PART III
TECHNICAL PAPERS
ESCAP TRANSPORT ACTIVITIES

by

Mr. Barry Cable, ESCAP secretariat
TECHNICAL ASSISTANCE AND CAPACITY BUILDING INITIATIVES OF ESCAP IN TRADE POLICY

by

Mr. Ravi Ratnayake, ESCAP secretariat

Technical Assistance and Capacity Building Initiatives of UN ESCAP in Trade Policy

By Ravi Ratnayake
Chief, Trade Policy Section
International Trade and Industry Division
UN ESCAP

ESCAP's thematic focus: Managing globalization

Objective: To assist member and associate member countries in their efforts to integrate into the international trading system.

Our goal is to make ESCAP the leading regional training centre for trade policy and WTO issues.

ESCAP
- Provides high quality training
- Conducts policy studies
- Provides advisory services
- Organizes policy dialogues/seminars and expert group meetings

Capacity building through
- Institutional capacity building
- Human resource development
- Exchange of best practices
- Networking and information exchange

Partnerships
At the global level:
- World Trade Organization (WTO)
- United Nations Conference on Trade and Development (UNCTAD)
- International Trade Centre UNCTAD/WTO (ITC)
- United Nations Development Programme (UNDP)
- United Nations Industrial Development Organization (UNIDO)
- World Intellectual Property Organization (WIPO)

At the regional level:
- Asian Development Bank (ADB)
- Association of South East Asian Nations (ASEAN)
- South Asian Association for Regional Cooperation (SAARC)
- Economic Cooperation Organization (ECO)
- Pacific Islands Forum
Participation in the WTO System - ANIB

Areas of Focus
- Accession to the World Trade Organization
  - procedures, strategies and policies
  - implications and impact assessments
- Implementation of the Uruguay Round Agreements
  - agriculture
  - textiles and clothing
  - TRIMs
  - contingency measures
  - customs and valuation
  - trade in services
  - TRIPs
  - dispute settlement

Doha and beyond: implications of new issues and future trade negotiations
- trade facilitation
- trade and investment
- competition policy
- government procurement
- trade and environment

Regional trading arrangements
- Interim secretariat for the Bangkok Agreement
- costs and benefits
- implications and impact assessments

Investment promotion and facilitation
- improving investment implementation and realization rates
- designing effective investment promotion strategies at national, subregional and regional levels

Enterprise development

Past Activities and Experiences
Many activities, some recent examples are:
- Organization of a Meeting of Eminent Persons ("Friends of the Chair") on Integration of Asian Developing Countries into the International Trading System, Tehran, March 2001.
- Organization of "WTO week" in Bangkok, September 2001, including an ESCAP/UNCTAD High-level Meeting of ESCAP Developing Countries in Preparation for the Fourth WTO Ministerial Meeting in Doha which was held in November 2001.
Publications: Some recent examples are:
- Implications of the Uruguay Round Agreements for the Asian and Pacific Region (ST/ESCAP/1535).
- Implications of General Agreement on Trade in Services (GATS) for Asia-Pacific Economies (ST/ESCAP/1926).
- The Future WTO Agenda and Developing Countries (ST/ESCAP/2047).
- Regional Perspectives on the WTO Agenda: Concerns and Common Interests (ST/ESCAP/2161).

The above publications are available at:
http://www.unescap.org/itid/publication/PUBLICAT.htm

The future agenda
In the next 2 to 5 years, ESCAP will focus its activities in the area of trade and investment policy on the following issues:
- trade policy training courses
- WTO agreements and emerging issues in the next round of multilateral trading negotiations
- accession to the WTO
- investment promotion and implementation in Indo-China countries
- trade and investment issues in selected countries with economies in transition
- strengthening the Bangkok Agreement
- support subregional economic cooperation mechanisms such as BIMST-EC and SPECA

Thank you
OVERVIEW/CONCEPTUAL FRAMEWORK

by

Ms. Geetha Karandawala, ESCAP secretariat

Regional Seminar on Liberalisation of Maritime Transport Services under WTO GATS 11-13 February 2002

Overview

Geetha Karandawala
ESCAP secretariat

Globalization

Easier to describe than define
Paul Krugman

Globalization

Forces of Globalization
- Increased trade and investment flows
- Transport networks
- Technology flows including ICT

Access to Markets

Liberalization & Deregulation
New markets and increased trade

Through
Transport services
- Efficient
- Reliable
- Competitive

Maritime Transport Sector

Historical perspective
The advent of protectionism 1960's - 1970's
- Need to diversify export commodities and establish national shipping services
- Dominance of trade routes by Liner Conferences
- Interventionist policies of countries and protectionist measures
- Multilateral instruments - UN liner code

