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# Analysis of Subsidies for Services

THE CASE OF EXPORT SUBSIDIES

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**OECD Trade Policy Working Paper No. 66**

**by Massimo Geloso Grosso**

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## ABSTRACT

This study presents an exploratory analysis of export subsidies in the services field. It draws from a variety of sources in an effort to provide insights into the characteristics and use of these measures. The report, while not generating accurate measures of the extent and effects of export subsidies for services, provides evidence that these measures are used by many countries in the developed and developing worlds to support a wide range of services sectors. The analysis also indicates that broadly speaking the definitions contained in the WTO Agreement on Subsidies and Countervailing Measures (ASCM) are relevant for services. The most important types of export support appear to be direct tax incentives, particularly profit tax exemptions or reductions. Based on the detailed analysis of export subsidies for services, the study then discusses some possible elements of a definition of these measures.

*Keywords:* Services, export subsidies, ASCM, GATS.

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The study is available on the OECD website in English and French at the following address: <http://www.oecd.org/trade>.

## ANALYSIS OF SUBSIDIES FOR SERVICES: THE CASE OF EXPORT SUBSIDIES

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## EXECUTIVE SUMMARY

This study aims at providing a first step in learning more about the nature and scope of export subsidies in the services field. There is recognition among a few WTO Members, international organisations, academics and other experts that export subsidies for services may merit further attention; private sector interest on these measures though has so far been largely missing. To date, notwithstanding efforts made by a few WTO Members to move the negotiations forward, progress on services export subsidies under GATS Article XV has been limited. One constraint in ongoing multilateral subsidies negotiations relates to lack of information on these measures.

Against this backdrop, this paper draws from a variety of sources in an effort to provide insights on the characteristics and use of possible export subsidies for services and to discuss definitional issues. The analysis is based on three main elements: 1) a review of existing work on services export subsidies in several fora; 2) an analysis of the findings of available surveys covering export subsidies for services; and 3) a qualitative discussion of the most prevalent types of services export subsidies. For analytical purposes, the study broadly relies on the definition of export subsidies contained in the WTO Agreement on Subsidies and Countervailing Measures (ASCM). The analysis excludes export credits apart from some mention in the literature review, as these are being addressed in the OECD Working Party on Export Credits and Credit Guarantees.

The study, while not generating accurate measures of the extent and effects of export subsidies for services, provides evidence that these measures are used by many countries in the developed and developing worlds. Business services, transport and tourism appear to be the most frequently targeted sectors. Another sector often benefiting from export support is the financial services sector. The review further indicates that broadly speaking the ASCM definition and the Illustrative List of Export Subsidies contained in Annex I of the Agreement are relevant for services. The most important types of export support appear to be direct tax incentives, particularly profit tax exemptions or reductions, followed by indirect tax and import duty incentives on inputs for export production and transfers of funds.

Nevertheless, several issues require consideration with respect to a possible definition of export subsidies for services in the WTO. These include the issue of subsidies that might be export contingent in fact, the question of whether changes may need to be considered because of the existence of the four modes of supply, and the treatment to be given to indirect tax and import duty incentives on goods inputs in the production of services exports. Further work is also needed to shed more light on the importance and possible trade effects of service providers in free trade zones (FTZs) and offshore programmes.

## I. Introduction

1. As part of reflections to learn more about the nature and extent of subsidies for services, this paper presents an exploratory analysis of export subsidies in the services field. The purpose is twofold. First, the study aims at enhancing understanding of the characteristics of export subsidies for services in the four modes of supplying services as defined in the GATS. Second, it provides information on the use of these measures across OECD and developing countries in a range of services sectors. This in turn could contribute to subsidies discussions under the GATS.

2. Countries utilise a wide range of measures to support service providers and consumers (both households and businesses) in an effort to offset market failures and achieve a range of policy goals. These latter include enhancing employment and exports, support specific economic undertakings or activities in certain regions, ensure access to services of general interest (e.g. education and health), foster R&D, promote cultural diversity and protect the environment. At the same time, subsidies give rise to concerns regarding their potential distortive effects on competition and international trade in services. Among the different types of subsidy measures provided to service suppliers, there is debate on the trade distortive effects of export subsidies.

3. In the case of goods, the trade distortive effects of export subsidies have long been recognised. By the addition of Article XVIB to the General Agreement in the 1954-55 Review Session, export subsidies on manufactured products were declared GATT-incompatible as of 1958, in an undertaking accepted by most industrialised countries. This was then extended to all WTO Members during the Uruguay Round with the Agreement on Subsidies and Countervailing Measures (ASCM). The elimination of export subsidies on agricultural products under the WTO Agreement on Agriculture, not achieved during the Uruguay Round though reductions were agreed, is a main objective which Members have set for the Doha Development Agenda.

4. Article XV of the GATS acknowledges that subsidies may in certain cases have distortive effects on trade in services, and mandates Members to enter into negotiations with a view to developing the necessary multilateral disciplines to avoid such trade distortive effects. The negotiations are also to address the appropriateness of countervailing procedures; and to recognise the role of subsidies in relation to the development programmes of developing countries, taking into account the need for flexibility in this area particularly for these Members. Article XV further calls on Members to exchange information concerning all subsidies related to trade in services that they provide to domestic suppliers.

5. To date — notwithstanding the importance of these talks, particularly for developing countries in light of more limited financial capacity, and efforts made by a number of WTO Members to move the negotiations forward — progress on Article XV under the auspices of the Working Party on GATS Rules (WPGR) has been limited. This includes little participation to the transparency exercise; so far, very few WTO Members have provided information on their subsidy programmes. In the context of negotiations on specific commitments under Article XIX, the sectoral proposals submitted by Members make very limited reference to possible distortive effects of subsidies to services.

6. Lack of multilateral progress on subsidies for services may be due to several factors. A major challenge relates to finding a middle ground between addressing any trade distortive effects of subsidies for services and ensuring the pursuit of public policy objectives. As noted, subsidies for services may appear to be necessary in order to reach economic, social and environmental goals. Another prominent constraint in ongoing negotiations relates to lack of definitions and conceptual uncertainties. Limited information on subsidies for services, including on their quantification, adds to the complexity of negotiations in this field.

7. Against this background, this paper aims to make a contribution to the debate on subsidies and trade in services by examining in detail export subsidies. Recognising that data on these measures are very limited, no attempt is made to investigate the trade effects of services export subsidies. Instead, the study draws on several sources of information in an effort to provide insights on the characteristics and use of these measures and to discuss some possible elements of a definition of these measures. The result is an analytical framework based on three main elements: 1) a review of existing work on services export subsidies; 2) an analysis of the findings of available surveys covering export subsidies for services; and 3) a qualitative discussion of the most prevalent types of services export subsidies. These approaches are combined to provide a unified analytical basis.

8. The next section of the report introduces the definitions of subsidies broadly used in the study and describes the scope of the review. Sections III, IV and V then present the main elements of the analysis as discussed above and Section VI summarises the key emerging issues for the negotiations. The last section concludes with a list of questions to foster greater discussion on the future treatment of export subsidies in the services field.

## **II. Definitions and scope**

9. Subsidies have been typically difficult to define since they can take a variety of forms. In the multilateral negotiating context, prior to the Uruguay Round subsidy rules were developed in the absence of a definition of subsidies. It was not until the ASCM that a definition of subsidies was established. For reasons of simplicity, this study focuses on direct transfers and tax exemptions. This is broadly the approach followed by the ASCM, where a measure amounts to a subsidy if it entails a government transfer of funds or if government revenue is foregone, conferring a benefit.<sup>1</sup> Similarly, the study broadly relies on the ASCM definition of export subsidies, that is “subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance”.

