

SMEs in Services Trade - A GATS Perspective

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"Small opportunities are often the beginning of great enterprises."

Demosthenes (384-322 BC)

Abstract

Issues related to small- and medium-sized enterprises (SMEs) supplying services have been raised at earlier stages of the Doha Round in various negotiating contexts and, more recently, at meetings of the Council for Trade in Services. It is difficult, however, to find a common denominator as to whether SME-related concerns might merit attention, from a trade policy perspective, under the General Agreement on Trade in Services (GATS). Without proposing any priorities, this paper seeks to provide an overview of issues that Members might want to address in the WTO, from promoting compliance with transparency disciplines under existing provisions to advancing the liberalization and rule-making mandates of the GATS with an SME focus.

Keywords: Trade in Services, GATS, small- and medium-sized enterprises.

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I. INTRODUCTION

Studies and policy statements concerning small- and medium-sized enterprises (SMEs) tend to concentrate on manufacturing firms or do not distinguish at all between firms operating in different sectors. Relatively little attention is given to SMEs engaged in services production and trade, and even less to the status of SME-related policies under the General Agreement on Trade in Services (GATS). This may appear surprising for two reasons. First, services SMEs are a major contributor to overall employment in many economies, and, within various sectors, make a significant contribution to export revenue.¹ Second, unlike the GATT rules governing conventional trade agreements, GATS disciplines do not apply only to products (services), but to suppliers as well. Thus, measures affecting different types of suppliers, according to whatever criterion, including size, are within the scope of the Agreement.

What types of government intervention could affect SMEs? In its 2002 report on the State of the Internal Market, the European Commission lists, by way of example, the following types of legal (policy-induced) barriers that services suppliers encounter when engaging in cross-border activities: nationality requirements, minimum capital requirements, quantitative restrictions and restrictions on multi-disciplinary activities.² However, while these barriers may disadvantage exporting SMEs, some might actually benefit their domestic counterparts; nationality and residency requirements or restrictions on small-scale transactions, for example barring construction projects below a specified size, may well serve, unintentionally or otherwise, to protect market outlets for small, domestically-established firms in the sectors concerned.³ A broader picture would also cover support initiatives specifically targeted at SMEs, such as the free provision of market intelligence, trade promotion programmes and the like.

Nevertheless, the sheer economic importance of SMEs and the fact that the GATS is applicable to size-related policies, whenever these affect services trade, do not necessarily imply the need for action under the Agreement.⁴ This paper seeks to contribute to the SME-related literature by discussing trade issues from a GATS perspective.⁵ Without establishing any particular priorities, it intends to provide a basis for further deliberation, if deemed relevant by Members, in whatever WTO forum.

Starting point are empirical observations concerning the involvement of SMEs, in particular services firms, in international trade (Section II). The third Section then provides a brief recount of the treatment to date of SME-related issues in relevant WTO/GATS fora. It is followed, in Section IV, by a discussion of GATS disciplines of various types, whether governing market access, domestic

¹ For instance, in the Netherlands SMEs represent close to 88 per cent of employment in the hotels and restaurants sector, and in Canada, they account for 94 and 98 per cent of exports in professional and construction services, respectively. Sources: Roth, Moritz (2011), *SMEs in the Netherlands: Making a Difference*, Research Briefing, Germany: Deutsche Bank Research, p. 4; RSM International (2011), 'Small and Medium Enterprises in the Global Economy', www.rsmi.com/en/global-challenges/smes-in-the-global-economy---gc.aspx (last accessed 19 March 2012); OECD (2005a), 'Growth in Services - Fostering Employment, Productivity and Innovation', Meeting of the OECD Council at Ministerial Level, p. 5; OECD (2005b), 'OECD SME and Entrepreneurship Outlook', Paris: OECD, p. 9.

² European Commission (2002), 'The State of the Internal Market for Services', Brussels, COM(2002) 441 Final, p. 14f.

