

Services

Progress in Multilateral negotiations

and

Issues for Developing countries

Agenda...

I. Multilateral negotiations –
Status of the Doha Round



II. State of Play outside the
multilateral framework



III. Issues faced by developing
countries in Services negotiations



IV. What next?

I. Multilateral Negotiations

Status of the Doha Round

Services Negotiations: Why?

- The GATS mandates WTO member governments to progressively liberalize trade in services through successive rounds of negotiations, the first round had to start no later than five years from 1995
- Article XIX titled “Negotiation of Specific Commitments” under Chapter IV titled ‘Progressive Liberalisation’
 - ✓ Effective market access
 - ✓ View to promote the interests of all participants on a mutually advantageous basis and to secure an overall balance of rights and obligations
 - ✓ Due respect to national policy objectives and the level of development of individual members
 - ✓ Appropriate flexibility for individual developing country Members for opening fewer sectors, liberalising fewer types of transactions, progressively extending market access in line with their development situations
- Accordingly, the services negotiations started officially in early 2000 under the Council for Trade in Services

Negotiations - Phases

DDA 2001

July 2004
package

HK Ministerial 2005

Signalling Conference 2008

Stocktaking 2010

2011 Report to
TNC of State of
Play



Doha Development Agenda 2001

- In November 2001, in the Ministerial Conference in Doha, Services negotiations became part of the “single undertaking” under the Doha Development Agenda
 - ✓ All subjects under the negotiations (Agriculture, NAMA etc) are to be concluded at the same time
- Initial offers were to be submitted by 31 March 2003
- A later decision by the General Council, in the context of the July Package of 2004 (document WT/L/579), set a target date of May 2005 for the submission of revised offers

Major areas of services negotiations in Doha Round

- There are four major areas of services negotiations:
 - Market Access
 - ✓ Bilateral and/or plurilateral negotiations to improve market conditions for trade in services - this mostly involves
 - Improving specific commitments on market access and national treatment
 - Promoting most-favoured nation treatment
 - Domestic regulation
 - GATS rules on emergency safeguard measures, government procurement and subsidies
 - ✓ Multilateral negotiations among all WTO members to establish any necessary rules and disciplines
 - Implementation of LDC modalities

July 2004 Package – General Council Decision

- May 2005 deadline for revised offers
- Recommendations included:
 - ✓ Members who had not yet submitted Initial Offers must do so as soon as possible
 - ✓ Ensuring a high quality of offers, in particular in sectors and modes of export interest to developing countries, with special attention being given to least-developed countries (LDCs)
 - ✓ Intensify efforts to conclude the rule-making negotiations under Articles VI.4 (DR), X (ESM), XIII(GP) and XV(Subsidies) in accordance with their mandates and deadlines

HK Declaration 2005

- The Hong Kong Ministerial Declaration of December 2005 reaffirmed key principles and objectives of the services negotiations
- Called on members to intensify the negotiations in accordance with the objectives, approaches and timelines set out in Annex C to the Declaration with a view to expanding sectoral and modal coverage of commitments and improving their quality, with particular attention to export interests of developing countries
- Also established that LDCs are not expected to undertake new commitments in this Round

- Annex C contained a more detailed and ambitious set of negotiating objectives to guide members than any previous such document
- While ensuring appropriate flexibility for individual developing country members, it established a framework for:
 - ✓ Offering new or improved commitments under each mode of supply
 - ✓ Treating most-favoured nation (MFN) exemptions
 - ✓ The scheduling and classification of commitments
- The Annex also urged members to intensify their efforts to
 - ✓ Conclude the rule-making negotiations
 - ✓ Develop text for adoption on disciplines on domestic regulation
 - ✓ Devise methods for the full and effective implementation of the Modalities for the Special Treatment of LDC Members
- With respect to negotiating approaches, Annex C envisaged that the request-offer negotiations could also be pursued on a plurilateral basis

- Offering new or improved commitments under each mode of supply

- ✓ Mode 1

- ❖ Commitments at existing levels of market access and removal of requirement of commercial presence

- ✓ Mode 2

- ❖ Commitments at existing levels of market access and also commitments where Mode 1 commitments exist

- ✓ Mode 3

- ❖ Commitments on enhanced levels of foreign equity participation, removal or substantial reduction of ENTs and commitments allowing greater flexibility on the types of legal entity permitted

