



COMMUNICATION FROM INDIA

CONCEPT NOTE FOR AN INITIATIVE ON TRADE FACILITATION IN SERVICES

The following communication from the delegation of India, dated 23 September 2016, is being circulated to the Members of the Working Party on Domestic Regulation.

1 BACKGROUND AND MOTIVATION

1.1. Services occupy a significant and growing share of domestic and international transactions. However, trade flows in services remain subject to numerous border and behind-the-border barriers as well as procedural bottlenecks, which are impediments to the realization of the full potential of services trade. These impediments particularly limit the benefits of trade in services especially for small and medium enterprises and small exporters worldwide.

1.2. The Trade Facilitation Agreement ("TFA"), adopted by WTO Members in 2014, was a significant milestone in relation to trade in goods. Its overall purpose is to expedite the movement, release and clearance of goods as well as co-operation on customs compliance issues. Like the TFA, there is need for a counterpart agreement in services, an Agreement on Trade Facilitation in Services ("TFS Agreement"), which can result in reduction of transaction costs associated with unnecessary regulatory and administrative burden on trade in services. The TFS Agreement will address the key issues that are pertinent to facilitating trade in services, such as transparency, streamlining procedures, and eliminating bottlenecks.

1.3. The scope of the proposed TFS Agreement would encompass measures by Members affecting trade in services across all modes of supply.

1.4. Importantly, the TFS Agreement, as in the case of the TFA, will also contain provisions for special and differential treatment for developing countries and LDCs and address related issues of technical assistance and support for capacity building.

2 ILLUSTRATIVE ELEMENTS OF A TFS AGREEMENT

2.1. The TFS Agreement could be based on the TFA in goods, with suitable modification and adaptation to the services context, as required.

2.2. Some of the issues would be cross-cutting issues relevant for all modes of supply of services, and others would be specific to each mode of supply.

2.3. An illustrative list of such elements is provided below:

2.1 CROSS-CUTTING ISSUES

- Publication and availability of information, including automation and international electronic exchange of trade data.
- Transparency in application of all measures of general application affecting trade in services.
- Ensuring administration of measures affecting trade in services in a reasonable, objective and impartial manner.
- Consultations and cooperation among relevant authorities.
- Opportunities to comment before entry into force of measures affecting trade in services.
- Procedures and timelines for consideration of applications from service suppliers, as well as for appeal and review.
- Disciplines on taxes, fees, charges and other levies on supply of services.
- Special and Differential Treatment for developing country Members and LDCs.
- Institutional arrangements.

2.2 MODE-SPECIFIC ISSUES

Mode 1:

- Facilitation of free flow of data across borders for ensuring meaningful supply of Mode 1 services.

Mode 2:

- Facilitation of supply of Mode 2 services, including through cross border insurance portability for availing of medical or tourist related services in a foreign country.
- Endeavour to streamline temporary entry formalities, such as visa processing fees, procedures and timelines for consumers seeking entry into another country to avail of services (such as medical services, education services, tourism, etc.).

Mode 3:

- Facilitation of supply of Mode 3 services, including through measures such as single window clearance for setting up commercial presence.
- Disciplines on charges applicable on Mode 3 service suppliers, in order to ensure that these do not unfairly disadvantage foreign service suppliers.

Mode 4:

- Facilitation of supply of Mode 4 services through simplification of procedures for temporary entry and stay, and clarity in respect of work permits and visas as relevant for the categories of the Mode 4 commitments.
- Disciplines on measures relating to taxation, fees/charges, discriminatory salary requirements, social security contributions in relation to temporary entry, etc. in order to ensure that these do not unfairly disadvantage foreign service suppliers.

3 CONCLUDING COMMENTS

India firmly believes that like the TFA, a well-structured TFS will significantly enhance the potential for trade in services for all Members. This concept requires careful deliberation in order to enable the development of a framework that can effectively address the main concerns of all Members. India looks forward to comments and suggestions from all Members on this critical concept and to developing the elements for the same.
