

**United Nations Conference on Trade and Development
TRADE AND DEVELOPMENT BOARD
Commission on Trade in Goods and Services, and Commodities
Eleventh session
Geneva, 19–23 March 2007**

**REPORT OF THE COMMISSION ON TRADE IN GOODS AND SERVICES,
AND COMMODITIES ON ITS ELEVENTH SESSION**

**Section on:
TRADE IN SERVICES AND DEVELOPMENT IMPLICATIONS**

TRADE IN SERVICES AND DEVELOPMENT IMPLICATIONS

For its consideration of this item, the Commission had before it the following documentation: “Trade in Services and Development Implications — Background note by the UNCTAD secretariat” (TD/B/COM.1/85); “Report of the Expert Meeting on Universal Access to Services” (TD/B/COM.1/EM.30/3); and “Report of the Ad Hoc Expert Group Meeting on Logistics Services” (TD/B/COM.1/AHM.1/3).

Representatives viewed the topic of services regional trade agreements (RTAs) as being highly relevant for development. The secretariat's background note (TD/B/COM.1/85) highlighted (i) economic trends; (ii) trends in services RTAs and reasons for them; (iii) RTAs' approaches to liberalization and cooperation; and (iv) the interface between regionalism and multilateralism. UNCTAD was commended for the quality of the note, which analysed complex and sensitive issues in a comprehensible and balanced manner. Given the novelty of the ideas and the usefulness of the research and policy recommendations, analytical work should be continued. UNCTAD was also commended for assisting developing countries in (i) undertaking assessments; (ii) RTA processes, both South–South (e.g. SADC) and North–South (e.g. ACP–EU economic partnership agreements); and (iii) enhancing collaboration between regional groupings on services.

The Chairpersons' summaries of the 2006 Expert Meetings were presented (on universal access to services, November; on logistics services, July). Participants drew attention to the strong relationship between poverty reduction and universal access, the role of Governments and the need for best-fit policies. They stressed the importance of logistics services for countries' competitiveness and integration into the world economy, as well as the supply-side constraints faced by developing countries and LDCs. For liberalization to be beneficial, preconditions on regulation, infrastructure, technology and human resources had to be met. Both meetings were considered to have been very useful in providing inputs into policy formulation at the national, regional and multilateral levels, and their innovative and holistic approach (involving regulators, policymakers, civil society and trade negotiators) was valued. Further work in those areas was requested.

Given the growth and importance of services development and trade, it was essential that they *translate into tangible development gains*. Intra-developing countries services trade mainly occurred at the regional level, accompanied by a proliferation of services RTAs at the bilateral, subregional and interregional levels, with an increasing number of South–South RTAs. The reasons for services RTAs went beyond economics, with *strategic objectives* (e.g. development, stability, security, geopolitics, attracting FDI) playing an important role (e.g. EU). A review of services RTAs (COMESA, MERCOSUR, CARICOM, ASEAN, SADC, EC, NAFTA) revealed differences and common features. Three approaches could be distinguished: GATS-type with 4 Modes; NAFTA-type with a separate investment chapter; and the European approach with services trade liberalization as part of deeper integration. Many RTAs were *universal in scope* but *excluded sensitive sectors*; adopted a *progressive*

approach towards liberalization (negotiations/implementation over time); and differed in *liberalization methods* (positive/negative lists). While both approaches could lead to the same degree of liberalization, the negative list required a higher level of capacity amongst negotiating countries, with particular challenges for developing countries where regulatory frameworks had yet to be developed. North–South RTAs led to deeper integration, with many covering "new generation issues" (investment, government procurement, competition).

Services trade liberalization *went beyond the traditional "goods"-concept of liberalization*, with trade barriers taking the form of domestic regulations. Hence, development-enhancing services liberalization required recognition of the role of regulation, including its sectoral specificities. RTAs could facilitate regulation, institution-building and competitive services sectors, but capacity-building and *cooperative mechanisms* were needed, particularly in a North–South context, for example mutual recognition agreements or policies related to competition, social security, double taxation or development of regional markets. RTAs facilitated intraregional business activities, and some RTAs were moving towards the harmonization of national regulatory frameworks.