10. In the services field, definitional challenges are likely to be more acute and concerns have been expressed by a number of WTO Members on how the ASCM definition would need to be adapted in the services context. These include the importance of regulation for services, which may have the direct or indirect effect of imparting a subsidy. The existence of different modes of service delivery, resulting from the nature of many service transactions involving direct contact between producers and consumers, may add to the complexity of defining subsidies in the area of services. Other issues relate to how any agreement would address government spending on sectors perceived to be public services, and how remedies could be applied in the services context.

11. This study, while recognising these difficulties, relies on the ASCM definition as a point of reference to facilitate the discussion and provide a framework for enhancing information on these measures. Support programmes identified in the report may not necessarily represent export subsidies for services in that a definition of such subsidies does not currently exist. In the end, a definition of services export subsidies will depend on WTO Members’ views, including on what they identify as important in the context of services; they are not bound to use the ASCM definition. Also, “export” in the context of this study clearly has a broader meaning than in the ASCM because it is used in relation to the four modes of service supply. Box 1 provides examples of how export subsidies could be employed in each mode of delivery.

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<sup>1</sup> The ASCM definition also covers the provision of goods and services other than general infrastructure, purchases of goods and any form of income and price support.

**Box 1. Examples of export subsidies by mode of service supply<sup>2</sup>****Mode 1**

A resident who exports business services benefits from income tax deductions based on the ratio of export turnover to total turnover.

**Mode 2**

A tour operator receives cash grants on the basis of the number of tourists it brings into its country.

**Mode 3**

A tax exemption is available on profits from construction projects executed outside the country.

**Mode 4**

An employee of a computer software company is exempted from taxes on remittances from exports.

12. The report includes two special cases of state support for services that have been identified in the literature as requiring further analysis, namely free trade zones (FTZs) and offshore programmes. FTZs are still oriented towards manufacturing although evidence points to a tendency towards incorporating a range of services in these regimes (Abugattas, forthcoming; Engman *et al.*, 2007; and Prieto, 2003). In many cases, countries are also providing special incentives to services firms which are granted the status of “offshore companies”. Offshoring may merit attention in discussions under GATS Article XV since they are typically limited to the provision of services to non-residents.

13. The analysis excludes investment incentives aimed at promoting the internationalisation of domestic companies, which have been identified by some commentators as representing in certain cases services export subsidies (Abugattas, forthcoming). These programmes may not be considered export subsidies given that assistance might be provided to companies investing in foreign countries and is not contingent upon supplying services abroad through a commercial presence. Another special case, export credits, are excluded apart from some mention in the literature review, as these are being addressed within OECD in the context of the Working Party on Export Credits and Credit Guarantees.

### III. Review of existing work on services export subsidies

14. Export subsidies for services have been part of discussions in international trade negotiations and other fora over the last decade or so and have been the subject of a few analytical studies. This section summarises existing work and available literature on these measures. It first looks at discussions on services export subsidies at the WTO and progress made in regional trade agreements. It then briefly examines work in other international bodies and by academics, experts and other stakeholders. The findings from the principal surveys that include services export subsidies in their scope are presented in detail in the next section. Some of the studies and surveys reviewed are relatively old; more up-to-date research is not available.

#### *Work in the WTO*

15. Responding to a request by the WPGR, the WTO Secretariat prepared an initial *Note on Subsidies and Trade in Services* in 1997, identifying some of the salient issues to stimulate the discussion among Members (WTO, 1996a). The Note explored the approach to subsidies on the goods side in order to

<sup>2</sup> These examples are drawn from Section V below.



assist Members considering its suitability as a model for possible GATS disciplines. It explained that certain existing GATS disciplines already apply to subsidy practices, particularly MFN and national treatment. Making reference to export subsidies, the Note clarified that, unlike the GATT, subsidies contingent on export performance are not prohibited in the GATS; a Member that commits to provide national treatment, though, would be obliged to provide such subsidies also to all foreign providers with commercial presence in its territory. However, this obligation would not appear to affect a Member who grants a subsidy to its producers located outside its territory.

16. In 1998, the WTO Secretariat presented a Background Note to the WPGR containing evidence of subsidy programmes for services sectors, derived from information contained in the Trade Policy Reviews (TPRs) of 30 WTO Member countries and trading entities such as the EU (WTO, 1998). The WTO Secretariat has subsequently issued five addendums incorporating additional analysis covering 106 WTO Members.<sup>3</sup> Notwithstanding data and methodological shortcomings acknowledged by the WTO Secretariat (see Section IV), the TPRs represent the most comprehensive and comparable source of information currently existing on subsidy programmes in the services field. This includes state support measures promoting exports in various services sectors.

17. Meanwhile, export subsidies for services have been part of discussions in the WPGR. However, it should be acknowledged that, while touched upon a number of times by some WTO Members, export subsidies have never been a strong focus in the WPGR. Similarly, at least based on the public record, participants have come forward with limited if any evidence supporting the existence of services export subsidy programmes having a trade-distortive impact or effects on the commercial interests of their services providers.

18. In 2000, Brazil proposed that the WPGR concentrate work on subsidies contingent on export performance having effect on international trade in services, noting however that no precise information was available (WTO, 2000c). Later in 2004, Chile presented a communication which proposed to analyse examples of subsidy measures in services sectors, including an export subsidy programme. This gave rise to discussions among some Delegations on several conceptual issues surrounding export subsidies for services, including in relation to their characteristics, trade effects and the desirability of disciplining their use at the multilateral level.

19. Switzerland pointed out that services export subsidies are the most harmful since their purpose is always to affect trade and they distort competition in third markets. As such, they would detract from the benefits of securing market access commitments. In addition, since these measures are often non-discriminatory, they do not need to be scheduled despite being potentially distortive, leading to concerns of level playing field and lack of transparency. Furthermore, it would be important to address export subsidies for services in the multilateral context, since preferential trade agreements could not effectively tackle issues such as effects in third markets (WTO, 2004b).

20. Switzerland was therefore of the view that services export subsidies are a priority issue. On the definition, Switzerland thought that it would be useful to examine whether concepts similar to those contained in the ASCM definition could apply in the context of services. These include the Illustrative List of Export Subsidies contained in Annex I of the Agreement (WTO, 2004c). Chinese Taipei was also of the view that export subsidies for services could be a priority issue in the negotiations. It further noted that in general these subsidies have trade distortive effects, particularly in relation to cross-border supply of services (mode 1) which is a situation comparable to trade in goods. Korea supported the idea of exploring

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<sup>3</sup> WTO, 2000a; WTO, 2000b; WTO, 2002; WTO, 2004a; and WTO, 2007. Several Members have been reviewed more than once and some Members' programmes were not mentioned in the documents even though their TPRs were reviewed.

the feasibility of applying the concepts contained in Annex I of the ASCM in the services field (WTO, 2004c).

