

Trade in Services Negotiations and Reforms Required for Indonesia: Energy Services

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Outline

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 - Role of energy services for Indonesian
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What are Energy Services?

- No specific WTO “agreement on energy”. Some WTO instruments are relevant to trade in goods and services
 - Agreement governing trade in goods (GATT): import-export of energy goods (oil, gas, coal, electricity, energy equipment), subsidies, etc.
 - Agreement governing trade in services (GATS): applies to trade in all services involved in the energy production and supply chain
 - Energy services are services of processing energy from the source of where the energy located to the distribution to its final consumers.
 - exploration, consultancy, development, extraction, construction, engineering, refining, transportation, transmission, storage, marketing, etc. (Value added in the energy services.)
 - As a result: ambiguity on the scope of energy services.
- Implication: other sectors commitment may have impact on energy services.
(Source: Ruosi Zhang – Trade in Services Division, WTO)

Services-Related Energy Sector

UPSTREAM

DOWNSTREAM

General Investigation	Exploration	Feasibility Studies	Construction	Mining Exploration	Processing	Purification	Transport	Storage	Sales
Mapping Services	Drilling & Sampling	Exploration Management	Road/Bridge Construction	Coal/ Mine Development	Coal Washing/ Blending	Fine coal utilization	Transportation & Distribution of Coal/ Mineral Services	Bulk storage services of coal mineral	Whole sale Trader services of Coal
Sub surface Surveying Services	Core analyst	Consultant Exploration	Installation Work	Land Clearing Services					
Geological Exploration			On land site preparation	Tunneling Services					
Infrastructure Basecamp facilities			Camp. Workshop	Blasting Overburden Removal service					
Seismic Data				Coal Excavation service					

Lack of commitment on energy services

- Limited commitment in the area of energy services is due to reasons:
 - Energy sector as a strategic sector for national security, economic and social development, which has traditionally been dominated by state companies. These companies are unwilling to give up their market power their monopoly for liberalization efforts.
 - the ambiguity of energy services definition contributed in the delay of energy services, as some government made development of classification to undertaking any further commitment in the sector.

Energy services under GATS

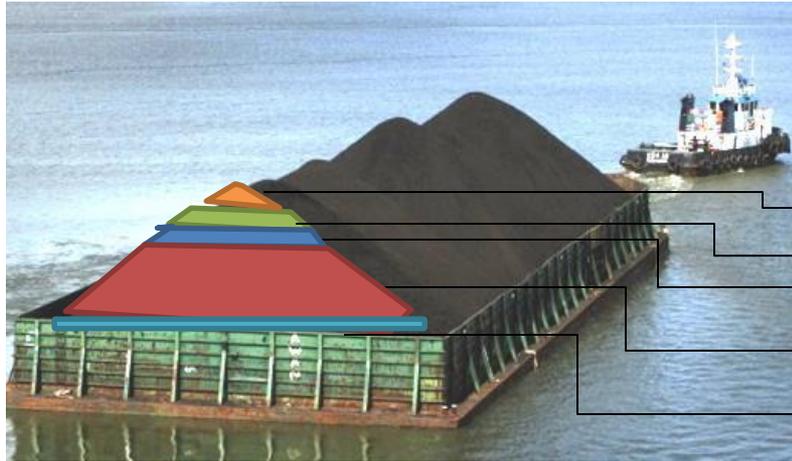
- No separate energy sector in the services sectoral classification list W/120
 - Energy services belong to Other services
 - Some sub sectors are related to energy
- Important segments (or activities) are spread over a broad range of sectors
 - Transport, distribution, construction, etc.

Energy services under GATS [2]

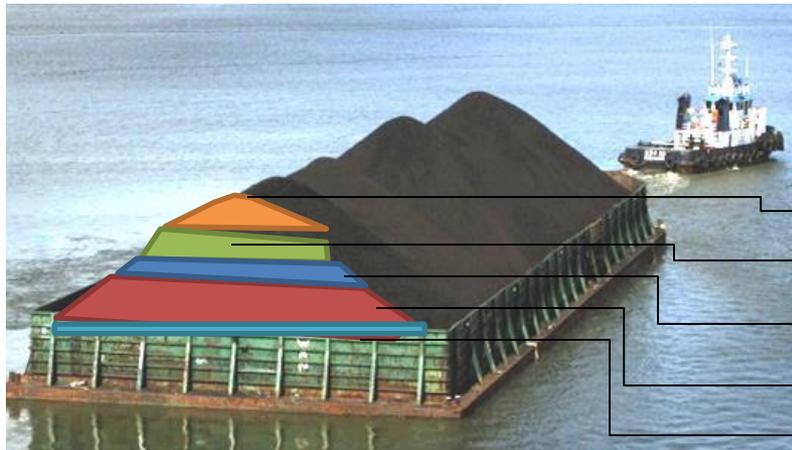
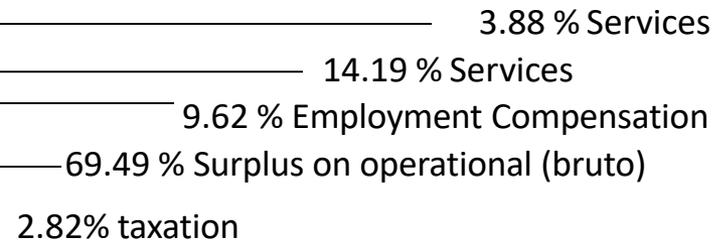
- Within the WTO – in the Uruguay Round, energy services were not negotiated as a separate sector.
- Specific commitments in energy-related services only exist for few WTO Member for
 - pipeline distribution of fuels (a sub sector of transportation services) cpc 7131 – 14 members
 - services incidental to energy distribution (cpc 887) - 17 members;
 - services incidental to mining (cpc 883 + 511) – 43 members.

