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Human Resources and the WTO Systems**

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Human Resources and Global Trade Systems

Ladies and Gentlemen,

I'm honored to have the opportunity to talk to you today about one of the most important topics, which is human resources, and how this topic affects global trade systems. The conventions, supporting documentation, negotiations and different subjects addressed in relation to the history of the World Trade Organization (WTO), all form to combine one of the most complex agreements in the world. The GATS, in particular, is quite complicated due to the ongoing bilateral and multilateral talks along with the working groups who keep developing this agreement. I will try to make my observation on this clear and understandable, and address this issue in the most simple and direct way possible.

The WTO addressed the issue of human resources via the GATS of 1994, and GATS stands for the General Agreement on Trade in Services. It represents one of the major agreements that form the WTO.

The WTO was created as a result of the Uruguay Round of the GATT negotiations. During the first few years after its establishment, many people still referred to the WTO as the GATT. This isn't surprising, because the GATT was a consolidation of trade relations of over 40 years. The GATT, however, applies to goods and tariffs only, and it was more of a voluntary system that had no mechanism for execution. So, the appearance of the WTO was a large step forward in the sense that it added numerous new areas to the field of multilateral treaties, including among others, the TRIPS agreement (TRIPS: Trade Related Aspects of Intellectual Property Rights), the TRIMs agreement (TRIMs: Trade-Related Investment Measures) and the GATS (General Agreement on Trade in Services), which is what we are concerned with now.

The WTO not only addressed new issues, but also, as its name indicates, created a permanent regime to administer multilateral trade, and even more importantly created systems of global trade that are executable.

The development of a schedule for more comprehensive trade negotiations that are in harmony with a predictable system that is based on regulations with internal mechanisms for execution and conflict resolution represents the most important achievement from the creation of the WTO.

In general, the introduction of new fields of intellectual property (IP), investment and services was met with resistance by the developing nations but was welcomed by the developed ones. Developing nations wanted in the interim to introduce the areas of important production of textiles and agriculture in the previous GATT agreement (which became known as GATT-94 in the WTO and covers agreements related to goods). As a result, a compromise was reached where everyone got some of what they wanted but not all of it.

Developing countries got little in the way of agriculture, whereas advanced nations gained enormously through the TRIPS agreement, but less success than with the GATS. The GATS truly represented a good example for compromise, because it was an agreement that the advanced countries desired but lacked the means to execute it, which

fit the developing states. And while the TRIPS represents an agreement of mandatory compliance regardless of borders by all WTO members, the GATS represents a framework for future negotiations only, where members conform to what they listed on their schedules only. These schedules may be horizontal (which means that they cover a service with all its subdivisions), or vertical which means they only cover certain areas. The only thing that the GATS did, in addition to providing a general framework for negotiations, is constant assignment of work to reach fair and balanced commitments that benefit all parties.

Now looking back, we see that some points of view studied by various negotiating parties were either flat out wrong or somewhat ill-advised. For example, developing nations considered the prerequisites of the TRIPS to be a heavy burden. In reality, many of these countries are still working to execute this legislation. Truthfully, a good IP legislation is important for the success of these developing countries. The system forwarded by the WTO has helped overcome the shortcomings and local resistance that would've expanded further. So the TRIPS really is beneficial to us.

Something similar can be observed when the GATS is viewed on the one hand and compared with reality. When advanced nations supported the liberalization of services, they were thinking of the six large accounting firms, their associated legal companies and strong engineering groups including their creative architects and revolutionary companies in IT. In short, they were thinking of all the benefits they would reap when marketing these services in developing nations with no trade barriers. So these developing countries naturally felt threatened, as how were they to compete? And how could they maintain their independence and identity? These feelings are understandable, especially when we consider how limited international trade in services once was. But what we see today is that the situation isn't as clear as we thought. Yes, it is true that some of our services sectors are so backward it's pathetic, in comparison with those in the West. I know this because I was the first to develop these sectors through professional societies such as the Arab Society of Certified Accountants (ASCA) and the Arab Society for Intellectual Property (ASIP), but we still have a long way to go.

The path of trade is a two-way street, and the professional services of the Arab world are not of high-quality nor highly-developed, and confined to the qualification systems of other states, which prevented them from easily being exercised in advanced nations.