### ***Regional initiatives***

21. Progress in bilateral and regional agreements on subsidies for services remains limited, including in relation to rule-making on services export subsidies. This has emerged from two reviews undertaken by the WTO Secretariat in the context of the WPGR of services subsidy disciplines in regional arrangements (WTO, 1996b; and WTO 2003). The most comprehensive treatment of subsidies including in the services field is contained in the EC Treaty, which prohibits Members from granting state aid that distorts competition affecting trade flows. Export aid, by virtue of its distortive effects, is among the types of forbidden support.<sup>4</sup> Similar provisions are contained in the European Economic Area (EEA) Agreement and were also part of the Europe Agreements.<sup>5</sup>

22. The Protocol on Trade in Services to the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) establishes that Members should not introduce new or expanding existing export subsidies or incentives having a direct distorting effect on trade in services between them. It further stipulates that Members shall work towards the elimination of any such measures by 30 June 1990. Members of the Andean Community have agreed to develop rules on incentives granted to services exports in order to avoid distortions of competition in the sub-regional market, although such rules have yet to be adopted (Comunidad Andina, 1998). In the case of the Caribbean Community (CARICOM), the Revised Treaty of Chaguaramas calls on Members to harmonise national incentives including to services sectors.<sup>6</sup>

23. Several agreements provide for future consideration to develop substantive disciplines on services subsidy practices. The European Free Trade Association (EFTA), for example, establishes that Members shall review the scope of application of the Chapter on State Aid with a view to extend the disciplines on state support to the services field. Some initiatives — such as the Agreement between EFTA and Mexico and between New Zealand and Singapore — explicitly call on Members to pay particular attention to possible results of the negotiations under GATS Article XV, with a view to their incorporation into the agreements. In other agreements, subsidies have either been excluded from the coverage of disciplines relating to trade in services, or no specific disciplines on services subsidies are included.<sup>7</sup>

### ***Other international fora***

24. Within OECD, the Industry Committee undertook a project on public support to industry reviewing OECD Member country policies in this area over the period 1989-1998 (OECD, 1998). The project defined industry broadly including some services activities, such as transport, and provided quantitative estimates of all subsidies allocated to industry by Members. It found that public support to exports, including export credits, played a prominent role in national support policies of Members, though the focus of export promotion programmes was on manufacturing activities. Export credits have been the

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<sup>4</sup> An exception is made for certain types of “soft aid”, which may be indirectly linked to exports, e.g. aid to participate in international trade fairs and aid for consultancy under certain conditions. See the EC submission to the OECD Roundtable on Subsidies and State Aid held in February 2001 (OECD, 2001).

<sup>5</sup> Agreements between the then EC Member States and several countries that joined the EC at a later stage: Hungary, Poland, the Czech Republic, Romania, Bulgaria, Estonia, Lithuania, Latvia and Slovenia.

<sup>6</sup> Provisions on such incentives remain at a general level, but include national incentives to investment designed to promote export-led industrial and service-oriented development (CARICOM, 2001).

<sup>7</sup> Examples include NAFTA, CAFTA and the G-3 (Agreement between Mexico, Colombia and Venezuela).

subject of further OECD and other work<sup>8</sup> but, as noted, these measures have been excluded from the current analysis.

25. Subsidies for services have also been part of discussions in the OECD Committee on Competition Law and Policy. A Roundtable on Subsidies and State Aid was held in February 2001 providing evidence of the use of state support, including export subsidies, in some OECD countries and regulations in this area at the national and international levels (focusing on the EU). From the Roundtable it emerged that it would be desirable to subject state support to quality controls to ensure that government interventions promote overall economic welfare. When the affected market is global, controls on subsidies could be strengthened by enhancing the coverage and power of international authorities to ensure that countries eliminate such practices (OECD, 2001).

26. The UNCTAD Secretariat has conducted extensive work on foreign direct investment and the use of investment incentives, focusing on tax measures. In 2000, it released a Global Survey on Tax Incentives and Foreign Direct Investment (hereafter the “UNCTAD Survey”), which covers 53 mostly developing and transition economies and a wide range of tax incentives (UNCTAD, 2000). These include incentives targeted at export promotion of manufacturing and services activities, as well as FTZs and offshore programmes that include services in their scope. The UNCTAD Survey represents another relatively comprehensive source of information on subsidy measures relevant for multilateral discussions under the GATS.

27. The APEC Committee on Trade and Investment has also discussed the use of investment incentives as part of reviews conducted on Members’ investment regimes. In 2003, the APEC Secretariat published the latest edition of the Guide to the Investment Regimes of the APEC Member Economies (hereafter the “APEC Survey”), which covers issues relevant to export subsidies and related programmes including in the services field (APEC, 2003). Though not as detailed and comprehensive as the TPRs and the UNCTAD Survey for purposes of the WTO work programme on subsidies for services, the report contains nevertheless useful information on services export support of APEC economies. Its findings will therefore also be reviewed in detail in the next section.

### *Experts and other stakeholders*

28. Export subsidies for services are increasingly part of analytical studies by academics and other experts, including from organisations mentioned above. Benitah (2004) focuses on the question of “in law” versus “in fact” services export subsidies. He points out that while consideration could be given to prohibit the former under the GATS, disciplining the latter would be undesirable. Under the ASCM definition, state support can be considered export contingent in fact when the facts demonstrate that, without being legally contingent on export performance, it is tied to actual or anticipated exports.<sup>9</sup> Benitah suggests that in the case of tourism, for example, every subsidy provided to the sector could potentially fall under the ASCM definition of in fact export subsidies, since they are implicitly granted for anticipated exports and to earn foreign exchange.

29. Adlung (2007) is of the view that export subsidies may be considered prime candidates for GATS rules, particularly as they are difficult to justify on public policy grounds unlike other types of support. The study further elaborates on the issue of subsidies that are export contingent in fact and discusses the modal coverage of any multilateral disciplines on services export subsidies. In line with Benitah (2004), the study points out that it may be desirable to limit multilateral disciplines on subsidy measures that are export contingent in law. In the case of in fact export subsidies, Adlung suggests that difficulties arise for example

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<sup>8</sup>See for example OECD, 2003; and IMF, 1995.

<sup>9</sup>The mere fact that a firm receiving subsidies is engaged in exports is not alone sufficient to qualify the measures as export subsidies. See Article 3 of the ASCM.

in relation to incentives for attractive tourist destinations potentially being treated differently than similar incentives in other regions.

30. From a modal standpoint, the study points out that export subsidies under cross-border service provision (mode 1) and consumption abroad (mode 2) are the most relevant and the more obvious target for disciplines. Mode 1 appears to be the most important in light of the similarity with goods trade under the GATT; these subsidies could be prohibited as in the ASCM. Mode 2 may also be pertinent since there is evidence that export subsidies under this mode of supply are used in several sectors, particularly in tourism. Adlung argues that the case for disciplining export subsidies provided via commercial presence (modes 3) and the temporary movement of service providers (mode 4) is less compelling, since these cases are likely to be limited and any trade effect negligible.

31. Building on a previous report prepared in 2002, Abugattas (forthcoming) suggests an analytical framework under which state support to services can be assessed and reviews available information on subsidy programmes in a range of services sectors. The analytical framework provides for three broad types of support measures, according to whether the beneficiaries are households (or consumers), service suppliers or society as a whole. Export subsidies are a prominent example of *targeted* measures<sup>10</sup> benefiting providers. The study considers that the ASCM definition of subsidies contingent upon export performance is an adequate base to identify export subsidies in the case of services trade.

32. The review of subsidy programmes contained in the study highlights a number of findings with respect to export subsidies for services. First, it reports some evidence that these measures are employed by governments in both developed and developing countries to support exports in several services sectors. The pattern of their use appear to be different with the latter employing a more selective approach of mostly tax exemptions for exporters in particular sectors, while in developed countries general regimes promoting exports often also cover services. The study further identifies several special cases of state support for exports that may require further analysis in the context of subsidies discussion under the GATS. These include programmes noted above such as export credits, FTZs and offshore companies.

33. Export subsidies for services have however attracted little interest from the private sector so far. The most specific public statement found was made by the European Services Forum (ESF), which represents the interests of European businesses in a wide range of services sectors. In 1999, ESF acknowledged that many services sectors are subsidised in countries around the world. According to the Forum, export subsidies, or subsidies having effect in markets outside the subsidising Member, are the most trade-distortive. Therefore, in the ESF's view, consideration should be given in the case of services trade to discipline these measures at the multilateral level (ESF, 1999).