Maritime Transport Sector

Historical perspective
Towards liberalisation of shipping 1980's
- International pressure
- Domestic pressure
  - restricting shipping opportunities for exporters
  - high freight rates
  - National shipping lines not subject to competition
  - National shipping lines requiring subsidies instead of earning revenue
Maritime Transport Sector

Historical perspective
Factors that led to change
- Frustration caused by long years of inadequate development
- Worsening terms of trade
- Disillusionment with current policies
- Political change which favored private enterprise
- Market-oriented and deregulated approach to development

Maritime Transport Sector

Liberalized Maritime Transport Services 1990’s
- Greater frequency
- Better service
- Competitive prices
- Foreign investment
- Intense competition – need for economies of scale and high investment
- Adverse impact on some national shipping lines

Shipping Services & Ports Responses

- Larger ships to achieve economies of scale
- Concentration
  - Carrier alliances/Merger and Acquisition
  - Emergence of hub ports
- Focus on multimodal transport and logistics

Container Ship Size

![Graph showing the growth of container ship size from 1978 to 2011](chart)

Concentration of Shipping Services

![Bar chart showing the concentration of shipping services](chart)

Concentration of Port Services

- World top 20 container ports handle 52% of world port container throughput.
- Top 10 container ports of Asia and the Pacific handle 65% of port container throughput of the region.
- More than 20% of world container throughput are handled at the terminals operated by two biggest international terminal operators (PSA and HPH).
Focus on Multimodal Transport

- Truck → Port → Ship → Port → Rail
- Warehouse → Road → Port → Sea → Port → Rail → Warehouse
- Freight Forwarder/MTO

Increasing Focus on Logistics

- Raw Material supply points → Raw Material storage → Manufacturing → Finished goods storage/distribution → Markets
- Movement/Transport
- Storage → Plant → Warehouse

Further Deregulation and Liberalization

- Economic liberalism and increased reliance on competition
- Regulatory changes towards deregulation and liberalization
- Liner shipping sector
  - United States Ocean Shipping Reform Act 1998 (OSRA)
  - European Commission

Dilemma faced by countries

- Enjoy benefits of liberalization
- Maintain a presence in provision of maritime services

Reconciling the Dilemma

- In the light of the new impetus through WTO GATS
- Scope - sequencing - timing
- Sustaining the competition - competition policy
- Increase awareness of WTO processes
- GATS negotiations - implication

Thank you
SERVICES TRADE LIBERALIZATION: DEVELOPMENT AND REGIONAL DIMENSION

by
Ms. Tiziana Bonapace, ESCAP secretariat

Services Trade Liberalization: Developmental and Regional Dimension

By Tiziana Bonapace
Economic Affairs Officer
Trade Policy Section
International Trade and Industry Division
UN ESCAP

Role of Services in Development

- Definition of Services
  - defined in many ways
  - traditionally non-storable, non-tradable, sometimes even non-productive
  - now fastest growing sector of world trade due ICT and globalization
- Four modes of supply
  - cross border supply
  - consumption abroad
  - commercial presence
  - movement of natural persons

Role of Services in Development (cont’d)

- One indicator of development is the status of an economy’s services sector.
  Services play strategic role in the development process.
- Output of services sector valued at about 6.6 trillion in 1997.
- Share of services in GDP
  - high in developed countries
  - lower in developing countries but rising very quickly in some countries.

GATS and WTO

- the first major step towards bringing trade in services under international disciplines.
- Annex I B of the Marrakech Agreement Establishing the WTO.
  Annex I A is GATT 1994 (including associate agreements).
  Annex I C is TRIPS.
- GATS - covers very wide range of economic activity
  - 12 sectors and 155 sub sectors
  - covers all services that are commercially traded
  - does not cover services supplied in the exercise of governmental authority.

GATS- Development Dimension

- Intergovernmental agreement that establishes a multilateral framework of principles and rules
- Seeks to increase trade in services through increased transparency and predictability so that economic growth of all trading partners and development of developing countries is promoted
- Preamble and Article IV recognize link between economic development and an efficient domestic services capacity. Also promotes increasing participation of developing countries in services trade.
- GATS Article XIX recognizes pace of liberalization may reflect level of development and national policy objectives.

