



Training Workshop on Trade in Services Negotiations for AU-CFTA Negotiators

**Nairobi, Kenya
24-28 August 2015**

**Introduction to the WTO General
Agreement on Trade in Services (GATS)
and Services in Doha Round of negotiations**



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Outline

- **Part I. GATS: Key concepts and provisions**
 - Objectives of the GATS
 - Definition of services trade
 - Ways of trading services
 - Scope of the agreement
 - Some specific provisions
- **Part II: Assessment of UR commitments**
 - Per sector, per depth of commitment
 - The experience of implementing UR commitments
- **Ongoing Doha negotiations on services**
 - Issues areas and mandates





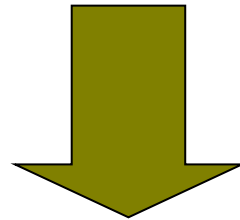
Part I

GATS:
Key concepts and provisions



Objectives of the GATS:

1. Expanding trade as a means for development
2. Achieving progressively higher levels of liberalization



- Due respect to national policy objectives
 - Respect for the right to regulate to meet national policy objectives
3. Facilitating the increasing participation of DC in world services trade



Services Sectors (WTO classification list W/120)

1. Business services
2. Communication services
3. Construction services
4. Distribution services
5. Educational services
6. Environmental services
7. Financial services
8. Health-related and social services
9. Tourism and travel-related services
10. Recreational, cultural and sporting services
11. Transport services



Definition of services trade

Modes of Supplying a Service (Article I)

- **Mode 1: Cross-border Trade**
 - From the territory of one Member into the territory of any other Member
 - Example: Software, insurance or tele-diagnosis from country B into A
- **Mode 2: Consumption Abroad**
 - In the territory of one Member to the service consumer of any other Member
 - Example: A's resident obtains hospital treatment or education in B



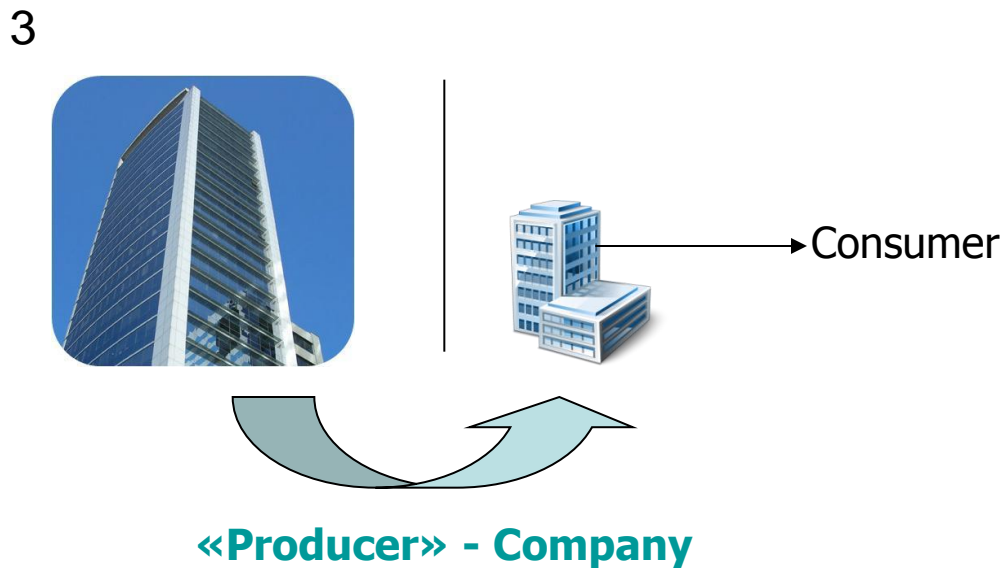
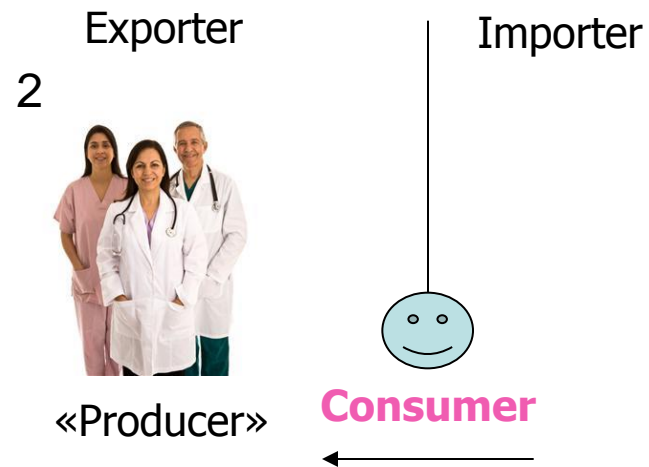
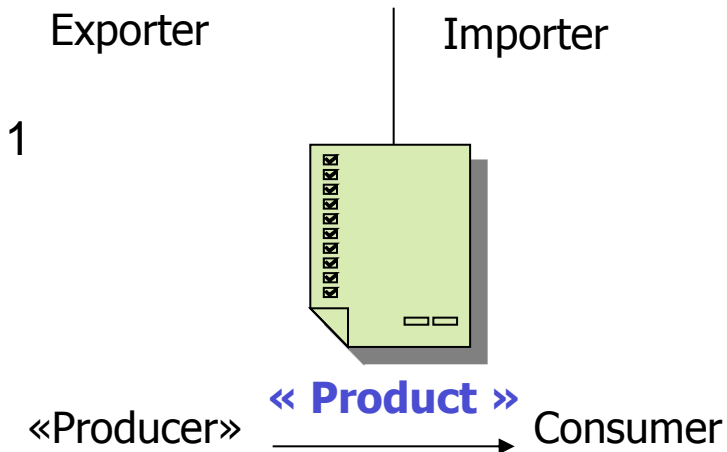
Definition of services trade