- ✓ Mode 4

- ❖ New/improved commitments on categories of CSS, IPs, ICTs & BVs, de-linked from commercial presence to reflect removal or substantial reduction of ENTs and indication of prescribed duration of stay & possibility of renewal, if any

Approaches - Plurilateral negotiations

- Under plurilateral negotiations, a group of members with a common interest make a joint request to individual members to improve specific commitments in a particular sector or mode of supply
- Subsequently, they meet collectively with the countries that have received this request
 - It is up to each member to respond individually to the collective request
- Two rounds of plurilateral negotiations were conducted in early 2006, based on 21 collective requests that were formulated mostly along sector lines.
- The results of the plurilateral negotiations, as well as additional bilateral meetings, were expected to be reflected in a second round of revised offers
- While Annex C provided a timeline of 31 July 2006 for the submission of these offers, all negotiations under the Doha Development Agenda (DDA) were suspended just one week earlier, due mostly to a stalemate over agricultural and non-agricultural market access (NAMA)

Signalling Conference 2008

- Chair of the Trade Negotiations Committee (TNC), at the request of WTO members, convened a “Signalling Conference” for interested ministers as part of the “July 2008” package
- At the signalling conference, participating ministers indicated how their governments' current services offers might be improved in response to the requests they had received
- The signals were not intended to represent the final outcome of the services negotiations but enabled members to assess the progress made in the request-offer negotiations while preparing new draft schedules for submission

Stocktaking 2010

- Progress was limited following the failure to conclude agriculture and non-agricultural market access (NAMA) modalities
- The remaining gaps were reflected in the stocktaking report by the Chairman of the Council for Trade in Services in Special Session to the Trade Negotiations Committee
- **December 2010:** General Council calls for intensification of DDA negotiations across all areas

State of Play Report 2011

- As with other areas under the Doha Development Agenda, the services negotiations entered into an intensified phase at the beginning of 2011

- In April 2011, the Chairman of the Council for Trade in Services submitted a report to the Trade Negotiations Committee on the achievements and remaining gaps in all four areas of the services negotiations:
 - ✓ Market access;
 - ✓ domestic regulation;
 - ✓ GATS rules; and
 - ✓ the implementation of LDC modalities

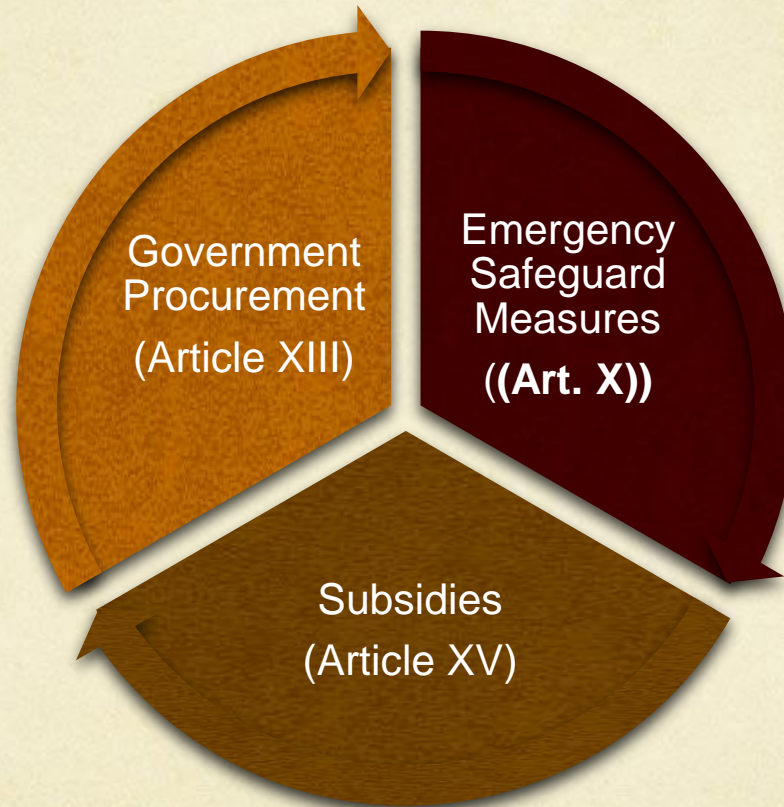
LDC Waiver issue - Adoption

- In December 2011, the WTO Ministerial Conference adopted a waiver
 - ✓ It allows WTO members to deviate from their most-favoured nation obligation of non-discrimination in order to provide preferential treatment to services and service suppliers from least-developed countries (LDCs)
- Of the 155 WTO members, 32 are LDCs who stand to benefit from preferential treatment designed to promote their trade in those sectors and modes of supply that are of particular export interest to them

