

## **EFN ASIA Conference 2010**

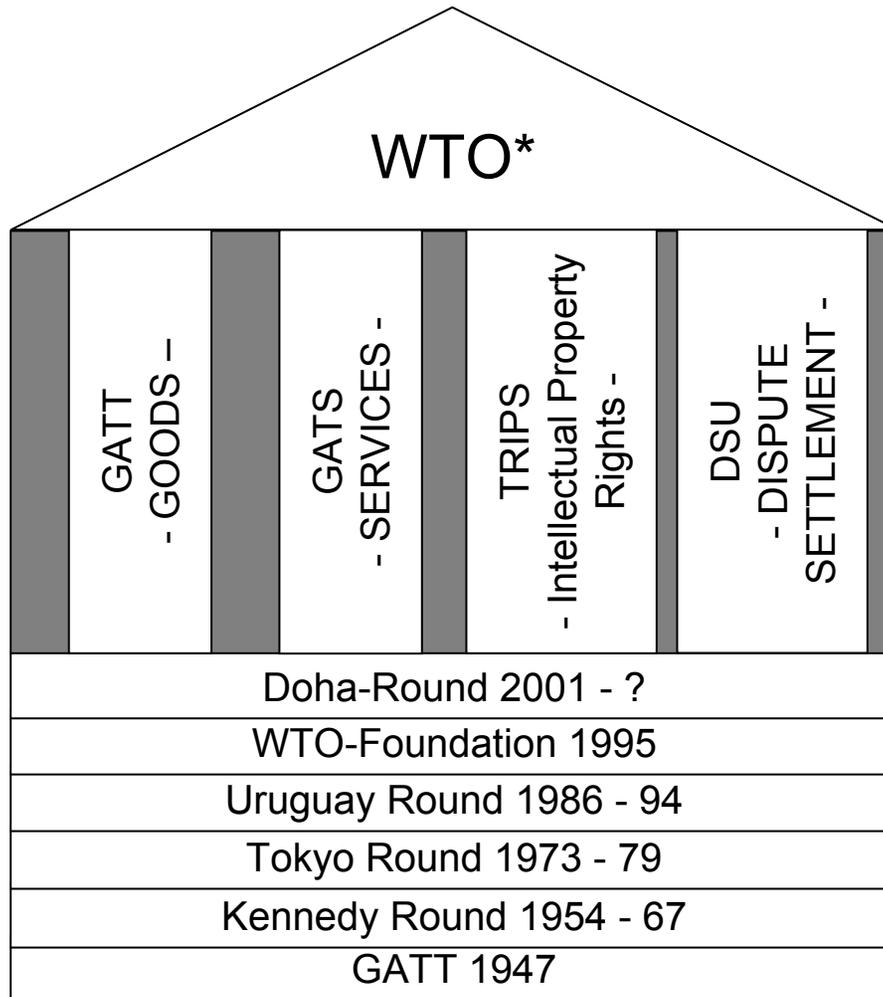
Jakarta, Indonesia (October 7- 9, 2010)

### **The Problems of Services in the WTO- Doha Round**

Panel: ‚Freeing Trade in Services‘

Dr. Wolf-Dieter Zumpfort, Vice-President of the Board of Directors FNF

# 1. Organisation of World Trade



**\*WTO Minister-Conferences:**

- Hong Kong 2005
- Cancun 2003
- Doha 2001

## 2. The 1995 WTO-Agreement

- The Uruguay Round of Multilateral Trade Negotiation (1986 – 1994)
- concluded the following framework agreements on world trade:
  - GATT– General Agreement on Tariffs and Trade
  - GATS– General Agreement on Trade in Services
  - TRIPS –Trade-related Aspects of Intellectual Property Rights
  - DSU – Dispute Settlement Unitand  
led to the foundation of the World Trade Organization (WTO) in Geneva

### 3. WTO- History and Principles

- Leitmotiv: ‚World Peace through World Trade‘
- 1947: → 20 Members
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- 2010: → 153 Members
- ‚One country, one vote‘
- Dispute Settlement Mechanism (DSU)
- Most-Favourite-Nation-Status (MFN)
- Integration aid for developing nations (S+D)

## 4. WTO- Success

- Average GDP- growth rate of industrialized nations:

2000 -2008 ~ 2,8%

- Average growth rate of world trade:

2000 -2008 ~ 7%

- World trade in goods and services 2008:

	In Bill. US\$	In %
<b>Industrial Goods</b>	32,492	81,7
<b>Commercial Services</b>	7,270	18,3

- Average tariff rates on industrial goods have declined from over 100% to 5% from 1947 to 2008

Source: WTO – World Trade 2008/2009

## 5. Structural Problems in the WTO

- Heterogeneity of WTO members
  - Industrialized nations (e.g. EU, US, Japan)
  - Emerging market countries (e.g. India, Brazil, China)
  - Developing nations (LDC, LLDC)
- Complex negotiation strategies
  - Single undertaking: nothing is agreed until everything is agreed
  - Sectoral agreements
  - The EU has one WTO seat but consists of 27 member states
- Political cycles hardly correspond to WTO-negotiating cycles
  - Change in government, national election campaigns
  - Length of negotiations  $\neq$  Legislative periods

## 6. Problems of the Doha Round

- The Doha Round of 2001 followed after the failed minister-conference in Seattle (1999) and initiated the Doha Development Agenda (DDA)
- Subsequent WTO minister-conferences ended without success
  - 2003 Cancun
  - 2005 Hongkong
- Vain attempt to reach an agreement in Juli 2008 (Geneva) due to lacking political will selected causes for failure:
  - ‚Take part but don‘t commit‘
  - No real deal / binding overhang
  - ‚Who serves first has lost‘- (Blame Game)
  - Emerging market countries versus industrialized nations
  - Advances of bilateral and regional agreements
  - LLDC-support: ‚Everything-but-Arms‘

## 7. Agricultural Products (Agriculture) versus Industrial Goods (NAMA)

- World trade is being affected by both tariff and non-tariff trade barriers
- Disputes on tariffs:
  - Swisse formula
  - Coefficient
  - Flexibility
  - Non-discrimination
- Disputes on non-tariff barriers
  - Subsidies
  - Trade Facilities
  - Protective clause (SSM)
- Services are not included into the negotiations (‘Slavery of Services’)

## 8. International Trade in Services

- More than half of the EU's overall economic production and employment derive from commercial, non-governmental services
- Although services are playing an increasing role in world trade, they accounted for only 18% in 2008
- Contrary to the production and to the trading of commodities, the delivery of services is in most countries subject to intensive government regulation:
  - national interests dominate
  - Government services monopolies are protected from competition
  - Restrictions exist e.g. on business activities, real estate acquisition, immigration and employment
- The liberalisation of services markets has become a global issue in the present Doha round besides the liberalisation of agricultural and commodity markets

## 9. Trade in Services (GATS)

- The Agreement on Trade in Services (GATS) came into effect in 1995
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- GATS differentiates four different provision modes of trade in services:
  - Mode 1: Crossborder supply
  - Mode 2: Consumption abroad
  - Mode 3: Commercial presence abroad
  - Mode 4: Presence/ transfer of natural persons across borders
- GATS- commitments are reviewed automatically every 5 years (build-in-agenda)
- The GATS 2000-Process currently takes place in Geneva and is part of the Doha round negotiations (single undertaking)

## 10. The Problem of Negotiating Trade in Services

- Commitments are voluntary
- Services' sectors, Modes 1 to 4 and international DL-Statistics do not match
- Negotiating strategies: supplies of and demands for sectors and countries are insufficient (improvements were requested since Hong Kong 2005)
- Negotiating tactics: bilateral negotiations between 90/ 40 voluntary participants on 20 sectors are extremely time-consuming
- The current modus operandi corresponds to Lamy's "Rubik's Cube".

## 11. GATS Mode 4

–Mode 4 is defined in Article I.2 (d) of GATS as being “the supply of a service... by a **service supplier** of one Member, through presence of natural persons of a Member in the territory of another Member”

–Mode 4 service suppliers:

- gain entry for a specific purpose
- are normally confined to one sector
- are temporary

–GATS does not apply to measures concerning individuals independently seeking access to a member states’ labour markets

–Mode 4 includes service suppliers at all skill levels, but in practice WTO members have been more committed to highly skilled people

–Commitments on mode 4 generally take the form of “unbound except for...” and then state special access conditions for particular levels of skill, types of occupation and purpose of their movement

–Economic needs or labour market tests (ENT) are mostly scheduled as part of these commitments and generally apply to specialist personnel, or highly qualified professionals. managers and executives.

