

ECN330 – OUTLINE OF LECTURE SESSIONS – MODULE 5

Sessions 11-12. Rules on Trade in Services and Trade-Related Intellectual Properties

1. The International Services Economy

- 1.1 Contrasting trade in goods and services
 - 1.1.1 Balance of payment transactions
 - 1.1.2 Intangibility
 - 1.1.3 Non-storability
 - 1.1.4 Heterogeneity
 - 1.1.5 Jointness or non-separability
 - 1.1.6 Non-tradable or non-commercial
- 1.2 Services in a general equilibrium context
 - 1.2.1 Services in a macroeconomy
 - 1.2.2 Factors affecting the supply side of services sub-sectors
 - 1.2.3 Factors affecting the demand side of services
 - 1.2.4 Trends in productivity and trade
- 1.3 Legal implications of the provision on international services
- 1.4 Deregulation, re-regulation and MA and trade liberalization

2. Economics of Services Trade

- 2.1 Internalities – asymmetric information
 - 2.1.1 Characteristics (non-storability; intangibility) affects assessment of quality; market failure through moral hazard problem
 - 2.1.2 Asymmetric information and non-separability affects market participation: market failure through an adverse selection problem
- 2.2 Imperfectly competitive services markets: economies of scale and scope; bundling
 - 2.2.1 Source of imperfect competition (supply-side costs; preferences from demand-side)
 - 2.2.2 Contestability differs greatly by services sub-sector
- 2.3 Externalities from positive spillovers
 - 2.3.1 Efficiency from networks creates non-competitive markets (natural monopoly)
 - 2.3.2 Regulations limit market participation (both local and foreign suppliers restricted)
- 2.4 Concluding comment: unregulated markets and regulatory regimes

3. Multilateral Rules on Trade in Services

- 3.1 GATS as a legal text
 - 3.1.1 Obligations and trade disciplines
 - 3.1.2 Relevant agreements and rules
 - 3.1.3 Country-specific commitments – service schedules
 - 3.1.4 GATS versus EU treatment of services

3.2. General obligations and trade disciplines

- 3.2.1 MFN
- 3.2.2 National treatment
- 3.2.3 Reciprocity
- 3.2.4 Predictability
- 3.2.5 Transparency
- 3.2.6 Safeguards and exemptions

| Structure of the World Trade Organization | | | |
|---|-------------------------|-----------------------|----------------|
| Goods | Services | Intellectual Property | Trade disputes |
| GATT | GATS | TRIPS | DSM |
| Agreements and annexes | Annexes | | |
| Schedule of commitments | Schedule of commitments | | |

3.3. WTO definition of trade in services

- 3.3.1. Mode 1. Cross border
- 3.3.2. Mode 2. Consumption abroad
- 3.3.3. Mode 3. Commercial presence
- 3.3.4. Mode 4. Presence of natural persons

3.4. Country-specific commitments

- 3.4.1. Obligations and disciplines related to bindings
- 3.4.2. Scheduling MA commitments: horizontal and sector-specific
 - (a) "Unbound" means no commitment taken
 - (b) "None" means completely liberal
 - (c) Regulatory requirement between unbound and none is specified in the schedule
 - (c) MFN exemptions
- 3.4.3. Limitations on market access
- 3.4.4. Limitations on national treatment

| Commitments across service sector and the modes of supply | | | |
|--|--|--|---|
| Sector or sub-sector | Limitations on market access | Limitations on national treatment | Additional commitments |
| I. Horizontal commitments | | | |
| Regulations or legislation that affect all or several sectors or that effect one or all service delivery methods | (1) none/unbound (2) none/unbound (3) none/unbound (4) none/unbound | (1) none/unbound (2) none/unbound (3) none/unbound (4) none/unbound | Legislation that is pending or regulations that are subject to change |
| II. Sector-specific commitments | | | |
| Sector by sector commitments | (1) none/unbound (2) none/unbound (3) none/unbound (4) none/unbound | (1) none/unbound (2) none/unbound (3) none/unbound (4) none/unbound | |