Evolving process of liberalization under GATS

- Uruguay Round
  - developed countries - services exporters, seeking access to markets
  - developing countries - traditionally not services exporters, now different
  - young agreement, therefore rules are incomplete in important aspects
- Emergency Safeguard Measures (Article X), Government Procurement (Article XIII), Subsidies (Article XV), Domestic Regulations (Article XVIII)
- Sectoral negotiations continued after UR in financial services, basic telecommunications movement of natural persons, maritime transport
GATS Approach to Liberalization
- most development – friendly agreement of WTO
- GATS architecture best understood in terms of concerns of participants in the Uruguay Round services negotiations
- developing countries concerned about their weak regulations
- developed countries well developed, heavily regulated services sectors that were seeking access to international markets
- asymmetry in capacity to trade in services
- full application of the GATT paradigm would lock-in the then prevailing inequities as they related to developed countries and developing countries

- therefore developing countries did not seek S+D treatment on GATT traditional lines, but they sought to weave the development dimension into the framework itself.
- This new approach was based on a “bottom-up” approach default position is for the services sector to be exempt from market access and national treatment commitments unless a member specifically includes the services sector in its schedule of commitments.
- Positive list approach facilitates participation of developing countries with policy regimes that are not fully developed yet.

Advantages
- development friendly provides flexibility
- accepts that developing countries have different development objectives from developed countries
- enables countries to regulate services in pursuit of policy objectives and does not seek to influence these objectives

Disadvantages
- very complex
- weak instrument in promoting trade liberalization
- commitments by member countries were in fact modest, mostly reflecting a static position, maybe even a rollback (members bound their then existing position on liberalization).
- Majority of services are not subject to disciplines and doubts have been expressed about whether GATS will ever be an effective instrument for trade liberalization or remain a harvester of autonomous liberalization.
WTO PRINCIPLES, PRACTICES, AND PROCESSES

by

Mr. Pierre Latirile, World Trade Organization

WTO and GATS
Principles, Practices, and Processes

Mr. Pierre Latirile
World Trade Organization

PART I:
WTO
A QUICK VIEW

WTO: What is it?
• The World Trade Organization
• International organization established as a result of the Uruguay Round
• Established: 1 January 1995
• Membership ➔ 142 countries
• Serviced by a permanent Secretariat

WTO: What is it?
• Cornerstone of the multilateral trading system
  - Trade in goods
  - Trade in services
  - Protection of intellectual property rights
• The WTO contract
  - Rights and obligations
  - Dispute settlement
• Successor to GATT

GATT: A brief history
• The General Agreement on Tariffs and Trade
• A provisional set of rules
• Originally 23 contracting parties
• Entered into force: 1 January 1948
• Terminated on 31 December 1995

GATT: A brief history
• 8 trade “rounds” (multilateral trade negotiations)
• Reduction of trade barriers and strengthening of rules for the conduct of international trade
• Growth of world trade consistently outpaced growth in world industrial production
WTO vs. GATT: Main Differences

- Nature
- Scope
- Approach
- Dispute settlement

WTO: Objectives

- To raise standards of living
- To ensure full employment
- To ensure a growing volume of real income and effective demand
- To expand the production of and trade in goods and services
- Sustainable development and environmental protection
- To increase participation of Developing Countries

WTO: Main Functions

- Implementation, administration and operation of the covered agreements
- Forum for negotiations
- Dispute settlement
- Review of national trade policies
- Coherence in global economic policy-making

WTO Agreement

- WTO Agreement
- Multilateral Agreements
  - DSU
  - TRIMs
- Bilateral Agreements
  - Goods
  - GATS
  - TRPs

WTO Structure

- Ministerial Conference
- DGB
- General Council
- TPRB
- Council for Trade in Goods
- Council for Trade in Services
- Council for TRPs
- Committees
  - Market Access
  - Agriculture
  - Working Groups

WTO: Basic Principles

- Trade without discrimination
  - Most-favoured-nation clause (MFN)
  - National treatment
- Transparency
WTO: Basic Principles

- Predictable and growing access to markets
- Trade in goods
  - Binding of tariffs
  - Prohibition of quantitative restrictions
  - Tariff negotiations: progressive reduction in protection
  - Tariff renegotiations: compensation
- Trade in services
- TRIPs

WTO: Dispute settlement

- The integrated dispute settlement system
- Coverage: goods, services and intellectual property
- Procedures: strict time-limits
- Adoption of panel reports: the reverse consensus
- Appellate Body Review
- Non-compliance with recommendations

WTO: Main developments (1995-2001)

- 1996: Singapore Ministerial Conference
- 1998: Geneva Ministerial Conference
- 1999: Seattle Ministerial Conference
- 2001: Doha Ministerial Conference

WTO: Other developments (1995-2001)

- Information Technology Agreement (ITA)
- Basic Telecommunications (February 1997)
- Financial Services (December 1997)
- Dispute Settlement in the WTO
- Implementation of WTO Agreements
- Negotiations on Agriculture and Services (since 1 January 2000)

Module 1: FAQs

- What is the WTO?
- Does the GATT no longer exist?
- What is the difference between GATT and the WTO?
- What are the relationships between the WTO and other international organizations?
- What are the main objectives of the WTO?
- What are the main functions of the WTO?