## 12. An EU-Perspective on Mode 4

- The EU views the services negotiations as an essential part of the DDA
- An EU- objective is to transform the results of the ‚Signalling Conference‘ (2008) into commitments
- A successful conclusion of the Doha-Round would bind the current level of market opening in many areas, especially with regard to the global financial and economic crisis
- The EU is aware of the expectations regarding the EU’s Modus 4 offer:
  - It’s revised version would provide an extended sectoral coverage for Contractual Service Suppliers and Independent Professionals
  - A numerical ceiling is scheduled to replace the Economic Needs Tests
  - However: the offer of the numerical ceiling is said to be conditional on substantial movement of others regarding key EU requests

## 13. The Perspective of Developing Nations

- The reduction in tariffs created a distortion in the global economy: increasingly free flow of goods, capital and services across borders coexists with restrictions on labour mobility
- Developing nations seek agreements on temporary labour migration, since they have a comparative advantage for the provision of labour-intensive services
- They are therefore particularly concerned with Mode 4, dealing with migrants travelling from their own country to supply services in another
- They seek the removal of major obstacles including the GATS Mode 4 Economic Needs Testing (ENT) as well as visa and work permit hurdles. In addition, they seek to reach the recognition of qualifications through a multilateral framework
- In the absence of significant liberalization under Mode 4, the value of GATS to developing countries is significantly limited

## 14. Labour Mobility in GATS-Negotiations

- The WTO Hong Kong Ministerial Conference in 2005 approved a Declaration with an Annex C on Services that did not satisfy anybody:
  - EU wanted the text to be more ambitious in exchange for limited commitments on agriculture
  
- Annex C was the most controversial part of the Declaration. On Mode 4, it refers to “new or improved commitments on the categories of Contractual Service Suppliers, Independent Professionals and Others, de-linked from commercial presence”
  
- G90 nations (incl. African Caribbean and Pacific countries, the LDC group, the African Union) proposed a stronger wording in an “Alternative Annex C” committing WTO members to “improvements in all four modes of supply both in terms of market access and national treatment and in particular Mode 4 liberalization in categories de-linked from commercial presence”

## 15. How/ When will Doha continue?

- International financial crisis (G20 influence)
- World economic crisis
- Transfer of natural persons- Transfer of know-how – Safeguarding results
- Continuous negotiation of bilateral / regional agreements
- Conclusion: not prior to 2011; but: where do we start negotiating?

