



28 September 2015

(15-5010)

Page: 1/2

Working Party on GATS Rules

- DRAFT -

**ANNUAL REPORT OF THE WORKING PARTY ON GATS RULES
TO THE COUNCIL FOR TRADE IN SERVICES (2015)**

Since its Annual Report of 2014 to the Council for Trade in Services,¹ the Working Party on GATS Rules (WPGR) held two formal meetings, respectively on 18 March and 6 June 2015.² During the period covered by this report, the Working Party continued engaging in discussions on all three GATS Rules topics. However, progress was limited due notably to the overall context of the DDA negotiations.

1 NEGOTIATIONS ON EMERGENCY SAFEGUARD MEASURES (ARTICLE X)

1.1. In 2015, the Working Party continued its dedicated discussion on emergency safeguard provisions in regional trade agreements (RTAs), as initially proposed by the 'Friends of ESM'³ in their Communication on *"Emergency Safeguard Measures (ESM) in Regional and Bilateral Trade Agreements: A Proposed Dedicated Discussion"* back in 2013.⁴ On substance, no new elements were fed into the discussion. Members did not revert to the updated factual Note prepared by the Secretariat reviewing safeguard-type and safeguard-related provisions for trade in services in some 122 RTAs notified to the WTO under GATS Article V:7.⁵ The proponents invited WTO Members to re-examine their 2007 proposal for an *"Annex on Article X Emergency Safeguard Measures"* (document JOB(07)/155) and reiterated their availability to hold informal consultations with interested Members in that regard.

2 NEGOTIATIONS ON GOVERNMENT PROCUREMENT (ARTICLE XIII)

2.1. As previously agreed by Members, the Working Party discussed the final version of the WTO Working Paper entitled *"The Relationship between Services Trade and Government Procurement Commitments: Insights from Relevant WTO Agreements and Recent RTAs"* prepared, in their personal capacity, by staff members from the Secretariat's TRIPS Division in charge of the GPA and the Trade in Services Division.⁶

2.2. Regarding future work in this area, the delegation of the European Union suggested analysing how Members treated foreign-owned or controlled *established*⁷ service suppliers with respect to government procurement procedures, as compared to their own 'domestic' service suppliers – to identify good practices that could be drawn from national experiences (as well as possible sources of discrimination). Further to this exchange of information among Members, the EU delegation suggested requesting the Secretariat to further examine Members' practices in this regard as

¹ Document S/WPGR/25 dated 17 November 2014.

² The reports of these meetings are contained in documents S/WPGR/M/86 and 87, and should be read in conjunction with this report.

³ The following nine delegations, as proponents on emergency safeguards in services, constitute the 'Friends of ESM': Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Thailand and Viet Nam.

⁴ Document JOB/SERV/163 dated 18 October 2013, Communication from Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Thailand and Viet Nam.

⁵ Document S/WPGR/W/64 dated 4 September 2014.

⁶ WTO Working Paper ERSD-2014-21, final version released in November 2014: https://www.wto.org/english/res_e/reser_e/wpaps_e.htm. The views expressed in the Paper are the authors' personal responsibility and should not be attributed to the WTO or its Secretariat.

⁷ I.e., for services supplied via foreign commercial presence, so-called 'mode 3'.

reflected notably in their regional trade agreements. Further discussions to define the contours of future work are expected to take place in forthcoming meetings.

3 NEGOTIATIONS ON SUBSIDIES (ARTICLE XV)

3.1. In January 2015, the Secretariat issued a revised version of its Background Note entitled *"Subsidies for Services Sectors – Information contained in WTO Trade Policy Reviews"* (based on information contained in WTO Secretariat Trade Policy Review reports).⁸ A couple of delegations made observations on the Note. More conceptual work would ideally be needed to better understand how subsidies are provided and what trade effects they might have.

⁸ Document S/WPGR/W/25/Add.7/Rev.1 dated 13 January 2015.