³ By the same token, however, such barriers might have a disproportionate impact on other SMEs which rely strongly on imported inputs (including of services) and might find it more difficult to switch to domestic alternatives than larger enterprises.

⁴ Pursuant to its Article I:1, the GATS "applies to measures by O.9(m)l TmcO f3p9sSer(,)9T.02(v)og6TmcO f3p95(nly)-n(ale)-3g6

regulation or transparency, deemed to affect or be of interest to SMEs. This is complemented, in Section V, by an overview of SME-related policy elements as reflected in current commitments under the GATS and regional trade agreements (RTAs). Section VI provides some concluding observations.

In contrast with some other studies, the following discussion will pay no particular attention to genuinely size-related benefits

foreign main contractor, and having foreign subcontractors. Not all findings thus fit into what might be considered exports within the modal structure of the GATS (Section IV.A).

Empirical evidence from UK and Spanish services firms corroborates the general thrust of these findings, showing that larger enterprises are more likely to be exporters, export more per type of service and destination, and that the intensity of exporting increases (less than proportionally) with firm size.¹² Yet, a study on Canadian knowledge-intensive business services suggests that very small firms are more likely to export than medium-sized firms.¹³ However, the question remains whether such findings are country-specific, possibly reflecting the physical and institutional infrastructure in place, including the availability of export promotion and guarantee schemes, or the particular composition of the service sectors concerned. According to a study on service exports from Central and Eastern European countries, the impact of geographical distance and other factors, such as time differences, varies greatly across different sectors.¹⁴

Service exporters were found to differ from non-exporters.¹⁵ Relevant research by the U.S. International Trade Commission suggests that exporting SMEs are more productive in general and earn more revenue than firms serving only their home market (Box 1). In a similar vein, studies on Spanish services firms, Dutch architectural firms and the German business service sector, found that exporters are generally larger, pay higher wages and are more productive than non-exporters.¹⁶ Yet, according to the latter study, the turnover profitability of exporters remained below that of non-exporters. As a possible explanation, the author refers to the labour-intensity of the sector which might render it more difficult for exporters to absorb, via higher productivity, the extra cost of international trade or paying higher wages.¹⁷ Finally, firms with greater ability to accumulate knowledge were found to be more likely to export.

A closer look at European firms operating in individual sectors suggests that SMEs in wholesale trade tend to rely on direct exports, while those providing transport and communication services prefer subcontracting as their main form of internationalisation. SMEs offering business services were found to focus primarily on foreign direct investment and technical co-operation.¹⁸ Concerning relevant modes of supply, as defined under the GATS, little empirical evidence is available and, if so, the sectoral and geographical scope is quite limited. A study for Denmark

and supplying through a commercial presence abroad.¹⁹ This finding seems to apply across all service sub-sectors, except financial services, where SMEs operate almost equally strongly through cross-border exports and commercial establishment abroad.²⁰ The study on the export intensity of Spanish service exporters also suggests that larger enterprises rely as well on options other than cross-border exports, such as commercial establishment, to access foreign markets.²¹ Yet these results, as those for other studies on the trade/internationalisation activities of EU firms, may not be fully relevant to other countries insofar as they do not distinguish between intra-EU exports and supplies destined for external markets.

Box 1: USITC-studies on small- and medium-sized enterprises

USITC released three interrelated reports, requested by the United States Trade Representative (USTR), on the performance of SMEs in US exports in 2010. The third report, published in November 2010, analyses the export

experience of the firm.²³ These findings might be influenced, however, by the particular country and sector focus of the studies concerned.²⁴

