

## **COMMUNICATION FROM NORWAY**

### The Negotiations on Trade in Services

The attached communication has been received from the delegation of Norway with the request that it be circulated to Members of the Council for Trade in Services.

#### **I. INTRODUCTION**

1. This proposal is submitted with reference to the “Roadmap” adopted at the Special Session of the Council for Trade in Services on 25 May 2000, paragraph 2 (c). The proposal represents initial views on procedures and the content of the negotiations on trade in services. As foreseen in the “Roadmap”, Norway may submit further or more detailed proposals at a later stage.

2. Starting with the stocktaking exercise at the end of March 2001, ample time should be allowed for a thorough discussion of the proposals submitted by Members. To ensure such a comprehensive treatment of all proposals, it would be useful to begin with a general debate on the proposals at the next meetings of the Special Session of the Council for Trade in Services, leading up to the summer break, before proceeding to a more detailed discussion on the various sectors and horizontal issues.

3. We regard the service negotiations as a part of a broader negotiating agenda in the WTO.

#### **II. OBJECTIVES**

4. In order to ensure that the negotiations are as relevant and successful as possible, they should reflect the rapidly increasing importance and dynamic nature of the services sector in the world economy. The negotiations should aim at promoting the general objectives of the WTO, such as:

- raising standards of living, and ensuring full employment,
- promoting trade for all, and thereby ensuring that developing countries, and especially the least developed among them, secure a share in the growth in international trade that is commensurate with their economic development needs,
- allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means of doing so in a manner consistent with the Members’ respective needs and concerns at different levels of economic development.

5. To promote these general objectives, the negotiations should:
- be conducted on the basis of due respect for national policy objectives, and recognize the right of Members to regulate in order to meet national policy objectives, as laid down in the GATS,
  - lead to an increasing number of legally binding and economically meaningful market access commitments,
  - treat all Members' proposals fairly, secure an overall balance of rights and obligations for all participants, and allow for appropriate flexibility for individual developing country Members,
  - contribute to the increased participation of developing countries in trade in services, giving special priority to least developed country Members, inter alia by liberalization of market access in sectors and modes of supply of special interest to these Members,
  - take into account the need for technical assistance, aimed at strengthening the efficiency and trade capacity of the domestic services sector and improving national authorities' regulatory capacity,
  - build on the MFN- principle as a cornerstone of the WTO and GATS agreements,
  - lead to few or no MFN exemptions, in order to prevent erosion of the commitments on market access and national treatment,
  - deal with improvement in Members' commitments in relation to all modes of supply.
6. We also take as a point of departure that all Members respect the importance of cultural identity, and that this is duly considered in the relevant areas of the negotiations.

### **III. GATS RULES**

7. Norway regards the rules of the GATS as an important mechanism to establish a framework of rules and disciplines that promotes trade and helps bring about a better-organized world economy. Regarding the mandated negotiations in this area, we have the following comments at this stage.

#### **1. Domestic Regulation (GATS Art. VI)**

8. As the level of traditional market access commitments rises, domestic regulations will become an important aspect for further liberalization of trade in services. Disciplines on domestic regulation should ensure that market access and national treatment commitments are not undermined by unnecessarily trade-restrictive regulations. This work should be conducted on the basis of due respect for national policy objectives, and recognize the right of Members to regulate in order to meet national policy objectives. Important work in this respect is currently being undertaken in the Working Party on Domestic Regulation (WPDR) through the development of regulatory disciplines regarding transparency and "necessity".

9. The establishment of a multilateral discipline on domestic regulation is primarily a horizontal issue. However, for some sectors with a high degree of regulatory complexity, "reference papers" on regulatory issues could be developed, like the one established on telecommunication services. Such reference papers would provide a basis for undertaking additional commitments. This work should be pursued in parallel with the development of general disciplines in the WPDR.

## **2. Emergency Safeguard Measures (GATS Art. X)**

10. An emergency safeguard for trade in services would have to be compatible with the preamble to the GATS and include criteria and procedures that do not undermine the concessions and commitments made under the GATS. The provisions must ensure adequate multilateral control of any application of an emergency safeguard instrument, in addition to the normal and full dispute settlement procedure.