Module 1: FAQs

- Who can join the WTO?
- Are private parties and non-governmental organizations represented at the WTO?
- How are decisions taken in the WTO? Do some Members of the WTO have more voting rights than others?
- Who runs the activities of the WTO?
- How do the WTO Agreements take into account the specific situation of developing countries?
- What is the role of the Ministerial Conference in the WTO?
- What is the position of WTO Members on labour standards?
PART II

General Agreement on Trade in Services

A Quick Introduction

GATS: Sectoral coverage

- Business Services
- Communication
- Construction
- Distribution
- Education
- Environmental Services
- Health Related Services
- Financial Services
- Tourism
- Recreation, Culture, Sports
- Transport
- Other Services

Most Favoured Nation Treatment:
Article II (1) of GATS

"...each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country." Exemptions may be listed for periods not exceeding ten years in principle.

Transparency (Article III)*

- Publication of all relevant measures of general application
- General information requirement
- Establishment of enquiry points
- Notification requirement (legislative or regulatory changes)
(No disclosure of confidential information)

Increasing Participation of Developing Countries (Article IV)

- Contact points to facilitate developing countries’ access to information (special priority for least developed countries)

General requirement:
- Increasing participation of developing countries in world trade through negotiated specific commitments which
  - Strengthen their services sector,
  - Improve their access to distribution channels,
  - Liberalize markets of export interest.

Domestic Regulation (Article VI)*

- Appeals procedures
- Reasonable, objective and impartial administration of measures
- Use of qualification requirements and procedures, technical standards and licensing requirements
  Criteria:
  - Objective and transparent
  - Not more burdensome than necessary
  - No restriction on supply of service (licensing procedures)
- Procedures to verify competence of professionals
- Development of disciplines
Monopolies* (Article VIII)
Business Practices (Article IX)
- Monopolies and exclusive suppliers must respect MFN obligation
- Consultations with a view to eliminating trade-restrictive business practices
- Monopolies must respect specific commitments
- No abuse of monopoly position
- No extension of monopoly rights

Payments and Transfers (Article XI)
- No restrictions on transfers and payments for current transactions
- No restrictions on capital transactions (except under Article XII or at the request of the IMF)

Permissive Provisions
Economic Integration (Article V)
- Preferential trade agreements must have substantial sectoral coverage and eliminate substantially all discrimination*
- No increase in external trade barriers
- No discrimination of foreign-owned companies*
- Notification and information requirement (working party)
*Flexibility/exceptions for developing countries

Permissive Provisions:
Recognition (Article VII)
- Recognition of foreign standards and criteria for service suppliers – through negotiations or autonomously
- Openness of agreements for new Members
- No discrimination among countries
- Transparency of recognition measures and arrangements
Use of multilaterally agreed criteria/development of international standards and criteria

Exceptions:
Restrictions to Safeguard the Balance of Payments
(Article XII)
- Trade restrictions in the event of serious balance-of-payments and external financial difficulties
  - Non-discriminatory, IMF-consistent, no unnecessary damage to other Members, limited to the difficulties encountered; temporary nature; progressive phasing out; no protective purpose
- Notification and consultation

General and Security Exceptions (Articles XIV and XIV bis)
- Protection of public morals; life and health; etc.
  - No arbitrary or unjustifiable discrimination between countries
  - Protection of essential security interests

Main Provisions Governing Market Access and National Treatment
- Market Access
  - No limitations on the numbers of service suppliers,*
  - No limitations on the value of service transactions,*
  - No limitations on the number of service operations,*
  - No limitations on the number of natural persons in a sector,*
  - No restrictions on types of legal entity,
  - No limitations on foreign capital participation
  * Includes limitations in the form of economic needs tests.
- National Treatment (non-discrimination de facto)
  - No measures which modify the conditions of competition in favour of domestic services or service suppliers
• Any limitations and qualifications pertaining to Articles XVI and XVII must be inscribed in Schedules
• Measures falling under other provisions (Articles VI, XII, XIV) should not be scheduled
• Market Access or National Treatment limitations applying across all scheduled sectors may be presented in a horizontal section
• Measures inconsistent with both Market Access and National Treatment obligations must be inscribed in the Market Access column only
• Members remain free to grant more favourable treatment than provided for under their specific commitments

How policies intentions translate into specific commitments
• Current restriction in Sector A: Foreign equity ceiling of 49%

