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WTO: Tension Rising on Services
APEC Trade Ministers have taken the step of writing this month to the WTO Director General calling for progress on services. An extract from the Statement reads.....

“We, the Ministers Responsible for Trade of APEC economies who are members of the WTO, are seriously concerned about the slow progress in the services negotiations under the DDA. An urgent effort is required to impart momentum into these

negotiations and to ensure a speedy and balanced outcome from the Round.

Competitive services sectors are of crucial importance for the efficient functioning of our economies. They promote innovation, and they permit the easy interaction of all economic sectors. Meaningful offers in sectors and modes of supply of interest to all economies, with particular attention to be given to developing economies, will support these aims further.....

In Santiago in November 2004 we called on all APEC members to submit urgently their initial offers if they had not yet done so, and to meet the agreed WTO deadline of May 2005 for improved revised offers. All APEC members are aiming to achieve this. We now call on all other WTO members to do likewise. Doing so will make a substantial and tangible contribution to the Hong Kong WTO Ministerial Conference in December.”

WTO: Australia must submit a revised Services offer

31 May is the deadline for submission to the WTO of revised negotiating offers on Services. Australia is expected to submit a new offer on schedule next week. The Australian Services Roundtable is confident the offer will be top international quality and commends the Government on the intensive consultative effort underway to achieve such an outcome.

In an open services economy such as ours, what extra might Australia be able to offer?

Importantly, the Government has signalled that it expects to be able to make a revised offer on Mode 4; **Movement of Natural Persons**. This is partly in response to requests from a number of developing countries and partly in reflection of Australia's own commercial interest in achieving reciprocal improvements for Australian professionals travelling abroad.



The Australian Services Roundtable is very supportive of the Government's efforts to facilitate temporary business travel and hopes that other countries will also consider offering new commitments to facilitate the temporary inward movement of services providers.

The Australian Services Roundtable looks forward to the announcement of a very high quality Australian offer in a number of other important services sub sectors as well.

The Australian Services Roundtable is expecting an offer which not only reflects our own commercial export interests and responds to requests from trading partners but also demonstrates enhanced commitment to best global regulatory practices.

This is very important for productivity gains in professions such as legal services, in infrastructural services like telecommunications and throughout the entire freight logistics supply chain.

The Roundtable does not expect the revised offer to

contain any new potential commitments on commercial presence (direct investment).

Whether or not the forthcoming offer will be Australia's final position will depend importantly on the response of trading partners and the course of the WTO negotiations over the next 6 to 9 months.

Benchmarking Financial Services

Offers

The APEC Business Advisory Council's Finance Working Group (chaired by Mark Johnson, Deputy Chairman of Macquarie Bank) has developed useful ideas about what, from a business perspective, might constitute a high quality offer in the financial services sector.

The financial services sector occupies a central role in all economies via cross linkages with other essential infrastructure (manufacturing, telecoms, transport, logistics etc). Liberalizing financial services has a catalytic effect by improving economic efficiencies broadly.

According to ABAC, a quality offer is one which would

- *advance the momentum in the WTO negotiations;

- *create more stable and predictable competitive conditions in the financial services sector;

- *lay the groundwork for broad liberalization of financial services, thereby establishing the best conditions for new business opportunities for domestic and foreign firms alike

To assist APEC economies prepare their improved offers and to provide a tool for evaluating those put forward by others, ABAC has proposed a checklist of elements that a "high quality" offer on financial services should contain.

The checklist is oriented to defining best practices in each of the sub sectors of financial services, thereby encouraging a more comprehensive and uniform approach to liberalization.

Recent studies show that financial services liberalization produces the most benefits when covering



all aspects of the sector: banking, insurance, asset management, pension and retirement systems, payments systems including credit cards, brokerage and securities.

Because the role of regulators and supervisors is inherent to the success of the market-opening process, the checklists also include references to transparency in domestic regulation and the adoption of international standards.

The Australian Services Roundtable considers it is important both to establish some means of benchmarking the quality of services offers and to encourage higher quality offers across the WTO membership. The Australian Services Roundtable endorses the checklist approach prepared by ABAC and commends it to the Australian Government as a useful guide to measuring the commercial value of services offers.

Copies of the checklist for financial services are available from the Executive Director.

Vietnam Accession to the WTO

The Australian Government held, in Sydney, another round of negotiations with Vietnam on the services aspects of its accession agreement.

Vietnam has signalled some potentially commercially valuable movement in Australia's direction, of special interest to companies such as Telstra, ANZ Bank, and BHP Billiton. Sectors in which Vietnam's offer is understood to have improved include services incidental to mining, environment, construction, engineering, urban landscaping, legal, maritime and banking.

Energy Services The Australian Government is at last persuaded it must join the "Friends of Energy Services" in Geneva.

The WTO Friends of Energy Services group organised a well attended week of activity in Geneva 14-18 March devoted to promoting energy services liberalisation, including a seminar and market access bilaterals.

The week played an important role in explaining the proposed new energy services classification as well as encouraging new market access commitments.

The global market for energy services is increasing rapidly. Market restructuring, technological advances and economic growth all point to increased demand for oil, gas and fuels with consequent demand for energy services to ensure supply of these products.

There are beneficial effects for both developed and developing countries of improved market access in this sector, including increased innovation in the provision of oil and gas services, greater efficiencies and reduced costs to the consumer, more widespread use of environmentally friendly technology, opportunities to develop workforce skills, and additional investment in new and advanced technologies.