#### **IV. Findings from existing surveys**

34. Research aimed at obtaining a comprehensive and up-to-date picture of the landscape of export subsidies for services faces several obstacles, including lack of an agreed definition, limited knowledge of these measures both conceptually and empirically and paucity of data. As noted, the most comprehensive available set of data on subsidies for services is compiled by the WTO Secretariat, which draws from information contained in the TPRs. Two alternative sources of information on services export subsidies are the UNCTAD and APEC surveys, which include these measures as part of their review of investment incentives in foreign direct investment.

35. The advantages and shortcomings of the TPR reports for services subsidies in general have been well documented by the WTO Secretariat. The information on services subsidies is compiled against the

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<sup>10</sup> Whose main objective is to benefit a determined set of providers and beneficiaries.

general background of the ASCM definition, although the lack of detail in the description of subsidy programmes in the TPR reports makes it difficult at times to ascertain whether a programme falls under the definition. The selection of countries for review also did not adhere to any global scientific and statistical methodology, but simply followed the schedule of reviews previously established by the TPR Body. In addition, the TPRs tend to focus on a few key services sectors; the subsidy information compiled in the reports therefore only represents a sample of existing services subsidy programmes.

36. Furthermore, the coverage and content of reports are largely determined by the availability of data and, as such, absence of subsidy-related information in some reports does not necessarily point to the absence of such schemes in the countries concerned. Nevertheless, the TPR reports contain information from other sources such as international organisations and academic research papers and their factual accuracy has been checked by the country under review. Thus, they may be considered a reasonably reliable source of information in this area. Similar issues arise in the case of the UNCTAD and APEC reports. For these reasons, the surveys may not give a representative picture but combined they can provide useful insights for trade negotiators and policy makers in general.

37. With this in mind, this section reviews the findings of the three surveys focusing on export subsidies for services. For analytical purposes, the surveys' review uses the ASCM definition of export subsidies and develops a typology of export support broadly based on the Illustrative List of Export Subsidies in Annex I of the Agreement. In particular, it covers the following types of export subsidies:

1. Provision of direct subsidies contingent upon export performance
2. Export-related exemption, remission or deferral of direct taxes<sup>11</sup> and social welfare charges
3. Excess exemption, remission or deferral of indirect taxes<sup>12</sup> or import duties<sup>13</sup> on goods and services inputs used in the production of exports
4. Provision of goods or services used in the production of exports on more favourable terms
5. Export retention schemes which involve a bonus on exports

38. The first item relates to direct transfers of funds including grants and loans. To the extent possible, export credit programmes part of on-going discussions in the context of the OECD Working Party on Export Credits and Credit Guarantees are excluded from the analysis. Indirect tax remissions on exports of services are also excluded, since they would not be considered export subsidies according to the ASCM unless they are excessive.<sup>14</sup>

39. Indirect tax exemptions and import duties remissions or drawbacks on goods and services inputs used in the production of exports are included in the review. However, it is recognised that these measures may be considered export subsidies under the ASCM only when their remissions are in excess of those on like products when sold for domestic consumption and of those levied on imported inputs that are consumed in the production of exports. Similarly, government provision of goods or services for export

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<sup>11</sup> Including taxes on wages, profits, interests, rents, royalties and taxes on property ownership.

<sup>12</sup> Including sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes and border taxes (other than import duties).

<sup>13</sup> Tariffs, duties and other fiscal charges levied on imports.

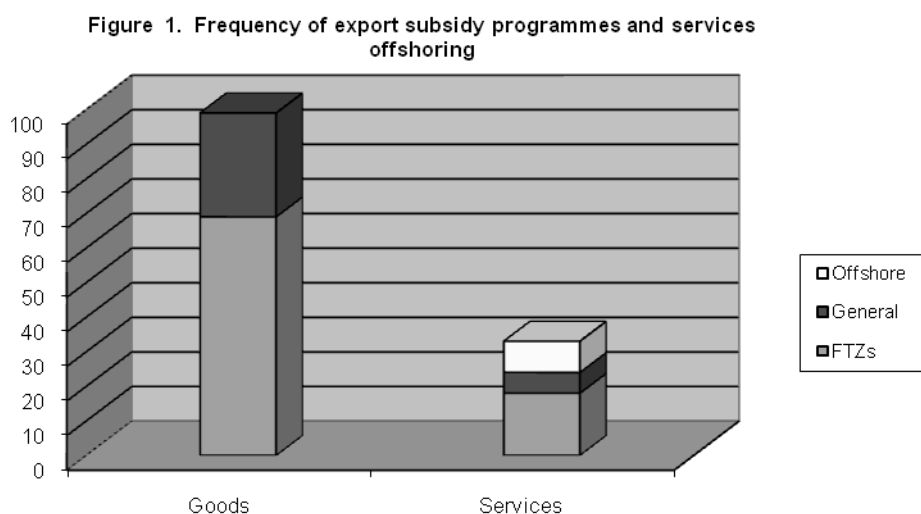
<sup>14</sup> See Footnote 1 of the Agreement. Exports are usually not subject to indirect taxes such as VAT to avoid double taxation on final consumption.

production may be treated as export subsidies only in certain cases.<sup>15</sup> As noted in Section II, FTZs and offshore programmes are included in the analysis.

### *The UNCTAD Survey*

40. The UNCTAD Survey covers a wide range of tax incentives for local and foreign firms and 53 mostly developing and emerging countries from four distinct regions of the world, namely Africa, Asia and Pacific, Europe and Economies in Transition, and Latin America. Incentives to promote exports of goods and services figure prominently, with more than 90% of the countries surveyed offering some form of incentive of this type. However, in several instances the information presented is at a level of generality that does not allow determining whether the programme in question is targeting goods or services or it is contingent on exports. Also, some programmes are limited to indirect tax exemptions on exported goods and services.

41. Figure 1 below presents the number of identifiable export subsidy programmes and Table 1 the breakdown of export support for services by type of taxes. Export subsidy programmes remain in place in many countries to promote goods exports and several of them also target services, to a large extent as part of FTZs. Some countries have also adopted offshore programmes benefiting generally financial services. Tax deductions on export profits and revenues from offshore activities are the most frequently used measures. Exemptions from or deductions of taxes on interest earned on loans and shareholder dividends, and remissions or drawbacks of import duties on goods used in export production are also employed by some countries. Apart from offshore programmes which, as noted, focus on financial services, the services sectors benefiting from export support are rarely mentioned in the Survey and are thus not included here.



Source: OECD based on UNCTAD, 2000.

<sup>15</sup> Under the ASCM, such supply becomes an export subsidy if two conditions are fulfilled. First, the terms and conditions should be more favourable than those for the production of goods for domestic consumption. Second, these terms and conditions should be more favourable than those commercially available on world markets to their exporters.

**Table 1. Services export subsidies and offshoring by tax incentive**

	Mauritius	Australia	India	Malaysia	Philippines	Singapore	Turkey	Lithuania	Colombia	Costa Rica	Guatemala	Panama
<b>Direct Taxes</b>												
Profit		■	√	●		● ■	■	√	√	√		■
Corporate							■					
Withholding										√		
Remittance									√			
Interest/dividend	■	■						√			●	
Royalties												
Assets and property								√		√		
Net worth										√		
<b>Indirect taxes</b>												
VAT					●					√		
Consumption										√		
Equipment					●							
Wharfage dues					●							
<b>Import duty</b>					●		■	√	√	√		
<b>Currency retention</b>									√	√		

Note: ● Export subsidy general; ■ Offshoring; √ FTZs.

