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Report of the Multi-year Expert Meeting on Trade, Services and Development on its third session

Held at the Palais des Nations, Geneva, on 11 to13 May 2015

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Introduction

The third session of the Multi-year Expert Meeting on Trade, Services and Development was held from 11 to 13 May 2015. More than 150 participants – Geneva-based and capital-based high-level trade policymakers and trade negotiators, including ambassadors and senior officials from national regulatory bodies – attended the meeting. The discussion conducted allowed the exchange experiences and lessons in the search for best-fit national policy, regulatory and institutional frameworks.

I. Chair's summary

A. Opening session

1. The Deputy Secretary-General of UNCTAD delivered an opening statement. Recalling the expert meeting objective of identifying, within the area of services, best practices at the level of policymaking, regulations, institutions and trade negotiations, he highlighted the increased and significant contribution of services to output, trade and employment. Services accounted for 50 per cent of gross domestic product and 40 per cent of employment in developing countries; these proportions were much higher for developed countries. Services had become the most dynamic segment of international trade, and developing countries had strongly participated in that growth, as services became increasingly tradable and embedded in goods. As a negotiating topic, services were also becoming part of core modalities, and greater liberalization was being achieved through recent free trade agreements and the future plurilateral Trade in Services Agreement. A number of services functioned as facilitators of all economic activities, thereby determining a country's growth and development prospects. They had a key role in the attainment of the forthcoming sustainable development goals.

2. Improving the services sector was of strategic importance, particularly given its potential for poverty eradication, as well as the positive spillover effects of services on other sectors. A large untapped potential in the services sector of developing countries could be harnessed for sustainable development. Getting policies, regulations and institutions "right" was easier said than done. The challenge was even greater in developing countries, where the services sector was still nascent and underdeveloped, as were national regulatory frameworks. UNCTAD had conducted services policy reviews (SPRs) to help countries overcome this important challenge. The reviews had served as a tool for assessing the robustness of services policies, regulations and institutions and the potential of services and trade.

3. The Head of the Trade Negotiations and Commercial Diplomacy Branch of the Division on International Trade in Goods and Services, and Commodities made opening remarks and introduced the background note of the secretariat (TD/B/C.I/MEM.4/8), entitled "Services, development and trade: The regulatory and institutional dimension". She noted that services sectors, including infrastructure services (i.e. telecommunication, financial, energy and transport services), were essential to the efficient functioning of all modern economies and strengthened productive capabilities. Achieving the proposed sustainable development goals and targets implicitly and explicitly relied on universal access to basic and infrastructure services. Furthermore, trade in general, and trade in services in particular, was expected to play a major role as the means of implementation. Recalling that the objective of the third session was to identify possible elements for the preparation of a toolkit consisting of a set of best-fit practices that could assist developing countries in enhancing efficient and effective regulations and institutions, she highlighted

that UNCTAD's comprehensive work on services had provided a set of tools, which had allowed policymakers and regulators to assess the potential of services and ascertain practical solutions and a policy mix. That set of tools consisted of the multi-year expert meeting, research publications, detailed methodology for SPRs, surveys of infrastructure regulators and country case studies.

B. Services, development and trade: The regulatory and institutional dimension

(Agenda item 3)

Trends in services, development and trade

4. Many panellists and participants recognized that there was an untapped opportunity in the services sector. Services sectors were essential to the efficient functioning of all modern economies and strengthened productive capabilities. They were likewise expected to contribute to the post-2015 sustainable development goals. Policies, regulations and institutions strongly mattered in harnessing far-reaching and multifaceted benefits of services. Sound policies and regulations, as well as strong institutions, could help create an enabling environment at the domestic level. Devising adequate policy, regulatory and institutional frameworks that were best fit to national circumstances and priorities, however, remained a critical challenge. The question arose of how to identify the best policy and regulatory approach for services, ensure policy coherence and build requisite regulatory and institutional capacities, while ensuring legitimate public interest. Solutions needed to be tailor made and targeted for each country; they could not be copied from one country to another.

5. Several participants and panellists believed there was significant scope for services to contribute to employment and decent work (with 49 per cent of global employment in the services sector). One panellist observed that services played an important role in facilitating trade through global value chains (GVCs), and the services sector provided an opportunity for greater value addition and technology upgrading, as well as creating employment. International Labour Organization research showed that services accounted for an increasing share of employment, particularly in GVCs, but that increase was not matched by wage increases, thereby pointing to the need for securing shared prosperity. Those challenges related to addressing wage inequality and informality to pre-empt and mitigate the low-productivity trap. Policies and measures were needed, such as enhanced social protection, labour inspection, core labour standards, tax policy simplification (e.g. corporate tax) and business facilitation. Given the high number of trade agreements containing labour provisions, there was considerable scope for improving complementarities between trade and investment and socioeconomic policies. For job creation, each country had to address national goals to provide universal and good quality services.