Modes of Supplying a Service (Article I)

- **Mode 3: Commercial Presence**
 - By a service supplier of one Member, through commercial presence in the territory of any other Member;
 - Example: Bank, telecommunications firm or hospital from B sets up foreign direct investment (FDI) subsidiary in A
- **Mode 4: Movement of Natural Persons**
 - By a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member
 - Example: Engineer or doctor from B provides services in A



Ways of trading services





Scope of the Agreement (Article I)

- All measures affecting trade in services taken by central, regional or local governments and non-governmental bodies
- Services include any service in any sector except services supplied in the exercise of governmental authority
- The spectrum of international service transactions includes investment and labour



GATS contains provisions regarding

Economic Integration (GATS Article V)

- Eco integration agreement can be entered into by WTO Members provided that such agreements:
 - have substantial sectoral coverage,
 - provide for the absence or elimination of substantially all discrimination, between or among the parties, and
 - do not raise the overall level of barriers to trade in services, in respect of any Member outside the agreement



GATS contains provisions regarding

Recognition (Article VII)

- WTO Members may recognize the education or experience obtained, requirements met, or licenses or certifications granted of other Members
- Such recognition can be achieved:
 - through harmonization or otherwise,
 - can be based upon an agreement or arrangement with the country concerned or
 - may be accorded autonomously
- Member that is a party to a recognition agreement must afford adequate opportunity for other interested Members to negotiate their accession to the agreement or to negotiate comparable ones with it



GATS contains disciplines regarding:

- **Transparency**
 - Notification of measures affecting the operation of the agreement
 - **Domestic regulation**
 - Mechanisms to review and provide remedies for administrative decisions affecting trade in services
 - **Monopolies and exclusive services suppliers**
 - Ensuring they do not act in a manner that is inconsistent with MFN or restrict trade
 - **Payments and transfers**
 - Ensuring capital transactions (payments are transfers) are not restricted
 - **Prudential carve-out**
- } Financial-specific



