



Session 4:

Trade in Services Facilitation Related Protocols IV and V – Expert responses to comments and discussion

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Protocol IV: Trade in Services Cooperation

- A quick reminder.....
- Protocol 1V establishes a formal framework to **facilitate joint cooperative undertakings** to increase trade in services and grow the trade in services share of regional GDP. It identifies themes relevant to building regional competitiveness in all services sectors while also pursuing cooperative activity in some specific sub-sectoral clusters which Parties might consider to be priorities, either in the immediate near term or on an ongoing basis
- The protocol establishes a basic set of **principles to guide cooperation on trade in services** and **facilitate joint alignment with international norms on trade in services**.
- It is intended that Parties will gain from information-sharing and evidence base collection as well as from services productivity and competitiveness gains associated with collaboration in joint activities.
- Activities under this Protocol lay the foundation, therefore, for aspirations towards an additional possible Protocol for interested CAREC countries to negotiate trade in services liberalisation provisions.

Protocol IV: Trade in Services Cooperation

- Against that background I want to emphasise that this protocol does not contain liberalisation commitments. It does not refer or relate in any way to any WTO Agreement. It makes no reference, for example, to the WTO General Agreement on Trade in Services.
- I'd like therefore to touch quickly on the potential concern raised by Turkmenistan, that this Protocol refers to WTO document MTN.GNS/W/120.
- I want to clarify that MTN.GNS/W/120 has no legal standing as a formal WTO Agreement. Nor indeed, to be strictly accurate, is it even a "WTO Document" as such. To be more strictly accurate, it is a non-binding "note" prepared by the WTO Secretariat offering informal guidance, subject to revision/updating, on a common classification of services sectors. It's a useful practical device. But it confers no rights or obligations on WTO members.
- It is mentioned in the Protocol because it is a useful practical device helping trading partners to talk about and classify services sectors in a common manner. But it is not set in stone. And its use is not obligatory in the WTO. It's just a helpful shortcut, without reinventing the wheel, to have some kind of ready-made reference list of what services trading partners might want to cooperate in.
- Nevertheless, the draft Protocol doesn't rely on that shortcut; it actually does itself defines each of the sectors proposed for cooperative activity. Although they are not in their full granular form, Para 6 sets out the headline definitions for CARTIF; these definition are drawn from the proposed reference point, but qualified by the expression "may include" ie nothing is mandatory. But to save a lot of extra words, if they need more granularity, CARTIF members can refer back to the adopted reference

If it was considered helpful, the zero draft could be edited to read eg

Article 2: Scope and Definitions

Para 2 “Parties agree to **refer** ~~adopt~~, for the time being or until a revised version becomes available, the **non-binding** guidance on **a common indicative** classification of services set out ~~by~~ in the World Trade Organisation (WTO) **Secretariat note** in document MTN.GNS/W/120 dated 10 July 1991. **For extra certainty, this guidance is non-binding.** “

- **Para 6** “For the purposes of this Agreement, specified clusters of services sub-sectors are defined **as** ~~in accordance with the WTO Document MTN.GNS/W/120.~~”
- **Para 7** A “services supplier” is defined as any person or entity (individual, company, or organization) that provides any service ~~defined under~~ **classified** in the indicative non-binding reference agreed in Para 2.” ~~guidance in WTO Secretariat note MTN.GNS/W/120.~~
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I also want to respond to a couple of comments by Pakistan

Pakistan requested that the transport mode of railways be included in definition of transport in the CARTIF text.

I note that the transport mode of railways is already included in the definition of transport in the CARTIF text. See **Protocol 4; Article 2, para 6 a.**

Pakistan also expressed an interest in Energy Services.

I note that Protocol 4 Article 2 Para 3 f., includes square bracketed text which leaves open to negotiation the potential inclusion of Energy Services.

Art. 5: Trade in Services Transparency Document

- This is a simple non-binding, voluntary, best endeavours instrument designed to encourage agencies relevant to trade in services in each CAREC member to work together in their own time frame to get to know, from a whole-of-government perspective, their own domestic regulatory frameworks for services.
- The option remains, if CAREC members might find it helpful to consideration of the zero draft, that a half page template could be prepared for the proposed “Trade in Services Transparency Document”, and this could be annexed to the zero draft Protocol.

Protocol V: Services Domestic Regulation

- **We have received no comments or requests for edits to the zero draft.**
- The objective is to adopt a practical principles-based tool kit providing guidance on best regulatory practices for enhancing the overall local and regional services business environment, cut services trade costs and improve services productivity.
- The principles can be implemented domestically on a “best endeavours” basis and are not subject to any treaty-level dispute settlement process. It is intended that members act in good faith in the interest of their own domestic regulatory efficiency and services productivity gains and in the interests of reducing the regulatory compliance costs of doing international services trade in the CAREC region.
- The principles cover all services sectors. One option suggested is that CAREC members might like to consider an additional provision, encouraging concerted early implementation in any sectors given special focus in the chapter on Trade in Services Cooperation (such as financial services, telecommunications, transport, tourism, services incidental to agriculture).