6. The promising nature of services was exemplified by information and communications technology (ICT) and telecommunication services. One panellist noted that, in the ICT sector, information networks had made services highly tradable. Every day 550,000 people were connected to the Internet, making the potential for e-commerce exponential. In developing countries, e-commerce between businesses was growing more rapidly than in developed countries. Some actions were needed at the national and international levels to measure and analyse the impact of a network-based economy. First, data collection needed to be improved to better measure the impact of information networks on production, trade and employment, including through enhanced collaboration among relevant international organizations. Second, there was a need for a new development agenda that would connect trade with the sustainable development goals coherently. Third, the ongoing work on electronic commerce in the World Trade

Organization needed to be reinvigorated by strengthening collaboration with the International Telecommunication Union (ITU) and UNCTAD.

7. Energy services were expected to play a central role in the attainment of sustainable development objectives. One panellist stated that regulation of the electricity services market had recently witnessed changes in respect of pricing, licensing, market design and use of renewable energy. The objective of pricing policies had increasingly moved from simply setting tariffs based on costs, towards providing incentives to meet public policy goals, such as encouraging users to consume more electricity in off-peak periods, pricing use of the grid based on the level of costs incurred by different actors or efficiency in producing energy and promoting preferential prices for renewable energies. Regulation thus played a key role in balancing the need for economically attractive conditions for service providers and investors, while ensuring pro-development gains. Those emerging trends however could give rise to dispute settlement. While national regulators had an increased interest in regulating through incentives to make energy markets more efficient, investors could face a higher degree of uncertainty, which might lead to not trusting domestic institutions entirely in cases of disputes.

8. Some panellists and participants highlighted that, while much policy attention had been given to market access issues, addressing regulatory divergence and barriers through regulatory convergence and cooperation would be more amenable to facilitating trade in the sector. International standardization on services, as well as regulatory cooperation (such as labour mobility, infrastructure development), were all important. One panellist stressed that the International Organization for Standardization (ISO) had served to develop voluntary and consensus-based international standards, including on services and conformity assessments. Another panellist pointed out that in most developed markets these standards were considered minimum standards and deemed not sufficient for promoting trade liberalization. There were about 20,000 international standards developed by ISO, of which 700 were for services such as computer and information services, transport, telecommunication, financial services, water management and tourism. Examples of ISO standards were those on international identification numbers, financial planners and privatization of water companies for drinking waters. Developing service standards would entail reviewing global trends, establishing a common understanding, reviewing existing standards, conceiving a coherent strategy for standardization and undertaking global surveys.

9. Another panellist stressed that, in undertaking policy and regulatory reform, it would be important to approach reform keeping in mind a non-compartmentalized vision, as comparative advantage could shift from one sector to another. There was also a need to ensure coherent policy approaches in different sectors and policy areas that affected countries’ services trade and productive capacities. Coherence and cooperation were crucial elements of success. Institutions and policies affecting skills and innovation needed to be strengthened as they mattered most in international services markets. Demographic changes increasingly affected relative endowments, creating pressures abroad for services reform. Proactive international engagement in infrastructure coordination and regulatory cooperation was important in addressing regulatory externalities in an increasingly insecure world. Addressing such externalities would provide regulatory assurance against multiple dimensions of security – e.g. financial internationalization and financial security, digital trade and informational security, labour mobility and security, and demographic change and health and old-age security – and would constitute a precondition for liberalization in services. Some forms of regulatory cooperation would be particularly useful. These included (a) cooperation to ensure liberal trade in digital services and free data flows by addressing divergent standards of privacy; (b) cooperation between host and source countries on mode 4; (c) cooperation to address heterogeneity in prudential regulation in finance; and (d) cooperation on pro-competitive regulation.

Evolving interface between trade liberalization in services and regulation

10. Many panellists and participants concurred that trade in services had provided important opportunities, especially in view of the expansion of GVCs. This had highlighted the significance of the interrelationship between regulations and trade liberalization affecting services. Access to efficient services was key to competitiveness and reducing trade costs. One panellist presented research from the Organization for Economic Cooperation and Development (OECD) using its Services Trade Restrictiveness Index, which demonstrated the importance of domestic services, as well as imported services, in trade associated with GVCs in adding value to manufacturing. The main barriers to services trade often arose from domestic regulation, though not all domestic regulation could be considered a barrier. Those barriers resulted in a slowing down of GVC operations, pointing to a correlation between open trade policies and export competitiveness. Promoting trade in services through trade agreements called for advancing towards convergence of regulation of cross-border trade in services and reducing cross-country heterogeneity in domestic regulations that directly affected the operation of firms. Some participants believed that it was not sufficient to simply participate in GVCs, as attention should be given to participating in a manner that allowed countries to move up in value chains and upgrade technology capability and labour skills. More empirical research was needed on policies, going beyond an open trade regime, which could allow them to meet those objectives.

11. Many participants and panellists noted that trade reform and national regulatory efforts should go hand in hand. Liberalization of services in the sense of reducing barriers to market access and ensuring national treatment was progressing largely unilaterally. The more countries liberalized the more they needed sound regulations and stronger institutions. Regulatory challenge encompassed two areas, including drafting legislations and institutional reform. Drafting legislation was a complex task as it should not leave unnecessary discretion for regulatory authority. The difficulty of institutional reform pertained to ensuring independence of the regulator, as well as having qualified staff. The essence of regulatory reform was to introduce pro-competitive regulation and environment. Although liberalization could be a component of services policy reforms, other coherent and complementary policies were all the more important. These included policies aimed at labour skill enhancement, innovation and technologies upgrading. Policies were also needed to facilitate the transition from informality to formality, as many services tended to be found in the informal sector (particularly small and medium-sized enterprises (SMEs)).