## 16. The Risks of ‚non-Doha‘

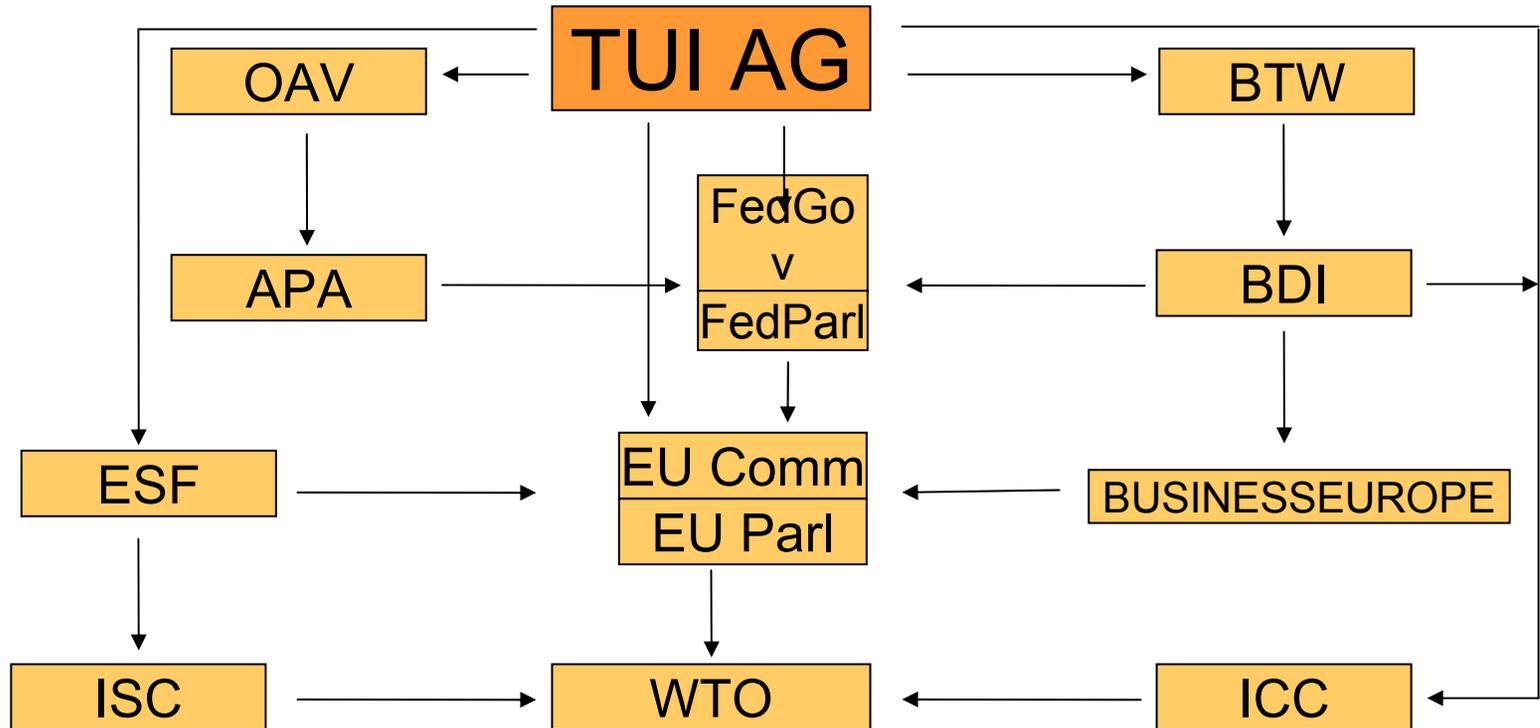
- The dangers of a ‚non-Doha‘ Round are considerable:
  - Pronounced trend towards preferential trade agreements (PTAs)
  - Increased complex regulatory environment for companies engaged in cross-border trade
  - Increased restrictions on trade opportunities for developing nations
  - A weakening of the multilateral trading system
  - A foregone opportunity to improve WTO rules and liberalize world trade
  - A potential rise in protectionism and economic nationalism

## 17. Weblink

- [http://www.freiheit.org/files/152/OC41\\_Zumpfort.pdf](http://www.freiheit.org/files/152/OC41_Zumpfort.pdf)



## 18. Appendix I: Lobbying for Advancing Services



## 19. Appendix II: Memberships and Functions

- Memberships of the company lobbyist Dr. Wolf-Dieter Zumpfort, head of the Berlin Office of TUI AG

**BDI** Federation of German Industry, Berlin

- International Relations Committee
- Working Party on International Services (Chairman)
- USA Working Group
- EU Breakfast Round

**ESF** European Services Forum, Brussels

- Policy Committee

**ICC** International Chamber of Commerce, Paris

- Commission on International Trade and Investment Policy
- Board Member of ICC Germany, Berlin

**OAV** East Asian Association, Hamburg

- Country Committee China

**BUSINESSEUROPE** The Confederation of European Business, Brussels

- International Relations Committee
- WTO Working Group
- WTO Services, Sub-Working Group (Chairman)

## 20. Appendix III: Abbreviations

APA	Asia-Pacific Committee of German Industry
ASTV	Committee of Permanent Representatives, Brussels
BDI	Federation of German Industry, Berlin
BTW	Federation of the German Tourism Industry, Berlin
EP	European Parliament, Brussels and Strasbourg
ESF	European Services Forum, Brussels
EU Comm	European Union - Commission
EU Parl	European Union - Parliament
ICC	International Chamber of Commerce, Paris
ISC	International Services Coalition, Hongkong
OAV	East Asian Association, Hamburg
BUSINESSEUROPE	The Confederation of European Business, Brussels
WTO	World Trade Organisation, Geneva
FedGov	Federal Government, Berlin
FedParl	Federal Parliament, Berlin

- **Thank you for your attention!**