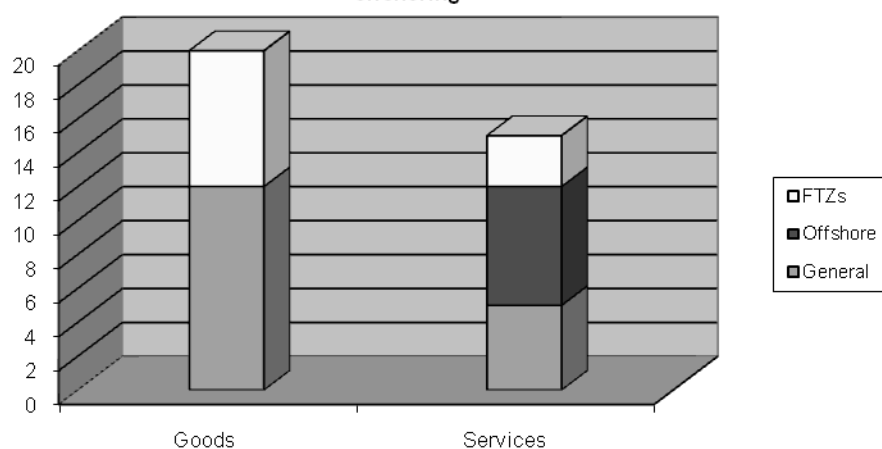
Source: OECD based on UNCTAD, 2000.

### *The APEC Survey*

42. In the APEC Survey, which covers the investment regimes of all APEC economies, a similar pattern on the use of state support for exports can be observed. 19 out of 21 APEC countries have some export support programme in place. As in the UNCTAD Survey, in some cases it is not clear whether the programme concerned is targeted to goods or services and some of them are limited to indirect tax exemptions on exports. Also, exception made for offshoring, it is generally not possible to identify the services sectors benefiting from the subsidies. This information is thus missing from the analysis.

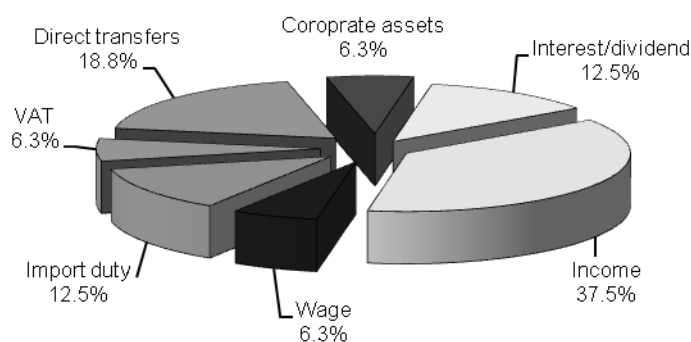
43. Figures 2 and 3 show that a larger number of support measures benefit goods exports, though several export subsidies and offshore programmes for services are employed as well. Seven APEC economies have such programmes in place, namely Australia, Brunei Darussalam, Hong Kong, China, Malaysia, Mexico, Peru and the Philippines. The most commonly used measures relate again to profit and corporate tax deductions on both exports and offshore activities. The survey goes beyond tax incentives and shows that some countries employ export support to services through direct transfer of funds, particularly in the form of favourable loans and deduction of losses.

Figure 2. Frequency of export subsidy programmes and services offshoring



Source: OECD based on APEC, 2003.

Figure 3. Services export subsidies and offshoring by measure



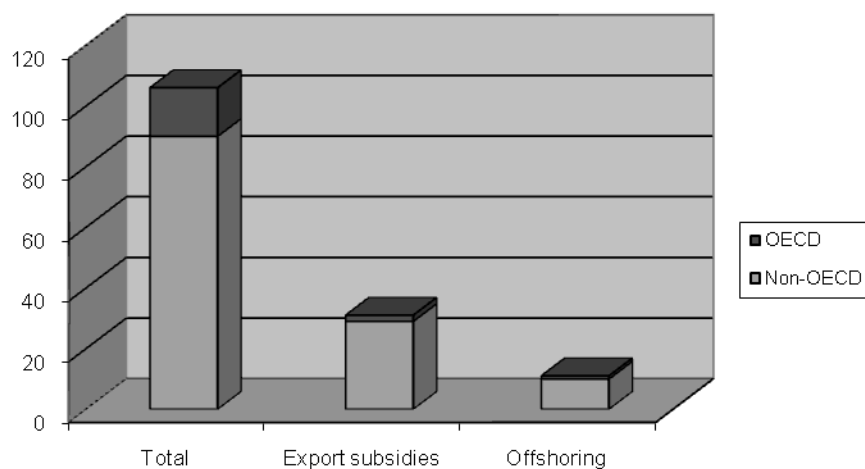
Source: OECD based on APEC, 2003.

### The WTO TPRs

44. As noted in Section II, 106 WTO Members are covered in the WTO Secretariat Background Note and subsequent addendums containing evidence of subsidies for services from the TPR reports. Of these countries, almost 30% employ subsidy programmes to promote services exports, including as part of FTZs, and over 10% have established services offshore programmes (Figure 4). FTZ programmes often relate to expansion of the zones' coverage to include services in addition to goods and are limited to developing country Members.



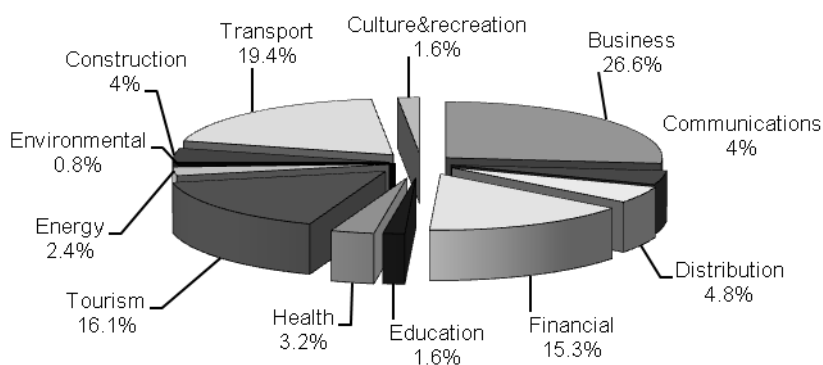
**Figure 4. Countries with services subsidy programmes and offshoring**



Note: Total refers to the number of countries cited in SWPGR/W/25 and Add. 1 to 5 as using some type of subsidy.  
 Source: OECD based on the WTO TPRs.

45. The TPRs generally permit identification of the services sectors benefiting from export support programmes. As shown in Figure 5, business services, which comprise a wide range of heterogeneous service activities, represent the most frequently targeted sector. Other services sectors often benefiting from export subsidies are transport, tourism and financial services. In the case of transport, logistics services can typically be found operating in FTZs and support for financial services exports is largely related to offshore activities.

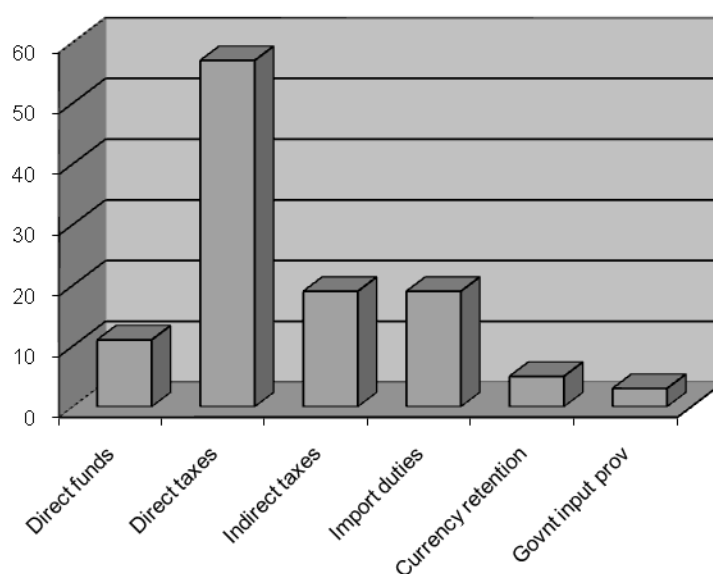
**Figure 5. Export subsidies and offshoring by sector**



Note: Where a country subsidises a range of service sectors each sector is counted separately.  
 Source: OECD based on the WTO TPRs.

