
Seminar 2: “Key Sectoral Issues and Domestic Regulation”

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Outline

- GATS 101
- The GATS and Financial Services
- Financial Services Negotiations in the DDA
GATS 101
GATS 101: Components

- Members’ schedules of commitments
- General framework
- Annexes

GATS
GATS 101: Scope and coverage

- Services cover a wide range of activities.

- Under the GATS, the term “services” include any service in any sector except services supplied in the exercise of governmental authority.
  - All Financial Services are included in its scope

- Trade in services is defined in terms of 4 modes of supply:
  1. cross-border (Mode 1)
  2. consumption abroad (Mode 2)
  3. commercial presence (Mode 3)
  4. [temporary] presence of natural persons (Mode 4)
GATS 101: How does it work?

- So-called ‘unconditional’ general obligations apply to measures affecting trade in every sector (e.g. MFN, domestic regulation)

- Specific commitments are the result of negotiations
  - Countries make commitments in sectors where they wish to "liberalize" trade
  - Countries specify in their schedules…
    …which sectors are open to trade (under which mode), and
    …any limitations on MA & NT that apply

- In sectors where specific commitments have been made, other so-called ‘conditional’ general obligations apply (e.g. on payments and transfers, domestic regulation)
GATS 101: Liberalization “the GATS way”...

Elimination of 6 types of market access limitations

- Limits on N° of suppliers
- Limits on total value of transactions/assets
- Limits on total N° service operations (e.g. branch expansion)
- Limits on total N° of natural persons employed
- Restrictions on types of legal entity
- Foreign equity limitations

Elimination of discriminatory measures (national treatment)

- Discriminatory licensing
- Discriminatory taxation
- Discriminatory regulation
- Others?
GATS & FINANCIAL SERVICES
The largest industry in the world...

- $274 trillion: Global bonds, equities and bank assets
- $122 trillion: Global bank assets
- $72 trillion: World GDP

Source: data from Global Financial Stability Report 2014 (IMF)
FS: Specific legal instruments

GATS (main text)
- Common to all Members

Annex on Financial Services
- Integral part of the GATS
- Thus, common to all Members

Understanding on Commitments in FS
- Alternative way of making specific commitments
- Optional
- Resulting commitments apply on MFN basis
## Annex on Financial Services: main elements

<table>
<thead>
<tr>
<th>Scope and definition</th>
<th>Exclusions from the scope of GATS:</th>
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<tbody>
<tr>
<td></td>
<td>• Monetary and exchange rate policies</td>
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<td></td>
<td>• Mandatory social security and retirement plans *</td>
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<td>• Activities of public entities (e.g. Central Banks) *</td>
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<tr>
<th>Prudential carve-out</th>
<th>Members allowed to take ‘measures for prudential reasons’</th>
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<tbody>
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<td></td>
<td>• Such measures should be used to avoid commitments or obligations under the Agreement</td>
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<th>Recognition of prudential measures</th>
<th>Can be granted unilaterally or through agreements</th>
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<td>• Must be extended to others “under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation”</td>
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<th>Definitions</th>
<th>Financial services</th>
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<td>Financial service supplier</td>
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<td>Public entity</td>
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* If no competition with a financial service supplier or a public entity
Understanding on Commitments in FS: main elements

Standstill
- Any conditions, limitations and qualifications to the commitments must be limited to existing non-conforming measures

Market Access
- Cross-border: positive list of sectors
- Commercial presence: right of establishment and expansion
- Eliminate or reduce monopoly rights
- Purchase of FS by public entities subject to MFN & NT
- Allow “new financial services”
- Allow [cross-border] transfers and processing of information
- Allow temporary entry of [specific categories of] personnel

Non-discriminatory measures
- Remove or limit any significant adverse effects on financial service suppliers of any other Member of various measures

National treatment
- Access to payment and clearing systems operated by public entities, and to official funding and refinancing facilities
- Access to self-regulatory bodies, securities or futures exchanges or markets, clearing agencies, etc.
Financial services negotiations in the DDA
## Negotiating objectives *

| Mode 1 | • commitments for MAT insurance; reinsurance; insurance intermediation; insurance auxiliary services; financial advisory services; and financial information and data processing services |
| Mode 2 | • Same as for mode 1, plus commitments on all the other non-insurance financial services (subsectors v-xvi) |
| Modes 1 & 2 | • Additional liberalization, especially where the consuming agent is sophisticated, e.g., institutional consumer of securities services |
| Mode 3 | • For all financial services, guarantee rights to establish new and acquire existing companies, in the form of wholly-owned subsidiaries, joint ventures and branches. |
| Modes 1, 2 & 3 | • Full national treatment |
| Transparency | • Transparency in development and application of laws and regulations, transparent and speedy licensing procedures, and other regulatory issues should be addressed in the negotiations |

* As per the “collective request” on financial services
Thank you!