<table>
<thead>
<tr>
<th>Policy intention</th>
<th>Entry for mode J, Market Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full discretion (no commitment)</td>
<td>Unbound</td>
</tr>
<tr>
<td>Commitment status quo</td>
<td>Foreign capital participation limited to 49%</td>
</tr>
<tr>
<td>Full liberalization</td>
<td>None</td>
</tr>
<tr>
<td>Future liberalization (pre-commitment)</td>
<td>Foreign capital participation limited to 49%, none from date</td>
</tr>
<tr>
<td>Partial liberalization (status quo plus)</td>
<td>Foreign capital participation limited to 49%</td>
</tr>
<tr>
<td>Minimum liberalization (status quo minus)</td>
<td>Foreign capital participation limited to [10%]</td>
</tr>
</tbody>
</table>

How Schedules of Commitments are structured: Kyrgyz Republic

<table>
<thead>
<tr>
<th>Sector or sub-sector</th>
<th>Limitations on market access</th>
<th>Limitations on national treatment</th>
<th>Additional commitments</th>
</tr>
</thead>
<tbody>
<tr>
<td>All services, except services in CPI 62**</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>1a</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>1b</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>1c</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>1d</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>2</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>3a</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>3b</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>4</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>5</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

Article XXI (Modification of Schedules)

A Member may modify or withdraw any commitment in its Schedule, at any time after three years…(from entry into force)
- Negotiations on compensation with any Member whose benefits may be affected
- Compensation on a mutual-basis

“...The Council for Trade in Services shall establish procedures for rectification or modification of Schedules.”

Relationship between MFN obligations and specific commitments in individual sectors

Specific Commitment?

<table>
<thead>
<tr>
<th>Sector or sub-sector</th>
<th>Description of measure indicating inconsistency with Article II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Road Transportation</td>
<td>Inconceivable mass transportation through the country, but not to be extended to the rest of the country</td>
</tr>
</tbody>
</table>

SOUTH AFRICA – FINAL LIST OF AGREEMENT (MFN) EXEMPTIONS

<table>
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</tbody>
</table>

*To be applied for at the date of entry into force of GATS or under Article D(5) of the WTO Agreement
The New Services Round

- Article XIX of GATS – Basic Mandate:
  - Successive rounds of negotiations, starting no later than January 2000, with a view to achieving a progressively higher level of liberalization
  - Due respect for national policy objectives and levels of development
  - Flexibility for developing countries to liberalize fewer sectors and types of transactions
- Article IV.1:
  - Facilitate increasing participation of developing countries in world trade
- Annex on Article II Exemptions:
  - Negotiation of existing MFN Exemptions

Guidelines and Procedures for the Negotiations: Main elements*

- Objectives and Principles
  - Progressive liberalization; increasing participation of developing countries; appropriate flexibility for individual developing countries; special priority for least-developed countries; no change of existing structure and principles of GATS; due respect for national policy objectives
- Scope
  - No prior exclusion of sectors or modes; negotiation of (current) MFN exemptions; target dates for “built-in agenda” (government procurement, subsidies, domestic regulation)

Guidelines and Procedures for the Negotiations: Main elements (Cont’d)

- Modalities and Procedures
- Current schedules as starting-point; request/offer approach as main method; appropriate flexibility for individual developing countries; credit for autonomous liberalization; ongoing assessment of trade in services; time schedules to be developed by the Council as appropriate.

* See document S/L/93 of 29 March 2001

Negotiating proposals received by February 2002:

- Some 100 proposals from close to 50 Members. Focus mainly on telecom and professional services (11 each), tourism and financial services (10 each), distribution (9), and construction (8). Next are energy, maritime, mode 4, postal/courier, and environmental services.
- Main developing country interests: tourism and construction (5 each), telecom and distribution (4 each).
- No proposals addressing health services.
WTO AND MARITIME TRANSPORT

by

Mr. Pierre Latrille, World Trade Organization

WTO and maritime transport

- How it works
- What it has achieved
- What it may achieve in the future

WTO and maritime transport

I. How it works

WTO and maritime transport

GATS commitments:
- Guarantee the conditions of operation of foreign services suppliers at a certain negotiated level of market access and national treatment
- Ensure that this level cannot be deteriorated
- Make this level available as a minimum to all WTO Members
- Are subject to periodic negotiations with a view to improve them

WTO and maritime transport

“Scheduling” principles:
- Positive listing of sectors
- Negative listing of restrictions
- M.A.*: discriminatory and non discriminatory measures
  6 exhaustive categories: number of suppliers, value of transactions/assets, number of operations, number of persons, legal form, foreign capital

WTO and maritime transport

Scheduling principles: (continued)
- NT: any discriminatory measure de facto or de jure
- The modes of delivery: cross-border, consumption abroad, commercial presence, temporary movement of natural persons
- The additional commitments
- The freedom to modulate
- The minimum MFN standard effect

