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Models for Services Negotiation in RTA/FTA: Options for Developing Countries

Submitted by: USA



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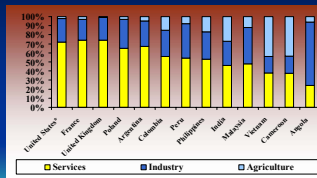
Structure of Presentation

- I. General Issues
- II. Typical Negotiating Modalities
- III. Options for Developing Countries

GENERAL ISSUES

- Why services matter?
- Overview of relevant WTO rules

Importance of Service Sectors in Economy



Source: World Bank, World Development Report 2002, Washington D.C.

Why services matter to developing countries?

- Complement and strengthen modern domestic economic infrastructure for economic and social welfare.
- Add value to and enhance competitiveness of manufactured, agricultural and mining products
- Facilitate transfer of technology and knowledge

Why services matter to developing countries? (cont.)

- Create labor-intensive and knowledge-based jobs
- Attract investment
- Export of services are increasingly important in trade benefits. Potential economic gains are substantial

Estimated liberalization of services in developing countries could provide as much as \$8 trillion in additional income to developing world by 2015 (World Bank, Global Economic Prospects, 2001)

Possible sectors of interest to developing countries

- **Tourism:** important and fast-growing source of foreign currency for many DCs (China, Mexico, Korea, Thailand)
- **Transport services,** especially maritime services (Korea, Kuwait, Ukraine)
- **Telecommunications:** while Mexico only a major DC exporter, technological developments create market segments that DC companies can exploit
- **Computer and data processing:** the sector with the highest proportion of exports supplied by DCs (India)

Growing Interest in services in Regional Trade Agreements



ASEAN Trade in Services '90-03



Overview of WTO rules on services

- **Four modes of delivery**
 - Cross border supply (e.g. int'l telephone calls)–Mode 1
 - Consumption abroad (e.g., tourism)–Mode 2
 - Commercial presence (e.g., foreign bank branches)– Mode 3
 - Presence of natural persons (e.g., individuals traveling abroad to supply services)–Mode 4
- **12 service sectors**
 - Professional & computer Communications
 - Construction & engineering
 - Distribution
 - Education
 - Environmental
 - Financial
 - Health
 - Tourism and travel
 - Transport
 - Recreational, cultural, & sporting
 - Other n.i.e.

WTO rules on services in RTA/FTA

- Article V of GATS imposes three conditions on economic integration agreements for the latter to be deemed WTO-compatible
 - “Substantial sectoral coverage” (not the same as “substantially all sectors” as in Art. 24 of GATT)
 - Elimination of existing discriminatory measures and/or prohibition of new or more discriminatory measures (a standstill is thus sufficient)
- In both respects, GATS disciplines are weaker than those governing preferential liberalization of goods

TYPICAL NEGOTIATING MODALITIES

- Elements in Negotiating Model
- NAFTA Model
- AFAS Model
- Japan-Singapore CEP Model

Services Negotiating Models in RTA/FTA

- Elements in Negotiating Model
 - Approach to Liberalization;
 - Principle of Treatment;
 - Beneficiary
 - GATS/WTO Consistency

RTAs: Approach to liberalization

Positive list (Bottom-up)

National schedules list specific commitments to provide national treatment and market access for particular service sectors and modes of supply

Negative List (Top-down)

All measures and sectors considered free of restrictions unless otherwise indicated in lists of reservations - “non-conforming measures”

Positive List Approach: Pros and Cons

- **Advantages**
 - Used in GATS, thus familiar with members
 - Gradual and progressive liberalization
 - Adaptive to acceleration process
 - Less resources required for administration and negotiation
- **Disadvantages**
 - More time needed for information exchange through request and offer exercise
 - Slow pace of liberalization
 - New sectors requires negotiations
 - More time may be spent to define covered sectors than to find how to reform sensitive sectors

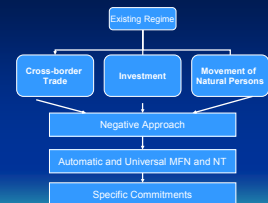
Negative List Approach: Pros and Cons

- **Advantages**
 - Comprehensive since all services sectors presumed covered
 - Greatest stimulus for competition and efficiency
 - Fast and Far-reaching liberalization
 - New sectors covered automatically
- **Disadvantages**
 - Potential risk from liberalization process
 - Administration and negotiation resources required
 - May result in greater domestic opposition due to tougher competition

NAFTA Model

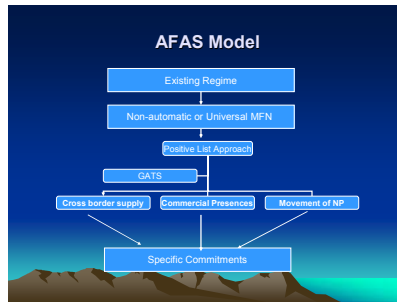
- Negative Approach
- Separate chapters concerning services commitments
 - Mode 1 and 2 is under cross-border trade
 - Mode 3 is under Investment Chapter
 - Mode 4 is under Movement of Natural Person Chapter
 - Telecoms and financial services is under separate chapters
- Automatic and Universal MFN, NT applicable

NAFTA Model



AFAS Model: Strictly GATS consistent

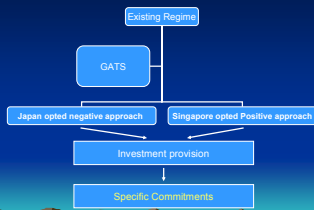
- Positive List Approach
- Coverage: GATS consistent no priori exclusion
- Progressive, request-offer negotiations
- No universal MFN
- Supplementary liberalization formula applicable (ASEAN-X)



Japan-Singapore CEP Model

- Positive List Approach in combination with Negative in line with each party's interests and capacity
- Linkage between services and investment
- NT committed, but no universal and automatic MFN

Japan-Singapore CEP Model



OPTIONS FOR DEVELOPING ECONOMIES

Options for developing countries

1. Positive versus Negative Approach
2. Adopt GATS rules and principles

Options for developing countries (cont.)

3. Set up linkages between services and investment by adopting provisions on non-liberalization investment rules to trade in services (Mode 3)
4. No automatic and universal MFN and NT, ensuring the momentum or dynamics for each RTA/FTA

Options for developing countries (cont.)

5. Applying supplementary elements to accelerate pace of liberalization in services such as liberalization formula, setting up milestones for each stages or sectoral liberalization approaches
6. Concretize WTO/GATS rules by mutually developing definitions on beneficiaries, safeguards, reciprocity rules to consolidate a firm ground for specific commitments

Specific Measures

1. Carrying out "request and offer" exercise to identify interested sectors;
2. Emphasize on transparency requirements for negotiation
3. Harmonization of parties' priority scope and contents

Specific Measures (cont.)

4. "Negative List Approach" should be gradually adopted in sectoral basis, where ready and applicable
5. Promoting cooperation to encourage regulatory regime, competition and investment environment for developing countries
6. Harmonization or facilitation of licensing, standards in services

Thank you for your attention