



International Centre for Trade
and Sustainable Development



QUNO
Quaker United Nations Office
Geneva • New York

Regulatory Principles in Environmental Services: Implications for GATS Negotiations on Domestic Regulation and Market Access *An ICTSD-QUNO Informal Roundtable*

*Venue: QUNO, 13 Avenue du Mervelet
1209 Geneva, Switzerland
25 November 2008*

Introduction

Negotiations on the liberalisation of environmental goods and services (EGS) pursuant to Para 31 (iii) of the Doha Ministerial Declaration have been ongoing since 2002. In the realm of environmental services as in environmental goods, progress has been slow because of a number of challenges that have arisen—some that are relevant to services negotiations as a whole and others that are more issue specific to environmental services. Systemic considerations, particularly lack of meaningful progress in the realm of non-agricultural market access (NAMA) and agriculture have also affected meaningful progress in environmental services as they have the services negotiations as a whole. In addition there are a number of specific issues such as those of classification, market access, national treatment and domestic regulation which may have a more profound effect on the breadth, depth and quality of liberalization in this sector compared with other services sectors.

Liberalisation of environmental services however must be planned carefully and implemented in an appropriate sequence to ensure that it is compatible with national goals and sustainable development objectives with effective competition and regulatory systems are in place. The existence of these systems may be particularly challenging for developing countries, which frequently have weaker regulatory regimes and limited institutional and negotiating capacities.

Thus, the provision of effective technical assistance and the necessary capacity for supporting liberalisation is of particular importance to these countries. An additional challenge, for both developing and developed countries alike, is in defining environmental services as a coherent sector. Traditionally, environmental services have been defined in terms of infrastructure that address basic needs, including water distribution and wastewater and solid waste management. However, more recently some countries are at a stage of economic and environmental development allowing consideration of non-infrastructure environmental services such as air pollution management, and related support services such as environmental consulting and engineering services. Distinction between the two categories is important within the context of the WTO negotiations given the critical nature of infrastructure

environmental services in addressing basic needs while non-infrastructure services provide an increasingly important role because they represent new ways in using resources that will contribute to addressing more stringent environmental standards. Infrastructure services, although in the past frequently provided by the public sector, are increasingly offering opportunities for private sector involvement. As governments open infrastructure environmental services to private sector companies, new regulatory mechanisms are required to address pricing and to create appropriate incentives to ensure universal access and maintain standards. At the same time, there is a need for greater knowledge about non-infrastructure environmental services among negotiators and government officials. This is particularly the case since they can produce offensive interests for many developing countries given that they require less capital than infrastructure environmental services.

In this regard this Informal Roundtable organised by ICTSD and the Quaker United Nations Office (QUONO) seeks to address the following objectives:

- Addressing important and persistent knowledge gaps relevant to domestic regulation and market access discussions within the GATS negotiations.
- Assessing the positive and negative impacts of developing potential WTO disciplines on domestic regulation particularly in environmental services.

As a contribution to addressing the implications for WTO Members that intend to make concrete commitments in GATS negotiations particularly in the area of environmental services, ICTSD will present the findings from a paper on the regulatory principles in environmental services prepared by Dr. Massimo Geloso Grosso. The paper seeks to contribute knowledge and stimulate further dialogue on the part of policymakers and trade negotiators by examining the principles of regulatory and institutional practice in the environmental services sector, both infrastructure and non-infrastructure categories, and the main issues relating to the regulation of these services within the General Agreement on Trade in Services (GATS). The paper makes clear that GATS can affect governments' regulatory behaviour, particularly when specific commitments are made. It also argues that given that the GATS allows WTO Members considerable flexibility to accommodate domestic policies, it is critical that negotiators and government officials carefully examine provisions of the GATS and to adjust specific commitments to fit domestic policy objectives. At the same time, specific commitments should only be made once appropriate regulatory systems have been implemented.



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AGENDA

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19h30-19h40: **Dinner and Welcoming Remarks by the Organisers**

19h40-20h00: **Regulatory Principles in Environmental Services and the GATS Negotiations**

-Massimo Geloso Grosso, OECD

20h00-20h30: **Discussants**

- State of Play in Environmental Services Negotiations and Implications of Domestic Regulation Discussions for Market Access
 - *Mr. H. Narsinghen, Permanent Mission of Mauritius*

- Classification Issues in Environmental Services and the relationship with Domestic Regulation Disciplines
 - *Ms. Salina Yan, Permanent Mission of Hong Kong, China*

- The Sustainable Development Dimension in Regulation and Institutional Building
 - *Mr. Luis Abugattas, UNDP*

20h30-21h30: **Coffee and Open Discussion**