46. Figure 6 confirms the pattern on the use of different types of export subsidy measures observed in the other surveys. Direct tax incentives in different forms (see below) are the most frequently used measures, followed by indirect tax and import duty incentives on goods and services inputs into export production. Indirect taxes cover a broad set of measures, including VAT, equipment, excise, turnover, stamp and registration taxes. Other forms of assistance such as direct grants and favourable loans are also employed by some countries.

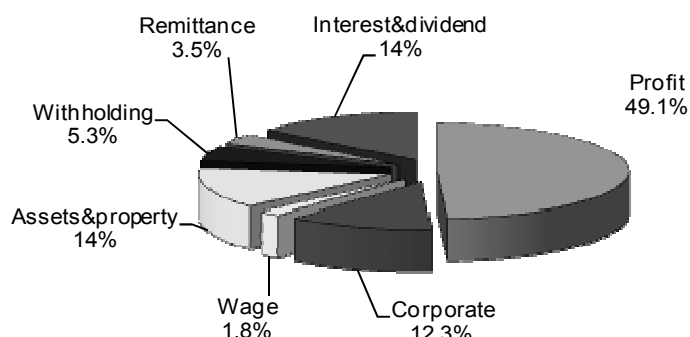
Figure 6. Frequency of export subsidies and offshoring by measure



Source: OECD based on the WTO TPRs.

47. A breakdown of support measures by type of direct taxes indicates again that profit and corporate tax exemptions or reductions represent the principal form of state support used (Figure 7). Tax incentives on shareholder dividends and interests on loans, as well as on assets and real property are also frequently employed, often as part of FTZ treatment. Furthermore, tax incentives targeting employees of exporting firms are in place in some countries.

Figure 7. Direct taxes by type



Source: OECD based on the WTO TPRs.

## V. Characteristics of prevalent types of services export support

48. The previous section provides some insights on the use of export support measures in several countries and services sectors. As noted, the findings are subject to data and methodological shortcomings as well as the focus of the relevant surveys. Nevertheless, the surveys provide a good starting point for further analysis. This section aims to complement the surveys' review by providing a qualitative description of different types of export subsidy measures for services. In light of data limitations, the aim is not to provide a comprehensive picture on the use of these measures but to contribute to a better understanding of the characteristics of the more prevalent types of export subsidy programmes in different services sectors.

49. The review includes material contained in the surveys chosen on the basis of information quality and complemented by several other sources, particularly relevant information provided in governments' websites. For analytical purposes, the description is organised according to the same types of support measures in Annex I of the ASCM covered in the previous section, and sequenced on the basis of their importance as identified in the surveys' findings. When possible, the discussion also presents available quantitative estimates of the amount of subsidy granted. No claim is made that the measures reviewed are still in place.

### *Direct taxes*

50. Several kinds of direct tax regimes are frequently used to support a range of services exporters in both developed and developing countries, among which income and corporate tax exemptions figure prominently. India, for example, has created several FTZs which provide for different forms of income tax reductions across a variety of sectors. According to the programmes, an Indian resident tax payer engaged in exports of computer software is allowed a deduction from profits on the basis of the ratio of export turnover to total turnover. The proceeds must be received in convertible foreign exchange. A domestic firm engaged in the hotel or travel agency business can enjoy an exemption of 50% on the profits derived from services provided to foreign tourists. A 50% tax exemption is further available on profits from projects

such as construction of any building, road, dam, bridge, assembly or installation of any machinery or plant, or construction of any structure executed outside the country<sup>16</sup> (UNCTAD, 2000).

51. Mexican FTZ (maquila) exporters are granted preferential income tax (rate reduced from 29% to a maximum of 6.9%). Services can now benefit from FTZ treatment, including computer services, engineering, and design and testing services (Mexican Ministry of Trade and Industry, 2007). In Burundi, the Free Zone Law provides for several types of FTZ benefits, including total exemption from profit tax during the first ten years of operation, followed by a tax regime of 15% instead of the standard 40% rate. One condition to obtain FTZ status, which is extended to both foreign and domestic investors, is to export the entire output. Services enterprises eligible for FTZ status include software-related services, production and distribution of cinematographic films and sound recording, and organised tourism services (WTO, 2004a). Costa Rican enterprises established in FTZs are entitled to several benefits, including a 100% exemption from income tax for the first eight years of operation and a 50% exemption for the subsequent four years. Service companies may now benefit from the incentives available in FTZs (UNCTAD, 2000).

52. Other horizontal measures could qualify as profit tax incentives in support of services exports. The challenged US Foreign Sales Corporation (FSC) regime, substituted by the Extraterritorial Income Regime (ETI) and more recently replaced by another tax law<sup>17</sup> is a case in point. Under the regime, a portion of the export income of eligible firms is exempted from Federal income tax. During the Panel proceedings of the FSC case, the US identified four categories of services which were covered by the programme, namely agricultural services, computer software, motion picture distribution, and engineering and architectural services (USTR, 2002a). This represented more than 8% of all subsidies provided by the programme, to be deducted from the amount that the US was required to withdraw as a result of the DSB's recommendations. Upon further review, the US agreed that the only adjustment should be made for support granted to engineering and architectural services since the other services sectors involved the export of goods (USTR, 2002b).

53. With respect to specific sectors, as seen above business services are often covered by horizontal programmes employing profit and corporate tax incentives. Tourism is also among those sectors benefiting the most from these measures in several forms. In addition to the Indian programme mentioned above, exporting hotels in Morocco are exempt from corporation and general income taxes for a period of five years, after which such taxes are reduced by 50%. The exemption and reduction only apply to turnover in foreign currency (WTO, 2004a). At least until recently, Malaysia had a programme in place providing for income tax exemptions to local companies organising conferences and bringing in at least 500 foreign participants (WTO, 1998). The 2002 Law on Tourism in Ecuador includes the possibility of income tax reductions for external payments made to promote inbound tourism (WTO, 2007).

54. In transport, it is common for governments to grant preferential tax treatment and other incentives on income generated from international transport operations, particularly maritime transport. This support, often provided to strengthen domestic capacity and improve the competitiveness of the domestic industry at the international level, may in some cases be expressly contingent on exports. One example relates to the international operations of ships registered in Hong Kong, China. The income for owners of these ships derived from cargo uplifts or towage operations in Hong Kong or elsewhere is tax exempt. The Government estimates that this tax relief for the export of shipping services represents HK\$ 28 million per annum (WTO, 2000b). Transport and logistics services are also often favoured by these measures as part of FTZ treatment.

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<sup>16</sup> This type of mode 3-related incentive in the construction sector is also available in other countries, e.g. Turkey.

<sup>17</sup> On 17 May 2006, the Tax Increase Prevention and Reconciliation Act of 2005 (HR 4297) was enacted into law, which repealed the FSC/FTI grandfathering provisions that were contained in the American Jobs Creation Act of 2004.

