

## Working Party on Professional Services

### NOTE ON THE MEETING HELD ON 16 NOVEMBER 1998

#### Note by the Secretariat

1. The Working Party on Professional Services held its twenty-third meeting on 16 November 1998. The agenda for the meeting was contained in airgram WTO/AIR/970. The main item on the agenda was a revised draft Decision of the Council for Trade in Services on the legal form of the disciplines on accountancy. Also discussed were draft reports of the WPPS to the Council for Trade in Services.

(a) Work Pursuant to Paragraph 2(a) of the *Decision on Professional Services*

#### Draft Council Decision

2. The Chairman introduced his revised informal Note, "Decision on Disciplines Relating to the Accountancy Sector" (Job No. 6051, dated 6 November 1998), by highlighting the changes made to the draft Council Decision from the previous version, as explained in the cover note.

3. The representative of Japan said that his delegation was comfortable with most parts of the text; however, the WPPS should not prejudge future work by adding the phrase "including accountancy" in paragraph 2. The representative of the European Communities enquired whether the second sentence of paragraph 1 might be better formulated, and asked whether the title of the draft Decision should be changed to refer to all professional services. She expressed doubt as to whether the phrase "including accountancy" was needed, and said that the phrase "are intended" in the third sentence of paragraph 2 was too weak. The delegate from Egypt expressed satisfaction with the language of all three paragraphs of the revised Decision and, noting that the text was a compromise, urged Members not to make further changes. If the text were revised, however, Egypt would also revise its position.

4. The delegate from the United States expressed appreciation for the revisions to the draft Decision, and said that the text was now generally acceptable. Stating that the accountancy disciplines were a "low common denominator" of Members' positions, the representative said it would therefore be problematic if the accountancy disciplines could not be revised at some point in the future. He also said that some Members might have the view that adoption of the text by the Council meant the accountancy disciplines could not be changed; in order to avoid this possibility, while recognizing that any future changes would require a consensus among Members, the phrase "including accountancy" should remain in the text. He also noted there was concern over not specifying a date in the text. This was unavoidable, however, as the schedule for the next round of negotiations was unknown in this respect.

5. The representative of New Zealand agreed that the second sentence of paragraph 1 should be reexamined, as the disciplines would not have legal force following a Council Decision. She noted that the inclusion of the word "all" in the third sentence of paragraph 2 could also cause confusion. The delegate from Australia stated that the draft Decision was now nearly a final document. On the phrase "including accountancy", she agreed with the United States that a specific reference was needed. On the second sentence of paragraph 1, she felt it should be deleted.

6. The delegate from India said that the existing text was acceptable, but that any substantive changes would require further discussions and comments. If changes were to be made, he supported the deletion of the phrase "including accountancy". The representative from Brazil noted that his delegation had not favoured mention of a horizontal approach in regard to future work; his delegation was willing to be flexible, however, in order to reach a consensus. Brazil did wish to register that its understanding that the wording of paragraph 2 was such that it did not prejudge the future course of negotiations, and left open the opportunity to develop sectoral disciplines when needed. Like other delegations, Brazil felt the phrase "including accountancy" was not necessary. The delegate from Canada said the existing consensus should be maintained, and therefore further drafting changes should not be made. He noted that the text already reflected a "precarious balance" between the viewpoints of Members. The Chairman stated that in his understanding the phrase "are applicable" in paragraph 1 meant "are capable of application", not that they would apply immediately.

7. The delegate of Mexico said she was pleased with the revised Decision. In paragraph 1, she suggested that the second sentence be revised slightly to say "These disciplines are to be applicable" while, in paragraph 2, she felt the phrase "including accountancy" was not necessary. In paragraph 3, she suggested the phrase "and with their Schedules of Specific Commitments" be added to the second line after "existing legislation" in order to cover commitments which go beyond the status quo in national legislation. The delegation from Uruguay noted that the text had been improved, and was nearly finished. On paragraph 1, the suggestion to revise the second sentence to say "are to be applicable" should be considered. However, the phrase "including accountancy" was probably redundant, and doubtful from a legal point of view. The delegate of Argentina said that the draft Decision was acceptable, and noted that the text was the result of compromise between Members. He indicated that it was better to reach consensus on the existing text rather than attempt further revisions. The delegation of Switzerland indicated their agreement on the need to maintain consensus on the basis of the existing text. The representative of the European Communities indicated that her delegation would give a response soon on the request to maintain consensus.

8. The delegate from Canada asked for clarification of the concerns raised by Mexico in respect to paragraph 3. The delegate from the United States said, regarding Mexico's points, the GATS covered only government measures, and not measures taken outside the government domain. Member commitments in the Schedules were already covered by the DSU. The representative also strongly agreed with other Members that the text of the Decision should not be altered. The delegate of Mexico said she found the comments by the U.S. delegate helpful. To respond to Canada, the representative said Mexico's concerns included, for example, industry codes of conduct not subject to national legislation. The representative of New Zealand said she supported Mexico on the inclusion of the phrase "are to be applicable".

9. The Chairman also urged Members not to reopen the text, apart from two minor editing changes, i.e. revising paragraph 1 to say "These disciplines are to be applicable" and deleting "all" from paragraph 2. On the point raised by Mexico, the Chairman observed that what is contained in Members' Schedules, other than possibly additional commitments, was a separate matter from Article VI:4 issues. The Chairman concluded discussions by saying that he hoped to finalize the text at the next meeting.

#### Draft WPPS report

10. The draft report of the WPPS to the Council for Trade in Services, in the form of a Chairman's Note (Job No. 6052, dated 6 November 1998), was discussed in informal mode. One Member suggested some minor clarifications, and on this basis Members agreed to go forward with the final version of the report.

(b) Other Business

11. Under "Other Business", the Chairman noted that the next WPPS meeting was scheduled for 4 December. The objective of the meeting would be to finalize both the accountancy disciplines and the Council Decision.

12. Introducing the draft of the annual WPPS report to the Council (WTO document S/WPPS/W/20, dated 16 November 1998), the Chairman then asked Members to present their comments in advance of the next meeting, in order to allow the report to be adopted at the meeting. The representative of Columbia commented that the term "reference paper" was not appropriate in the third paragraph, stating that "additional commitments" would be a better term.

13. The Chairman concluded by stating that Members should start to consider the direction of the WPPS's work for the next year, and that this topic could also be discussed at the next meeting. The representative of Canada then enquired whether paragraph 5 of the draft annual report should serve as the starting-point of the discussions. The Chairman replied that he felt paragraph 5 reflected the extent of the discussion to date, but did not represent a commitment by Members.

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