

# WORLD TRADE ORGANIZATION

RESTRICTED

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## Council for Trade in Services

### REPORT OF THE MEETING HELD ON 28 JUNE 1996

#### Note by the Secretariat

1. The Council for Trade in Services held a special meeting on 28 June 1996. The agenda for the meeting is contained in paragraph 2 of Airgram WTO/AIR/362. The Chairperson proposed that the two items on the agenda be taken up in reverse order.

#### Item B: The status of acceptances of the Second and Third Protocols to the GATS

2. The Chairperson recalled that the deadline for the acceptance of the Second Protocol to the GATS, relating to financial services, and the Third Protocol, relating to movement of natural persons, was 30 June 1996. In so far as the Second Protocol was concerned 18 out of 29 Members concerned had thus far accepted it. They were Chile, Japan, Morocco, Hong Kong, Switzerland, Turkey, Kuwait, Singapore, Hungary, the European Community, India, Canada, Korea, Australia, Norway, South Africa, Thailand and Venezuela. With respect to Members States of the European Communities, nine had accepted. They were Finland, Germany, Ireland, Austria, United Kingdom, Denmark, France, Italy and the Netherlands. Brazil, Portugal and Greece had accepted subject to ratification. In so far as the Third Protocol was concerned five Members had thus far accepted. They were Australia, Canada, India, Norway, and the European Communities with nine of its Member States (Austria, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands and the United Kingdom). Greece and Portugal had accepted subject to ratification.

3. The Chairperson noted that in accordance with the terms of the Second Protocol, if by 1 July 1996 the Protocol had not been accepted by all the Members concerned, those Members which had accepted before that date needed to decide on its entry into force within a period of 30 days. She pointed out that it seemed clear that this procedure would have to be followed and that a decision would have to be taken by the end of July. In so far as the Third Protocol was concerned, the procedure was slightly different. The Protocol entered into force on the 30th day following the date of each acceptance. However, if a Member whose schedule was annexed to the Protocol had not accepted by 30 June, the matter was to be referred to the Council for consideration and appropriate action. She added that thus far the delays in acceptances of the two Protocols were said to be of a purely procedural nature and that there were no substantive problems raised with respect to related commitments or MFN exemptions. Under these circumstances, she suggested a decision might be taken by the Members which had accepted the Second Protocol to let it enter into force and at the same time invite those who had not thus far accepted to do so at the earliest possible date. With respect to both Protocols, she pointed out that Members who had not thus far accepted then could only do so as if the Council was to take a decision extending the acceptance period, since formally, acceptance was no longer possible after 30 June 1996. The Chairperson stressed that it was very important for the integrity and the credibility of the multilateral trading system to implement the results of the negotiations in both areas. She therefore urged the Members concerned to do their utmost to be able to accept the Protocols within the shortest possible period of time.

4. The representatives of the Czech Republic, Mexico and Poland, stated that their governments were in a position to accept the Second Protocol and that their delegations would proceed to do so. The representative of Switzerland stated that although his government remained committed to the improvements contained in its schedule annexed the Third Protocol, it had not accepted it since some major participants had not thus far completed their internal procedures for acceptance. He indicated that Switzerland would accept the Third Protocol immediately upon the acceptance of other Members.

5. The representative of India stated that his delegation had always been in the forefront of the negotiations on the Third Protocol and that his government had accepted it upon assurance by all Members concerned that they would accept the Protocol. Therefore it came as a matter of surprise to his delegation to learn of problems faced by some Members in relation to the acceptance of the Protocol. He added that although procedures had to take their time, it would be of deep concern to his delegation if Members were to give the Third Protocol a lower priority than other Protocols and if the spirit of good faith in which his delegation had accepted it were not reciprocated by some Members.

6. The representative of Japan recalled that his delegation was criticized during the negotiations on the Second Protocol for requesting that the deadline for acceptance should be extended until 30 June 1996. He added that his delegation understood that procedural difficulties could arise. However, paragraph 3 of the Second Protocol stipulated that Members which had accepted the Protocol before 1 July 1996 were to be the ones who would decide within 30 days on its entry into force.

7. The representative of the European Communities stated that all Members concerned were committed to the completion of their acceptance procedures and that he did not see why procedural delays in some cases should be a matter for concern to other Members. He added that on previous occasions, procedural delays had caused some countries to accept results of multilateral negotiations later than had originally been foreseen. He stressed that the Member States of the EC were committed to the implementation of the commitments annexed to the Second Protocol. He did not foresee any difficulties in having a decision taken by the Members concerned within the 30 day period to allow the Protocol to enter into force.

8. The representative of Australia stated that her delegation had already accepted the Second and Third Protocols, and that she understood that the difficulties faced by those who had not thus far accepted were only of a procedural nature. However, she urged those Members to expedite their internal procedures and accept the Protocols as soon as possible.

9. The representative of Canada stated that his delegation had already accepted the Second and Third Protocols and that it was regrettable that not all Members concerned had done so. He suggested that a meeting needed to take place within the following month to take a decision on the entry into force of the Second Protocol.

10. The Chairperson stated that she intended to start informal consultations on the decisions that needed to be made by Members which had accepted the Second Protocol and by the Council with respect to the Third Protocol. She suggested that the Council take note of the statements made and revert to this item at its next meeting.

11. The Council so agreed.

Item A: Matters relating to the conclusion of the negotiations on maritime transport services

12. The Chairperson drew attention to document S/C/W/15 containing a draft Decision proposed by the Negotiating Group on Maritime Transport Services for consideration and adoption by the Council. Since delegations were familiar with the content of the draft, she suggested that the Council adopt the Decision.

13. The Decision was adopted.

14. The representative of Norway stated that his delegation had agreed to the adoption of the Decision inspite of their concern about the continued suspension of the MFN obligation of the GATS, on which the Decision prolonged the arrangements stipulated in the Annex on Negotiations on Maritime Transport and the related Ministerial Decision. Nonetheless, his government had decided to bind the best offer it had submitted in the context of these negotiations.

15. The representative of Hong Kong stated that there had been great disappointment caused by the failure of the United States to come forward with an offer. His delegation found unacceptable the statement made by the United States administration on 14 June which described the offers that had been made by other participants as merely locking in place "restrictive, anti-competitive measures". He also stated that when it had become certain that the U.S. would not make an offer, other major participants were not able to provide leadership in the closing stages of the negotiations and adopted a minimalist approach. He added that the decision that had just been adopted by the Council dealt a serious blow to the multilateral trading system by suspending MFN and hoped that it would not establish a precedent. He stressed that his delegation had accepted the decision with great reluctance and regarded its fourth paragraph, relating to the suspension of Article II, as regrettable. He stated that his delegation needed to reflect carefully over the following 30 days on what to do with respect to the schedule of commitments of Hong Kong relating to maritime transport.

16. The representative of Iceland stated that his government had decided to bind the offer it had submitted in the context of these negotiations. The representative of Japan stated that the Decision that had just been adopted by the Council was not a cause for celebration. The reality was that there had been a failure by one major participant to engage in the process.

17. The Chairperson suggested that the Council take note of the statements made.

18. The Council took note.