55. Exemptions from and reductions of profit taxes further represent the primary form of incentive employed in offshore programmes targeting particularly the financial services sector. For example, Panamanian investors can take advantage of financial incentives by establishing what Panama treats as offshore companies, namely firms incorporated in Panama that engage in business outside the country. For instance, income derived from international offshore activities by a Panamanian-incorporated bank holding an international banking license is not subject to income tax (UNCTAD, 2000). In Singapore, offshoring became permissible in 1973 with the creation of the first Asian Currency Unit (ACU)<sup>18</sup>, as part of an effort by the Government to establish the country as an international financial centre. Several incentives are provided for financial offshoring, including a concessional tax rate of 10% on income from writing offshore insurance business (WTO, 2000b).

56. A range of other benefits related to direct taxes target employees and shareholders of services exporters and offshore programmes. Pakistan provides an interesting case of tax incentives targeting employees of exporting software companies. The Government has established a comprehensive subsidy programme aimed at developing information technology and software services in the country. The regime grants a number of benefits for exporters of these services, including exemption from minimum tax of 0.5% on remittances from exports (WTO, 2002). With respect to shareholders, one example is the US FSC regime, which also includes a deduction (initially of 100%) of dividends from distributions made out of the earnings and profits attributable to the foreign trade income of a FSC (WTO, 1999). Furthermore, some countries exempt financial services providers from taxes paid on interests on loans. In Australia, for example, such benefits are provided to financial institutions engaged in offshore banking; interest paid to these institutions by eligible borrowers is exempt from interest withholding tax (APEC, 2003).

57. Another form of direct taxation benefit relates to tax exemptions on assets and property of services exporters, largely as part of incentives granted in FTZs. In El Salvador, for example, FTZ firms, including in distribution, storage and packaging services, are exempted from taxes on the transfer of real property to be used for the activity encouraged (WTO, 2004a). FTZ enterprises in Trinidad and Tobago are exempted from land and building taxes, including on improvements of buildings. Eligible service activities include banking and insurance services, professional services, and warehousing and shipping services (WTO, 2007). Enterprises established in Lithuania's FTZ, including in the services field, are entitled to a 50% discount on land leases as well as special write-offs for investments and other expenses to acquire long-term assets (UNCTAD, 2000).<sup>19</sup>

### ***Indirect taxes and import duties***

58. A broad set of indirect tax exemptions or reductions and import duty remissions or drawbacks on inputs are employed by many countries in connection with services export performance.<sup>20</sup> These measures are often part of horizontal programmes benefiting several services sectors, particularly in relation to incorporation of services in FTZ treatment, and are generally limited to developing countries. In Venezuela, exporters of services are entitled to recover all taxes paid on goods and services inputs in connection with export activities. They may also recover the tax paid on domestic and imported purchases

<sup>18</sup> Offshore banks can engage in the same activities as full and wholesale banks for businesses transacted through their ACUs. The ACU is an accounting unit, which the banks use to book all their foreign currency transactions conducted in the Asian Dollar Market (ADM). The banks' Singapore dollar transactions are separately booked in the Domestic Banking Unit (DBU).

<sup>19</sup> Lithuania's EU accession agreement permits the indefinite operation of existing FTZs, but precludes the establishment of new ones (US Department of State, 2005).

<sup>20</sup> As noted in Section III, these measures may be considered export subsidies under the ASCM only when their remissions are in excess of the amount levied on inputs that are consumed in the production of exports. Identification of these cases is beyond the scope of this study.

of capital goods and on services that increase the value of such goods or are necessary for them to perform their functions (WTO, 2004a). In Tunisia, fully-exporting enterprises in certain services activities may import free of all duties and taxes, including customs duties, VAT and consumption tax, inputs needed in order to produce (WTO, 2007).

59. In the Republic of Guinea, one of the main advantages for exporting firms in several services sectors is exemption from VAT on imports of equipment needed during the start-up period or to extend the investment. The services covered include investment banks, tourism, health and education (WTO, 2007). In Costa Rica, services enterprises established in FTZs are exempt from import duties on machinery and equipment, as well as from VAT and selective consumption tax on acquisitions of final goods and services for export production (UNCTAD, 2000). Firms established in Burundi's FTZs, including in the services sectors mentioned above, are exempted from existing or prospective indirect taxes, including turnover tax, and registration fees and stamp duties (WTO, 2004a). Peru has established a system consisting of the refund of tax paid on imports or domestic acquisitions of capital assets carried out by individuals or corporate bodies engaged in production activities of services destined to be exported (APEC, 2003).

60. Indirect tax and import duty incentives are also employed by several countries to foster exports of a specific service sector, sometimes as part of a broader set of measures aimed at achieving this goal. In Morocco, in addition to direct tax incentives, offshore banks are exempt from registration fees and stamp duty on the official documents establishing their charters, increase in capital and acquisition of business premises. They are also exempt from VAT on capital goods and equipment necessary for their activities and from import duties and taxes on equipment, moveable property and capital goods necessary for their operations (WTO, 1998). Similar incentives are also available to Turkish offshore banks (UNCTAD, 2000). Investments in the Zambian tourism sector that earns foreign exchange in excess of 25% of gross annual earnings are exempt from VAT and other duties (WTO, 2004a).

61. Other cases of indirect tax and import duty incentives can be found in the health services and transport sectors. India, for example, to capitalise on its lower cost domestic health facilities, actively encourages the commercial provision of health services to overseas patients. Domestic providers of these services are extended to their earnings in foreign exchange all fiscal incentives which are available to other exporters of goods and services (they are granted the status of "deemed exports"). The benefits include exemption from excise taxes and reduction or drawback of import duties for medical equipment used in service provision (Indian Ministry of Health and Family, 2002; and India Trade Promotion Organisation, 2007). Overseas shipping operators in the Philippines, in addition to a ten-year income tax holiday, benefit from duty exemption on the importation of ocean going vessels (WTO, 2007).

### *Transfers of funds*

62. Direct assistance through transfer of funds such as grants and favourable loans represents another important category of measures used to support services exports by several developed and developing countries. The pattern of use of this support is similar to direct and indirect tax incentives, with some countries providing subsidies across-the-board while others focusing on a specific service sector. Australia has established a state support programme aimed at promoting exports of a wide range of activities, including almost every services sector. In 2004/2005, alone the scheme distributed grants worth A\$ 123.9 million to some 3,277 exporters, of which over half (A\$ 63 million) was granted to services exporters, with business, audiovisual and distribution services being the major beneficiary sectors during the period. Under the scheme, the Government reimburses up to 50% of specified export promotion expenditures above a threshold of A\$ 15,000 (WTO, 2007).

63. A number of countries have established programmes providing for direct subsidies for the development of tourism exports, including by incorporating tourism into FTZs. In Japan, convention

organisers are given a cash grant on the basis of the number of tourists brought into the Sakai city jurisdiction with a maximum limit of half the total expenses of the convention (Sakai Tourism and Convention Bureau, 2007). Until the end of 2005, Croatia provided a cash bounty to tour operators for each foreign tourist brought into the country. The programme subsidised a portion of the tour operator or travel agency transport cost, depending on the means of travel.<sup>21</sup> Colombia provides credit facilities on preferential terms for firms in the tourism sector operating in FTZs. The amount of credit can be as much as the net value of exports for a period not exceeding 10 years, with grace periods varying from 2 to 5 years (WTO, 1998).

64. Transfers of funds in different forms are also granted to enhance exports of other services sectors, at times as part of broader systems of export incentives. In the audio-visual sector, Canada provides grants supporting international marketing activities for domestic feature films that have a clear foreign-sales strategy and potential (Telefilm Canada, 2007). Trinidad and Tobago have established a subsidy scheme for construction services, which operates similarly to the Australian horizontal programme. It provides for a deduction of 150% of promotional expenses wholly or exclusively incurred for promoting expansion of export of these services into foreign markets (non-CARICOM) (WTO, 2007). The Pakistani software export development programme provides for subsidised rental allowance for office facilities and space in software technology parks (WTO, 2002). Offshore insurance firms in Singapore benefit from grants provided for training staff in new specialised lines of business (WTO, 2000b).