Among the few surveys that specifically addressed obstacles affecting small- and medium-sized exporters, one carried out in 28 European countries is of particular interest.²⁵ The main findings confirm that (a) the perceived barriers to SME internationalisation may vary significantly across sectors and (b) their impact may change according to firm size.²⁶ Concerning the former observation, in manufacturing, construction and real estate, renting and other business activities, lack of knowledge of foreign markets is considered the main obstacle to exporting SMEs. In contrast, SMEs in hotel and restaurants complain predominantly about the impact of regulatory differences between EU countries, while firms operating in transport, storage and communication services seem to be most seriously affected by shortage of capital. Interestingly, the share of exporters not reporting any particular trade-related constraint is significantly higher in manufacturing (41 per cent) than in services (31 per cent). As regards the impact of firm size, it appears that

perceived information problems, the question arises whether developing-country service providers are aware of the existence of contact points in export markets, to be established under Article IV:2 of the GATS (Section IV.F), where they might obtain information, *inter alia*, on the commercial and technical aspects of supply. Also, to what extent are associations representing SME interests informed of the still on-going negotiations on regulatory disciplines under Article VI:4 and the possibility to draw, from their particular perspective, governments' attention to the stakes involved (Section IV.D(i))?

III. DISCUSSION OF SME-RELATED ISSUES IN WTO/GATS FORA

Concerned about trade barriers that might have a disproportionate impact on small service suppliers, several WTO Members raised SME-related issues at early stages of the Doha Round.³⁰ Among the impediments identified in meetings of the *Council for Trade in Services* were discriminatory and non-transparent regulatory frameworks; insufficient information about regulatory conditions; commercial presence requirements; lack of recognition of qualifications; restrictions on movement of personnel; burdensome licensing requirements that raise costs and impede access to the Internet; uncertainties surrounding the applicable legal framework, payment modalities and conditions governing the electronic delivery of services; and difficulties in obtaining related services (e.g. legal services, advertising, accounting services).³¹ SMEs were also deemed to suffer from genuine financial and human resource constraints, which limit their capacity to enter foreign markets other than via cross-border supplies (modes 1) and the movement of personnel (mode 4).³²

While these concerns appear to be widely shared in principle, it was also noted that the definitional delimitation of SMEs varies significantly between Members, reflecting the overall size of the economy and sectoral specificities.³³ Some delegations would have liked to develop a common understanding on the classification and definition of SMEs.³⁴ Number of employees, asset value and annual sales were the criteria most frequently referred to in this context, but market share has also been mentioned.³⁵ Annex 1 provides an overview of the definitions used by various Members, competent institutions and research bodies.

By the same token, several delegations cautioned against adopting a size-related negotiating perspective; trade rules that discriminate between enterprises of different size would hinder competition and compromise the efficient allocation of resources.³⁶ Yet, there were also voices, especially from developing countries, advocating a differentiated approach that takes into account the size of the supplier as well as the type of economy involved.³⁷ Accordingly, preferential treatment should be extended in particular to SMEs established in developing countries.³⁸ After some intensive discussions in 2001, the issue seems to have lost traction over time, despite some intermittent initiatives in 2005.³⁹ In September 2011, the Swiss delegation sought to reanimate the debate with a communication on the role of SMEs in the Swiss services economy, complemented in early 2012 by a submission discussing issues surrounding the electronic delivery of services from the perspective of SME exporters.⁴⁰ In addition, Turkey provided an informal document containing data on Turkish

³⁰ WTO documents S/CSS/M/9 of 22 June 2001; S/CSS/M/10 of 21 September 2001; S/CSS/M/12 of 28 November 2001; TN/S/W/5 of 1 October 2002; and TN/S/W/36 of 22 February 2005.

³¹ WTO documents S/CSS/M/8 of 14 May 2001; TN/S/W/5 of 1 October 2002; S/C/W/345 of 5 March 2012.

³² WTO document S/CSS/W/49 of 14 March 2001.

³³ WTO document S/CSS/M/10 of 21 September 2001.

³⁴ WTO document TN/S/M/4 of 11 February 2003.

³⁵ WTO document S/CSS/M/10 of 21 September 2001.

³⁶ WTO document S/CSS/M/12 of 28 November 2001.