12. Developing countries, particularly the least developed countries (LDCs), faced challenges in assuring effective benefits from services trade, GVCs and trade liberalization. They approached ongoing services trade negotiations differently. One panellist stressed that in his non-LDC developing country trade agreements were seen as a means of promoting the country's integration into the global economy. Trade agreements had enabled the country to consolidate, rather than liberalize, existing regulatory regimes affecting services trade and send positive signals to investors. In parallel, the country felt the need for policy intervention in services to achieve legitimate public policy objectives, such as promoting sectoral development, addressing market failures, protecting consumers and generating positive externalities related to public goods. The decision to liberalize depended on (a) whether the sector exhibited externalities and distortion and (b) whether regulatory and institutional frameworks governing the sector showed sufficient maturity. At the same time, there was a need for flexibility in adapting regulations according to specific circumstances and policy needs, backed by solid institutional settings.

13. Ensuring commercially meaningful preferential market access for services under an LDC services waiver was the key objective of LDCs under the current Doha Round negotiations. Another panellist indicated that important trade restrictions remained in

sectors of export interest to LDCs, and to date trade negotiations had failed to deliver tangible benefits for LDC services providers. For instance, in mode 4, visa denials and other restrictive regulatory practices affecting the temporary movement of natural persons had acted as effective barriers to LDC services providers. By submitting the LDC collective request for preferential market access for services, LDCs hoped to see regulatory changes in their main export markets, such as through mutual recognition and streamlining of procedures associated with services trade. At the same time, there was a need to preserve policy space for regulation in sectors of importance to achieving the sustainable development goals and to protect consumers in sectors such as telecommunication, financial, education and health services.

14. Regulatory convergence had also become a major agenda of trade negotiations, particularly under regional and plurilateral contexts involving developed countries. All panellists noted that regulatory convergence became necessary as firms increasingly saw divergent or more restrictive domestic regulations (e.g. licensing) as major trade barriers. One panellist said that pro-competitive regulations ensuring a transparent, clear and fair procedure for licensing were important, as evidenced by the adoption of the telecommunication reference paper of the General Agreement on Trade in Services (GATS). Those regulations could represent an opportunity for countries wishing to lock in their high standards, particularly in those sectors where domestic regulations mattered. Under the Trade in Services Agreement and megaregional trade agreements, regulatory convergence and rule-making were being sought in the areas of, inter alia, environment, State-owned enterprises, foreign investment (investor–State disputes), financial services, procurement, international mobile roaming, local content and recognition of professional qualifications. Another panellist noted that since those regulatory issues were not on the agenda when the Doha Round began in 2001, there might be a case for addressing them in the multilateral context as well. Several participants expressed concern over the compatibility of the Trade in Services Agreement and regional trade agreement approaches with GATS multilateral processes, especially regarding the implications of regulatory work for non-participating small and vulnerable countries. They noted that limited gains could be expected from the Trade in Services Agreement for small and vulnerable economies due to their lack of productive capacities and competitiveness.

15. While noting the right to regulate as recognized under GATS, several panellists and participants underscored the importance of preserving policy space and the right to regulate (“regulatory sovereignty”), particularly in regional and plurilateral contexts. This was because addressing legitimate public policy objectives, such as universal access, price and quality control, labour environment standards, still required positive regulatory measures. Regional upward regulatory harmonization, recognition and equivalence could have a trade-restrictive effect on non-participating, often small and more vulnerable, economies. Furthermore, some recent regulatory provisions under regional trade agreements, such as State-owned enterprises and the investor–State dispute settlement mechanism, had had implications for countries’ development strategies and regulatory autonomy. In order to assuage such concerns, some panellists suggested that it would be important to improve understanding on how these provisions worked in practice and promote inclusive regulatory cooperation so as not to adversely affect non-participating countries.

Towards best-fit policies and regulations: The case of financial services

16. Many participants and panellists recognized that financial services should contribute to the real economy. Basic financial services, such as payment systems, were increasingly seen as a utility, and regulations were particularly important in the sector. One panellist outlined the financial regulatory and institutional reforms conducted in major developed country markets since the global financial crisis. The European Union had established the European Systemic Risk Board to control systemic risks; in the United Kingdom of Great

Britain and Northern Ireland, the Financial Services Act 2012 and the Financial Services (Banking Reform) Act 2013 had restructured institutional and regulatory frameworks. Those frameworks had increasingly focused on macroprudential regulations, addressing systemic risks and ensuring comprehensive coverage (e.g. shadow banking). The focus of those regulations was on proactive oversight of the entire financial system, i.e. macroprudential objectives, supported by forward-looking assessment of potential risks and rigorous challenge of bank risk models and governance. The philosophy behind the regulations should be to mitigate macroprudential systemic risks, control externalities and firms' behaviour and exercise supervisory judgement based on discretionary powers.