#### ***Currency retention schemes***

65. Several countries have established schemes permitting services exporters to retain a portion of receipts from foreign exchange earnings notwithstanding a general rule for businesses to surrender receipts of foreign exchange to the central bank in exchange for local currency. Pakistan represents an example of such scheme in the case of business services. Under the IT export development programme, the Government provides a facility for software companies to retain 25% of their export earnings in foreign exchange in order to meet expenditures on purchase of hardware, software, foreign travel, marketing and hiring of consultants (WTO, 2002).

66. Currency retention schemes are frequently granted as part of horizontal programmes comprising a variety of incentives to enhance services exports, particularly in the case of extension of FTZ benefits to services. As in the case of indirect tax incentives, these measures are typically limited to developing countries. For example, in Costa Rica the benefits for services enterprises located in FTZs include the free use of the foreign currency generated abroad (UNCTAD, 2000). Other Latin American countries, such as Colombia and Dominica, have established similar programmes, at times completely exempting services exporters and offshoring from the foreign exchange legislation (UNCTAD, 2000; and WTO, 2002). Exporters of services in Tunisia benefit from the same treatment (WTO, 2007).

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<sup>21</sup> For example, a tour operator bringing in foreign tourists by air would be entitled to a subsidy per passenger of 200 Kunas for scheduled flights (about US\$37 at the time) or 100 Kunas per passenger for charter flights. For rail, the tour organiser received 100 Kunas per passenger. Subsidies for bus transport were calculated based on kilometres travelled and bus capacity, while sea travel was calculated as a percentage of the ticket price per passenger (Croatian Ministry of Tourism, 2004). What is also noteworthy about the programme is how the expanding role of EU disciplines on state aids can limit use of services export subsidies. In 2005, the Croatian Tourism Minister announced an end to the programme. While noting that in the preceding 10 years subsidies have been a very important instrument in the Croatian tourist market, he stated that the programme would end due to the need to harmonise Croatia's legislation with the EU legal framework in preparation for EU accession (Croatian Ministry of Tourism, 2005).

### ***Government provision of goods and services used in export production***

67. Some governments provide goods and services aimed at supporting services export production.<sup>22</sup> A prominent case of services and infrastructure provision for services export expansion can be found in India, which provides another example of a comprehensive IT and software export development programme. The Government has set up 24 centres, including 24 international gateways across the country. The parks, along with similar parks for computer hardware firms, provide infrastructure facilities, state-of-the-art high speed communication facilities and single window services to exporters (WTO, 2002). In Rwanda, advantages afforded to FTZ services exporters include a one-stop centre for administrative formalities and approvals for businesses. This service is provided by the Rwanda Investment and Export Promotion Agency (RIEPA) for all investors to facilitate establishment and smooth operations of investment projects (WTO, 2007; and RIEPA, 2007).

## **VI. Emerging issues for the negotiations**

68. This study has sought to provide a first step in gaining a better understanding of possible export subsidies in the services field. There is recognition among a few WTO Members, international organisations, academics and other experts that export subsidies for services may merit further attention; private sector interest on these measures though has so far been largely missing. Further work is required as more information becomes available to shed light on any trade distortive effects of export subsidies for services, to ensure the best possible outcome in ongoing GATS subsidies negotiations. Progress in this area at the regional level remains limited. Some regional initiatives have directly or indirectly prohibited or controlled the use of export subsidies for services, or are considering developing rules in this area.

69. The analysis carried out, while not generating accurate measures of the extent and effects of export subsidies for services, provides evidence that these measures are used by many countries in the developed and developing worlds. Business services — including computer and related, professional and a wide range of other business services — transport services and tourism appear to be the most frequently targeted sectors, often as part of broader subsidy programmes aimed at strengthening domestic capacity in these services. Another sector frequently benefiting from support of exports is the financial services sector, typically in relation to offshore financial regimes. Furthermore, almost every service sector can now be found operating in FTZs, benefiting from the range of export incentives provided in these zones.

70. In the context of negotiations under GATS Article XV, it would appear that in general the condition contained in the ASCM definition of export subsidies, i.e. contingent on export performance, is relevant for services. As shown in the review, many such programmes are in place in countries around the world benefiting services. In this connection, an important issue relates to the question of subsidies that are export contingent in fact. Research in this area suggests that in some cases, e.g. in tourism, every subsidy provided to the sector may potentially fall under the ASCM definition. A question arises then on whether it may be desirable to limit any definition for services to subsidies that are export contingent in law. Another possibility would be to modify a definition for services to avoid capturing such situations.

71. The review further indicates that broadly speaking the Illustrative List of Export Subsidies contained in Annex I of the ASCM is pertinent for services. The most important types of export support appear to be direct tax incentives, particularly profit tax exemptions or reductions, followed by indirect tax and import duty incentives on inputs for export production and transfers of funds. Some countries provide infrastructure and services aimed at supporting production of services export, and a number of currency retention schemes for services exporters are in place, often as part of extension of FTZ benefits to services.

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<sup>22</sup> As noted in Section III, such provision may represent export subsidies under the ASCM only when it occurs in more favourable terms than production for domestic consumption and than those commercially available in world markets. Identification of these cases is beyond the scope of this study.



As noted, export credits are excluded from the main analysis, although the literature suggests that these programmes also apply to the services sector (see Section III).

72. However, several other issues require consideration with respect to a possible definition of export subsidies for services in the WTO. From a modal perspective, the review supports the view of commentators that modes 1 and 2 are perhaps the most relevant. For example, many of the export support measures benefiting business services or offshore financial programmes are provided via mode 1. The prominent example of mode 2 export subsidies can be found in the tourism sector. While some direct tax incentives are relevant for modes 3 and 4 (e.g. exemptions on profits from construction projects executed abroad or from remittance taxes), these instances may be limited. This raises the question of whether any definition of services export subsidies should exclude certain modes. Alternatively, a definition could cover all modes, but export subsidies would be unlikely under modes 3 and 4.

73. Another question requiring further analysis is the treatment to be given to indirect tax and import duty incentives on goods inputs in the production of services exports. The review indicates that many countries are extending these measures to services in recognition of their importance, including as part of FTZs. As pointed out by Abugattas (forthcoming), the criteria used in the ASCM for goods may not be appropriate for services. Unlike for goods, in the case of services goods are not typically incorporated in the exported service and are not necessarily consumed in the production process.

74. Two other issues that require attention are FTZs and services offshoring. The review reinforces the findings of previous studies indicating that incorporation of services in FTZs is becoming widespread. Similarly, offshore programmes for services, particularly in the financial sector, are in place in many countries typically providing incentives for services provision to non-residents. Further analysis is needed to gain more insights on the extent of these measures and their possible trade distortive effects.

## **VII. Conclusion**

75. The analysis undertaken provides initial insights on the characteristics and use of export subsidies in the services field using a variety of sources in the context of limited data and information. The review has been carried out against the background of the ASCM definition and has pointed to some areas that might require consideration in adapting the ASCM definition to services in light of their characteristics. The aim is to facilitate the discussion, without of course prejudging the outcome of the negotiations. Ultimately, a definition and any new disciplines for services will depend on what WTO Members perceive as problems in this field.

76. Below is a list of questions to foster further reflection regarding the future treatment of export subsidies in the services sector:

- What types of export subsidy programmes are more problematic?
- Under which modes and in which sectors?
- Which programmes should not be affected by any new disciplines?
- Are these problems for now or for the future?
- What could be done now? Greater transparency/notification requirements or stronger disciplines to limit their use?
- On what types of programmes?

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