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Expert Group Meeting on WTO Agreement
on Maritime and Air Transport Services
in the Arab Region
Beirut, 9-11 June 1999

ECONOMIC COMMISSION
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**THE WTO GENERAL AGREEMENT
ON TRADE IN SERVICES**

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**TRANSPORT SECTION
SECTORAL ISSUES AND POLICIES DIVISION
ECONOMIC COMMISSION FOR WESTERN ASIA**

Expert Group Meeting on WTO Agreement
on Maritime and Air Transport Services in the Arab Region
9-11 June 1999
UN House, Riad El-Solh Square
Beirut, Lebanon



Arab Civil Aviation
Commission
(ACAC)



International Civil
Aviation Organization
(ICAO)



Arab Air Carriers
Organization
(AACO)



United Nations
Conference on Trade
and Development
(UNCTAD)



Arab Academy for Science,
Technology and Maritime
Transport



The Arab Federation
of Shipping



World Trade
Organization
(WTO)



International Chamber
of Commerce
in Lebanon



International Air
Transport Association



Ministry of Transport
Lebanon



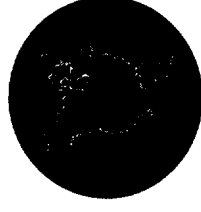
Middle East Airlines

**The WTO General
Agreement on Trade in
Services**

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WTO

The WTO General Agreement on Trade in Services





PRINCIPLES

- Trade without discrimination (MFN)
- Transparent and reasonable rules and regulations
- Legally bound levels of market access and national treatment
- Flexibility for developing countries



The Framework of Articles

- Scope and definition (Part I)
- General obligations & disciplines (Part II)
- Specific commitments (Part III)
- Progressive Liberalization (Part IV)
- Institutional Provisions (Part V)
- Final provisions (Part VI)



Universal Coverage

■ Includes all services

except:

- Services supplied in the exercise of government authority.
- But only if these are not supplied on a commercial basis or in competition with other service suppliers

■ Covers all measures

- including those of local and regional governments and of non-governmental bodies exercising delegated authority

Sectors:

- Business and professional
- Communications, all types
- Construction
- Distribution
- Education
- Environment
- Insurance and financial
- Health and social
- Tourism
- Recreation & cultural
- Transport, all types
- Other

The Different Types

- Across the board, on all services
- Applying only to scheduled services
- Exceptions
- To be negotiated



Applying to committed services

- +Transparency** (notification of new or revised measures to WTO)
- +Domestic Regulation** (requirements, criteria & standards to be objective, publicly known and not unnecessarily onerous, procedures not restrictive, implement measures impartially, promptly inform applicants for licenses or other authorizations)
- +Monopolies & exclusive providers** (prevent actions adversely affecting commitments)
- +Payments & Transfers** (no restrictions affecting commitments)



To be negotiated

- ➔ Emergency Safeguard Measures
- ➔ Government Procurement
- ➔ Subsidies
 - ✦ Domestic Regulation: A work program to elaborate more specific disciplines. Work has begun with professional services.



Profile of sectors committed

(by number of schedules)

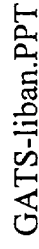




Scheduling principles: (continued)

- NT: any discriminatory measure *de facto*
or de jure
- The modes of delivery: cross-border, consumption abroad, commercial presence, temporary movement of natural persons
- The additional commitments
- The freedom to modulate
- The minimum MFN standard effect

GATS





Provisions on economic development

- Increasing Participation (Art. IV)
- Economic Integration (Art. V)
- Balance of Payments (Art XII)
- Negotiation of Commitments (Art. XIX)
- Telecommunications Annex

Annex on Article II (MFN) Exemptions

- ✓ Lists had to be filed by end of Uruguay Round or at the close of extended negotiations on certain sectors
- ✓ Except for acceding countries, exemptions now possible only under waiver request procedures of WTO Agreement
- ✓ Review after 5 years - 10 year maximum duration, in principle
- ✓ Notification of termination



Exemption Lists: Examples

Measure	Inconsistency with MFN	Conditions creating need
Bilateral co-production agreements for film making	Preferential funding for films coproduced with nationals of signatories	Promotion of common cultural objectives
Bilateral road transport agreements	Reserve special traffic rights with signatory countries	Regulate transport capacity, e.g. to protect environment
Cargo reservation under UN Liner Code	Preferential participation of national lines of signatory countries	Maintain shipping fleets built up under long-term cargo-sharing arrangements

Annex on Air Transport

- Excludes all traffic (landing) rights and services related to traffic rights.
- Agrees to coverage only for:
 - * Aircraft repair and maintenance
 - * Selling and marketing services
 - * Computer reservation systems

Annex on Financial Services

- Provides for:
 - * Protection of information on individual customers
 - * Dispute settlement panelists with relevant expertise
 - * Definition of service sub-sectors
- Excludes from the GATS definition of services:
 - * Activities of Central Banks or monetary authorities in pursuit of monetary or exchange rate policies
 - * Activities under statutory systems of social security or public pension funds or of other public entities using government financial resources
- Excludes from GATS coverage any measures affecting the sector taken for prudential reasons



The Understanding on Financial Services

- ✓ Optional approach to scheduling liberalization
 - ✓ Standstill as a minimum
 - ✓ Elimination & reduction of monopolies
 - ✓ Government procurement of financial services
 - ✓ Unrestricted transfer and processing of financial information
 - ✓ Defines minimum levels of market access & national treatment
- ★ If the option is used: a schedule assumes the obligations in the Understanding unless a departure or "reservation" is specified.