11. Norway acknowledges that an emergency safeguard clause may be of particular interest to developing countries in order to achieve progressively higher levels of liberalization of trade in services. If we were able to reach consensus on emergency safeguard measures within the agreed time frame, this would give a positive signal as regards the other ongoing negotiations on trade in services.

## **3. Government Procurement (GATS Art. XIII)**

12. Bearing in mind Article XIII of the GATS, namely that “there shall be multilateral negotiations on government procurement in services under this Agreement”, Norway expects such negotiations to take place in the course of GATS 2000. Government procurement plays an important part in Members’ economies. Extending existing GATS disciplines as well as basic GATS principles, such as transparency and fairness of administration, to government procurement would be beneficial for governments, as well as for industries and consumers. The negotiators should profit from the work being carried out by the Working Group on Transparency in Government Procurement as far as transparency relating to services is concerned.

## **4. Subsidies (GATS Art. XV)**

13. Certain subsidies might have distortive effects on trade in services. Members have committed themselves to negotiations with a view to developing the necessary multilateral disciplines to minimize such trade-distortive effects. Norway recognizes the complexity of this issue. The issue should, however, be treated in full conformity with the Mandate, and discussions of subsidies should be part of the GATS 2000.

# **IV. SECTOR-SPECIFIC PROPOSALS**

## **A. NEGOTIATION PROCESS**

14. GATS 2000 negotiations should take place in the Council for Trade in Services and its Special Session, which in our view should have a strong and guiding role in the work ahead.

## **B. PROPOSALS**

15. At this stage Norway is presenting specific proposals in the following sectors:

- business services
- telecommunications
- financial services
- maritime transport
- air transport
- energy services

16. The proposals represent initial views on some important sectors. Norway expects to table further proposals at a later stage.

## **1. Business Services**

### **(a) Introduction**

17. Business services cover a wide range of different service industries, which are important to business development. In an increasingly globalized world economy, it is important that business service suppliers can move with their clients and venture into new markets. Trade in business services enhances the positive economic effects of trade in general. The Norwegian market is open to competition, as reflected in the Norwegian schedule.

18. Business service sectors in most countries are subject to national regulations in order to attain national quality objectives. Liberalization efforts must take into account such legitimate objectives as consumer protection, public safety and the rule of law.

### **(b) Proposal**

19. WTO work on regulatory issues should, insofar as possible, be based on international standards which are well developed for specific service sectors, for instance, the ISA (International Standards on Auditing) and the IAS (International Accounting Standards).

20. Norway encourages Members to undertake additional commitments with regard to market access and national treatment and reduction in or elimination of remaining MFN exemptions. MFN exemptions based on reciprocal recognition of professional qualifications should be notified in accordance with the GATS Art. VII.

21. In particular Norway seeks commitments in relation to:

- Architectural Services (*CPC Prov. 8671*)
- Engineering Services (*CPC Prov. 8672*)
- Technical Testing and Analysis Services (*CPC Prov. 8676*)
- Computer and Related Services (*CPC Prov. 841 - 849*)
- Real Estate Services (*CPC Prov. 821 - 822*)
- Accounting, Auditing and Bookkeeping Services (*CPC Prov. 862*)

## **2. Telecommunications**

### **(a) Introduction**

22. Telecommunications provide a key infrastructure needed for economic development. The Norwegian market is fully open to competition, as reflected by the Norwegian commitments. Allowing competition to thrive has had a positive impact on the development of our domestic market. It has contributed to the emergence of a strong communications sector in Norway, and allowed consumers and businesses to take advantage of a greater range of choice, lower prices and innovative services and applications.

23. Furthermore, recent studies indicate that developing countries have also benefited from liberalizing their telecommunications sectors and opening up for trade.

### **(b) Proposal**

24. Many Members have not yet made any basic and value-added telecommunications commitments. Others have made commitments that are partial or have been phased-in over a long period of time, and yet others have limitations on market access (e.g. limits on foreign investment and

the number of service suppliers). All Members should fully adopt the agreements on value-added and basic telecommunications services (including satellite, Internet and mobile services) in the course of the negotiations.