17. While the importance of the financial sector for healthy growth of the real economy was well recognized, the optimal size of the financial sector had been a matter of debate. Another unknown aspect of the policy debate of particular relevance to developing countries was the role of the State in the financial sector. One panellist said that State-owned banks remained important, with the State still owning 15 per cent of bank assets, which appeared to contradict the orthodox view that State ownership tended to stunt financial sector development and contributed to slower growth. State intervention was needed in the case of market failure, and market failure tended to occur more often in developing countries, hence the State's greater role in developing countries. State-owned banks were expected to be less profitable. At the same time, State-owned banks tended to engage in political lending. There was no certainty as to the causal relationship between State-owned banks and slower growth. State-owned multilateral development banks could be considered a positive example. Since there was no a priori superiority of public or private institutions, ensuring good governance for financial institutions, whether public or private, would be important.

18. Regulatory reforms had also been undertaken in developing countries, which reflected particular challenges facing these countries. One panellist presented China's reforms of foreign banking supervisory rules. The country had recently streamlined administrative approval rules and sought to deepen integration with other countries. For instance, the country had eliminated a requirement imposed on foreign banks to transfer a minimum amount of operating funds from the head office in China to each new bank branch opened in the country and to set up a representative office in China before setting up branches. Despite their continued expansion, foreign banks still represented a relatively small proportion of the Chinese banking industry. The successful management model in the China (Shanghai) Pilot Free Trade Zone – where an innovative management model based on "pre-establishment national treatment" and negative listings was introduced – would be replicated across the country at a later stage. Effective supervision and regulation of foreign subsidiaries remained a complex task as they were regulated by their countries of origin. There was a need to strengthen international cooperation such as under the Basel Committee on Banking Supervision.

19. Financial inclusion remained a key regulatory agenda for developing countries. One panellist stated that in Kenya, financial inclusion was conceived as a means of promoting poverty reduction and making monetary policy work effectively. Actions had targeted three channels for financial inclusion, namely, mobile phone financial services, microfinance banks and agent banking. In parallel, the Government had deployed measures to enhance support services, such as a credit reference bureau, a currency centre and consumer protection. Mobile phones contributed substantially to the growth of financial inclusion. Mobile phone payment platforms had integrated with financial institutions to provide various financial services including transfers, payments, savings and credit. Such interfaces had enhanced financial services accessibility to many clients and were cost efficient for financial institutions. Improvement of financial inclusion contributed to the country's monetary policy and helped to suppress mounting inflationary pressures. Given Kenya's close economic and financial ties with its neighbouring countries, regional regulatory

cooperation, harmonization and supervision was found necessary with the East African Community and other regional economic community members (e.g. Common Market for Eastern and Southern Africa). The enhanced regional macrofinancial surveillance mechanism was important in detecting and identifying cross-border and cross-sector risks to pre-empt financial crisis.

20. The issue arose of how to address the greater interface between financial services and sustainable development challenges, such as risks associated with environmental and sustainable concerns and human rights. While investment in sustainable finance was not new, recently more traditional financial companies had started to incorporate those concerns in their investment strategies. Several participants noted that there was lack of regulation on restricting lending and providing insurance services to firms which caused serious environmental damages and raised social or human rights concerns (e.g. investment agriculture firms aggravating deforestation risks). Some developing countries had developed mechanisms to link financial services to sustainable development risks, such as seeking agreement with banks to extend green credit, a ban on banks to lend to firms causing heavy pollution, establishing a stock exchange for companies contributing to sustainability, introducing a regulatory obligation to include environment and sustainability in financial reporting, and developing a social and sustainability index as a benchmark for investors.

21. On the adequate institutional design of financial regulatory bodies, some panellists recognized that there was no one-size-fits-all approach. They noted that if the financial sector was mainly dominated by banks, the central bank would be the best regulatory institution, while if non-banks were the main source of capital, a separate regulator other than the central bank would be necessary. An adequate institutional arrangement needed to be determined in line with the specific market and regulatory environments of a country, and there was a need to ensure effective coordination between those regulatory bodies.

Towards best-fit policies and regulations: The case of telecommunications and ICT-related services

22. The rapid uptake of ICT services had affected all aspects of the economy and people’s lives. One panellist observed that there were almost 7 billion mobile cellular subscriptions – representing 96 per cent penetration, approaching saturation – and almost 3 billion individuals using the Internet in 2014. ICT services had the potential to empower people. The rapid expansion of ICT and telecommunication services had generated growing pressure for regulations to evolve, and countries were increasingly adopting a “light touch” fourth-generation regulations, focusing of pro-competition and ex post regulations. This model of regulation had brought an integrated approach to the sector. The fourth generation was predominant in Europe, where the transition started earlier and faster than in other regions. For instance, winning formulas for mobile broadband included competition in mobile broadband and in international gateways, enabling mobile number portability, allowing band migration, allowing or mandating infrastructure sharing, and adopting a national broadband plan. Countries applying these regulatory practices had around 60 per cent of mobile broadband penetration in 2013, compared to a 27 per cent world average. Those trends suggested not only that newer generations promoted advanced ICT services, but also that slow and inconsistent regulations might inhibit innovation and market development.

