APEC Joint EC/GOS/PECC Seminar on the Role of Regulatory Reform/Good Practices in Promoting Services Growth

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1. (Because of the nature & characteristics of services trade, operating resident-to-resident via the 4 modes of supply) the trade liberalisation & trade facilitation agenda is very largely beyond-the-border even more than it is at-the-border or across-the-border

2. (Because trade restrictions behind-the-border tend to be cost-escalating including for domestic firms), reform of behind-the-border barriers tends to deliver whole-of-economy productivity gains

3. (For good reasons) Governments intervene more heavily in the services sector than any other sector

4. (Because the interventions have traditionally been less obvious than interventions at-the-border and are still less well understood as impacting on international trade and economic integration, businesses try to find ways-around and don’t necessarily report them as barriers to Trade Ministries, so Governments don’t always realise the opportunities for productivity gain
4. (Because for many services sub-sectors, the domestic regulatory regimes are beyond the mandate or competency of trade ministries – and regulators are reluctant to sit at the trade negotiating table) trade liberalisation in services badly lags behind goods. The difference between bound and applied regimes in services (the “great lake”) is very much greater than the “water” between bound and applied tariffs on goods.

5. (Because of reform sequencing problems well understood by the EC), regulatory cooperation on services seems increasingly likely to be not just an additional element – but rather a precondition for services trade reform outcomes. (As set out in the technical Annexes, in the world of trade in services, there is a strong conceptual and empirical base for regulatory cooperation to which the GOS is regularly adding)

6. (For all the above reasons) achieving the Bogor goals in services necessarily requires GOS/CTI closer collaboration with the EC which has responsibility for structural policies.

7. The EC has experience in a number of infrastructural services sectors, which now needs to be applied, on a horizontal basis, to the APEC agenda on services.
1. In the context of implementing the Philippines proposed new cooperation framework on services at whole-of-government level, regulatory cooperation in services should figure on the Structural Reform Ministers agenda for 2015.

2. The GOS and the EC should consider the possibility of a joint work programme to develop a **Generic Template** for a **Set of Principles** for Domestic Regulation of the Services Sectors.

3. This Set of Principles could build on the prior work of both the EC (as outlined by Alex Hunt) and the GOS (the APEC/OECD Regulatory Self Assessment Checklist and the APEC Principles for Cross-Border Trade in Services).

4. The joint Set of Principles could take as one **initial model** for example the WTO Reference Paper on Basic Telecoms (ie very short and focussed on the key issues) and be designed specifically both to ensure whole-of-economy **productivity and competitiveness gains** as well as build **investor confidence** in the regional services industries which are so vital to value-added GDP and job growth.

5. The proposed Generic Template could serve as an introductory step towards best practices and a guide to complementary follow-up work at the services sub-sectoral level.
Key Questions?

1. What sort of Principles?
2. Modelled on What?
3. Why Principles rather than Disciplines?
4. Why Generic rather than Sub-Sector by Sub-sector?
Even though services sub-sectors are different, the types of market failure and government motives for regulation are similar. These similarities provide a basis for a generic horizontal principles-based approach.

<table>
<thead>
<tr>
<th>Market failures</th>
<th>Services sectors</th>
<th>Governance response based on GATS</th>
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<tbody>
<tr>
<td><strong>Natural Monopoly/Oligopoly</strong></td>
<td>Network services:</td>
<td>Transparency</td>
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<tr>
<td>Universal Access</td>
<td>telecommunications;</td>
<td>Non-discrimination</td>
</tr>
<tr>
<td></td>
<td>transport (terminals and infrastructure)</td>
<td>No quantitative restrictions</td>
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<tr>
<td></td>
<td>energy services (distribution networks)</td>
<td>WTO Rules on Monopolies and Exclusive Service Suppliers, WTO Annex on Telecoms, WTO Telecoms Reference paper</td>
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<td>Asymmetry of Information</td>
<td>“Public” Services</td>
<td>Notional rules on anti-competitive business practices</td>
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<td>intangibility &amp;</td>
<td>Education, Health, Water, Postal</td>
<td>Right to regulate</td>
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<td>simultaneity prod/cons</td>
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<td>Externalities</td>
<td>Intermediation and knowledge-based services:</td>
<td>Transparency</td>
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<td></td>
<td>e.g. financial and professional services.</td>
<td>Non-discrimination</td>
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<tr>
<td></td>
<td>Transport, tourism, etc.</td>
<td>No quantitative restrictions</td>
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WTO draft accountancy disciplines including a "necessity" test
Transparency, accountability and predictability disciplines exist - but are not sufficient on their own.

Criteria are usually public, reasons for denial are often provided, but fulfilment of publicly stated criteria does not automatically lead to a license being issued.

Source: Aaditya Mattoo, from World Bank Services Trade Restrictions Database, 2014
• The national treatment and MFN obligations of the GATS apply to like services and like services providers, but have limited force when likeness is in the eye of the regulator (e.g. regulation of professional services)

• The market access obligation in the GATS prohibits de jure quotas but not de facto quotas which can be applied by varying the regulatory stringency (e.g. affecting numbers of licenses)

• Quantitative restrictions are virtually extinct in goods but are pervasive in services

Source: Aaditya Mattoo, World Bank 2014
Principles might even make more Sense than more disciplines?

