

The Analyses for Issues Related to Like Services and Service Suppliers under GATS

Abstract

Observing recent GATS(The General Agreement on Trade in Services)cases, there are almost quart cases relevant to non-discrimination regulations of GATS, Article 2 and 17.As applying to non-discrimination regulations of GATS, before examining whether Members' domestic measures have discriminated effects to block the international services market, applicants, the Panel or Appellate Body need to determine whether the services and services suppliers concerned are 'like services' or 'like service supplier' . For 'like services and service suppliers' being a crucial requirement of non-discrimination regulations in GATS, researching how this requirement is applied to dispute settlement cases is an important mission to GATS.

Actually, the vital issues of 'like services and service suppliers' include: how to determine the 'like services' and 'like service suppliers' , how to decide whether the services and service suppliers through different supply modes are like services and like service suppliers, and how to interpret the application between 'like services' and 'like service suppliers' . Moreover, interpreting the coverage of 'like services and service suppliers' under GATS is also a tough issue.

Notwithstanding the requirement of non-discrimination principles - 'like services and service suppliers' rises many applied issues, there are no regulations of GATS to define the meaning of 'like services' and 'like service suppliers', and no regulations or explanatory footnotes to clarify the applied problems of 'like services and service suppliers' . The only way for Members or scholars to realize how to apply to this requirement or to determine 'like services and like service suppliers' is to analyze relevant judgments of dispute settlement cases relevant. However, WTO dispute settlement panel or appellate body did not analyze the relevant applied issues of 'like services and services suppliers' , and not resolve those applied issues completely.

For resolving those issues of 'like services and service suppliers' , this article make relevant material divided into four parts. First of all is to discuss what issues 'like services and service suppliers' rises, and what the factors cause 'like services and services suppliers' is hard to be practiced. The second part is referring to the judgments of dispute settlement panel and appellate body in GATT(The General Agreement on Tariff and Trade)/WTO cases regarding the applications of 'like

products’ . Then, referring to the judgments of NAFTA(The North American Free Trade Agreement) dispute settlement organization in NAFTA cases considering ‘like circumstances’ . Finally, this article not only advances the resolutions to resolve those issues of ‘like services and service suppliers’ , in order to improve the practice of this requirement, but also recommends several suggestions about modifying the content of this requirement.

Key words: non-discrimination, like services and service suppliers, like products, like circumstances, the coverage of ‘likeness’ , united standard of classifications of services industries, supply modes, electronic services, W/120, CPC

