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LDC Services: Geneva Practitioners Seminar Series: “Making Sense of GATS and Applying Good Practices in Services Negotiations”

Seminar 3: “Key Sectoral Rules and Negotiating Issues”

Ruosi Zhang

Logistics Services and the GATS

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Outline

- Context of multilateral trade negotiations on logistics services
- Challenges for the GATS
- What has been achieved?
- Any way forward?



Logistics services in the context of global supply chains

- Production is fragmented across countries while economies are connected through supply chains;
- There is more and more intra-industry trade, intra-firm trade, intermediary products trade, processing trade, outsourcing /arm length trade;
- Foreign content of exports is up (e.g. from 12% to 33% for China between 1995 and 2009);
- Being part of supply chains is crucial, which requires efficient logistics services.



Demand for more sophisticated logistics services

- Lean inventory, just-in-time production and delivery;
- Break bulk consignments, larger number of destination, and increased frequency of delivery;
- Integration of the ERP software of the client with the IT systems of the logistic provider;
- Tracking through barcodes and RFID;
- Transfer to the logistics providers of formerly in-house functions (transport, warehousing, freight forwarding, quality audits, packing, labelling, sorting , order and inventory management, return, repair , recycling ...)



Role of logistics services in trade

- Logistics services constitute the glue that links supply chains together;
- Logistics performance decides the reliability of supply chains, in particular when supply chains are becoming more and more complex and involving numerous economies;
- Countries that perform best in logistics also rank highest in terms of their share of world trade; there is also an inverse relationship between logistics performance and the policy restrictiveness (World Bank Logistics Performance Index).
- Logistics services not only facilitate trade in goods, but also generate trade flow in its own rights.



Relevance of the GATS: trade liberalization and domestic regulation

Market Access (Article XVI)

- mostly quantitative restrictions

National Treatment (Article XVII)

- discriminatory measures

Domestic Regulation (Article VI:4)

- qualitative (minimum) and procedural requirements - regulatory autonomy of Members subject to rules aimed at minimising trade restrictive effects (Article VI:4)

Specific commitments under the GATS



- To remove or schedule “market access limitations” (Art. XVI):
 - limitations on number of suppliers
 - limitations on volume of services produced
 - limitations on assets or value
 - limitations on number of persons employed
 - limitations on legal forms (imposed or prohibited)
 - limitations on foreign participation
- To remove or schedule limitations on national treatment (Art.XVII):
 - any *de facto* or *de jure* discriminatory measures, e.g. on land use, on subsidies or tax breaks reserved to nationals, on residency, on registration, on training , etc.
- Positive listing of sectors; no automatic standstill (i.e. no lock-in regulatory status-quo); no ratchet for future liberalization measures.



Liberalizing logistics services under the GATS: challenges

- Definitional challenge: no separate category for logistics services in either the GATS classification or the existing classification systems designed for statistical purposes;
- Need to identify trade barriers: what are the major measures restricting market access and creating discrimination against foreign LSPs?
- Need to identify regulations and policies that may adversely affect the operation of logistics services and supply chains as a whole.

How to define a service sector under the GATS?



- There is no compulsory classification system under the GATS.
- Reference instruments dated 1991:
 - Services Sectoral Classification List (W/120)
 - UN Provisional Central Product Classification (CPC)
- In general, most WTO Members' GATS specific commitments are undertaken based on the Secretariat's Services Sectoral Classification List" (W/120)

Introduction of logistics services into trade negotiation



“Logistics Friends”

A group of “Friends of Logistics” (Australia, Hong Kong, China; Liechtenstein, Mauritius; Nicaragua; New-Zealand; Switzerland and Chinese Taipei) has refined further the initial Hong Kong, China proposal (doc TN/S/W/20, dated 20 June 2004)

Recognition of the business definition in trade negotiations:

- Logistics services deal with the supply chain process that plans, implements, and controls the efficient and effective point-to-point flow and storage of goods, services and related information, through out the production, distribution and delivery stages, from the initial suppliers of inputs to final consumers of products.

GATS: definitional progresses



Freight logistics checklist

I. Core Freight Logistics Services

Services under this core category are essential to logistics operation and substantial liberalization would be required for viable logistics services.

Description and W/120 category where applicable

CPC codes and inclusions where applicable

11. H. Services auxiliary to all modes of transport

a. Cargo handling services:

Container handling services

Other cargo handling

CPC 7411

CPC 7419

b. Storage and warehousing services

CPC 742 (including* distribution centre services and materials handling and equipment services such as container station and depot services)

c. Transport agency services

CPC 748 (including* customs agency services and load scheduling)

d. Other auxiliary services

CPC 749 (including* through-chain logistics services, reverse logistics, container leasing and rental services)

GATS: definitional progresses



Freight logistics checklist (cont'd)

II. Related Freight Logistics Services

Broadly liberal arrangements for this list of services are crucial to the efficient supply of integrated logistics services as well as providing an enabling environment for third-party logistics services to flourish. Some of these items are already being addressed in ongoing negotiations. The effective liberalization of logistics services would require broad and meaningful liberalization of these related freight logistics services.

Members are strongly encouraged to make offers in this area.

