

Brussels, 25th January 2012

Circulation : ESF – Policy Committee

Subject : **US Coalition of Services Industries (CSI) Paper on Moving Forward with a Plurilateral in Services**

Dear Madam, dear Sir,

You will find attached (enclosure 1) a paper from the US Coalition of Services Industries (CSI) proposing to move forward with an Article 5 plurilateral in services. Such a plurilateral would be non-MFN and would therefore apply only to participants of the agreement; similar to an FTA in services.

The paper explains that CSI has based this proposal on two key factors which they argue necessitate a change of course in the approach to trade in services liberalisation.

1. It is argued that ways and means of doing business in the 21st century global economy, which come with new barriers, are evolving much faster than the ability of traditional multilateral trade and investment negotiations to keep pace. The impact of the internet and technology as drivers of services trade and investment are cited as new developments that need to be accounted for; with cross-border data flows given as an example. Also mentioned are the roles of state-owned enterprises and regulatory coherence on trade.
2. As a second point, it argues that it has become clear that the traditional approach to services liberalisation through multilateral negotiations in the WTO is not welcomed by all its Members at the current time. It is noted however that the WTO provides a useful framework on which those who are interested in moving forward can build.

Members will be aware that there has been discussion on a number of different types of plurilateral proposals. The CSI paper explains it as an agreement similar to an FTA agreed to among a group of countries, the benefits of which apply only to the participants, not to all WTO members. It is noted that GATS Article V permits such preferential agreements if they satisfy several baseline standards: the agreement (1) provides substantial sectoral coverage, (2) makes no a priori exclusion of any sector or mode of supply, (3) provides for the elimination of existing discrimination, and (4) restricts the introduction of new discriminatory measures. To help meet the Article V requirement that the agreement cover “substantially all” service sectors, negotiations would use a negative list approach where all services are covered by the rules of the agreement, unless specifically excluded. The agreement would be open to all who wished to join it provided that they could meet its standards and satisfy any other requirements established by the parties to the new agreement.

The paper argues this approach would facilitate:

- Providing additional motivation for compliance with current WTO obligations
- Legally securing or “binding” existing, “autonomous” liberalisation among the parties.
- Obtaining new, bound market access, using the deeper commitments obtained by FTA agreements.
- The ability to pursue on a broader global basis, the various new, more complex “next generation” issues.

The paper argues that if the participating countries represent a large majority of global services trade, they would constitute a critical mass that would be a powerful incentive for some of the less-willing emerging market economies to join. The TPP (Transpacific Partnership) is cited as an example of this process in action. It is noted that it is the intention of the plurilateral that it will help convince the emerging markets of the value of services trade and investment liberalisation and provide an incentive not to be excluded.

It is also suggested that such a plurilateral would go some way to consolidating the achievements of individual FTAs (and the TPP) into a single multi-party framework establishing an FTA+ level of market access as the norm and helping to create a more dynamic environment in the WTO.

The paper suggests that agreement should be structured in a way that facilitates the entry of additional Members over time, such as by using WTO-agreed provisions wherever possible and clearly identifying steps necessary to dock into the agreement.

This topic has been discussed before at previous ESF Policy Committee meetings as well as at other events such as TheCityUK Trade Policy Seminar (28 November 2012 in London). We have also been informed that 16 heads of delegation had a meeting on this issue in Geneva last week (18 January 2012). In mid February delegates will gather in Geneva for another of the previously scheduled "cluster" meetings (14 February). It is the intention of some delegations to use this for talks in the margin about the plurilateral. The issue will also be discussed at the World Services Summit in Washington DC in September and in China at the trade fair on services in late May (See NewsFlash 2012-01).

Action:

Members' views and opinions on this paper are most welcome. In addition, Mr. Robert Vastine will come to Europe to promote his paper and has suggested a meeting with ESF members. We have suggested to him that we will organise a small meeting of the Global Services Coalition in Brussels in the margin of our next Policy Committee meeting which will take place on 6th March. We will keep members informed of developments on this issue.

Yours faithfully,

Anthony Wise
Adviser