Operationalisation of the LDC waiver

- 9th Ministerial Conference, December 2013
- Operationalisation of the LDC Waiver concerning preferential treatment to services and service suppliers
 - ✓ The CTS was instructed to initiate a process aimed at promoting the expeditious and effective operationalization of the LDC services waiver.
 - ✓ The CTS shall periodically review the operationalization of the waiver.
 - ✓ The CTS may make recommendations on steps that could be taken towards enhancing the operationalization of the waiver.
- Preferential treatment based on LDC collective request
- Preferential treatment based on suo moto action by individual members

Rules negotiations...



Rules yet to be negotiated...

○ **Emergency Safeguard Measures (Art. X)**

- ✓ Members to conclude multilateral negotiations on the question of emergency safeguard measures based on the principle of non-discrimination.
- ✓ Not much progress

○ **Government Procurement (Article XIII)**

- ✓ Disciplines of MFN, Market Access and National Treatment not to apply to laws, regulations, or requirements governing the procurement by government agencies of services purchased for governmental purposes and not for commercial sale. Multilateral negotiation on govt. procurement in services to be concluded by 1997.
- ✓ Not much progress

○ **Subsidies (Article XV)**

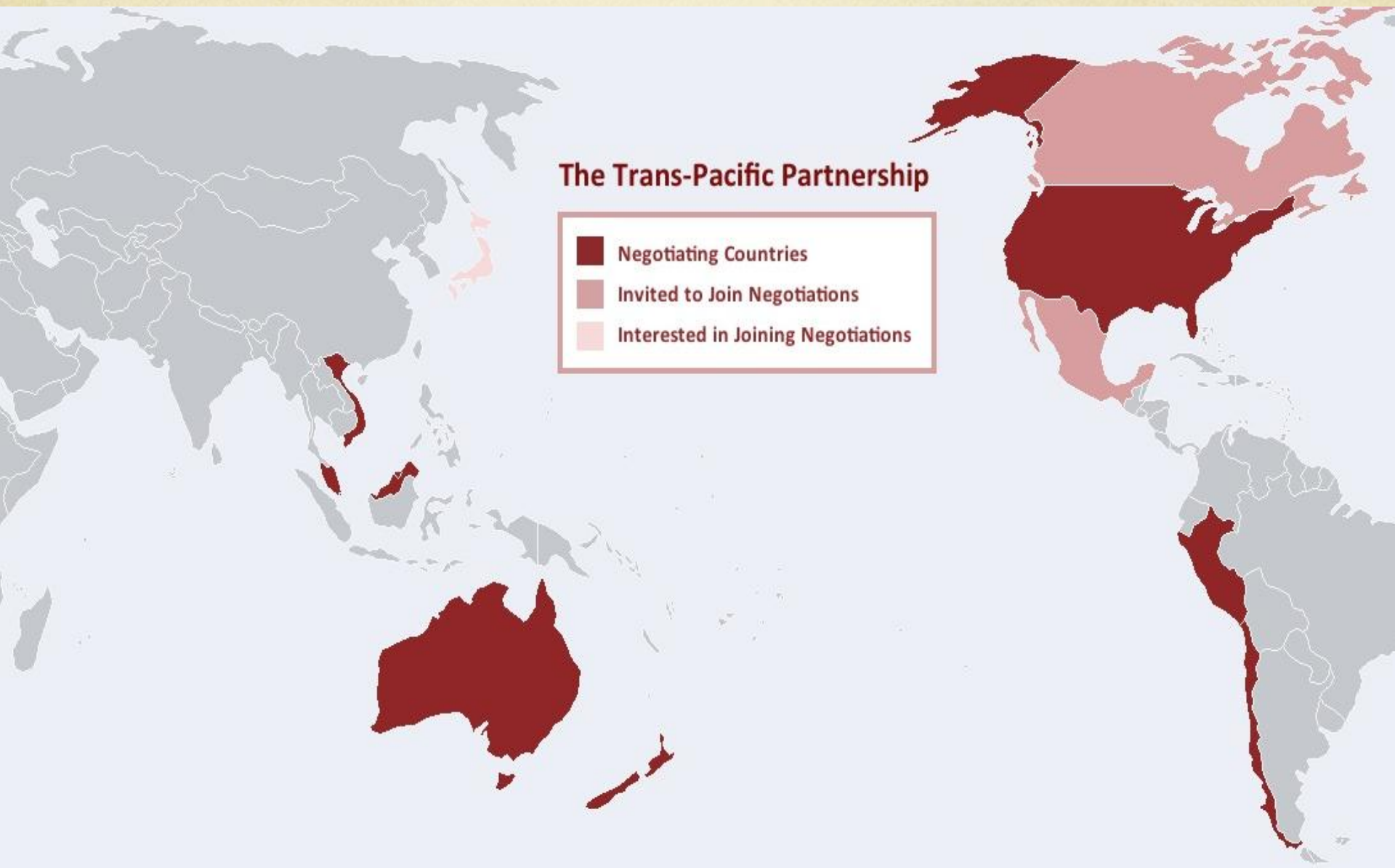
- ✓ It is recognized that subsidies may have a distortive effect on trade in services. Members to enter into negotiations to develop necessary disciplines to avoid such trade-distortive effects. Members to exchange information concerning all subsidies related to trade in services.
- ✓ No deadline was set and not much progress

