2016), as well as at an informal open-ended consultation held in February 2016.

3.2. The Chairman also recalled that, following requests to that effect from some Members, the EU delegation had stated its openness to extend the exchange of information to other modes of supply (i.e., beyond mode 3) and had invited interested Members to present specific proposals to that end. Finally, a number of delegations had encouraged the EU delegation to better reflect the complexity of national government procurement regimes in its proposal, pointing out, for instance, that the GPA's non-discrimination obligations applied only with respect to measures regarding each party's *covered* procurement (thus only to procurement contracts above specified thresholds undertaken by specified agencies in defined "covered" sectors).² Having summarised the gist of previous discussions, the Chairman opened the floor for Members' comments.

3.3. The representative of the European Union stated that government procurement remained a very important issue for his delegation, who valued the comments received so far on their proposal. On the basis of these comments, his delegation was currently reflecting on the best way forward regarding work on government procurement in services at the WTO – including through an exchange of information on existing practices as outlined in their proposal (JOB/SERV/215). His delegation recognized that some adaptations of their initial proposal would be necessary to make Members more comfortable with an exchange of information, including the extension of the scope of the information exchange to all modes of supply, and a redrafting of the proposal's reference to good practices (paragraph 3.c of the initial proposal). He indicated that his delegation was still reflecting on the comments received and would revert to Members once its assessment was finalized.

3.4. The Chairman thanked the delegation of the European Union for its intervention. He invited the Working Party to take note of the statement made and to revert to this item at its next meeting.

3.5. It was so agreed.

4 ITEM D – NEGOTIATIONS ON SUBSIDIES UNDER ARTICLE XV OF THE GATS

4.1. The Chairman observed that the Working Party had not conducted any substantive discussions on this topic for some time. Furthermore, no new ideas had emerged from the Chairman's informal outreach to delegations prior to the meeting on how to carry the work forward in this area. Following these introductory remarks, he opened the floor for Members' comments. No delegation asked for the floor.

4.2. The Chairman invited the Working Party to revert to this item at its next meeting.

4.3. It was so agreed.

² For further details, see the report of the WPGR meeting held on 17 March 2016 contained in document S/WPGR/M/89 (paras. 2.2 to 2.5).

5 ITEM E – OTHER BUSINESS

5.1. No matters were raised under this agenda item.

5.2. The meeting was adjourned.