(1) Freight transport Services

11. A. Maritime Transport Services

Services identified under maritime transport negotiations

11. B. Internal Waterways Transport Services

Services identified under maritime transport negotiations

11. C. Air Transport Services

b. Air freight transport

CPC 732 (Currently excluded from GATS, subject to Annex on Air Transport Services)

c. Rental of aircraft with crew

CPC 734 (Currently excluded from GATS, subject to Annex on Air Transport Services)

11. E. Rail Transport Services

b. Freight transport

CPC 7112

11. F. Road Transport Services

b. Freight transport

CPC 7123

c. Rental of commercial vehicles with operator - without operator

CPC 7124

CPC 83102

GATS: definitional progresses



Freight logistics checklist (cont'd)

(2) Other related logistics services

<u>1.F. e. Technical testing and analysis services</u>	CPC 8676
<u>2. B. Courier Services</u>	CPC 7512
<u>4. A. Commission Agents' Services</u>	CPC 621
<u>4. B. Wholesale Trade Services</u>	CPC 622
<u>4. C. Retailing Services</u>	CPC 631, 632, 6111, 6113, 6121 (including* inventory management of goods, assembling, sorting and grading of goods, breaking bulk, re-distribution and delivery services)
- Other supporting services not covered by 11. H:	CPC 743, 7113, 744 (excluding 7441) and 746.

- These services are not explicitly listed in the official CPC explanatory note, and should be explicitly listed in schedules for clarity.

III. Non-core Freight Logistics Services

Availability and efficiency of the following services are important for freight logistics supply chains to operate effectively. Liberalisation in these areas would be desirable for a comprehensive offer on logistics: computer and related services; packaging; and management consulting and related services.



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Identified impediments to logistics services trade

- Prohibition of foreign establishment;
- Requirements concerning local incorporation, joint-venture, foreign equity ceiling, investment screening;
- Pre-establishment requirement;
- Requirements on number and duration of joint ventures;
- Requirements on nationality, language, qualifications, training, etc;
- Limited duration of stay for foreign employees;
- Burdensome licensing requirements;
- Burdensome border procedures;

Liberalization of logistics services under the GATS : a narrow basis



Countries	11.H.a	11.H.b	11.H.c	11.H.d	Total
Albania	x	x	x	x	4
Armenia	x	x	x		3
Australia		x	x	x	3
Austria		x	x		2
Benin	x	x	x	x	4
Brazil	x	x			2
Bulgaria		x	x	x	3
Canada	x	x	x	x	4
China	x	x	x	x	4
Chinese Taipei	x	x	x	x	4
Croatia	x	x	x	x	4
Cuba	x	x			2
Ecuador	x	x	x	x	4
Estonia	x	x	x		3
European Community		x	x	x	3
Finland		x	x	x	3
FYR Macedonia		x	x		2
Georgia	x	x	x	x	4
Ghana	x	x			2
Hong Kong	x	x	x		3
Hungary		x			1
Iceland	x	x	x	x	4
Japan		x	x		2
Jordan		x	x	x	3

Summary of Specific Commitments

Legend:

11.H.a. Cargo-handling Services

11.H.b. Storage and Warehouse Services

11.H.c. Freight Transport Agency Services

11.H.d Other



Liberalization of logistics services under the GATS : a narrow basis



Summary of Specific Commitments (cont'd)

Legend:

11.H.a. Cargo-handling Services

11.H.b. Storage and Warehouse Services

11.H.c. Freight Transport Agency Services

11.H.d Other

Countries	11.H.a	11.H.b	11.H.c	11.H.d	Total
Korea RP	x	x	x	x	4
Kyrgyz Republic	x	x	x	x	4
Latvia	x	x	x	x	4
Liechtenstein	x	x	x	x	4
Lithuania	x	x	x	x	4
Malaysia			x		1
Mexico				x	1
Moldova	x	x	x	x	4
Nepal		x			1
New Zealand		x	x		2
Norway	x	x	x	x	4
Oman	x	x	x	x	4
Philippines	x	x	x		3
Saint Lucia				x	1
Saint Vinc. & Gren.				x	1
Sierra Leone	x	x	x	x	4
Singapore			x		1
Slovenia		x	x	x	3
Switzerland	x	x	x	x	4
Thailand		x	x		2
Uruguay		x			1
USA				x	1
Venezuela	x	x			2
Total	27	41	36	29	133



Liberalization of logistics services under the GATS : a narrow basis

Auxiliary Services

Main types of restriction listed:

- Establishment, foreign equity ceiling, concessions (with in one instance priority to nationals), investment screening, residency, incorporation, pre-establishment, joint-venture, minimum capital requirements, number and duration of joint ventures, nationality, language, qualifications, duration of stay, training

Negotiating proposal on logistics services



- To undertake substantial and meaningful market access (MA) and national treatment (NT) commitments, as well as other additional commitments in as many services sectors in the checklist as possible;
- To ensure right of establishment in core services essential to logistics operations;
- To ensure logistics operators 's access to service on competitive terms for the sake of their integrated operations;
- Additional commitments to ensure effective market access and address sector-specific issues, for instance, regulatory issues such as licensing requirements/procedures, technical standards, and anti-competitive practices
- Additional commitments also to ensure that various procedures and formalities such as documentary requirements, customs clearance, customs inspection, and electronic processing, would not become unnecessarily burdensome;
- Additional commitments to ensure the right to supply checklist services in combination;



Logistics services and trade facilitation

- Logistics services will benefit from the implementation of the WTO Trade Facilitation Agreement since border clearance procedures, including customs and inspection, constitute important impediments to the supply of global logistics services.
- Efficient logistics services can help realize trade facilitation in a broader sense, and liberalization is an efficient way to get efficient logistics service providers on board and hence to attract value chains.

To sum up:



- What has been achieved under the GATS?
 - The importance of logistics services in trade is highlighted;
 - Pragmatic approach to definition;
 - Identifying regulatory measures affecting logistics services and supply chains, in particular in terms of licensing, technical; standards, competition, customs procedures;
 - Some Members have undertaken quite liberal commitments.
- What would be the way forward?
 - Conclude DDA with commercially meaningful commitments?
 - Sectoral agreements?
 - Negotiating PTAs as an alternative?