The providers of professional services in developed countries like the UK and the USA and France, are facing the barriers of numerous laws in Arab countries that prevent them from practicing here. The objective of having the systems we have is to protect our professional services from foreign control, but in reality they actually limit us.

The expenses related to foreign service providers and their development will limit the possibility of their success in the Arab markets, in the field of accounting for example. In addition to this, the idea of protecting the national industry in the Arab nations is also directed against other Arab countries, which creates a barrier in the face of economic integration that will be a basis for achieving regional integration and economic growth, which are necessary to compete with the rest of the world.

For this reason in particular, openness is considered to be in our interest. Believe me that I have just as much to gain or lose as anyone else in the region. My company, Talal Abu-

Ghazaleh Organization, is the pioneering company in offering professional services in the Arab world. I've been competing and/or working with international companies in one capacity or the other for more than 30 years. Through further openness, we can compete to establish strong and effective service sectors and ensure that we won't be hit with a recession. Through openness among all Arab countries, we can achieve greater economic integration to face the challenge of Western competition and interests.

This of course, doesn't mean that we open the services market completely and automatically. The first step is opening up to the Arab world, and there is no doubt that we have a long way to go in this field. But by reviewing the European model, where Europeans do not even share the same language, we deduce that we have enormous potential in the Arab world. Therefore, our first step should be achieving greater openness in the region as far as regional integration is concerned, which means that we need to overcome narrow-minded national protection that all Arab countries are guilty of.

As I previously mentioned, I am one of the largest providers of professional services in the Arab world, but my first profession is accounting, and while I practice my work throughout all Arab states, I am confined to all their laws such that I operate via an associate in each Arab country. Things have gone well for me this way, and I've benefited from the work relations and friendships I've developed with businesspeople from all Arab countries. Yet, I'm well-known and run a large company and my situation really isn't a representative example for all people. So, what if an accounting graduate from your country wanted to work as an accountant in Egypt, Libya, or Jordan or anywhere else in the Arab world? There is no doubt that he will find that the citizenship and other requirements will block the opportunities that may stand before him, and this blocking of opportunities happens both ways. These kinds of things really weaken our Arab world, and there is no Arab country that isn't apprehensive on what will happen if these prerequisites are relaxed and social and economic integration was worked on. The UAE is a small country that is afraid it will be surpassed by larger and more populous countries. Also, the larger yet poorer countries are concerned with the possibility of increased flow of advanced service providers that take jobs from their nationals and contribute to unemployment and other social problems that appear manifestly in places such as Egypt and Jordan.

In actuality, we need to overcome our fears and take serious steps, and we must do so in the near future. If Europe was able –despite the different languages of its peoples and centuries of war- to completely open its markets, and allowed everyone to live and work wherever they desire, then Arabs young and old, rich and poor, can do the same. It is a traditional stance that will benefit everyone.

The Talal Abu-Ghazaleh Organization (TAGO) was always at the lead of the private Arab sector on issues related to the WTO ever since the first Arab international conference on the GATT and Uruguay Round was convened in Beirut in 1995 under the patronage of Mr. Rafiq Hariri, Lebanon's Prime Minister. Since then, the work of the company has expanded into important projects with contributions from the WTO and Arab NGOs, in the hopes that the Arab region will contribute successfully to the world

trade system. It convened many conferences, seminars and workshops to discuss general and specific issues related to the WTO that are important to the decision-makers in our Arab world.

TAGO has translated the official WTO guides to the Arabic language, such as the “Working Guide for the Uruguay Round” and the “Working Guide for the World Trade System”, which are both considered important references. These books contain comprehensive information to easily understand the importance of the WTO, its content and benefits, in addition to its various legal tools. TAGO has signed a memorandum of understanding with the WTO, which allows us to create an unofficial website in the Arabic language for the WTO on the net. This site provides basic information and news on the WTO, and can be used to follow its latest events and developments.

TAGO has taken the initiative to develop this site which will be called the www.wtoarab.org , after getting the WTO approval, and it will be an unofficial site as previously mentioned. The WTO wants greater participation from Arab countries in its operations, and my organization has been assisting in this process since the WTO’s creation. We also created a special unit for the practice of international trade that is dedicated to help Arab states on issues related to joining the WTO. This unit can also provide assistance to WTO members such as Oman that succeeded in joining the WTO, which had no problems when becoming a member. One of the most important areas in which we support Arab countries in their WTO membership is advanced analysis for policy and growth. This indicates work that includes establishing proposals for comprehensive trade, with a structure to provide a profitable status for both developing and developed countries. There is also a self-dynamic that overcomes the political resistance from member states.