25. A Reference Paper on Regulatory Principles was negotiated in the negotiations on basic telecommunications. This reference paper imposes pro-competitive disciplines such as competitive safeguards, interconnection guarantees, neutrality of universal service requirements, transparency of licensing procedures, establishment of independent regulators and guidelines for the allocation and use of scarce resources. The reference paper is essential in order to ensure fair competition. Therefore, all Members should adopt in full the provisions of this document.

### **3. Financial Services**

#### **(a) Introduction**

26. The financial sector plays a key role in overall economic performance. By improving financial intermediation and resource allocation, and providing the means for specialization on the basis of comparative advantages, the diffusion of know-how and the realization of economies of scale and scope, liberalization of trade in financial services can have a strong, positive effect on income and economic growth.

27. The presence of foreign operators can make the financial service sector more efficient and stable, while increasing the incentives for better macroeconomic policies and regulation. In addition, ready access to capital and risk sharing on competitive terms will prove vital to businesses in an ever-growing, more closely integrated world economy. Liberalization of trade in financial services can thus also enhance the effects of liberalization in other service sectors as well as in goods.

28. Most present commitments by Members are related to commercial presence (Mode 3). Fewer Members have made commitments in relation to cross-border services (Mode 1) or to consumption abroad (Mode 2). There is however, a growing tendency to make Mode 2 commitments for financial services sub-sectors which are included in the Financial Services Annex, such as financial advisory services, insurance intermediation, reinsurance, risk assessment, and insurance related to maritime transport, aviation and other transport services.

29. Norway has liberal legislation for the financial sector and supports further multilateral liberalization in this sector. This liberalization should however not preclude the possibility of applying host country regulation for prudential and other imperative purposes.

#### **(b) Proposal**

30. Norway invites Members to undertake real improvements in their commitments with regard to market access and national treatment and to reduce or eliminate remaining MFN exemptions.

31. The classification set out in the Annex on Financial Services and the Understanding on Commitments in Financial Services provides a comprehensive and transparent basis for scheduling commitments. Norway encourages all Members to adhere fully to the broad definitions used therein when scheduling commitments. In this regard, Norway emphasizes the need for additional commitments in the field of insurance related to maritime shipping. Ships transport about 80 percent of world trade in goods. The development of an open and competitive regime for insurance for maritime shipping will contribute to reducing the costs of trade, and thereby to stimulating trade in goods and overall economic development.

#### **4. Maritime Transport**

##### **(a) Introduction**

32. Maritime transport is an important sector for Norway in the services negotiations. Half of the value of Norwegian exports of services is related to maritime transport.<sup>1</sup>

33. Maritime transport provides the basic infrastructure for world trade, as ships carry close to 80 per cent of world trade in goods. The unique mobility of the means of production (the ship), as well as more liberal trade policies than for most other service sectors, has made international shipping one of the leading and most globalized industrial sectors in terms of markets, technology, capital and employment. It is therefore a paradox that this sector is not adequately covered by the GATS. The results of the Uruguay Round in this sector were disappointing, since a proper solution for this important service sector was not found due the lack of commitments and application of the MFN principle.

34. Provided that an efficient regulatory regime is in place, maritime transport has environmental advantages compared with most other modes of transport. A proper WTO solution for maritime transport would contribute to reinforcing efforts being made by many countries, including Norway, to stimulate a shift of transport from road to sea for environmental reasons. Removing restrictions in this area may have a great potential. At the same time, Norway remains firmly committed to dealing with environmental challenges in the fields of maritime transportation itself, and will co-operate actively with other nations in the IMO and other relevant fora in order to improve international safety and environmental regulations.

35. Norway and some 30 other countries entered commitments on maritime transport in schedules under the GATS agreement in connection with the Uruguay Round and the ensuing NGMTS<sup>2</sup> negotiations. The Norwegian commitments on international maritime transport reflect Norway's liberal trading regime in this sector. The MFN principle applies to any specific commitments on maritime transport services that are inscribed in the schedules of member countries. More generally, the MFN principle will enter into force for this sector when GATS 2000 has been concluded.

36. The Norwegian Government will approach this sector on the basis of the Decision<sup>3</sup> regarding maritime transport services made by the Council for Trade in Services on 28 June 1996. Members should benefit from the efforts and comprehensive work already done in this sector during the Uruguay Round and the NGMTS. The starting point for the negotiations should be existing or improved offers as decided by the Council for Trade in Services.