23. Many panellists and participants noted that the digital divide remained a persistent challenge to be addressed, and conscious efforts were needed in promoting universal access, developing broadband infrastructure and enhancing interoperability and infrastructure sharing. One panellist observed that there was regional variation in trends. Despite the encouraging progress, with 4.3 billion people still not using the Internet – and

90 per cent of them living on the developing world – the digital divide needed to be addressed, for example, by reducing costs and accelerating network and services deployment. The evolution in services offered and new business models created a continued demand for ICT policy and regulatory advancement to bridge the digital divide. That included inter alia the implementation of broadband plans, innovative investment strategies, interoperability, competition, network sharing models, and facilitation of mobile services and applications. Those future trends also included managing challenges in the development of ICT and ICT environments. Challenges included consumer protection in the online world, big data and its impact on business models and information privacy, and new frontiers in spectrum management.

24. The Strategy of the Federal Council for an Information Society in Switzerland, for instance, was aimed at making ICT a major driver of social and economic activities. One panellist highlighted that the Swiss approach to regulation of telecommunication was basically light-handed: ex post regulation and no regulation on fibre access, supported by technical standard setting. The Swiss broadband market was characterized by heavy infrastructure-based competition. However, as far as universal access policy was concerned, proactive regulations were put in place to ensure adequate universal service, as only a part of the population could be served through solutions that were viable for businesses, 40 per cent in the case of Switzerland. The obligatory universal service had guaranteed that all Swiss people had access to a defined minimum set of service. Also, Switzerland had jointly developed the guidelines for local actors to extend existing cables to the remote Alpine region where inhabitants and tourists would require more megabits. That policy had resulted in Switzerland being equipped with one of the most advanced broadband network infrastructures.

25. In the Republic of Korea, ICT and telecommunication services had served as a key enabler of economic development. One panellist showed that during the last 50 years, the Republic of Korea had carried out extensive reforms in the corporate, financial and public sectors. The country was ranked as one of the most advanced in ICT development, with the ICT sector contributing to 10 per cent of gross domestic product in 2013 and 70 per cent to exports. The Government played a pivotal role in this regard by providing and stimulating necessary investments as well as by establishing a set of public policies supporting ICT master plans. An all-out effort was made to nurture the ICT sector and to digitize the nation, and a dedicated ministry had been created on ICT services. The key success factors were the proactive government policy, a public–private partnership, securing designated funds and expert organizations. The Government worked closely with the private sector, encouraging investment and formulating development strategies by creating an ICT Information Fund, which triggered social and economic changes. Educational and labour mobility policies were also put in place to facilitate greater availability of human resources with the necessary skills.

26. The panellists noted that expansion of ICT services had blurred frontiers with other services, including transport, agriculture, energy and education. This had increased the need for increase coordination between sectoral regulators. Regulators in the digital ecosystem had to coordinate with other entities, including financial regulators, health ministries and many others. The "Internet of things", and overall technological and regulatory progress, augmented the potential of ICT inputs for social and economic development but also required attention to issues such as cybersecurity and data protection.

27. A case in point was financial inclusion. Better coordination of telecommunication and financial regulatory frameworks was essential to drive the policy necessary for financial inclusion. One panellist observed that financial inclusion had been increasing in recent years. While in 2011, around 2.5 billion people lacked a bank account, in 2014 that number decreased to 2 billion people. An important part of that progress was related to the

use of technology and particularly the development of mobile money markets. One billion people had a mobile device but not a bank account. In fact, there were 255 live mobile financial services deployments in emerging markets in March 2015. Another panellist stated that in Kenya, mobile money services amplified financial inclusion, with 11.5 million people using M-Pesa and other mobile phone-based financial services. The percentage of adults excluded from formal financial services was reduced from 38 per cent in 2006 to 24 per cent in 2013. This important development in mobile financial services required regulatory attention from the Central Bank. Since mobile money accounts could not serve the purpose of intermediation, M-Pesa agents were required to open accounts in commercial banks.

28. The secretariat referred to the ITU Focus Group on Digital Financial Services in which UNCTAD was working with ITU and other partners to bring together stakeholders, including financial and telecommunication entities, and develop a toolkit for the digital financial services ecosystem.

UNCTAD services policy reviews

29. The UNCTAD secretariat provided further background on services toolkits, including SPRs.[1] SPRs were designed to address the critical need of developing countries to formulate adequate national policy, regulatory and institutional frameworks that were best fit to their respective specific national conditions and policy priorities. They offered a state-of-art methodology for conducting a thorough stocktaking and assessment of the services economy and trade, providing recommendations on policy options for reform, which also incorporated a capacity-building component and enabled sharing of experiences and lessons learned. Training and study tours had been organized for selected countries in partnership with neighbouring countries (i.e. Chile and South Africa), and two regional meetings held (in Chile and Ethiopia) to promote the exchange of experiences and lessons learned. To date, SPRs had been conducted in many countries and regions.[2] The secretariat had also provided commentaries and recommendations on different countries' services policies (e.g. Colombia services white paper).