WTO and maritime transport

<table>
<thead>
<tr>
<th>Sector or subsector</th>
<th>Limitations on market access</th>
<th>Limitations on national treatment</th>
<th>Additional information</th>
</tr>
</thead>
<tbody>
<tr>
<td>D: TRANSPORT SERVICES</td>
<td>(None)</td>
<td>(None)</td>
<td>Report obligations for third countries only</td>
</tr>
<tr>
<td>A: Mode of transport</td>
<td>(None)</td>
<td>(None)</td>
<td></td>
</tr>
<tr>
<td>B: Foreign transport (as per Code)</td>
<td>(None)</td>
<td>(None)</td>
<td></td>
</tr>
<tr>
<td>C: Foreign transport (as per Code)</td>
<td>(None)</td>
<td>(None)</td>
<td></td>
</tr>
<tr>
<td>D: Mode of transport</td>
<td>(None)</td>
<td>(None)</td>
<td></td>
</tr>
<tr>
<td>E: Mode of transport</td>
<td>(None)</td>
<td>(None)</td>
<td></td>
</tr>
<tr>
<td>F: Mode of transport</td>
<td>(None)</td>
<td>(None)</td>
<td></td>
</tr>
<tr>
<td>G: Mode of transport</td>
<td>(None)</td>
<td>(None)</td>
<td></td>
</tr>
</tbody>
</table>

163
WTO and maritime transport

A. Maritime transport services

1. Passenger transportation

   a. Passenger transportation by forms

      72111: Passenger transportation by water

         - Passenger transportation by ocean-going or coastal water forms, including by bateaux and hovercraft, on a scheduled or non-scheduled basis

         72119: Other passenger transportation

         - Passenger transportation on the high seas and on coastal waters by seagoing vessels, on a scheduled or non-scheduled basis, regardless of the class of service, and including passenger accompanying baggage transportation.

2. Freight transportation

   a. Freight transportation of goods in refrigerated vessels

      72121: Freight transportation of goods in refrigerated vessels

         - Transportation by seagoing vessels of frozen or refrigerated goods or specially refrigerated containerized goods

   b. Freight transportation on bulk vessels

      72129: Freight transportation on bulk vessels

         - Transportation by seagoing vessels of bulk liquids or gases in special vessels. These vessels may also be refrigerated.

   c. Freight transportation on container vessels

      72131: Freight transportation on container vessels

         - Transportation by seagoing vessels of containers and packages assembled and shrink-wrapped in specially constructed shipping containers, regardless of the class of service or mode of transport.

   d. Freight transportation of general cargo

      72139: Freight transportation of general cargo

         - Transportation of general cargo on seagoing vessels, regardless of the class of service or mode of transport.

   e. Freight transportation of passengers and baggage

      72141: Freight transportation of passengers and baggage

         - Transportation of passengers and baggage on seagoing vessels, regardless of the class of service or mode of transport.

3. IRS

   a. IRS

      72151: IRS

         - IRS

   b. IRS

      72159: IRS

         - IRS

4. IRS

   a. IRS

      72161: IRS

         - IRS

   b. IRS

      72169: IRS

         - IRS

B. Support services for maritime transport

1. Port and terminal services

   a. Port and terminal services and port handling

      7450: Port and terminal services and port handling

         - Port operation services such as wharves, docks, piers, quays and other marine terminals, facilities related services, long-term passenger terminal services in connection with marine transportation, or a line in surface transport and operating and maintenance services of barge, ferry and ship terminals. Other marine terminals and other artificial land structures, also known as ports, terminals, wharves, docks, piers and terminals or facades, other than by transport, e.g. as hotels or buildings on the bank

         74501: Port operations

         - Port operations

         74509: Port and terminal services

         - Port and terminal services

   b. Storage and warehousing services

      74510: Storage and warehousing services

         - Storage and warehousing services

   c. Exchanges and logistical services

      74520: Exchanges and logistical services

         - Exchanges and logistical services

   d. Shipment and forwarding services

      74530: Shipment and forwarding services

         - Shipment and forwarding services

   e. Specialized shipping services

      74540: Specialized shipping services

         - Specialized shipping services
WTO and maritime transport

The inadequacies of classical classification have led to the elaboration of the model schedule, based on four “pillars”:

- international maritime transport
- maritime auxiliary services
- access to /use of port services
- multimodal transport

Pillar 1: International transport suggested to be defined...

