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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 (2016)**

Since its 2015 annual report to the Council for Trade in Services¹, the Working Party on GATS Rules (WPGR) held four formal meetings respectively on 14 October 2015, and 17 March, 16 June and 5 October 2016.² The three negotiating mandates the Working Party is entrusted with – namely emergency safeguard measures (GATS Article X), government procurement (Article XIII) and subsidies (Article XV) – were put on the agenda of each of these meetings. In addition, in February 2016, the Working Party held an open-ended informal consultation to discuss a proposal by the European Union on future work on government procurement. In all three areas, progress on substance remained limited due notably to the overall context of the negotiations.

1 NEGOTIATIONS ON EMERGENCY SAFEGUARD MEASURES (ARTICLE X)

1.1. During the period covered by this report, the group of proponents on emergency safeguard measures (ESM) – the 'Friends of ESM'³ – re-affirmed their continued interest in pursuing work in this area in accordance with the built-in mandate of GATS Article X. They invited comments from delegations on the dedicated discussion on safeguard-type provisions in bilateral and regional trade agreements that the Working Party had held in late 2013 and 2014. They also recalled their 2007 proposal in favour of establishing rules for the use of emergency safeguard measures contained in JOB(07)155⁴, and suggested resuming technical discussions on statistical sources and indicators that could be used in services safeguard investigations⁵. However, no delegation took up these suggestions, and Members did not engage in any substantive work on the subject.

2 NEGOTIATIONS ON GOVERNMENT PROCUREMENT (ARTICLE XIII)

2.1. In October 2015, the Working Party discussed a proposal for future work on government procurement tabled by the European Union⁶ suggesting that Members exchange information on how they treated foreign-owned or -controlled *established* service suppliers⁷ in their government procurement practices, as compared to their domestic suppliers. Further to such an exchange of information among Members, the EU delegation had suggested inviting the Secretariat to examine how possible discrimination with respect to government procurement was dealt with in Members' bilateral and regional trade and/or investment agreements. In subsequent meetings, delegations discussed the purpose of the proposal as well as the need to clarify its contours. The EU delegation informed Members that, based on the comments received, they were reflecting on the best way forward regarding their proposal.

¹ Annual Report of 2015 contained in document S/WPGR/26, dated 15 October 2015.

² Reports of these meetings are contained in documents S/WPGR/M/88 to 91, and should be read in conjunction with this report.

³ Comprising the following nine delegations: Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Thailand and Viet Nam.

⁴ Communication from Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, Thailand and Viet Nam of 19 October 2007, "(Draft) Annex on Article X Emergency Safeguard Measures".

⁵ At its March 2011 meeting, the Working Party had discussed the question of the availability of disaggregated, mode-specific statistics in the context of emergency safeguards. The debate was introduced by two presentations by WTO Secretariat experts. The report of the meeting is contained in document S/WPGR/M/73.

⁶ Communication by the European Union entitled "Proposal for Future Work on Government Procurement", document JOB/SERV/215, dated 25 September 2015.

⁷ These refer to suppliers supplying services through the establishment of a commercial presence in the territory of another Member, or 'mode 3'.

3 NEGOTIATIONS ON SUBSIDIES (ARTICLE XV)

3.1. Discussions in this area have stood at an impasse for some time with no new ideas or approaches being put forward. More conceptual work would ideally be needed to better understand how and in which sectors subsidies were provided, and what effects they might have on trade in services.