II. State of Play outside the multilateral framework

State of Play outside the multilateral framework

- Bilateral/Preferential Free Trade Agreements
 - ✓ Proliferation of bilateral agreements with Services chapter and commitments
 - ✓ More than 100 notified to WTO
- Big Regional Trade agreements
 - ✓ Trans Pacific Partnership (TPP)
 - ✓ Trans Atlantic Trade and Investment Partnership (TTIP)
 - ✓ Regional Comprehensive Economic Partnership (RCEP)
- Services Plurilateral
 - ✓ Trade in Services Agreement (TISA)



TPP



TTIP



**Transatlantic
Free Trade Area (TAFTA)
or Transatlantic Trade and
Investment Partnership (TTIP)**

-  US and EU
-  Other Possible

RCEP



TISA



Agreements	Countries	% of World Population	% of GDP	% of World Trade
TPP	12	40	60	50
TTIP	2	17	40	34
RCEP	16	49	30	29
TISA (Services)	23	25	-	68 (World Services Trade)

What impact do they have?

- Enhanced Market Access amongst parties – non-parties left out
 - New areas of engagement– treatment of services and rules on State owned enterprises
 - Focus away from the multilateral system
 - Shaping the rules of the game in relation to the international trade in services
- ✓ *“TTIP will be the template for updating the twenty year-old rules on international trade in services. It’s much more than an agreement on facilitating trade between the U.S, and Europe; it’s the road map (or is it the GPS?) for the global trading system in services.”*

III. Issues faced
by
Developing Countries
in
Services negotiations

- Structural/Ideological
- Architectural and Rule making
- Capacity
- Internal reform and competitiveness
- Friction between sectoral/modal interests

Structural/Ideological

- Multilateral forum – All concerned should make rules of the game
- Calibrated vs. High Standard
- National Policy Objectives and liberalisation
- May not be ready in many sectors
- Liberalisation best way to go forward in all sectors?

Architectural and Rule making

- Positive vs. Negative Listing
- Mode 3 in Investment Chapter
- Ratchet, Full and Automatic MFN, Standstill provisions
- Binding domestic autonomous regime – Flexibility and policy space
- Rules in new areas being defined – Digital trade, e commerce, global value chains
 - ✓ Is there internal consensus on these new areas?
What should negotiation strategy be?

Capacity to formulate a negotiating strategy?

- ✓ Industry Preparedness – Coalition of Interests? Pressure groups?
- ✓ Understanding of Interests and implications – Stakeholders – What is “national interest”?
- ✓ Legal capacity to use trade agreements as tools of development policy?
- ✓ Lack of reliable data in trade in services

Service Industry Associations all around . . .