30. Panellists and some participants presented several country experiences from SPR exercises and exchanged lessons. The deliberations pointed to the impact on the ground of SPRs and that SPRs had allowed countries to assess services sectors and provide actionable recommendations towards strengthening the services economy and trade. The representatives of several countries expressed their interest in conducting more SPRs or follow-up reviews for their regions.[3] The presentations generally indicated the countries' desire to use services as a major driver of growth, diversification and sustainable development. The experiences pointed to the importance of policy coherence and coordination; a multi-stakeholder approach to services policymaking (e.g. coalitions of services industries); data requirements for evidence-based policymaking and regulations; effective institutions and governance; enabling productive technology and business environment; labour skill development; and using regional and international integration in services markets, as well as regulatory cooperation, as a means for creating an enabling environment. National experts generally reported that their respective countries had implemented, or were in the process of implementing, some of the policy recommendations emanating from their respective SPRs.

[1] See also TD/B/C.I/MEM.4/8.

[2] For example, Angola, Bangladesh, Jamaica, Kyrgyzstan, Lesotho, Nepal, Nicaragua, Paraguay, Peru, Rwanda and Uganda, as well as Andean countries and those of the Southern African Development Community (SADC).

[3] For example, Ecuador, Lesotho, Paraguay and the Pacific Islands Forum.

31. In Peru, the presenting panellist said that the SPR identified some of the policy challenges requiring policy actions, such as the shortage of human capital, infrastructure deficiency, administrative obstacles, insufficient use of technology and underdevelopment of capital markets. She noted some sector-specific deficiencies. Among them were the difficulty SMEs had in accessing relevant information on engineering services, lack of a clear policy for the sectoral development in logistics services, insufficient availability of financing in software services and difficulties in export accounting in respect of mode 4. In Uganda, the presenting panellist noted that, following two rounds of SPRs, the country had constituted a service task force to embark on policy interventions and was in the process of formally adopting the draft national services trade policy and draft master plan. Among the lessons learned from the SPR were the need for better coordination between various governmental entities, the potential of region-wide East African Community initiatives for trade facilitation, the need for the Government to provide the necessary hard and soft infrastructure, and the need for regulators to ensure compliance with licensing requirements.

32. In Bangladesh, the presenting panellist said that SPRs had been conducted on ICT and ICT-related services, tourism, selected professional services (accounting, architectural and engineering and nurses) and export of human resources. In ICT and ICT-related services, the SPR recommended inter alia improving and expanding information technology infrastructure and connectivity, focusing on human resources development and productivity, and making financial transactions easier and affordable. In tourism, the SPR recommended the development of a tourism master plan, quality infrastructure and communications, attracting investment, development of human resources skills, diversification of services and a country brand aligned with tourism objectives. Regarding the export of human resources, recommendations revolved around the intensification of skill development activities, including bilateral agreements and promotional activities, and better coordination among relevant ministries and agencies. The head of delegation expressed his appreciation to UNCTAD for finalizing the first SPR for Bangladesh. The observations and recommendations made in the SPR would help Bangladesh not only in formulating pragmatic and coherent policies in services sectors, but also in effectively participating, as an LDC, in the negotiations in the World Trade Organization regarding the services waiver. The SPR would also help in the integrated national policy on trade in services to fine-tune objectives at the national level and in regional and international trade negotiation regimes.

33. In Paraguay, the presenting panellist noted that SPRs had enabled the country to undertake a proper diagnosis of the services sector and to adopt a more strategic approach to services sector development. In addition, the study tour organized for Paraguayan officials in Chile enabled an exchange of experiences and lessons learned. The SPR methodology combining desk study, field research and interviews, and multi-stakeholder consultations, was particularly useful for engaging in a constructive dialogue with the private sector. Continued support was requested in the implementation of SPR recommendations and analysis of additional services subsectors. In Lesotho, the presenting panellist said that the SPR had allowed the country to take stock of services and identify regulatory and institutional challenges. That provided valuable inputs to the country’s engagement in the World Trade Organization and regional trade negotiations (e.g. the services waiver for LDCs, SADC). The SPR facilitated undertaking a situational analysis to design the national tourism development plan, which was being implemented. The diagnosis and recommendations provided in the SPR facilitated securing support from the SADC secretariat in improving data collection in some services sectors. Additional support would be useful to further develop a national strategic vision for development of the services sector and trade.

34. In Jamaica, the presenting panellist noted that the review of the services sector was conducted within the framework of UNCTAD support to the development of a national trade policy framework and addressed tourism, ICT, creative industry (particularly music) and financial services. The SPR recommended the development of a comprehensive and coherent services sector strategy. It should encompass the creation of a sustainable macroeconomic and enabling environment, for example, aiming to reduce time to register businesses, building financial, human and technological capabilities through targeted education and training, strengthening institutional and regulatory capacities, and introducing standards. Services SMEs, including in the informal sector, should be strengthened through cluster strategies to seek scale economies. Improved services data collection was considered important. In Rwanda, the presenting panellist said that the SPR focused on tourism and ICT services. The SPR recommended diversifying the tourism product to ensure a longer stay in Rwanda, investment attraction, marketing and quality improvement. ICT was at the core of Rwanda's Vision 2020 and exhibited an important opportunity such as e-health and e-commerce. Mobile subscribers had been steadily increasing, but services were still relatively more costly due to "landlockedness" and the skilled workforce was still limited, suggesting the continued need for policy to develop the sector, including through procurement policy.