- Regulatory heterogeneity: regulatory requirements naturally differ across countries because of:
  - differences in institutions (typically “horizontal” differentiation e.g. in legal services) or
  - differences in social preferences (can lead to “vertical differentiation” e.g. stringency of financial or privacy regulation)
- Regulatory externalities affecting consumers: when regulators in the jurisdiction of the services exporter do not take into account consequences of market failure in the jurisdiction of the services importer.
- While specific commitments do not yet cover all services sectors or measures, premature stringency of regulatory disciplines could further inhibit willingness to open up (“policy space” etc)
Regulatory externalities can be transmitted through exports

- Security is a growing concern along multiple dimensions
  - Financial internationalization and financial security
  - Digital trade and informational security
  - Labour mobility and security
  - Demographic change and health and old-age security
- Common theme: a regulatory or policy externality transmitted through exports
- To which trade restrictions can become a second best response
- First best is regulatory cooperation
- Premature attempts to impose trade disciplines often lead to commitments + exceptions clauses

Source: Aaditya Mattoo, World Bank
• Trade barriers have both rent-creating and cost-creating effects.
• The rent-creating effects arise from limiting market entry at-the- border.
• Behind-the-border barriers tend however to be cost-creating in their impact (eg regulatory compliance costs increase the cost of, and sometimes prohibit, service delivery, preventing knowledge flows that would raise productivity).
• There are relatively larger welfare effects to be gained by liberalising barriers which are cost escalating, because domestic firms, as well as foreign firms, benefit from the cost reductions
• In goods trade, the barriers tend to be rent creating.
• In services trade, many more barriers are cost escalating.
• A number of studies have confirmed that the primary feature of services trade liberalisation is a rise in the level of domestic productivity.

Source: Philippa Dee, 2010
Annex: Reminder PSU Report 2011 showed big gains in store from services regulatory reform

- an average reduction in air freight margins for all APEC economies of 15%
- average reduction in APEC maritime freight rates by about 20%
- in electricity, third party access, unbundling generation and a wholesale market could lower prices by 23%
- in gas, retail competition could lower prices by 15%

Source: Christopher Findlay et al, 2011
Case study – telecoms in PNG

- The introduction of (foreign) competition into the mobile sector in 2007 led to a 7 fold growth in subscribers = universal coverage.
- Charges fell by 11% in the peak times for domestic calls and 51% in the off-peak.
- In a difficult terrain, the benefits include greater social interaction
  - the rate of response to medical emergencies, is better
  - mobile banking initiatives are underway.
  - market pricing information is more readily available.

Case study – telecom in Vietnam

- Viet Nam has joined many of its developed peers in the region in fixed-line availability.
- Structural reform efforts contributed to this outcome, including
  - the establishment of the universal service fund (VTF)
  - a relatively transparent and predictable regulatory environment to foster competition and network investment.
- The high rate of growth of Viet Nam’s Internet subscribers offers a good example of the correlation between reform and performance.
  - The Internet services sector was liberalised
  - The VTF included public Internet access as part of the universal service scheme.
Case study – road freight in Thailand and Laos

- Thailand has land connections with many neighbours. But generally cross-border freight transport is not open to competition.
- An exception is transport to Laos PDR.
- Following the removal of quotas on cross-border licenses it is reported that freight rates fell by 20-30%.
- More important now are the infrastructure constraints and other regulatory constraints, e.g., arrangements for customs clearance.
- There is a risk that the gains from deregulation, and also the construction of new infrastructure, will be captured and retained at other points in the overall transport and logistics system.
Case study – maritime cabotage in Australia

- The Australian approach to cabotage has not been to remove the regulation but to change the manner of its implementation by the use of a permit system.
- This sustained a downward trend in real interstate non-bulk freight rate since the early 80’s. 
  - already underway due to technological factors and to rationalization of manning scales introduced by the Australian government.
  - The impact of the change is more clear from the mid-90’s when the decrease of the freight rate for journeys between east and west Australia accelerated despite rising fuel prices.
- Also the size of the Australian fleet decreased in deadweight tonnage (carrying capacity) by almost half between 1999 and 2007 with a much larger decrease in the coastal fleet.
• The low cost carriers (LCC) began to enter domestic routes in 2006 in response to the growth of domestic tourism in 2005.
• The full service carriers faced competition from high-speed trains which began in 2004. The use of the LCC model was a competitive response.
• Another driver was the interest of regional governments willing to invest and to develop their local airports.
• Six have set up and four remain in operation.
• Most charge fares of about 70% of the fares of the full service operator or the fare prior to their entry.
• The LCC share is now 25% of the domestic market.
• **What is health tourism**
  Patients going to another country for either urgent or elective medical procedures (incl. rehabilitation and recuperation).
  Typically, main flow is from developed to developing countries. Main providers are private hospitals and clinics. Advantages of cost, speed, quality of service and attractive locations.
  Worldwide market estimated at $40 billion and expected to grow to $100 billion in 2012.

• **Health tourism in Malaysia**
  Largely private sector driven. Coordination provided by Association of Private Hospitals of Malaysia. Support by the government: 35 private hospitals recognized as facilities for health tourism; fast track clearance visas.

• **Foreign investment and growth**
  Private hospitals grew by 350% between 1980 and 2005.
  New FDI linked to emerging global health supply chain, referrals and cross referrals between regionally and internationally-linked hospitals and clinics.
• Policies affecting commercial presence in the home countries of students who study abroad have significant effects on student movements.
  – barriers to the inward movement of foreign campuses boost the number of students from the source economy seeking overseas enrolment.
    • ‘the magnitudes suggest that if an economy with sample average barriers to FDI imports were to liberalise completely, it would send about 60 per cent fewer students overseas’ (at the average level of restrictions on sending students abroad).

• There is a significant statistical relationship between the policy regime applying to arriving students in host economies and the movement of students.
  – consider an economy with barriers to the inward movement of students of an average degree (APEC sample)
    • if that economy were to liberalise completely, it would attract about two and a half times more students.