Part II:

Assessment of UR commitments



Assessment UR commitments (per sector)

- Scope of GATS = 12 sectors / 160 subsectors
 - On average, each country included commitments on 1/3 of subsectors
- Sectors with most commitments:
 - Tourism
 - Financial
 - Business services
 - Telecom
- Sectors with least commitments
 - Transport
 - Audiovisual
 - Health
 - Education
- Accession commitments post-UR included:
 - Infrastructure services
 - Construction services



Assessment UR commitments (per depth of commitment)

- Most commitments on Mode 2 without limitations
- Commitments on Mode 4 very limited
- Full commitment on Mode 1 and 3 are the exception
- Commitments on Mode 3 with limitations
- High proportion of unbound commitments on Mode 1
- Sectoral limitations affect financial services and professional services
- Acceding countries (post UR) assumed full commitments for Modes 1, 2 and 3



Assessment UR commitments (implementation of GATS)

- More flexible structure assuming commitments
 - Less controversial
 - Imprecise commitments
 - Bound existing market opening, hence did not created significant market access
- More opening on mode 3 (dev/ed country interest) in contrast with mode 4 (dev/ing country interest)
- “Weak” rules with respect to domestic regulation
- Link between liberalization and investment attraction
- Lessons learnt with respect to sequencing liberalization and reform



Evolution of trade in services

- The dynamism of trade in services
 - The outsourcing phenomenon
- Technological advances enable cross-border trade of services by electronic means
- Proliferation of regional trade agreements



Part III:

Ongoing Doha negotiations on services



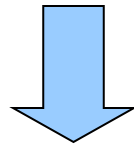
Issues areas and mandates

1. Liberalization
2. New provisions / disciplines
 - Practices having a distorting effect on trade
3. Specific concerns of developing countries and LDCs



1) Liberalization

- Doha mandate: achieve a progressively higher level of liberalization through successive rounds of negotiations



- Objective: reduce barriers to free trade of services
 - Reducing government policy interventions..
 - ..that may be applied after a service has entered a market



Market access - 1

- How do we do this?
 - Request and offer, bilateral, plurilateral and multilateral
- Assessment of what is currently on the table
 - The signaling conference
 - Unsatisfactory quality of offers (in terms of new sectors and improvements)



Market access - 2

- Sectors where offers concentrate:
 - Business services (professional, CRS..), telecom, financial, maritime and tourism
 - MFN exemptions: majority still exists
- Sectors where less attention is given: education, distribution, postal and courier, road transport, entertainment, audiovisual and health
- Modes: Mode 3 > Mode 1 and 4



2) New provisions / disciplines

- Objective:
 - Clarifying existing rules and improving those that could have a distorting effect on trade
- Mandates and status of negotiations
 - Subsidies
 - Domestic regulation
 - ESM
 - Government procurement



3) Specific concerns of developing countries

- Special and Differential Treatment
 - Appropriate flexibility for D/ing country in opening
- Recognition of serious difficulty confronted by LDCs (exempted in Doha)
- Facilitate increased participation of Dev/ing countries and LDCs in international trade in services
 - Access for sectors and modes of interest to D/ing countries
 - Special priority given to LDCs
 - LDC modalities: preference through MFN waiver
 - Technical cooperation and capacity building



Conclusions

- After a 15 year experience of implementing WTO services provisions:
 - The UR bound the regulatory status quo of 1995
 - Mixed results with respect to export interests of dev/ing countries and investment expectations
 - Lesson learnt: taking advantage of liberalization implies sequencing reforms (complexity)
 - Unfinished business with respect to:
 - Subsidies, safeguards, public procurement, domestic regulation
 - Improving market access and practices related scheduling
 - Will have to consider changes that will occur in trading services as a result of technological advancements.

Thank you

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