In accordance with these efforts, we forwarded a new initiative to develop the contribution of Arab countries in the area of multilateral trade while placing special emphasis on the WTO. This initiative is training programs in Arabic on trade, its negotiations and the WTO. We established the Abu-Ghazaleh Center for Applied Studies and International Negotiations (CASIN), with the aim of growing the capabilities of Arab nations in the field of commerce and WTO negotiations.

Collaboration of this center, well-known for its role in providing training, qualification and assistance of policy-makers worldwide, with pioneering Arab bodies, represents a qualitative step forward for the center in providing its services. It has worked with leaders in developing and developed nations and countries that have transitive economies. This is the first time that the center offers commerce training programs in the Arabic language.

There is no doubt that we need programs such as these; there is a clear gap between industrial countries and developing countries in the number of trade experts available to negotiate with the WTO. Our assistance was requested by all Arab states, whether from government or prominent businesspeople. However, we faced many difficulties when it came to building capabilities and skills for managing trade negotiations.

Firstly there is the language barrier. Truth of the matter is that many Arabs, whether in government or in the field of trade, cannot express themselves in anything else besides Arabic. As a result, they're isolated from discussion and distant from the data available on these topics, so it is difficult to formulate effective policies or manage successful negotiations out of this vacuum. Second, there is the scarcity of people that are able to assist us in growing the capabilities to manage trade talks. Those people available who do have those capabilities are extremely busy, and don't have the time, so even if they want to help they will not be able to in many areas. Therefore, we without a doubt, have a deficiency in the area of this expertise.

Since we began contributing to WTO-related projects, much has taken place. Our original work focused on providing basic data on the WTO and the benefits of joining it. Now, with the participation of numerous Arab countries in this organization, there is no doubt that they've realized the advantages of membership in a global system. Yet, this participation in the organization represents the first step only.

As I mentioned before, participating in the WTO requires constant negotiations. Therefore, it is logical to create a group of Arab resources of experts in placing policies and negotiating in Arab trade. This is a must if we want to maximize the benefit obtained from participating in a global trade system. Perhaps one of the most important tasks that we must fulfill is human capacity-building.

The Abu-Ghazaleh center (CASIN) was the missing link in Arab policy. There was an insistence on being a part of the WTO and acceptance of certain conditions that may not be in the best interest of entities involved (such as the TRIPS agreement for example). There is a conviction however, that without the ability of representatives and analysts to study and negotiate complicated agreements that represent the infrastructure of the WTO, that we would've only gone halfway and would've failed to contribute to the system on an equal footing with advanced industrial nations.

One of the decisive issues that we'll study when we talk about openness in services is the obstacles of trade that are non-tariff related. Of these, one of the more important questions is that related to qualification systems and licensing requirements in professional services. This may include barriers such as citizenship and residency requirements, and educational requirements can in some instances be discriminatory such that they don't recognize the legitimacy of an education that an individual obtains elsewhere. I actively worked in these fields at both the regional and international levels.

As for our topic today, it is coincidental that I'm an accountant and that ASCA is the first society I establish. I mention this because accounting was the first professional service addressed by the GATS. Work in the accounting sector began when the WTO created a task force on professional services in 1995. At the time, the Council for Trade in Services, which is a part of the WTO, decided on March 1, 1995 to assign the task force on professional services to "study and prepare reports and recommendations for the systems necessary to ensure that the procedures related to qualifications, technical standards and licensing prerequisites in the field of professional services do not form

unnecessary obstacles in the face of trade”. The task force of professional services, and particularly accounting, is to focus on the following:

- 1- Developing multilateral apparatuses related to the ability in reaching the market, such that these domestic organizational requirements are: (1) adopted based on objective and transparent standards such as efficiency and the ability to provide the service, (2) not too exhaustive such that the services are of good quality, which in turn leads to easily liberalizing accounting services.
- 2- Application of international standards, which in turn encourages collaboration with relevant international organizations, as is shown in paragraph 5(b) of Article 6, such that paragraph 5 of Article 7¹ takes effect.
- 3- Ease of effective application of paragraph 6 of Article 6² of the agreement, by placing guidelines to recognize qualifications.