Some RTAs had made *progress in facilitating the temporary movement of natural persons*. Approaches included the GATS (comprehensive coverage of temporary movement of services suppliers but selective liberalization commitments); NAFTA (focus on highly qualified individuals); and EU internal market (more comprehensive integration of labour markets). While deeper economic integration, similar levels of development and close geography facilitated the movement of natural persons, inter-RTA liberalization could lead to tighter external borders. Development gains from the movement of natural persons called for policy analysis in order to facilitate movement, induce return migration, reduce the brain drain and the cost of remittance transfer, and address social issues. The need to further facilitate the movement of natural persons was stressed.

The Commission examined *experiences with services RTAs*, implications for services talks in the Doha work programme, and the interface between multilateralism and regionalism. With MFN market access conditions determining the level of preferences that might be provided in the regional context, *services RTAs tended to go beyond GATS*. Moreover, "GATS plus" was a key requirement of GATS Article V. While there were differences, countries' RTA commitments were greater than their GATS commitments or GATS Doha Round offers and tended to lead to actual liberalization. Some combined a standstill with a positive list. Attention was given to the *sequencing* between national-level policy reform, complementary regulatory frameworks and the subsequent consolidation of liberalization in GATS/RTAs. *Services RTAs posed challenges and opportunities* (e.g. impact of first mover advantages in sectors with high sunk costs; resource constraints for multiple negotiations; interlinkages between multilateral and regional systems, e.g. regional Mode 4 liberalization with implications for multilateral endeavours or addition of new issues).

It was noted that *South–South services trade continued to grow*, complemented by an increasing number of *South–South RTAs*. The latter served as laboratories to test liberalization; allowed cooperative efforts between countries with similar regulations, supply capacities and cultural affinities; created economies of scale; built supply capacities; strengthened nascent industries; and offered a tool to harness the benefits of South–South trade. South–South RTAs offered *platforms for multilateral or third party liberalization* (e.g. economic partnership agreements). While not all ACP countries were prepared to include

services in the economic partnership agreements process to be concluded by 2007, those that agreement should be positive for development, key elements being effective/operational special and differential treatment (SDT), capacity-building and real market access in sectors/modes of export interest to developing countries, particularly Mode 4. Given the nascent state of developing country services sectors, reciprocal North–South market opening might affect the benefits expected from South–South RTAs.

For some, multilateral liberalization was most effective in liberalizing world trade, while for others, services RTAs were more dynamic and could be a stepping stone for multilateral liberalization — for example, countries with RTAs had advantages in multilateral negotiations, as they could more easily identify their measures for liberalization. Services liberalization was hard to quantify and data/information on implementation of RTAs was lacking. Consideration of market access aspects was not enough; rather, there was a need to consider the benefits from investment, technology, Mode 4 and cooperative mechanisms. *On services rules of origin (RoO)*, specific technical difficulties included ambiguities relating to "substantial business operations". Regarding Article V consistency, the question was whether RTAs excluding one mode *dovetailed* with SDT (WTO rules established requirements under which RTAs were allowed to operate but lacked clarity, for example regarding "substantial sectoral coverage"/"no a priori exclusion of any mode of supply"). It was suggested that WTO rules on RTAs be clarified, and a reference was made to the potential of the transparency mechanism.

For *realizing development gains from services RTAs*, there was a need to ensure a mutually supportive interface between multilateral and regional systems (for example, addressing the challenges of the "spaghetti bowl" approach by avoiding fragmentation and enhancing coherence), which required a clearer understanding of regional trends and development implication (for example, data availability, regulatory assessments and enhanced understanding of RTAs' development implications). Resources were requested for UNCTAD to assist developing countries in approaching North–South RTAs in an informed manner; to strengthen South–South RTAs, including with a view to building regulatory, institutional and supply capacity; and to enhance coherence between services trade liberalization at the multilateral and regional levels and between different regional initiatives.