

Joint Committee Meeting

Skopje, 21 November 2014

REPORT BY THE CHAIR
WORKING GROUP ON TRADE IN SERVICES

November 2014

The purpose of this document is to report on the activities of the CEFTA Working Group on Trade in Service in the period of 1 January to 21 November 2014.

During the reporting period, two meetings were held. The ninth meeting of the Working Group and the first meeting of the newly established Negotiating Group was held on 9 July 2014 in Skopje and the second meeting of the Negotiating Group was held on 6 November in Skopje. A conference dedicated to the labour mobility and the movement of natural persons organised by the CEFTA Secretariat and held on 29 April 2014 in Brussels. The TAIEX Workshop on Implementation of the EU Services Directive was held on 4 and 5 November 2014 in Skopje.

I. NEGOTIATIONS IN TRADE IN SERVICES

The Working Group held its ninth meeting in Skopje on 9 July 2014. At the same time, the first meeting of the newly established Negotiating Group was convened. The purpose of this joint meeting was to set a stage and make necessary preparations for the start of the official negotiations of the liberalization in trade in services. The Chair introduced an independent consultant who had been recruited to provide technical assistance to the Secretariat and to the Negotiating Group in the course of negotiations.

The members of the Group discussed the following topics:

1. Issues regarding the Additional Protocol on Trade in Services

Under this item, the Parties considered revising relevant articles of the Additional Protocol by including the language from the GATS in all the articles that reference the GATS as well as including provisions on the presence of natural persons.

The members further discuss whether to:

- (i) Implement greater disciplines on domestic regulations in the Protocol than just GATS Art. VI;
- (ii) Introduce special sectoral rules, such as on telecommunications, financial or professional service, or a special agreement on electronic commerce;
- (iii) Include treatment of investment in manufacturing versus services in the overall CEFTA investment regime

Given the significant amount of differences in Mode 4 listed in the horizontal section of the *Consolidated List of Existing Discriminatory or Restrictive Measures in Service in CEFTA Parties*, the Parties agreed to introduce standardized definitions and criteria for the categories of natural persons in the format of an Annex to the Protocol.

It was concluded that the Additional Protocol on Trade in Services was to be amended by the Consultant in compliance with results of discussion at the meeting.

At the second meeting of the Negotiating Group held on 6 November, the members discussed the nature of the Annex 1 of the draft Protocol, its function in relation to the horizontal commitments and in particular definitions of categories of natural persons in the context of Mode 4. The most sensitive categories were categories of independent professionals and graduate trainees.

Parties also considered the possibility to include into the Ministerial Conclusions the treatment of investment for both goods and services, but there was no consensus on this topic due to divided responsibilities over trade and investment in their internal governmental structures. It was agreed that the consultant prepares a short background note on investment so this could be presented before the responsible ministries in order to seek approval for any further action.

Based on discussion and comments, it was agreed that the consultant prepares a revised version of the draft Protocol and Annex 1. The Parties are expected to comment on this version at latest by 15 December 2014.

2. *Issues regarding negotiating modalities*

With regard to the negotiating modalities, at the meeting held on 9 July the present Parties concluded the following:

1. The base for liberalization of market access is the Harmonized Minimum Level of Commitments (agreed to in 2012). The objective for liberalization of market access is to be GATS-plus and it is agreed that Parties would aim to reduce services restrictions in their jurisdictions starting from current, *de facto* levels of market access.
2. In scheduling market access commitments, a combination of positive and negative¹ list is to be applied.
3. All the sectors and sub-sectors included in the Harmonized Minimum Level of Commitments (agreed to in 2012) will be included in the services negotiations and market access schedules. A revised Harmonized Minimum Level of Commitments to be used as a template will be prepared by the Consultant and circulated to all Parties.
4. In their market access commitments, it is expected that Parties will achieve liberalization of at least 75% of subsectors in each of the 11 sectors included in the Harmonized Template.
5. All modes of supply will be included in the Parties market access commitments and this will vary according to sensitivities in different sectors.
6. The services negotiations should have six negotiating rounds and last no more than 18 months from the first negotiating session. The end date for concluding negotiations is March 2016.

¹ Only those measures that are safeguarded or are special will be in horizontal commitments. Any measure or practice that is not listed in the horizontal section is not protected and cannot be defended afterwards. Everything else of a horizontal nature (laws, regulations, etc). is supposed to be barrier-free. If it is not listed it cannot be kept.

7. Each negotiating session will last approximately two days.
8. Twelve sectors will be subject to liberalization with the following tentative schedule:
 - 1st and 2nd session – business and professional services
 - 3rd – tourism, environmental and recreational (minus audiovisual) services
 - 4th - communication and construction services
 - 5th – distribution, education and health services
 - 6th – finance, transport and audiovisual services
9. The first negotiating round were scheduled tentatively for mid/late October 2014.

End of July 2014 the Secretariat circulated the revised version of the Additional Protocol and revised template of Harmonized Minimum Level of Commitments. It was expected that the Parties sent their positions/offers on business and professional services liberalization by 18 September 2014 thus allowing enough time for internal consultations prior to the first negotiating session.

The second meeting of the Negotiating group and the first round of negotiations on business and professional services was scheduled for 6 November 2014. Several ambiguities with regard to the modalities as well as the ways of scheduling commitments in horizontal and sectoral part of the schedule were discussed and agreed upon.