³⁷ WTO documents S/CSS/M/10 of 21 September 2001 and TN/S/M/4 of 11 February 2003.

³⁸ WTO document TN/S/M/4 of 11 February 2003.

³⁹ WTO document TN/S/W/36 of 22 February 2005.

⁴⁰ WTO documents S/C/W/340 of 20 September 2011 and S/C/W/345 of 5 March 2012.

a priority in the WTO negotiations".⁴⁸ To what extent are other Members prepared to respond? According to Article II of the GPA, the agreement applies only to purchases above or equal to the threshold values specified in the Parties' annexes to Appendix I, usually around SDR 130,000 for central government entities. And this appears to be well beyond the reach of many SMEs.

IV. POLICIES AFFECTING SMEs - THEIR STATUS UNDER THE GATS

A. General Framework

The disciplines governing conventional merchandise trade under the GATT essentially focus on the treatment of products traded cross-border between WTO Members. In contrast, reflecting the GATS' extension to three additional modes of supply, consumption abroad (mode 2), commercial presence (mode 3) and presence of natural persons (mode 4), key disciplines extend as well to the treatment of service suppliers and their staff, either indirectly through measures operating on the consumer (e.g. tourists, students or patients) or directly in the form of investment grants, equity ceilings, work permits and the like. For each subsector inscribed in its schedule of commitments, a Member must specify the levels of market access and national treatment accorded under the four modes of supply. While market access commitments relate to the absence of six types of restrictions operating on services or service suppliers, listed in Article XVI:2 of the GATS, national treatment commitments, governed by Article XVII, essentially guarantee the absence of any measure that would modify the competitive conditions between domestic services and service suppliers and their foreign equivalents. In addition, pursuant to Article XVIII, Members may undertake additional commitments with regard to measures not falling under Articles XVI or XVII; such commitments could consist of 'positive' undertakings relating, for example, to the adoption of international standards or specified competition disciplines.

To protect the right to depart from unfettered market access and national treatment, governments need to inscribe the measures they might want to maintain or introduce as limitations in their respective schedules of commitments. Article XVI:2 provides that four of the six types of restrictions concerned - quotas on the number of suppliers, total value of transactions or assets, total number of operations (e.g. establishments) or quantity of service output, and total number of natural persons involved - might also be maintained in the form of an economic needs test.⁴⁹ In non-scheduled sectors, Members are free to completely deny market access or national treatment albeit they remain subject to the most-favoured-nation (MFN) clause, that is the requirement not to discriminate between trading partners. MFN treatment must thus be extended regardless of the existence of commitments, though the possibility of departures exists in specified circumstances, including among participants in regional trade agreements.⁵⁰ Similarly, even in scheduled sectors, individual modes can be completely exempt from any bindings concerning market access or national treatment. There is one important caveat, however: scheduled limitations protect a Member's right to maintain or introduce the specified measure(s), but do not necessarily reflect the actually prey.^{8(emtrouduc.1323 Tw}

The flexibility of the GATS allows Members to exempt sectors or market segments from commitments that are typically served by small suppliers. However, such cases are relatively rare. Certainly more frequent are limitations that, without directly targeting suppliers of different size, do have size-specific effects. For example, restrictions on cross-border supply tend to render it more difficult for smaller firms to compete effectively with larger companies, which may find it easier to mobilize the necessary financial and human resources to establish a permanent presence. Similar effects may arise from limitations that require the parent company abroad to have been established for a certain minimum number of years, thus effectively precluding relatively young firms, which are likely to be smaller than their older peers, from moving into the market concerned.⁵² In addition, a variety of policy measures that may have size-specific effects are not subject to scheduling at all, including minimum-capital and other minimum-size requirements.⁵³ The status of certain other measures, such as local-presence requirements, may need to be assessed case-by-case in the light of potentially relevant provisions (Section IV.D(i)). For example, it could be argued that the latter requirements modify the conditions of competition between domestic and foreign service suppliers in the sense of Article XVII whenever (i) the services concerned could easily be provided cross-border and (ii) relevant rules are more difficult/costly for foreigners to comply with than for domestic firms.