- without cabotage
- according to CPC or ad hoc definitions (including or not multimodal)
- distinguishing liner from bulk in mode 1
- distinguishing the establishment of a registered company operating the national flag from other forms of commercial presence (mode 3)
- distinguishing the situation of the ship’s crew from the one of on shore key personnel (mode 4)
Pillar 2: maritime auxiliary services
6 services with proper definitions:
- cargo handling (excluding dockers)
- storage and warehousing
- custom clearance services
- container station and depot services
- maritime agency
- freight forwarding services

Pillar 3: access/use of port services
- shipowner seen as users of port services
- the aim is not to liberalize the port services concerned...
- but to ensure that are available on reasonable and non-discriminatory terms and conditions
- hence the additional commitments tool

Pillar 4: multimodal transport
- two options:
  A) maximal option: liberalize the activity itself
  B) minimal option: liberalize the access to and use of multimodal transport
II. What it has achieved so far

- 29 Members maintained their commitments which immediately entered into force, including MFN aspects.
- Of these 29 Members, 8 have followed the maritime model schedule.
- Many MFN exemptions remained “on the books” while not needed.

- Only 2 new offers (Norway and Iceland) and 2 modified ones (Canada and Malaysia). All in a “Maritime Mode Schedule” format.
- CTS decision (S/L/24) dated 28 June 1996:
  - suspends the negotiations
  - decides to “resume them with the commencement of comprehensive negotiations on services in accordance with Article XIX...”
  - and “to conclude them no later than at the end of this first round of progressive liberalization”.

- Among the 14 offers of acceding countries that are presently being discussed, 2 (Kazakhstan, Saudi Arabia) contain maritime transport draft commitments (but these 14 countries include 5 landlocked countries).
III. What it may achieve in the future

WTO and maritime transport

- Negotiations started 1 January 2000
- 80 Negotiating proposals on the table
- 8 Maritime (EU, Japan, Hong-Kong, China, Korea, Chile, Australia, Norway & Colombia)

WTO and maritime transport

- Strong similarities in the proposal:
  - Model schedule as a base
  - Logistics, multimodal accents
  - Restrictions to lift: Cargo reservation, equity ceiling, on shore establishment

WTO and maritime transport

- Different accent on:
  - Offshore
  - Feeding
  - MFN exemptions
- No calendar or deadline so far

WTO and maritime transport

- Two discussions already
- Submission of initial requests by 30 June 2002
- Submission of initial offers by 31 March 2003
- Conclusion not later than 1 January 2005 (Doha Ministerial Declaration)

WTO and maritime transport

The advantages of GATS liberalization
(i.e. opening the sector to foreigners)
for the "offering" country:
- More investment (secured through guaranteed conditions of access for investors)
- State of the art technologies and management
- More competition
- Hence better services
- Lower prices for the consumer
- Win-Win effect on foreign markets
Why should we bother with maritime:
  “It is so liberal already”
- Yes, but
  • Not everywhere
  • Not for granted
  • Not in a judicially enforceable manner

- An important liberalization *de facto*, that still needs to be bound and improved
- New frontiers: harbours concessions, multimodal
GATS AND MARITIME TRANSPORT

by
Mr. Peter Faust, UNCTAD

Issues to look at...

- Global maritime policy developments
- Why is the shipping sector interested in the WTO process?
  - How GATS influences markets and companies
- What are the new issues?

Policy Reform

- Building supply capacities
- Improving market access
- Improving sector efficiency

Policy Reform

Privatization → Liberalization → Competition

Efficiency

Shipping in WTO

- Decision to take up negotiations on liberalization of trade in services under the Uruguay Round
- GATS to cover all services
- Specific need for process of liberalization felt by some countries
- Failure to reach "critical mass"

NGMTS

- Ministerial decision
- Negotiated until June 1996
- Negotiations not conclusive, failure to reach "critical mass"
Three pillars of maritime transport

- "blue water" services
- auxiliary services, incl. port services
- additional commitments, i.e. access to and use of port services
  - services generally available to shipping
  - pilotage, towage, tug assistance, bunkering, emergency repairs
  - access non-discriminatory and on reasonable terms and conditions

Four modes of delivery

- Service crosses the border
  - typical for transport service
- Consumer crosses the border
  - free choice of carrier/port
- Supplier establishes himself abroad
  - restrictions due to registration conditions, IV
- Presence of natural persons
  - crewing regulations, restricted land-based employment

Maritime Transport Industry

- Maritime transport has become a globalized services sector, characterized by:
  - Technological developments
  - Overcapacities and low returns
  - Concentration and cooperation:
    - Alliances, mergers and take-overs
  - Vertical integration, differentiation
  - Ports, multimodal transport and logistics

Liner shipping supply/demand situation

- Low cost of the 90's has also been due to structural over-capacities.

Example: Average space utilization on both East & West trade routes.

supply/demand situation cont.

- ... But traffic imbalances pose problems.