37. Through the joint statement<sup>4</sup> on maritime transport by the European Communities and their Member States, Hong Kong, China, Japan, the Republic of Korea, Norway and Singapore, the issue of maritime transport has been made part of the agenda and work program for the Special Session of the Council for Trade in Services. This statement and many constructive comments and contributions from other Members have identified in general terms the challenges and areas for negotiation in this sector. There is now a need to enhance the position of this sector in the WTO system through real and meaningful liberalization and an increased number of commitments in the course of the negotiations.

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<sup>1</sup> The Norwegian-owned fleet is the third largest in the world after Greece and Japan. Norwegian shipping companies employ 65,000 seafarers of more than 50 different nationalities. More than half of them is from developing countries, and some 15,000 are Norwegian nationals. In addition 10,000 persons are employed in the land-based organization of shipping companies, of which 50 per cent in Norway.

<sup>2</sup> Negotiating Group on Maritime Transport Services

<sup>3</sup> S/L/24

<sup>4</sup> S/CSS/W/8 dated 6 October 2000

(b) Negotiation objectives

38. Norway has three main aims for the negotiations in the maritime transport sector:

- (i) the MFN clause should enter into force as foreseen for all Members,
- (ii) more Members should undertake commitments entailing real and meaningful liberalization of maritime transport in their schedules under the GATS, and
- (iii) few or no MFN exemptions.

(c) Proposal

39. During the negotiations Norway will present country-specific requests on commitments in relation to restrictions that limit market access and national treatment in relation to the various modes of supply. The formulation of the requests will be based on the three-pillar structure (maritime transport services, maritime auxiliary services, port services) of the model schedule and relevant MFN exemption principles.

40. At the present stage, Norway does not foresee a need for any changes in the model schedule, as it adequately covers the international maritime transport services sector. It may, however, be helpful to use a checklist as a supplement to the commitments in other transport sectors with relevance to maritime transport services, in particular the land modes of multimodal services involving a sea leg. In addition, some Members might need a formula to address restrictions in parts of the maritime cabotage sector. In order to provide for these needs, a draft checklist is enclosed in Annex 1 with the heading Supplement to the maritime transport model schedule.

41. The international maritime transport service restrictions that Norway will address during the negotiations are related to the following: unilateral market access and national treatment restrictions; cargo-sharing provisions in bilateral/plurilateral agreements; government-owned and/or financed cargoes; establishment of a commercial presence, particularly in relation to shipping companies and multimodal operations; discriminatory measures in ports; and discriminatory licensing requirements and economic needs tests.

42. As for the MFN exemptions, the following principles should be observed:

- provisions in bilateral agreements which are entered as MFN exemptions are only recognized when both parties to the agreement take equivalent MFN exemptions,
- the MFN exemption list cannot establish any right to introduce future restrictions beyond what is directly provided for by the GATS agreement,
- MFN exemptions cannot provide a basis for countermeasures,
- the MFN exemption list should not contain reservations or measures aimed at securing access to cargo on a basis of reciprocity.

## 5. Air transport

### (a) Introduction

43. Norway<sup>5</sup> pursues a liberal policy with the aim of negotiating as many Open Skies-type Air Services Agreements as possible, and we are therefore generally supportive of proposals aimed at liberalizing the regimes governing world aviation.

44. Norway emphasizes that any agreement for this sector needs to be in full conformity with international standards and regulatory measures, as established by the ICAO<sup>6</sup> and/or the ECAC<sup>7</sup>.

### (b) Proposal

45. Regarding services already included in the current GATS Annex on Air Transport Services, Norway would encourage Members to increase the number and quality of their commitments.