3.5 Samples of commitments for services

3.6 Sectoral coverage by members, by sector and by mode

3.7 Misconceptions of the GATS

3.7.1. Trade policy/remedies not always applicable under services

3.7.2. Misconceptions about what GAT implies/requires in terms of deregulation

3.8 Economics of international labor and capital markets and GATS commitments

3.9 Doha agenda and services negotiations

4. WTO Trade-Related Aspects of Intellectual Properties (TRIPS)

4.1 Intellectual property under the WTO framework

4.1.1 Minimum harmonization

4.1.2 Basic ground rules

4.2 Scope of the TRIPS Agreement: WTO protection of intellectual properties by types

4.3 Economics, political and legal issues

4.3.1 Economics: market failure, efficiency, monopoly rights, returns on ideas

4.3.2 Political administration, competition, property-rights protection; developing countries

4.3.3 Legal: approximation vs harmonization, enforcement, DSM-related issues

4.4 Multilateral trade issues on basic ground rules

4.4.1 Issue 1. Logic of IP protection depends on characteristics of product market

4.4.2 Issue 2. Monopoly rights and national emergency: compulsory licensing

4.4.3 Issue 3. IP implementation and enforcement in developing countries

5. The Economic Case for IP Protection

5.1 Comparing international standards/regulations for labor, environmental and IP protection

5.1.1 Harmonization, common standard/regulation: regulatory failure vs market operation

5.1.2 Violation of a regulation/standard: effectiveness of trade bans or taxes

5.2 Case for IP protection under the WTO

5.2.1 Issue 1. Do different standards/regulations result in trade/investment distortion?

5.2.2 Issue 2. Do different standards/regulations result in cross-border externalities?

5.2.3 Issue 3. Are trade sanctions appropriate means to correct infringement of IP rights?

5.3 Concluding comments

5.3.1 Challenges and opportunities: patenting traditional knowledge or genetic material

5.3.2 Slow multilateral negotiations encourage pursuing IP protection bilaterally

5.3.3 IP protection: rent-seeking behavior or consumption, production and mkt efficiency?

| WTO issues | Labor standards | Environmental standards | Intellectual property protection standards |
|--|---|-------------------------|--|
| Distortion of trade and foreign investment flows | Do different standards distort trade or investment? | | |
| Existence of cross-border externalities | Is there evidence that different standards result in cross-border externalities? | | |
| Effectiveness of trade policy as sanction to remedy problems | Do trade sanctions correct for the problems identified above? Are sanctions an appropriate means to correct these problems? | | |

Review Questions: Module 5

Sections 1-2. How does trade in goods differ from trade in services? How important are service activities in an economic sense? How important are services activities in an international economics sense? How do the characteristics of services markets affect international trade in services? Why is policy or regulatory intervention greater in trade in services relative to trade in goods? What are the driving factors of international trade in services? What are some relevant demand-side factors that are influencing services markets? How do trade in services conform/not conform to the Heckscher-Ohlin factor proportions theorem? How does the market failure argument relate in the context of trade in services? What are market failure problems in trade in services? In which ways are services markets less contestable than goods markets? Why does this present a problem for trade in services? How might the regulation of a service market be in conflict with the objectives of competition authorities?

Section 3. How has the WTO GATS Agreement brought reform and discipline to services markets? What is the scope of the GATS across services sectors? How do rules under the GATS Agreement relate trade in services to the basic principles of the WTO? How is trade in services defined under the GATS? Do these definitions have merit (i.e., make sense)? Does market access liberalization in services have the same meaning as deregulation of services markets? What commitments were member countries required to take on trade in services? How do commitments taken on trade in goods differ from commitments on trade in services? What is a market limitation in the context of trade in services? How does this differ from trade in goods? What is a limitation on national treatment in the context of trade in services and how does this differ from trade in goods? What does a lack of a commitment mean in the context of trade in services? What is the difference between a horizontal and a sector-specific commitment? What is the relationship of international capital flows (any types) and trade in services? What is the relationship of international labor mobility (any type) and trade in services? Does a multilateral set of rules on trade in services bring an international organization into conflict with sovereign states on right to regulate domestic markets? What does a subsidy mean in the context of trade in services? What does a CVM mean in the context of trade in services? What does a safeguard measure mean in the context of trade in services? How does trade in services under a multilateral trade process such as the WTO GATS Agreement differ from trade in services under an economic integration process? Why should the different of the approach matter? How can more liberal commitments be taken across modes of services provision? Which modes of services provision are most important and why? How is the WTO treatment of trade in services different from free movement of services under the EU?

Sections 4-5. What are intellectual properties and what is the argument given for the need to protect intellectual properties (IP)? How are IP protected under the rules of the WTO TRIPS Agreement? Does the protection of IP under a minimum harmonization framework make sense for all types of member countries? What general types of IP are there? Does IP protection make sense for each type of good? How is the protection of a geographical indication a welfare-improving regulation? What is the argument that is made for why intellectual property is protected and enforced under a harmonized regulatory regime under the WTO? What is the argument for why labor and environment regulatory protections are not given under the WTO framework?