Example: the case of space utilization on Transpacific routes.

Transpacific Liner Rates

- Market averages in US $ per TEU

Example: reflecting capacity utilization on Transpacific routes.
Auxiliary services

- Vertical integration of liner companies
  - Port/terminal operations
  - MT and logistics services (not included)
- International terminal operators
  - Terminal operations on a global scale
  - Inter- and intra-port competition
- FF and agency services

Additional commitments

- Access to and use of...
  - Port services generally available to shipping
  - Pilotage
  - Borrowing and tug assistance
  - Provisioning, bunkering
  - Maintenance and repair
  - Navigation aids
  - etc.
  - Non-discriminatory access on reasonable terms and conditions

Transport in developing countries

- Global transport developments are based on East/West rather than North/South trade:
  - Organizational changes meet needs of large shippers.
- Suppliers from developing countries:
  - Is there a place for local transport providers?
- Ports are important links between global and national systems.

Developing countries’ supply capacities

- Ocean transport/logistics:
  - Generally declining capacities;
  - Mainline versus feeder operations.
- Auxiliary services/logistics:
  - Agencies, terminal operations, etc.
  - Opportunities to extend into logistics.

National transport policies

- Policy reform programmes.
- Supply side/fleet development policies:
  - Market access policies;
  - Strengthening commercial capabilities:
    - Creating level playing field;
    - Transfer of know-how.
- Demand side/consumer policies:
  - Improving sector efficiency.

What support is needed?

- Policies are formulated at national level;
- ...but they call for international action to support:
  - Long term infrastructure development;
  - Short term measures to optimize use of existing infrastructure, including:
    - Institutional capacity building & regulatory reform;
    - Sustainable technology applications through know-how transfer;
    - HRD and training.
Commitments

- 47 members committed maritime services (incl. acceding countries)
  - 30 freight and passenger: 5 freight, 3 passenger
  - Limitations on equity ceilings, nationality requirements for ownership and vessel registry
  - 27 members committed auxiliary, incl. port
  - 11 additional commitments on "access to and use of"

Commitments

- Regional distribution
  - Africa 7
  - Americas 12
  - Asia 13
  - Australia/Oceania 3
  - Europe 12

New issues

- Multimodal transport/Logistics
  - Access to and use of... or market access « auxiliary services, or » fourth pillar »
- Services related to MT/Logistics
  - inland terminals
  - distribution
  - value-added services
CONSULTATIVE PROCESS AMONGST MEMBER COUNTRIES AND OECD POSITION ON LIBERALIZATION OF MARITIME TRANSPORT SERVICES

by

Mr. Danny Scorpecchi, OECD

1. OECD
   - Intergovernmental Organisation located in Paris
     - 30 member governments
       - Representing Europe, North America, Asia-Pacific
   - Role is to undertake economic and policy analysis

2. OECD
   - Maritime Transport Committee
     - All member governments participate, plus the Russian Federation as formal Observer
   - Principal Role has been to encourage liberalisation of maritime transport

3. OECD
   - Common Principles of Shipping Policy
     - First adopted by OECD Council in 1986
     - Revised and updated in 2000

4. OECD
   - Basic Principle
     - Safeguard and promote open trades and free competition on fair and commercial basis both in mutual relation and relations with non-member countries. Policies should prevent abuse of dominant position by any commercial party

5. OECD
   - Key elements are:
     - Prevention
     - Dispute Resolution
     - Countervailing Powers

6. OECD
   - Principles also provide that:
     - Governments should ensure that there is a fair and competitive environment, and
     - That there should be unlettered participation by non-conference shipping in all trades
The 2000 revision provided for
- Provision and use of maritime auxiliary services
- Provision and use of multimodal services associated with a transport task involving a sea-leg
- Measures relating to safety and sub-standard shipping

MTC Outreach Programme
- Russian Federation and Central/Eastern Europe
- Dynamic Economies in Asia and Latin America
- China

Understandings on Maritime Transport Principles
- Russia, Eastern/Central Europe in 1993
- Dynamic Economies in 1999

Key Elements of Understandings
- Free and non-discriminatory access to international seaborne trade
- Promotion of competition on a free and fair basis
- Promotion of compatibility of competition laws
- Non-discriminatory access to and treatment in ports
- Commercial presence of foreign operators in agency operations, freight forwarding, intermodal haulage associated with international sea-leg

Common Shipping Principles and Understandings will form basis of OECD member country positions at WTO

However, OECD countries will NOT be formulating common position

OECD Secretariat will provide research and analytical assistance for member states

MTC Agenda contains standing item to allow member states to exchange views and information

Most OECD documents (including those mentioned today) available at OECD web site:

www.oecd.org

follow transport and maritime links