With regard to the negotiation on business and professional services, three Parties sent their offers well advanced of the meeting, three of them a couple of days before the meeting, while one Party presented their offer at the very beginning of the meeting. Given the late arrival of majority of offers, it was decided not to conduct the negotiations at this point, but to consult on them internally and send revised offers well advance before the next round of negotiations scheduled for late February 2015 (preferably in the week of 16 February).

The Parties committed to send the offers by 20 January 2015. It was decided that in the case where at least one Party does not send the offer by the indicated date, either the negotiations have to be cancelled/postponed or the Party in question cannot participate at that round of negotiations.

II. TRADE IN SERVICES STATISTICS

At the meeting on 9 July, the Secretariat presented the proposal for reporting on intra-regional trends in trade in services. The objective was to support the process of negotiation on liberalization of services as well as to complement the statistics for trade in goods that are already reported to the Secretariat. The draft templates developed in cooperation with the UNCTAD and the WTO were presented before the members. Both templates were chosen with the aim to apply similar templates Parties use when reporting to those two institutions, thus avoiding additional burden to statistical offices and central banks.

The Secretariat suggested that since the BPM6 is used for 2014 as a reference year, and until 2014, the statistics was compiled according the BPM5, Parties might consider using these

formats for reference years 2008-2013. The revised formats would be developed and sent to the Parties for reference year 2014 and onwards.

The Secretariat announced organizing a Workshop on FATS statistics in cooperation with the WTO. The Parties agreed to discuss during the workshop:

1. Open questions on required data envisaged by templates (methodology, sources, etc)
2. Find potential solutions regarding the different status of Parties in reporting and inform on timeframe necessary to secure the compiling of data by Partner economy.

III. ESTABLISHMENT OF THE SUBCOMMITTEE ON TRADE IN SERVICES

Having in mind that the complexity of issues currently dealt within the Working Group has increased, Serbia proposed to the members to consider establishment of a Subcommittee on Services Trade. The establishment of such a body has its justification in Article 21 of the draft Additional Protocol with the objective to ensure the implementation of the commitments envisaged by the CEFTA Agreement. It is envisaged that the Subcommittee to consist of three working groups:

- Negotiating Group on liberalization of trade in services;
- Working Group on Trade in Services Statistics;
- Joint RCC – CEFTA Working group on Recognition of Professional Qualifications;

This corresponded with the priorities of SEE2020 Strategy and Pillar 1 on Integrated Growth where CEFTA is responsible for implementation of two dimensions: trade facilitation and services liberalization. In order to better use the budget granted by the EU to implement those two priorities, a proper structure needed to be put in place in order to respond to the needs and requirements set before the Parties in the area of intraregional trade in services.

The Secretariat drafted Decision on Establishment of the Subcommittee on Trade in Services and its bodies, asking Parties to send their comments before the meeting of the Negotiating Group. No comments were received before the meeting, but several Parties at the meeting stated that had some technical comments. As for the proposed concept of the Subcommittee, all Parties except Montenegro supported it. Montenegro expressed their concern over establishing Joint Working Group on Recognition of Professional Qualifications together with the RCC. Due to the nature of the meeting, which was predominantly reserved for negotiations, there was no enough time to go through all of comments on the spot. After discussion, it was decided to leave out at this stage the establishment of the Joint Working Group on Recognition of Professional Qualifications from the Decision until the draft ToR and other relevant information are received from the RCC. As for the other comments, it was agreed that Parties send their comments before 13 November in order to be consolidated and discussed further at the experts meeting scheduled for 20 November. The Decision on Establishment of the Subcommittee on Trade in Services is planned to be adopted at the eight Meeting of the Joint Committee on 21 November.

IV. TECHNICAL ASSISTANCE

The tailor made technical assistance was organized in order to support the work of the Working Group:

Dialogue on Regional Mobility of Professionals in CEFTA. The event was held on 29 April 2014 in Brussels under auspices of the CEFTA Secretariat. It gathered around 35 participants from the CEFTA Parties, international and regional organizations and initiatives to discuss the several important topics: (i) Professional mobility in the context of economic growth and integration; (ii) The tools for achieving greater professional mobility such as MRAs in qualification; (iii) temporary movement of natural persons; (iv) facilitation of labour mobility at the regional level.

Negotiation on liberalisation of trade in services. An independent consultant was engaged by the Secretariat to assist the Negotiating Group in the process of negotiations. The OECD provided its assistance in assessment of barriers in trade in services.

TAIEX Workshop on Implementation of EU Services Directive. The Workshop was held on 4 and 5 November 2014 in Skopje. The aim of the workshop is to get a better understanding of the requirements of the EU Directive on Services, clarify the legal issues from the practical point of view in the process of implementation, discuss the barriers to establishment and free movement of services in the internal market, and share experiences on the transposition of the Directive.

Apart from the above-mentioned assistance, the following technical assistance will be organised by the end 2014 in order to support the work of the Working Group:

Trade in services statistics. The Secretariat in coordination with the WTO will organise the Workshop on Foreign Affiliates Statistics which will be held on 9 and 10 December in Brussels. The participants will include the members of the WG on Trade in Services and the representatives from the Statistical Offices and Central Banks responsible for compiling data.