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Environmental Services and the GATS

Trade in Services Division
World Trade Organization

Outline of the presentation

- Market and policy trends of environmental services
- GATS relevance: definition of the sector; modes of supply; trade barriers
- Negotiations on environmental services

General patterns

- Infrastructure environmental services (e.g. waste water treatment, refuse collection and disposal)
 - Entail costly infrastructure construction and natural monopolies
 - For public good
 - Usually provided by public authorities
- Non-infrastructure environmental services (e.g. air pollution prevention and mitigation, noise abatement, remediation of polluted sites)
 - As a result of complying with environmental regulation
 - Mostly B-2-B on a competitive basis

Market trends

- No available data on market size; environmental services are often supplied in conjunction with environmental goods, representing about 65 % of the package value.
- Demand is linked to income levels; US, EC and Japan account for 85 % of the market and represent 95 % of total exports.
- Developing countries are experiencing significant growth.
- The involvement of the private sector is increasing, on both supply and demand sides.

Breakout of market (estimates)

• Solid waste management	120.7 US\$billion
• Water treatment	78.6
• Consulting and engineering	31.5
• Site remediation	29.4
• Hazardous waste management	17.8
• Analyses	3.8

Source: Sinclair-Desgagné, 2008, based on figures from *Environmental Business International*

Definition and classification of services under the GATS

- There are 2 reference instruments:
 - Services Sectoral Classification List (W/120)
 - UN Central Product Classification List (CPC)
 - Members use the 1991 version (co-called CPC prov.)
- There is no compulsory classification system
 - Members can use the classification system of their choice.
 - In practice, most Members use a combination of the W/120 and the CPC prov.

Environmental services in W/120

6.	<u>ENVIRONMENTAL SERVICES</u>	CPC prov.
A.	Sewage services	9401
B.	Refuse disposal services	9402
C.	Sanitation and similar services	9403
D.	Other	--

Remaining CPC items

- Cleaning services of exhaust gases
 - CPC 9404
- Noise abatement services
 - CPC 9405
- Nature and landscape protection services
 - CPC 9406
- Other environmental services n.e.c.
 - CPC 9409

Characteristics of current classification

- Focus on “infrastructure” environmental services
 - Important role of public sector
 - Public good characteristics
 - Prone to monopolies
- Inadequate definition of “non-infrastructure” environmental services
 - Demand driven by environmental legislation has increased (e.g., remediation services)
 - Services prone to “B2B” relations

Classification debate: where are we?

- No consensus so far to modify the classification of environmental services in the W/120.
- But, new classification approaches have been used in the market access negotiations by those Members interested in doing so.

Classification of environmental services

Other issues at stake

- The respective scope of environmental goods and environmental services
 - Would it be useful to identify services related to the various categories of environmental goods listed by the CTE-SS?
- Climate-friendly services
 - What is the appropriate approach to identifying and defining climate-friendly services?
- The issue of “new” services
 - How to classify services associated with new technologies (e.g., carbon capture and storage)?

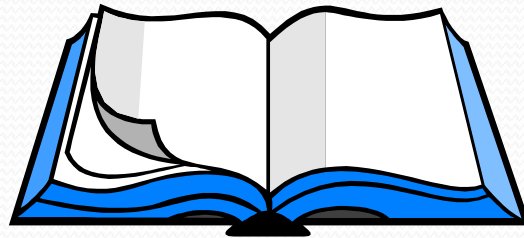


Environment-related services

- A number of business services, esp. advisory, consultative, engineering, R&D services that have an environment end-use
- Some construction services: construction of waterworks and water and sewer mains, water well drilling, water plumbing and drain laying, thermal insulation, etc.
- Under distribution services: wholesale trade services of waste and scrap and materials for recycling.

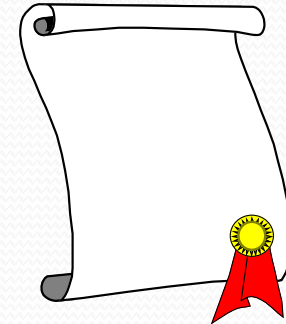
Undertaking new GATS commitments on environmental services