Meanwhile, the majority of global energy services industry is not covered by specific commitment under GATS.
- Indonesia position in WTO – Uruguay Round
 - No specific commitment in the energy services.
 - Services-related energy: International freight transport (cpc 7212).

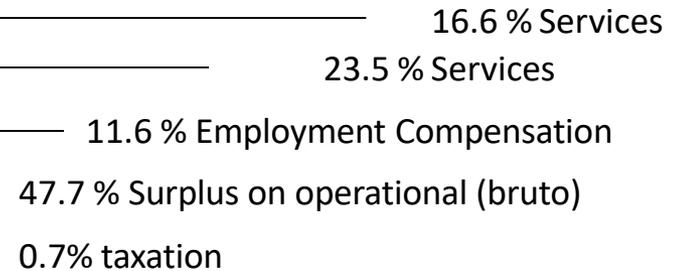
Share of Mining Industry (a comparison with Australia)



Indonesia



Australia



Source: Constructed from OECD STAN database, Indonesia IO Table, ITS Global (2010)

Indonesia's Commitment on Energy Services

Indonesia's commitment in the WTO- Doha Round, ASEAN-China 2nd Package, ASEAN-ANZ, ASEAN- Korea, ASEAN-India and AFAS 8:

- *Business Services on Technical Testing and Analysis Services (CPC 8676): Core Analysis and Other Lab Test, only for Isotope Analysis* – national classification (1.A.2.7.3)
- *Business Services on Subsurface Surveying Services (CPC 8672): Geological and Geophysical Services, only for Seismic Data Acquisition* – national classification(1A.1.4.1.1.)
- *Services Incidental to Manufacturing (CPC 884): Liquefaction and Gasification only for Coal* – national classification:
 - *Coal liquefaction (2.4.4.4)*
 - *Coal Gasification (2.4.4.5)*

Indonesia's Commitment on Energy Services [2]

More commitments in AFAS 9:

- Services Incidental to energy distribution (CPC 887): Exclusively covers only consultancy services related to operation of power plant and network
- Transportation of petroleum and natural gas (CPC 7131): Transportation, Transmission and Distribution of Petroleum Product and Gas (2.2.7.1)

More commitments di AANZ-FTA:

- Engineering design services for industrial processes and production (CPC-86725): Engineering, Procurement and Construction (EPC) Services –national clasification (1A.3.2.2.)
- Technical Testing and Analysis Services (CPC-8676): Electrical Logging and national clasification (1A.2.8.)
- Competency Certification in Quality Control and Handling of Aviation Fuels and Lubricants –national clasification (4.2.2.9)
- Competency Certification in Power Plant –national clasification(4.2.2.11)

Indonesia's Commitment on Energy Services [3]

- Mode 3 (services investment) of Indonesia's energy services commitments are majority in the form of joint operation and require a representative office in Indonesia.
- Special treatment for AFAS, beside joint operation, the commercial presence can be in joint venture with foreign equity partnership up to 51% (AFAS 9), later 70% (AFAS 10).
- In Indonesia Negative List, range of foreign investment in several sub sectors are between 49 -95%. However, Indonesia does not offer full commitment based on current regime due to the need for policy space in the future.

Key Issues: GATS and Access to Energy Resources

- The GATS creates the right of “establishment of investment” through commercial presence (mode 3) of services which enables Members to make commitment in the energy-supply chain, including gas field exploration services, and services incidental to mining.
- These commitments, however, must be distinguished from the right of access to energy resources.
- Although the GATS may require a Member to liberalise market for certain upstream energy services (i.e. drilling and sampling of energy), the GATS does not regulate the right of energy production (production of goods).
- Some commentators questioned whether the latter right is established under the GATT 1994.

Key Issues: GATS and Export of Services

- Export restrictions are major obstacles to investments in the upstream segment of the energy-supply chain.
- Commitments relating to the export of services are normally scheduled as additional commitments, which take the form of positive undertakings (GATS style).
- Currently, only two members—Montenegro and Ukraine—made additional commitments on pipeline transportation of natural gas. These commitments appear to provide for export rights indirectly, by prohibiting discrimination with respect to access to and use of pipeline networks based on the *destination* of the product transported.

Reference Paper for Energy Services

- The United States and Norway proposed to devise a reference paper for Energy Services.
- The model of the reference paper is ‘the Reference paper to the GATS Agreement on Basic Telecommunication Services’.
- The purpose would be to ensure transparency in the formulation and implementation of rules, as well as non-discriminatory third-party access to and interconnection with energy networks and grids, non-discriminatory objective and timely procedures for the transportation and transmission of energy, and requirements preventing certain anti-competitive practices for energy services in general.
- However, the negotiations did not receive impetus.

Recommendation

- The all ministries related services of energy need to sit together in order to coordinate and to have the same perception on where Indonesia's services may lead.
- Ministries related energy services need to be more open minded with world globalization; such like policies that may work in the past may be no longer relevant in the current and future negotiations.
- Indonesia needs to be brave in taking risk to join in the more liberal negotiations in order to encourage services suppliers to be more competitive in local and global market.

THANK YOU

References:

- Presentation of Ruosi Zhang, Trade in Services and Investment Division, WTO
- Presentation of Vitally Pogoretsky, Advisory Centre for WTO Law in Geneva
- Sustainable Development Opportunities and Challenges of Trade in Energy Services in the WTO and Beyond, ICTSD