35. In Ecuador, one participant said that services were considered important to enhancing economic efficiency, competitiveness and export diversification. However, the lack of data availability, as well as required legislation, had affected the Government's ability to design adequate policies and regulations. The country recognized the need for long-term strategies and established a policy analysis centre for this purpose. The development of statistical capacity was considered particularly important, and initial actions had focused on structuring a database of all public and private companies supplying services, as well as dissemination of information and training activities. In Indonesia, another participant said that developing a coherent policy was challenging, and services policy needed to be developed with the participation of the private sector. By creating a forum for multi-stakeholder consultation, bringing together public and private entities, the Government was able to raise awareness on the need to create services trade statistics to guide policy.

Possible elements of toolkit for identifying best-fit practices

36. The Chair of the meeting noted that sharing experiences and lessons learned in developing, and making better use of, various tools, modules and software developed by different entities and institutions[4] was useful in identifying the elements for the preparation of a toolkit consisting of a set of best-fit practices. Many participants highlighted the usefulness of UNCTAD's work on services, including its state-of-the-art and innovative toolkits, particularly SPRs.

37. One panellist presented a toolkit for the interface between power sector regulation and trade. A regulatory perspective could divide regulatory issues in three categories: (a) regulation that was an inherent and necessary part of services oversight; (b) regulation that reflected legitimate regulatory interest but was not necessarily an inherent part of the regulatory regime; and (c) issues related to, but largely outside of, what was inherent in regulation. Certain lessons could be drawn on how to approach these regulatory issues in trade negotiations according to the category. For example, on the first category of regulation, market entry in the electric sector could be a complex issue in certain segments

[4] For example, UNCTAD, ISO, International Labour Organization, ITU, World Bank, OECD, the Public Utility Research Center (University of Florida) and the Massachusetts Institute of Technology Media Lab.

and market structures. Licences or authorizations for monopoly services or bottleneck network services that were central facilities should be based on reasonably high thresholds for entry. In competitive markets for generation or distribution, entry requirements might be eased somewhat. In any case, regulators needed to have some control on market entry rules, to allow them to verify financial and technical capabilities of potential providers of a service. Trade rules could provide a level playing field but they should not be allowed to give special protection to foreign investors on regulatory requirements. Although countries should be able to change their market structure, countries should avoid terms in trade agreements that inadvertently altered the market structure.

38. The World Bank had developed a toolkit for the regulatory assessment of services trade and investment. Another panellist noted that regulations were needed to ensure high quality and low cost on services. In this regard, the assessment of regulations was of central importance to identify possible limitations and constraints to increasing participation in international trade. The major steps of the toolkit consisted of (a) identifying restrictions by mapping horizontal and sectoral regulations affecting a wide range of sectors; (b) empirically assessing the impact of regulation in market structure, prices, quality and access; and (c) assessing the feasibility of alternative regulations and institutional arrangements to propose options. The assessment process still had some problems. One issue was the need to better define the objective of the process. Another related to the collection of information, which had proved to be difficult due to limitations on data availability and access restrictions to information. Finally, defining regulatory alternatives was not obvious because making specific recommendations on best-fit actionable options, going beyond general ones, had proved challenging.

39. Another panellist presented the experience of the French energy regulator in achieving better regulation of infrastructure services. She observed that regulation of essential infrastructure services to balance the need for economically attractive conditions for services' provision with reliability, affordability and sustainability considerations had been a key issue for regulators. There was a need to closely monitor the outcome of regulatory decisions to inform on necessary improvements. In the European Union, the expansion of regulators' duties and powers had come with stronger independence requirements and evidence-based regulations. Energy regulators had cooperated to achieve regulatory coherence and stability through voluntary cooperation schemes within and beyond the European Union. Regulatory performance was considered a highly relevant area of cooperation, and peer-to-peer capacity-building and constant development of energy regulators' toolkits (e.g. French infrastructure services regulators' club, OECD network of economic regulators) were necessary. To that end, it was important to identify and harmonize relevant data collection methodologies to better establish regulatory incentives.

40. In the area of ICT and telecommunications, ITU had developed best practices for developing a toolkit. One panellist observed that, as new ICT ecosystems (e.g. Internet of things, cloud computing, e-health) and disruptive technologies would redefine business models for the industry, ICT regulation should evolve in parallel and in pace with those technology innovations. That was important in providing the common platforms needed to enable continued innovation and market development. In that regard, he recommended use of ICT regulatory best practices, including the adoption of a light-touch regulatory approach, privileging the principle of fair, equal and non-discriminatory treatment of all market players, streamlining procedures to facilitate market entry, levelling the playing field and predictability of the regulation. There were some critical success factors to be considered in the regulatory framework of ICT. They included a policy and regulatory framework for broadband deployment, an e-government strategy, national cybersecurity strategies and a policy and strategy for ICT standards and innovation.