A Member's GATS obligations are defined by



GATS provisions

and



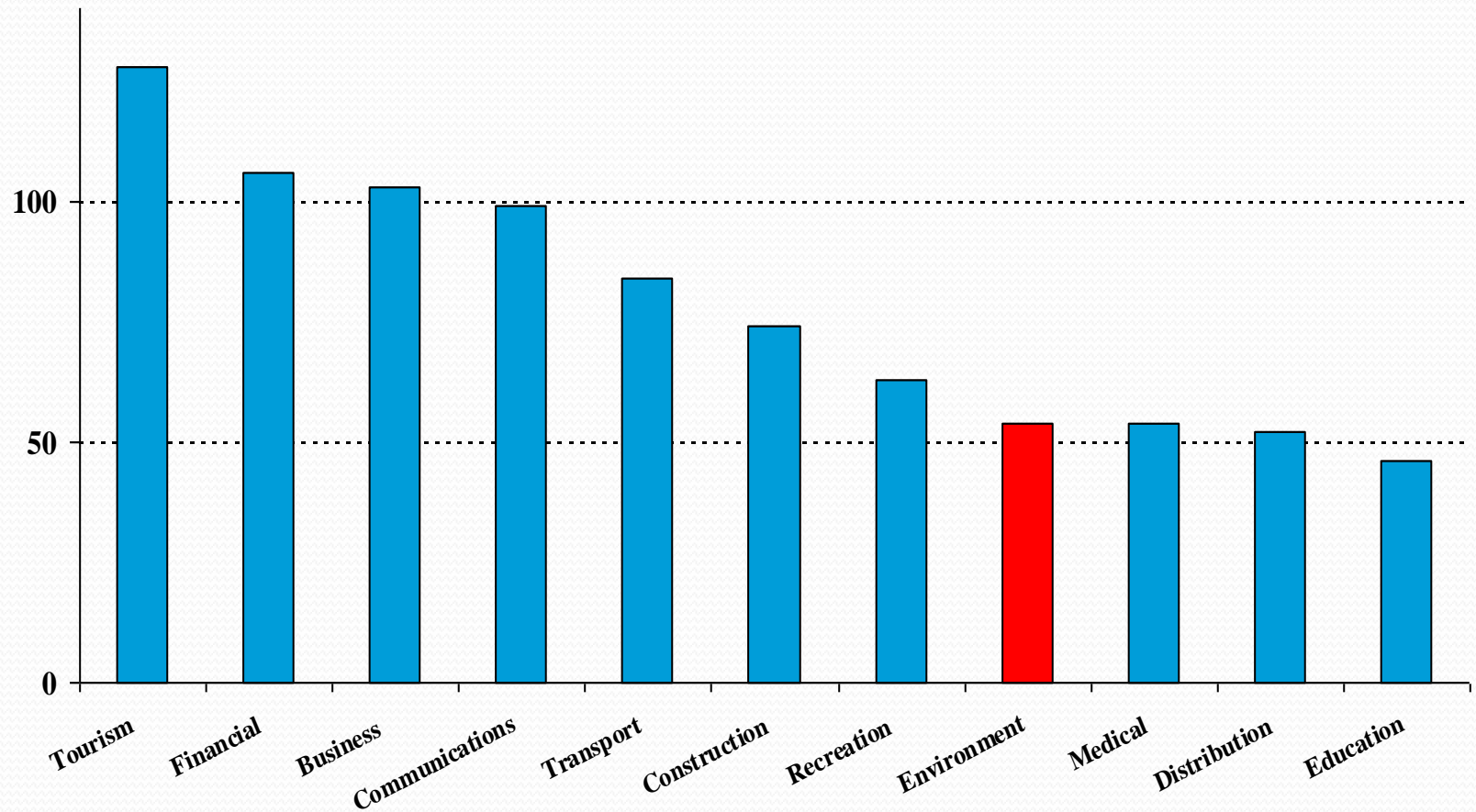
its national schedule of
specific commitments

Environmental services and modes of supply

Mode 1 – cross-border supply	Remote monitoring and control of air pollution levels
Mode 2 – consumption abroad	Solid waste are treated abroad
Mode 3 – establishment of commercial presence	Subsidiary provides solid waste treatment services
Mode 4 – presence of natural persons	Foreign technician provides natural disaster assessment services

Distribution of specific commitments across sectors

(Number of WTO Members)



Specific commitments on environmental services

Members Sub-sector	All Members	Recently acceded Members
Sewage services	49	20
Refuse Disposal	48	20
Sanitation	50	22
Other	49	21