By developing the aforementioned, the taskforce will take into consideration the importance of governmental and non-governmental bodies that organize professional services.

By reviewing this assignment to the taskforce and the actual text of the GATS, we see that the WTO can have a deep impact on human resources. But we must also keep in mind these prerequisites only apply to services sectors where its members choose to conform. If members did not present commitments in a certain sector, then this means it will not have a similar requirement to adhere to the laws that I mentioned. In April 1999, the taskforce’s name changed from the WPPS (Working Party on Professional Services) to the WPDR (Working Party on Domestic Regulation), and its assignment expanded to include domestic regulations for all services (and not only professional ones).

Since the GATS requires the existence of well-intentioned negotiations to achieve balanced and fair openness of trade, it can be considered analogous to a newborn. For full maturity, it will take time, but in the first year gradual growth occurs, and finally all teeth come out and the newborn becomes a more complete entity, but the speed of growth ultimately depends on us. This is a good example to understand what the GATS represents.

There is one thing that goes undetected when it comes to the GATS, and that is that the WTO places great emphasis on NGOs. In other words, societies such as ASCA, the International Federation of Accountants (IFAC), the International Accounting Standards Committee (IASC), the American Accounting Association and others, were granted a legal status by the WTO. Naturally, national societies are important as well, since they

¹ Article 7, paragraph 5 of the GATS states that: “where recognition is appropriate, it should be dependent on standards agreed upon by numerous parties. In proper instances, members must work in collaboration with international governmental organizations and related NGOs to form and adopt common international standards and measures for recognition and practice of services, trade and related professions.”

² Article 6, paragraph 6 of the GATS states that: “in certain sectors where it is pledged that particular commitments take place related to professional services, every member must provide appropriate measures to verify the efficiency of the professionals of any other member state.”

organize professions in their respective countries. But we can see that there is an increasing significance for regional societies such as ASCA in facilitating regional integration, and for international institutions such as the IFAC and IASC in paving the way towards international unanimity on the rules and regulations necessary for adherence to the original professional requirements, while ensuring transparency and national treatment and other commitments required by the GATS.

In this regard, there should be a greater tendency by the Arab governments in providing mutual recognition through regional societies like ASCA. The UAE was the first to take such a step to grant professional recognition and the right to practice the profession in it by accountants who obtained the ASCA certificate. This was a bold move that is indicative of outstanding leadership. The ASCA certificate, by the way, greatly resembles the CPA certificate issued by the American Institute of Certified Public Accountants (AICPA), except that it's in Arabic. It also has no requirements related to the American tax code and other issues that have nothing to do with international practices.

I was invited by the UN to head the eleventh session of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR), which convened in New York in 1993. At the same time, I headed the first UN conference on accounting education. These meetings were attended by experts from 34 nations, and the focus of discussions were on a study prepared by ISAR that painted a dark picture for the situation of accounting in the developing countries as far as quantity and quality. There is an urgent need to resolve this situation, and participants agreed at this meeting to putting in place the principles for international qualifying of accountants.

The United Nations Conference on Trade and Development (UNCTAD) established a committee of experts that I chaired, whose objective was to “define the feasibility and start the process of establishing suggested principles for an international qualified accountant.” Such type of a qualification needed to be based on the principles of education, qualification and existing examinations. The IFAC had issued general and useful guidelines in this regard. But there was a need to define more detail.

There were some reservations on practicing this type of qualification, but the principle itself was welcome. The group agreed to deal with this problem one step at a time, after considering the diversity of principles related to this topic. The main ideas here include firstly determining the educational material, and secondly establishing the basic qualification principles, and finally looking into the issue of accreditation.

My chairmanship ended by rotation in 1997, but I was asked to remain as a group member to help finalize the educational material creation. This was done. The group presented its report to the UN at its February 1999 meeting in Geneva. And while some governmental representatives expressed their reservations, the report was adopted by the majority of attendees. The report was distributed by the UN, entitled “Guidelines of National Requirements for the Qualification of Professional Accountants”.