B. SME-related policies as reflected in schedules of commitments

SME-related policy interests may be reflected in schedules of commitments through (a) the exclusion of 'sensitive' sector segments from any access obligations or (b) limitations on market access or national treatment that provide scope for size-related policies which would otherwise be inconsistent with full, that is unqualified, commitments. Albeit Article XVIII would allow Members to undertake additional commitments in pursuit of SME-related policy objectives, it has not played a particular role to date, in whatever sector, with the possible exception of telecommunication services.⁵⁴

(i) Sector column

In the Scheduling Guidelines⁵⁵, Members are called upon to rely on the Sectoral Classification List (MTN.GNS/W/120) developed by the then GATT Secretariat in 1991. The list distinguishes some 160 sub-sectors, allocated to 12 'mega-sectors', which cover the full services spectrum from business services, communication services and so forth to a residual category of other services. While expressly recognizing that Members may use their own classifications or definitions, the Scheduling Guidelines recommend in such cases to provide sufficient detail so as to avoid ambiguities. A number

of Members have used this element of flexibility to simply exempt sector segments served by SMEs from their specific commitments, thus retaining the right to operate whatever protective measures, from outright entry prohibitions to exclusions from domestic subsidy schemes, they feel needed. For

m² and over. In other words, foreign architects involved in smaller projects could directly interact with their South African clients. While possibly motivated by other (liability-related) considerations, relevant measures, if actually implemented, would certainly have size-related implications.⁶²

In contrast, a few Members have explicitly spelled out size-related criteria in relation to the economic needs tests (ENTs) they scheduled under market access for mode 3. Cases in point are references to floor space or number of rooms, geographical spread, type of neighbourhood, distance between existing facilities and the like.⁶³ It is important to bear in mind, however, that a significant share of ENTs, over one-third, does not indicate any criteria, contravening a recommendation in the Scheduling Guidelines ("the entry should indicate the main criteria on which the test is based", para 9), while many more such tests provide only vague indications. In turn, this implies that size-related policy intentions might be pursued with a far higher number of ENTs than those setting out relevant criteria.

Another scheduling issue that might warrant attention are relatively frequent denials of bindings on cross-border trade in sectors such as hotel, restaurant or hospital services. In a number of schedules, this is attributed, in related footnotes, to the technical non-feasibility of such supplies. However, pursuant to Article XXVIII of the GATS, "supply of a service includes the production, distribution, marketing, sale and delivery" - and in most sectors at least marketing and sale can easily be conducted cross-border. The absence of bindings in these particular cases of (perceived) technical non-feasibility is indicative of the fact that many current commitments are out-dated, reflecting the technical and commercial reality some 20 years ago when e-trade was in its infancy.⁶⁴ While it could be argued that the emergence of IT-enabled services, overall, has tended to benefit SMEs (Section II) and that there is considerable scope for potentially relevant changes in commitments, without progress in the Doha Round, would Members be prepared to reconsider the schedules they submitted in the (electronic) Stone Age?

(iii) National treatment

The most frequent national treatment limitations that are explicitly size-specific relate to subsidies under mode 3, sometimes in combination with one or more other modes. For example, under mode 3, Mexico has denied bindings "for research and development subsidies and incentives to small service enterprises" owned by its nationals. As in many other cases, an element of uncertainty remains insofar as there is no further clarification of the definitional scope of 'small service enterprises'.

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Training requirements, typically scheduled under modes 3 and 4, may have similar effects if enforced in practice, that is tilting the playfield against small foreign service providers. Such requirements are contained in the horizontal section of 12 schedules (Botswana, Cambodia, Cape Verde, Gambia, Guatemala, Honduras, Kuwait, Lesotho, Nicaragua, Papa New Guinea, Qatar and Solomon Islands).⁶⁶ Further examples can be found in a sectoral context, including in tourism services

may well be maintained despite the existence of full commitments, that is unfettered liberalization in terms of market access and national treatment, in the areas concerned. Five potentially relevant categories of measures are discussed below.