41. The Public Utility Research Center of the University of Florida had developed a body of knowledge on infrastructure regulations available on the web. The panellist said that the web-based resource provided links to over 500 references and case studies and an extensive glossary to facilitate learning. It was available in nine languages. The website was divided into key topics and themes and could help answer questions relating to concrete regulatory actions and steps that needed to be taken on various regulatory matters (e.g. feed-in tariffs). The Massachusetts Institute of Technology Media Lab had developed a set of tools to visualize a large data set that would facilitate the study of economic development, relevant to the services economy, trade and employment. They included the Observatory of Economic Complexity and Data Viva, which was a platform for semi-automatically generating web-based, interactive visualizations of structured data sets.

C. Conclusions

The way forward

42. The meeting allowed an exchange of various country experiences and lessons learned to identify possible elements for the preparation of a toolkit consisting of a set of best-fit practices. Some of the areas that participants suggested for further work for UNCTAD included the following:

(a) Continuing and strengthening UNCTAD’s high-quality comprehensive work on services;

(b) Undertaking SPRs for an increased number of countries and follow-up on action plans and implementation;

(c) Contributing to the development of toolkits on policy, regulatory and institutional frameworks on services;

(d) Conducting research and supporting developing countries in assessing and identifying best-fit national policy, regulatory and institutional frameworks, including in promoting beneficial participation in GVCs and undertaking regulatory impact analysis;

(e) Undertaking analytical work on ensuring that trade, trade in services and trade agreements were coherent with other key policies, including development policies and the sustainable development goals;

(f) Contributing to international and national efforts for better collection of statistical data on services, including through UNCTAD’s participation in the Inter-agency Task Force on Statistics of International Trade in Services;

(g) Strengthening inter-agency cooperation on matters standing at the interface of trade, services, ICT, energy, transport and financial services, including the digital ecosystem;

(h) Supporting developing country engagement in multilateral, plurilateral and regional trade and investment negotiations affecting the services sector, and strengthening of cooperative frameworks and agreements, including through research on new and emerging regulatory provisions and regulatory convergence;

(i) Studying the impact of services standards on trade and development of the services sector;

(j) Fostering multi-stakeholder dialogue on services towards common policy and regulatory grounds, including through the Global Services Forum.

II. Organizational matters

A. Election of officers

(Agenda item 1)

43. At its opening plenary meeting, the multi-year expert meeting elected the following officers:

Chair: Mr. Xavier Amelio Carim (South Africa)
Vice-Chair-cum Rapporteur: Ms. Jaime Moody (United States of America).

B. Adoption of the agenda and organization of work

(Agenda item 2)

44. At its opening plenary meeting, on 11 May 2015, the multi-year expert meeting adopted the provisional agenda for the session (TD/B/C.I/MEM.4/7). The agenda was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. Services, development and trade: The regulatory and institutional dimension
4. Adoption of the report of the meeting

C. Outcome of the session

45. Also at its opening plenary meeting, the multi-year expert meeting agreed that the Chair should summarize the discussions.

D. Adoption of the report of the meeting

(Agenda item 4)

46. At its closing plenary meeting, on 13 May 2015 the multi-year expert meeting authorized the Vice-Chair-cum-Rapporteur, to finalize the report after the conclusion of the meeting.

Annex

Attendance[5]

1. Representatives of the following States members of UNCTAD attended the meeting:

Argentina
Bahrain
Bangladesh
Barbados
Belarus
Brazil
Burkina Faso
Burundi
Canada
Chile
China
Colombia
Congo
Costa Rica
Côte d'Ivoire
Djibouti
Dominican Republic
Ecuador
Egypt
Ethiopia
France
Gabon
Georgia
Guatemala
Guinea
Haiti
India
Indonesia
Iraq
Italy
Jamaica
Jordan
Kenya
Kyrgyzstan
Lesotho
Madagascar
Mauritania
Mauritius
Mexico
Morocco
Mozambique
Netherlands
Nigeria
Oman
Paraguay
Peru
Poland
Republic of Korea
Republic of Moldova
Rwanda
Saudi Arabia
Senegal
Singapore
South Africa
Spain
Sudan
Switzerland
Thailand
Trinidad and Tobago
Tunisia
Turkey
Uganda
United States of America
Venezuela (Bolivarian Republic of)
Yemen

2. The following intergovernmental organizations were represented at the session:

African, Caribbean and Pacific States
Economic Community of West African States
European Union
International Organization for Standardization
Organization for Economic Cooperation and Development
Organization of Eastern Caribbean States
Organization of Islamic Cooperation
South Centre

[5] This attendance list contains registered participants. For the list of participants, see TD/B/C.I/MEM.4/INF.3.

3. The following United Nations organs, bodies or programmes were represented at the session:

International Trade Centre
Economic and Social Commission for Western Asia

4. The following specialized agencies and related organizations were represented at the session:

International Labour Office
International Telecommunication Union
United Nations Industrial Development Organization
World Bank Group
World Trade Organization