NB: based on EC-12 Schedule

Services market access negotiations

- 2001 Negotiating Guidelines:
 - No a priori exclusion of any sector or mode of supply
 - Starting point for the negotiations: current schedules
 - Main negotiating method: request and offer approach
 - Appropriate flexibility for individual developing country Members for opening fewer sectors, liberalizing fewer types of transactions
- Annex C of Hong Kong Ministerial Declaration:
 - LDCs not expected to undertake new commitments
 - Negotiating objectives (Modes/MFN exemptions/scheduling principles)
 - Plurilateral request-offer negotiations

Proposals to restructure the classification of environmental services



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CPC	EU Proposal	Swiss Proposal
Sewage services CPC 9401	Water for human use & wastewater management Part of CPC 18000 & CPC 9401	Wastewater management
Refuse disposal services CPC 9402	Solid/hazardous waste management CPC 9402 & 9403	Waste management
Sanitation services CPC 9403		
Cleaning services of exhaust gases CPC 9404	Protection of ambient air and climate CPC 9404	Protection of ambient air and climate
Noise abatement services CPC 9405	Noise and vibration abatement CPC 9405	Noise and vibration abatement
Nature and landscape protection services CPC 9406	Remediation and cleanup of soil & water Part of CPC 9406	Remediation and cleanup of soil and water
	Protection of biodiversity and landscape Part of CPC 9406	Protection of biodiversity and landscape
Other environmental services n.e.c. CPC 9409	Other environmental and ancillary services CPC 9409	Other environmental and ancillary services

Trade impediments in environmental services

- Limitations on foreign ownership, on the types of legal entity, on the number and location of subsidiaries, and on the number of foreign employees;
 - Lack of regulatory transparency; weak or inconsistent enforcement of environmental regulation;
 - Unnecessary delays in processing applications;
- (Impediments in other areas may also affect trade in services, such high import tariffs on necessary equipment and inadequate intellectual property protection.)

The collective request on environmental services (1)

- Recalls that environmental goods and services were singled out in **paragraph 31 (iii) of the Doha Declaration** and notes that liberalized environmental services market benefits both exporters and importers of these services as well as environment and development
- Refers to the **right to regulate**:
 - “It is understood that liberalization in these sectors will not impair the ability of governments to impose performance and quality controls on environmental services and to otherwise ensure that service suppliers are fully qualified and carry out their tasks in an environmentally sound manner. In addition, as under current obligations, each WTO Member can establish, maintain, and enforce its own levels of protection, *inter alia*, for consumers, health, safety, and the environment.”

The collective request on environmental services (2)

- Sub-sectors included: CPC 9401 to 9409
 - Water distribution is not included
- Members can use the classification system of their choice
 - W/120, EC proposal, etc.
- Stresses importance of undertaking commitments in “related” sectors
 - Ex: construction, engineering

The collective request (3) – Scope of commitments sought

- Modes 1 & 2 : request seeks full commitments.
- Mode 3: calls for “ambitious” commitments. Removal of barriers to commercial presence (e.g. foreign equity limitations, joint operation requirements, restrictions or requirements on types of legal entity for foreigners, such as joint venture). When exclusive rights exist, foreign suppliers should be able to participate in the supply of the service.
- Mode 4: Members are “encouraged” to schedule mode 4 commitments.

Offers on environmental services

- 16 offers by developed and developing countries, involving all sub-sectors
- Several restrictions concern public networks.
- Some Members propose to redefine their commitments pursuant to a new classification.

Services Signalling Conference – Report of the Chairman of the TNC (July 2008)

- *Many indications of improvements were given across the range of environmental services, including: sewage services; sanitation services; refuse and solid waste disposal services; waste water management services; soil remediation and clean-up; environmental laboratory services; and other services related to air pollution control and noise abatement.*
- *In addition to expanding sectoral coverage, several participants were willing to expand the modal scope of their commitments, and to reduce or eliminate restrictions such as joint venture requirements and foreign equity limitations.*
- *Several participants expressed aspirations for new commitments on all modes of supply across the range of environmental services. A specific request was made for commitments on advisory services under mode 1.*

Environmental services in PTAs

- Preferential commitments, whether in positive or negative list, go beyond GATS commitments, especially for development countries;
- In general, negative list agreements entail a higher level of commitments;
- In EU-Chile PTA, EU has undertaken commitments on “water for human use”; in Jordan-Singapore, Jordan has undertaken commitments on water treatment services;
- In several PTAs, Singapore excludes “new environmental services” without defining them.