(i) Market regulation and control

Among the many policies that define the framework conditions of market entry and market participation, with potentially size-related effects, the following tend to favour small-scale entities *vis-à-vis* larger competitors:

- (a) strict zoning laws, including restrictions on maximum service areas, and opening hours;⁷¹
- (b) obligations on providers of infrastructural services, in particular financial services, to prioritize SMEs, for example via preferential lending⁷²;
- (c) competition disciplines that seek to ensure continued market contestability and prevent abuse of dominant positions (merger controls, prohibition of collusive practice, etc.); and, in a similar vein,
- (d) prohibitions/restrictions on performing multi-product activities (for example,

schedules as well. Of course, in the absence of further indications, such entries do not allow for discriminatory application that would create niches for domestic small-scale investors. However, they might ease the adjustment pressure on incumbent suppliers, possibly relatively large and mostly domestically-owned facilities, on a commitment's entry into force.

There is an additional aspect to be kept in mind: the still on-going negotiation on domestic regulatory disciplines as foreseen under Article VI:4 of the GATS. The relevant mandate provides for the development of any necessary disciplines to ens⁵⁴

their intended purpose in a reasonably efficient manner? However, this is in the end for the individual governments to consider.

(iii) Export-related support

Unlike the GATT, its counterpart in merchandise trade, the GATS does not restrict Members' ability to curtail or promote exports. There is neither a services equivalent to GATT Article XI which, subject to certain caveats, bans the use of export quotas, nor to the prohibition of export subsidies pursuant to Article 3(a) of the Agreement on Subsidies and Countervailing Measures. While the GATS' modal structure is defined in a neutral way, regardless of the direction of trade, its key obligations, most-favoured-nation treatment, market

improve awareness of available support services, ensure consistency of existing schemes, promote clusters and networks for SME internationalisation, better communicate the benefits of trading internationally, and the like.⁸⁵

(iv) Preferences in government procurement

Within the WTO's remit, the main existing disciplines on government procurement are contained in the plurilateral Agreement on Government Procurement (GPA, see Section III). Currently, the GPA covers only a limited number of Members, mostly economically advanced, and the commitments are subject to exemptions and minimum threshold values.⁸⁶ However, the recent conclusion of the GPA renegotiation might facilitate accession to the Agreement by additional WTO Members, such as China, Jordan and Ukraine, which have commenced the acceding process, and possibly others.⁸⁷

The GATS does not impose any effective disciplines on a government's use of procurement for whatever policy purposes. Article XIII provides that the MFN (Article II), market access (Article XVI) and national treatment (Article XVII) obligations do not apply to the purchase of services by governmental agencies for governmental purposes. Thus, GATS Members' schedules of commitments do not capture any discriminatory elements contained in, or arising from, national procurement laws, regulations or requirements. Article XIII also calls for multilateral negotiations on government procurement to be conducted, but no tangible progress has been achieved to date in these negotiations.

Relevant information on SME-related procurement practices may be derived from a variety of other sources, including TPR reports and Notes submitted under the GPA. As a case in point, the United States provides for set-asides for small and minority businesses, that is it reserves the procurement of supplies or services valued between US\$3,000 and US\$100,000 exclusively for small business concerns.⁸⁸ These set-asides, which ranged from 12.5 per cent of covered federal procurement in 1992 to 22 per cent in 2007, are granted only to domestically incorporated firms.⁸⁹ Exemptions for small business set-asides from GPA coverage have been also listed by Canada and Korea.