Liberalisation of energy markets and services does not mean an unregulated regime. It remains important for governments to regulate to ensure performance and quality control to preserve



the environment and protect consumers. The GATS does not obligate domestic energy reform but, when reform does take place, scheduling the commitments can reinforce the benefits.

To the international community, GATS commitments signal a willingness to clarify the rights of foreign firms and to provide legal standing in a trade dispute. To domestic stakeholders, GATS commitments limit unwarranted protectionism, increase competition and encourage best regulatory practices at home.

Australia has already made commitments in relation to about 65 % of the sectors in the informal checklist developed in the "Friends of Energy" group - and more than half of these sectors were included in Australia's negotiating requests to other WTO Members.

Australia has already undertaken commitments in sectors such as consultancy services in mining related activities, services incidental to mining and site preparation, related scientific and technical consulting services (which includes

mineral prospecting services, oil and gas field exploration and seismic and geological surveying services), pipeline transport services, related engineering services and management consulting services.

Australia has made no GATS commitments in electricity or gas production, transmission or distribution.

FTA developments Malaysia

The first round of negotiations took place in Kuala Lumpur last week. The negotiating objectives and principles were agreed and Working Groups were established on Goods, Services, Investment and Other Issues.

A first substantive discussion took place on services, focussed on whether services should be handled via a positive or negative list approach. Malaysia is known to have particular sensitivities in telecoms, financial services and professional services. The next meeting takes place 20-22 July in Kuala Lumpur.

UAE

The Australian Government is gearing up internal preparations for the second round of negotiations with the UAE in Abu Dhabi on 4 – 6 June. In the meantime, there is an exchange of information underway on each countries' regulatory practices .

The Australian Services Roundtable has almost completed a submission on the services aspects of these negotiations. The submission covers the following sectors and cross-sectoral issues.

- Construction
- Transport
- Professional Services
- Telecommunications
- Financial Services
- Investment
- Competition Policy
- People Movement

Any member interested in contributing to the final submission should contact the Executive Director.

China

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A first informal round of discussions took place in



Sydney on 23 May. The meeting went well, agreeing a calendar and modalities for the negotiations. A full DFAT debrief for peak industry bodies takes place on June 3 in Canberra.

Australia-ASEAN- New Zealand FTA

The second round of negotiations took place in Manila at the end of March. Five negotiating Groups were established; Goods, Services, Investment, Rules of Origin and Legal and institutional Issues. The third meeting is 29 June - 1 July in Auckland (with a focus on Goods) followed by 18-20 August in Chang Mai. As part of background preparation and ASEAN capacity building, a workshop was held in Bangkok, "Negotiating Trade in Services in FTAs", focussed on explaining the negative and positive list approach to scheduling services commitments and how to define substantial sectoral coverage. Australian Services Roundtable members, MinterEllis and the Institute for International Business and Law at the

University of Adelaide participated in the Workshop.

A workshop on Rules of Origin is planned for 25 July in Kuala Lumpur.

United States

One of the major disappointments for Australian services providers in the AUSFTA was the absence of a Chapter on Temporary Movement of Business People, especially as both Chile and Singapore had succeeded in obtaining H1B visa quotas.

The Australian Government lobbied hard following entry into force of the FTA and achieved in April a final breakthrough in negotiations as the Senate passed legislation giving Australia a new E3 visa category for business professionals.

The quota is for 10,500 visas, with spouses and child working rights not included within that cap. The visas are for 2 years, and permit an indefinite number of 2 year renewals. In addition, Australians can still apply for H1B visas.

The Government sees this new deal as an adjunct to the FTA and evidence that the FTA processes are a valuable means of securing further commercially valuable progress. The Australian Services Roundtable has strongly welcomed the new arrangements.

Progress is also being made to implement the various institutional and procedural arrangements established by AUSFTA.

Under the Agreement, the Joint Committee must meet one year after entry into force. Australia has proposed a September date for a meeting to take place in Washington.

The first meeting of the **Professional Services Working Group** is due to take place in Washington in early June. The meeting will scope the potential work, facilitate a first exchange of information on professional regulations and hopefully agree which States and which professions might be covered. A private sector delegation may participate in the meeting.



The Working Group on **Financial Services** will meet in Washington on 27 June. Australia hopes that a second meeting of both groups can be held immediately prior to the Joint Committee later this year. It is hoped that a public seminar will take place in the margins, with Australian industry involvement.

Remapping our economy – latest services export statistics

The ABS has published the first initial partial estimates of Australia's Mode 3 exports of services (commercial presence). The results show that the services sector's share of total exports has been drastically underestimated to date.

Based on Balance of Payments data, services accounted for 24 % of Australia's exports in 2003-4, on a par with minerals and fuels (also 24 %) and just ahead of manufactures at 23 % and agriculture at 17 %. Other goods accounted for 12%.

The Balance of Payments does not cover all aspects of Australia's trade in services overseas because it does not cover the trade of Australian affiliated companies established overseas.

For the first time, the ABS has attempted to measure this; the measure is necessarily an under estimate because it only covers foreign affiliates where the Australian parent has majority ownership ie over 50 % of equity capital.

The results are nevertheless dramatic.

They show that to date we have only been measuring a mere 35.4 % of Australia's total exports of services.

And instead of a services deficit, Australia is shown to be providing more services to the rest of the world than it purchases.

Clearly the predominant means of delivering services overseas for many Australian companies is through Mode 3 (commercial presence).

By far the largest service exported by Australian foreign affiliates is **financial and insurance services.**

Other important services exported by foreign affiliates are legal, accounting and management consulting services, other business services, architectural and engineering services and computing and information services.

(See Trade in Services Australia, DFAT Publication, May2005)

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