I've been working for numerous years to develop an accounting certificate that is recognized internationally, which allows Arab accountants to acquire recognition in

countries such as the USA and the UK and others. The situation up till now has been that Arabs and other professionals have had to go to the UK or the US to obtain a certificate that is recognized internationally, which allows them to practice their profession in developed nations or in their own countries. It is obvious that this is a problem, because it is quite expensive and it isn't that easy for someone to travel to California to obtain a professional certificate at the time he/she lives in Dubai or Muscat or Oman. Further, an in-depth knowledge of the American tax code that is constantly changing isn't necessarily useful, but it is required for the professional certificates if they want to be certified accountants with CPA degrees. This clearly shows the incompatibility of the domination of national standards in the world of international business, and we must put in place regional and international standards.

This problem goes back to numerous points:

1. The fact that developed nations don't recognize the qualifications issued from other places, as a measure to protect the national product of its professionals. This is related to professional quality issues as well.
2. The Arab world was very slow to adopt international accounting standards or developing the legal and professional infrastructure to support the growth and quality of our professions. As a result, we have professions (such as in law, accounting and others) that aren't advanced and are of poorer quality in all their aspects.
3. The pressure resulting from the structure of the Arab professional services market prevents companies such as mine from offering advanced services to our domestic market. (In some Arab countries, the five large accounting firms find that they can only preserve good quality and their special standards when dealing primarily with international clients such as the US Agency for International Development (USAID), the UN and countries that work across national borders).
4. The failure of Arab peoples in accepting the need to integrate and adopt regional standards, and granting ASCA adequate authority in the field of accounting and other societies specialized in other professions, has negated the possibility of us negotiating from a position of strength with other global entities.

We must take into consideration how to liberalize and how to negotiate. We must know what we want, and what we can offer, and conduct this exchange with developed nations. In fact, one of the mistakes commonly committed by developing nations is taking a defensive stance when it comes to trade talks and liberalization. This is a type of negative reaction, but it is not the appropriate way for us to deal with issues. Developed nations have much to gain, and much to feel confident about, but it is known that those who have a lot have much to lose and much to worry about. There is a psychological aspect to commercial negotiations that developed nations just recently have started to understand.

An important point to mention here is that we can forward suggestions to the GATS at any time, and in general our Arab human resources. In other words, our people and in particular our youth, are our greatest resource. It is wrong to think that it is oil, since oil is

actually a responsibility. It is the people who make a great nation and not natural resources. Human resources are greatly affected by the WTO.

What concerns foreign companies the most in relation to negotiations on service, is what's known as presentation utilizing the third method "Fulfillment of a Commercial Existence". Services in the GATS are presented through 4 methods as follows:

1. The first method includes services that are conducted in one country for consumers in the next, such as cross-border supplies.
2. The second method is related to consuming services in a country by visitors from another, like tourism for example.
3. The third involves fulfilling a commercial existence by a foreign service supplier in a different country, in order to avail services there.
4. The fourth method relates to services supplied by the state employees, who enter another country temporarily, and this is a category that has particular relevance for suppliers of professional services.

Presenting professional services using the third method is the most important as far as companies in advanced countries are concerned. Arab nations were traditionally isolated in this regard and would impose numerous requirements and restrictions on the commercial existence of foreign service providers. This trade matter isn't necessarily beneficial to us, but let's ignore this fact for a moment and keep in mind that whether it is beneficial or not, developed countries want to achieve further success, and this means we can get something from them in return for applying the third method and facilitating access to our nations.

What do we have to look forward to in this field? Usually developing countries are relatively more concerned with the fourth method of presenting services, which includes the movement of real people rather than companies and other entities for example. The Arab world and other developing countries have a relatively special characteristic in providing professional services that are labor-intensive. But the bigger possibility, however, is that services are provided within short-term contracts via individuals or small professional companies. As such, the effective commercial strategy for us –in accordance with the GATS and related to human resources- would be to seek greater openness for an adequate period of time for Arab professionals, in order for them to embark on services-related activities with contracts in other countries. In return, there will be the possibility of unrestricted entry of foreign companies and achieving a commercial existence here. So we win in both cases.

I think it would be better if we do not embark on bold moves internationally, but rather work to achieve true and strong regional integration, since this will strengthen us overall when dealing with the advanced world.