In contrast, according to a 2005 survey, among 28 countries in Europe only Greece had a regulation expressly favouring SMEs in public procurement.⁹⁰ Under relevant legislation, companies were registered in classes depending on their size and the level of the budget of contracts sought; lower-class registered companies could compete for smaller contracts while higher-class registered

⁸⁵ European Union (2011), *op. cit.*

⁸⁶ In early 2012, the GPA had 15 Parties, covering 42 WTO Members (including EU 27).

⁸⁷ For related details see Report (2011) of the Committee on Government Procurement (WTO document GPA/110 of 16 November 2011).

⁸⁸ This applies unless the contracting officer determines there is "not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery". Concerning acquisitions exceeding US\$100,000, these are to be reserved for small business participation when there is "a reasonable expectation that offers will be obtained from at least two responsible small business concerns and awards will be made at fair market prices". See Federal Acquisition Regulation, 19.501(a) and Federal Acquisition Regulation, 19.502-2. See above n 46.

⁸⁹ The target group are business entities "organized for profit, with a place of business located in the United States and which operate[s] primarily within the United States or which make[s] a significant contribution to the US economy through payment of taxes or use of American products, materials or labour", that are independently

Article XVI of the GATS. In other words, there would be no scope for operating measures restricting market access with a view to protecting outlets for whatever type of domestic suppliers.⁹⁶

F. Potentially relevant transparency disciplines

In consulting schedules it is important to bear in mind, as noted before (Section IV.A), that limitations serve to protect a Member's right to maintain or introduce the measure concerned. Like GATT-bound tariffs, they define the outer limits of legitimate protection, but must not be equated with prevailing market conditions which can be more liberal at any time. And, of course, scheduled limitations provide no indication of regulatory measures or recognition initiatives that, depending on the sectors and modes concerned, may affect access as much as, or even more, than limitations in the sense of Articles XVI and XVII.

Pursuant to Article III:3 of the GATS, any changes to laws, regulations or guidelines that "significantly affect" trade in committed sectors would need to be notified to the Council for Trade in Services. This is regardless of whether such changes fall under the provisions of Articles XVI or XVII of the GATS (market access and national treatment, respectively) or whether they consist of domestic regulatory adjustments that are not subject to scheduling. It might thus be expected that the notifications received over the years, at least in committed sectors, would indicate directions of policy change, including in areas relevant to SMEs. However, Article III:3 has been widely ignored.⁹⁷

Over the past decade, some 350 pertinent notifications have been received, of which more than one-half originated from three Members only (Albania, China, and Switzerland). With possibly the sole exception of Brazil, there is no indication in any of these notifications that the measures taken would have been prompted by, or directly contributed to, SME-related policy objectives or concerns.

practice these contact points provide information to any interested foreign supplier, whether from a developing or a developed country. Nevertheless, this issue might deserve Members' further attention - not least from an SME perspective.

Close to 90 Members have notified the Council for Trade in Services of the establishment of such contact points.¹⁰²

opportunities for small companies and/or SME-specific employment criteria, with 18 cases in the horizontal section.¹⁰⁹

Table 1: Entries in GATS schedules potentially benefitting domestically-owned SMEs

Measure	Most relevant column/mode	Number of Members/Schedules		
		Total	Horizontal Section	Sector Section ^(a) (Three most frequent cases)
(i) Explicitly size-related limitations				
Reservations/exclusions of SMEs from commitments	MA / 3	42	18	Banking (13) Hotels and restaurants (11) Insurt.(s(commitmccd dis9(b)116r)4-5.5(1(s); Twlimig1

Concerning individual services, hotels and restaurants again account for the lion's share of the sector-related limitations, contained in 11 schedules of our sample, followed by financial services (4) and distribution services (2).¹¹⁶

Relatively frequent, in ten of the reviewed RTAs, are references, mostly in general terms, to small- and medium-sized enterprises with respect to *government procurement*. For example, Article 127:3 of the Economic Partnership Agreement between Japan and Mexico establishes that the parties, with a view to maximizing access to their procurement markets, develop concrete measures for co-operation and, in doing so, give special attention to small businesses. Yet, as in virtually all other cases, no further details are given as to the modalities and measures to be taken, nor benchmarks for SME involvement.¹¹⁷