Hong Kong Coalition of Service Industries
香港服務業聯盟



Member profile of European Services Forum...



European Community Shipowners Association



Stakeholder Consultations

.. An example



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Trade in Services Agreement (TiSA)

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Australia is jointly leading, with the United States and the European Union, negotiations on a services-only free trade agreement known as the Trade in Services Agreement (TiSA).

Formal TiSA negotiations began in early 2013, following 12 months of exploratory discussions that Australia and the United States led in Geneva between a subset of World Trade Organization (WTO) Members interested in new approaches to services trade liberalisation to support and feed back into multilateral trade negotiations.

Australia has a strong interest in progressing services trade reform, both in terms of improved services market access commitments and as a way to generate momentum in multilateral negotiations more broadly. The services sector accounts for around 70 per cent of Australia's economic activity, employs four out of five Australians and plays an important role in international trade, accounting for around 17 per cent of Australia's total exports.

Membership

Since discussions began, participation in the TiSA has expanded from 16 to 23 WTO Members, including the European Union which represents its 28 Member States.

The 23 TiSA parties currently comprise: Australia, Canada, Chile, Colombia, Costa Rica, European Union (representing its 28 Member States), Hong Kong, Iceland, Israel, Japan, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Korea, Switzerland, Taiwan, Turkey and the United States.

Consultations

As part of the Australian Government's ongoing public consultation process, consultations were held in Canberra, Sydney and Melbourne in 2013. Further public consultations will be held in several locations around Australia in the coming months. The consultations will further inform Australia's market access requests. We are interested in hearing about specific market access interests in TiSA markets, and explicit barriers encountered by Australian exporters.

Public Submissions

The Department of Foreign Affairs and Trade welcomes submissions from interested stakeholders to assist in assessing the costs and benefits of the TISA and formulating Australia's priorities and objectives in negotiations. Following the receipt of initial market access offers from TiSA parties in late 2013/early 2014, public submissions will be particularly helpful in assisting the Government to develop Australia's market access requests.

All submissions will be made publicly available on the DFAT website unless the author specifies otherwise. Submissions may be lodged electronically to:

✉ services_negotiations@dfat.gov.au

By post to:

*Services Trade and Negotiations Section
Department of Foreign Affairs and Trade
R.G. Casey Building
John McEwen Crescent
Barton ACT 0221*

Submissions Received

-  [ANZ \[PDF 335 KB\]](#)
-  [Australian Council of Trade Unions \[PDF 499 KB\]](#)
-  [Australian Fair Trade and Investment Network Ltd \[PDF 476 KB\]](#)
-  [Australian Institute of Architects \[PDF 244 KB\]](#)
-  [Australian Services Roundtable \[PDF 80 KB\]](#)
-  [Australian Services Roundtable \(additional submission\) \[PDF 245 KB\]](#)
-  [Consult Australia \[PDF 508 KB\]](#)
-  [IBM Australia Ltd \[PDF 50 KB\]](#)
-  [Music Council of Australia \[PDF 348 KB\]](#)

Internal reform and competitiveness

- Internal reform and competitiveness in services sectors – How to prepare for reform?
- Domestic Regulations in many sectors undeveloped
- No benchmarks for competitiveness
- Can international agreements be used as basis for reform?
- Ministries stakeholders not clear about sectoral priorities
- ✓ Resistance to internal reform and opening up



Friction in Sectoral and Modal interests

- Mode 4 – Resistance to liberalise
 - Permanent Migration vs. Temporary Movement
 - Resistance to opening up Mode 4 – Employment market affected
 - “Political sensitivity”
- Developed country interests – Financial Services, Telecommunication Services, E commerce, Professional Services, ICT Services
- Many of these sectors are “protected” or “evolving” in developing countries

IV. What next?

What next?

- Will Doha revive? What are the prospects?
- Will the big regionals be multilateralized?
Building blocks?
- Will mega regional deals further sideline
developing countries?
 - ✓ Is it good to enter and have a role in
shaping these rules?
 - ✓ Will it be a fait accompli?
 - ✓ Will be difficult to have a role in shaping the
rules?

- Will there be more mega regionals pushing multilateralism to the background?
- How will rules of the game in Services be set and by whom?
- Will developing countries have a role?
Will their voice be diminished?

Thank You!

Srikar.M.S.

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Government of India