Ministerial Decisions

■ On GATS provisions

- * **Institutional arrangements:** Subsidiary bodies and their responsibilities
- * **Dispute settlement:** Roster of panelists with services expertise
- * **Environment:** Examine possible GATS coverage of environmental measures
- * **Professional services:** launched the work program on further regulatory disciplines

■ On extended sectoral negotiations

- * Financial services, basic telecommunications, maritime transport
- * Establish negotiating guidelines

▼ Annexes to the Agreement

GATS

Annex on Telecommunications

- ✓ Recognizes the role of telecom not only as a sector in its own right but also as a means of delivery of other services
- ✓ Applies to measures affecting access to and use of public basic networks and services
- ✓ Ensures that suppliers of scheduled services will not face unnecessary barriers to access to and use
- ✓ Allows reasonable conditions on access and use, so long as they meet specified public policy objectives
- ✓ Permits developing countries to depart from the obligations. For transparency, the departure must spelled out in the schedule of commitments

▼ Annexes to the Agreement **GATS**

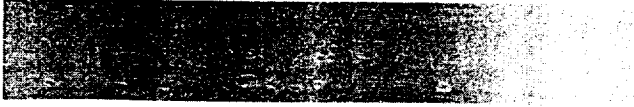
Annex on Movement of Natural Persons

- ✓ Covers only temporary entry and stay in a Member's territory to supply services
- ✓ Does not interfere with government policies regarding immigration
- ✓ Specific commitments are as negotiated in schedules under the relevant mode of supply



Annexes to the Agreement

GATS



Exemption Feasibility	Commitments	No commitments
Better treatment	Possible	Possible
Worse treatment	<u>Impossible</u>	Possible



Types of Annexes

■ On provisions

- * Article II (MFN Exemptions)
- * Movement of Natural Persons

■ On sectors

- * Air Transport
- * Telecommunications
- * Financial Services

■ On negotiations

- * Basic Telecommunications
- * Second Annex on Financial Services
- * Maritime Transport



Rules on the negotiation of schedules

- **Negotiation of commitments**
- **Organization of schedules**
- **Modification of schedules**



Specific Commitments

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Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
11. TRANSPORT SERVICES			
F. <u>Road Transport Services</u>			
b. Freight transportation (CPC 7123)	(1)None (2)None (3)Maximum foreign participation: 40% (4)Unbound	(1) None (2) None (3) None (4) Unbound	



“Scheduling” principles:

- Positive listing of sectors
- Negative listing of restrictions
- M.A.* discriminatory and non discriminatory measures

* 6 exhaustive categories: number of suppliers, value of transactions/ assets, number of operations, number of persons, legal form, foreign capital



Commitments in Schedules

- **Market Access**
- **National Treatment**
- **Additional Commitments**

★ Listed in Schedules by service and modes of supply



Exceptions

- ✗ Nondisclosure of confidential information
- ✗ Economic Integration (for e.g. free-trade agreements)
- ✗ Labour Market Integration
- ✗ Balance of Payments Restrictions (in cases of serious difficulties)
- ✗ General Exceptions (for public morals, public order, health and safety, to enforce otherwise consistent laws and regulations)
- ✗ National Security Exceptions



Across the Board

- ✓ Most Favoured Nation Treatment (no discrimination among Members or preferences to non Members)
- ✓ Transparency (publication of measures)
- ✓ Domestic Regulation (mechanisms for appeal of administrative decisions)
- ✓ Recognition (of licenses and certifications and licensing and qualification criteria)
- ✓ Monopolies & exclusive providers (prevent actions affecting MFN obligation)
- ✓ Business Practices (consultations on anti-competitive practices of companies)



Scope and Definition

GATS

Modes of Supply

	Defined	Examples
Cross border	Service supplier not present in the territory where services are delivered	Delivery of services via telecommunications or the mail
Consumption abroad	Consumers purchase services outside their country of residence	Tourism Repair of a ship in another country
Commercial presence	Service supplying entities present in the territory to deliver services	Establishing a bank branch or subsidiary Any foreign direct investment
Presence of natural persons	Entry and temporary stay of individual persons to supply services	Consultant services Some professional services Also, foreign employees of a firm supplying services



Characteristics

- ✓ Not transportable
 - * Physical proximity of producer and consumer an advantage
 - * Greater role for investment (local establishment)
- ✓ Intangible
 - * Quality criteria related not only to products but often the service providers
- ✓ No tariffs
 - * Trade conditions determined by regulation



STRUCTURE

- Short text of Articles
- Annexes
- Submitted by Members:
 - Schedules of Commitments (mandatory)
 - MFN Exemption Lists (optional)



OBJECTIVES

- Expansion of services trade
- Progressive liberalization through successive rounds of negotiations
- Transparency of rules and regulations
- Increasing participation of developing countries in services trade
- Unhindered and efficient growth of national economies