C. Size-related effects of scheduling preferences across modes - GATS vs. RTAs

An ever increasing number of publications deals, in a comparative way, with the obligations assumed by different WTO Members under the GATS and, generally more recently, under regional trade agreements. One study stands out in the current context insofar as it focuses on SME-related implications to be expected from differences in scheduling patterns between the two sets of commitments.¹¹⁸ Starting point is the assumption, based on existing small-business studies and other sources, that SMEs typically prefer exporting through 'soft' modes of supply, de-linked from commercial presence (e.g. cross-border supply and movements of contractual service suppliers (CSS)). In contrast, large companies are deemed to rely more strongly on foreign direct investments and movements of intra-corporate transferees which, in turn, are contingent on the supplier being established abroad.

The study compares the number of commitments, per mode of supply, offered in the Doha Round context by 49 WTO Members in 51 sub-sectors with the same Members' RTA schedules.¹¹⁹ In this context, for each country only the best RTA was chosen, based on the number of commitments for contractual service suppliers (CSS). The 51 sub-sectors were selected according to their presumed relevance for CSS and the relative importance of cross-border trade. The DDA offers and RTA commitments were not analysed in terms of specific

standards, high licensing fees, non-recognition of relevant professional training and experience, and so forth. Obviously, this could lead to two strands of action: liberalization initiatives within the meaning of Article XIX and development of regulatory disciplines pursuant to Article VI:4 of the GATS. In addition, there might be scope for measures promoting the operation of the contact points for developing countries' service suppliers that are to be established under GATS Article IV:2 as well as the notification and, possibly, extension to third countries of recognition measures taken under Article VII. The latter initiatives could be launched at any time, regardless of the fate of the Doha Round.

Ideally, Members might also want to reflect on whether and to what extent current policies to promote their own SME interests are contravened by similar efforts abroad. Is there scope for 'mutual disarmament', e.g. parallel reductions of SME-related entry barriers, termination of discriminatory subsidy schemes, procurement restrictions and the like by larger groups of Members? By the same token, are there alternatives to heavy regulatory interventions (high minimum equity requirements, etc.) that could achieve similar objectives with a less deterrent impact on SMEs?

If there is a will, one might expect that there is a way...

Annex 1: How small are small- and medium-sized enterprises?

The definition of SMEs tends to vary across countries and, sometimes, sectors. Nevertheless, there are some widely used criteria such as number of employees, annual turnover and, occasionally, sales, asset values, market shares or investment. According to a definition applied by the *World Bank Group*, small enterprises have total assets and annual sales between US\$100,000 and US\$3 million, while the assets and sales of medium enterprises fall within a bracket of up to US\$15million.¹²⁰

In *India*, under a law of 2006, service enterprises are classified as micro, small or medium if their investment in equipment does not exceed US\$20,000, US\$400,000 or US\$1 million, respectively.¹²¹ The *European Commission* considers micro enterprises to have fewer than 10 employees and total annual turnover or balance sheet below €2 million, followed by small enterprises of up to 49 employees and annual turnover/balance below €10 million, while medium enterprises have fewer than 250 employees and annual turnover or balance sheet of up to €50 million or €43 million, respectively.¹²² In contrast, in a comparatively small country such as *Barbados*, micro enterprises are defined to have fewer than 5 employees and annual turnover inferior to US\$25,000 whereas small firms have fewer than 25 employees and no more than BB\$1 million as stated or paidunstatehav016 0

have fewer than 100 employees and total sales inferior to 30 million renminbi, and medium-sized firms have up to 200 employees and no more than 300 million renminbi in total sales.¹²⁸

Similarly, various size brackets are used by the *United States'*