In order to prevent any confusion, I'd also like to clarify that per the GATS, movement of people is different from immigration, as it refers to the businesspeople who move about based on short-term contracts to offer services for a limited period of time. This doesn't mean removal of borders as was done by the Europeans, yet what I suggest is the removal of borders between Arab states.

The possibilities and expectations will be exciting despite all this, because if my company can offer its services in the UK, US and EU, and I can send Arab accountants on missions worldwide, then my company without a doubt will greatly prosper, and the HR department would be working overtime to appoint new employees. Herein lies the true significance of the WTO in the area of human resources!

Services per the 3rd method (commercial existence) and the 4th one (natural movement of people), are the important ones according to the GATS that affect human resources. For this reason, I focused on them. But before I end my speech, I should elaborate a little further on the 1st and 2nd methods. The first method, related to services that are conducted in one country for consumers in another, was quite limited in the traditional sense up till recently, because in many instances it is technically difficult to provide services with this method. But the significance of services using this method increased dramatically with the introduction of electronic trade and advancements in information technology and telecommunications. Developments in providing services –using the 1st method- within the framework of electronic trade, had stopped in relation to the GATS, but were included for further study in 2003. Some areas of extreme importance relating to the GATS and providing services using the first method is financial services like insurance, but this has no direct impact on our topic today of human resources.

Provision of services via the 2nd method (related to consuming services in a country by visitors from another) can have an effect on domestic human resources by affecting the local market either positively or negatively. For example, in the area of medical services provided in the UAE, there may be some wealthy individuals that prefer to get treated in France or the US in private hospitals. Treatment at these establishments may be exorbitant, but well-known as being the leading hospitals in the world in the same field. By the same token, individuals from other Arab countries such as Egypt or Jordan or Yemen or elsewhere, may decide to head to the UAE to receive medical services there. Local regulations related to insurance and other issues can affect these tendencies, and have a profound impact on the number of jobs available, the quality of available training in the domestic market, the volume of investment and other factors that affect human resources positively or negatively.

One point worth noting when studying the methodology of negotiation and the topic at hand, is the difficulty in predicting –in most cases- all the future consequences of openness of the services sector. In some cases, unexpected surprises may occur and certain issues that people are apprehensive of may end with positive results. It is useful to always remember the implied meaning behind trade, which is that more open trade has usually been – in general, but not in every single instance- a matter of mutual benefit and renowned.

Finally, I think we can all agree that the Arab world needs to open its service sectors to foreign competition, and that we, instead of negatively accepting or rejecting suggestions forwarded to us by our international trade partners, need to be more proactive and affirmative in clarifying what we want. Additionally, we need to take big steps and make bold offers not only for opening up our countries, but also isolated commercial establishments in advanced nations as well.

We must fight diligently to achieve international standards, as specified in the GATS guidelines, and make it clear to developing countries that services provided relevant to the 3rd and 4th methods cannot be isolated and must go hand-in-hand, and that we agree to that. We must also courageously face the structural weakness in the Arab services sectors, by affecting our legislation and granting powers to our professional societies. In particular, we must not seek integration for the GCC countries only, but for the entire Arab region. One of the factors that makes cooperation between the GCC countries so strong is the extent of similarity between those countries. Economic integration between the Arab region as a whole where there are much greater differences will be necessary in the end, in order for the Arab world to prove itself at a global level.

It will be essential to transfer some powers from national professional bodies, to international regional ones, for negotiating through the complex agreements that will lead to trade that is more open and prosperous for everyone involved. The WTO began its work with the accounting sector as a model, but work with this sector isn't finished yet and there remains much to be done. Achieving mutual recognition within the sector of certified accountants may be a simple first step that all Arab countries can take. This in turn will grant ASCA direct influence to call for the recognition of Arab accountants in the EU, the US and elsewhere. The UAE has exhibited great leadership in this regard, and there is still a long road ahead for the accounting sector. Yet, this is only a model for what needs to be done in the end for all services sectors. When we move along in this process, we'll realize that we'll reap more benefits from the GATS than from the General Agreement on Tariffs and Trade for 1994 (GATT-94). [GATS is the agreement that succeeded the old GATT that deals with trade in commodities]. In fact, we'll note that one of these days, we can reap a relative benefit from services, which will be the key to the future of our children. This way, the WTO will have a great impact on our human resources sector.

Thank you for listening.