46. Regarding the ongoing review of the Annex, we have the following proposals:

- *Overflights/Air Transit*

The supply of air transport services directly related to the exercise of traffic rights is explicitly excluded from the GATS in accordance with the Annex on Air Transport Services. Norway proposes that the 1<sup>st</sup> and 2<sup>nd</sup> freedoms<sup>8</sup> of traffic rights of the ICAO Air Transit Agreement (1944) also be included as horizontal commitments of Members. This would present the airlines with fairer and more equal opportunities to compete in the international market on a non-discriminatory basis, leading to the more efficient transport of passengers and cargo. It would also secure all countries the ability to take full advantage of the 3<sup>rd</sup> and 4<sup>th</sup> freedoms<sup>9</sup> of traffic rights, which they have already obtained. This proposal would have a positive impact on the environment, since airlines would be free to choose the most optimal international established airway instead of being compelled to fly around certain countries. As for safety, it would be enhanced due to shorter flying times, and, on certain routes, easier access to emergency landing sites.

- *Ground-handling services*

Commitments should be considered regarding ground-handling services related to the different categories of ground-handling, such as the handling of passengers, baggage, aircraft etc

- *Services auxiliary to all modes of transport when delivered in an air transport context*

In connection with cargo handling at airports, commitments should be considered regarding storage and warehousing.

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<sup>5</sup> in close cooperation with Denmark and Sweden.

<sup>6</sup> ICAO: International Civil Aviation Organization.

<sup>7</sup> ECAC: European Civil Aviation Conference.

<sup>8</sup> First freedom: the right or privilege granted by one State to another State to fly across the territory of the first State without landing. Second freedom: the right or privilege granted by one State to another State to make stops in the territory of the first State for non-traffic purposes.

<sup>9</sup> Third freedom: the right or privilege granted by one State to another State to put down, in the territory of the first State, traffic coming from the home State of the carrier. Fourth freedom: the right or privilege granted by one State to another State to take on, in the territory of the first State, traffic destined for the home State of the carrier.



## 6. Energy services

### (a) Introduction

47. Norway regards energy services as one of the most important “new” areas to be negotiated during GATS 2000.

48. Reliable, efficient and competitively priced energy is a fundamental requirement for economic and social development in any country. Efficient energy services are, like modern telecommunications, transport and financial services, key factors in economic growth.

49. Despite the economic importance, relatively few commitments have been made for energy services. However, market conditions for energy services have changed fundamentally since the days of the Uruguay Round. In many countries these services have undergone a comprehensive deregulation process. The Nordic countries (Denmark, Finland, Norway and Sweden) have established a common, liberalized electricity market. European countries are also facing a gradual liberalization of the energy market. In other parts of the world, there has also been rapid and dynamic development in the field of energy services.

50. During these negotiations energy services should therefore be firmly incorporated into the GATS framework, in order to secure cost-effective energy services, to the benefit of all.

### (b) Scope

51. We consider energy services to encompass all services involved in the exploration, development, extraction, production, generation, transportation, transmission, distribution, marketing and consumption of energy, energy products and fuels. Many of these activities are closely interrelated.

52. It is essential that we take a broad approach when defining energy services. In order to realize fully the benefits of efficient, competitive energy services and to make economically meaningful commitments, we need to consider the entire chain of activities involved in resource identification, production, transmission, transportation and distribution, sales and marketing, irrespective of whether the activities take place onshore or offshore.

53. This point can be further illustrated by taking oil and gas production as an example. A significant share of the world production of oil and gas takes place offshore. Highly specialized equipment and services providing for offshore resource identification, exploration, extraction, production and transportation have been developed for this purpose. These core functions rely on a wide range of offshore supporting activities such as providing offshore storage, accommodation, safety and security services, transportation of supplies, etc. These activities are all key services in the production/value chain for oil and gas products and, consequently, have a natural place in the field of energy services.

54. Energy services do not form a separate sector or sub-sector in W/120, and the relevant services are included in different parts of the classification (and in the CPC). For discussion purposes a preliminary checklist for energy-related services is enclosed in Annex 2. This checklist is without prejudice to our final position as to the question of classification.

(c) Proposal

- *Some general observations:*

Respect for national policy objectives and the legitimate right of national authorities to regulate underpins also this part of the proposal. The question of public ownership of natural resources falls outside these negotiations.

55. We acknowledge that Members are in various phases of regulatory development and, as a result, competition for energy services varies significantly from one country to another. Differences in the level of commitments undertaken should therefore be expected.

- *Goals*

the Norwegian goals for the energy services negotiations can be summarized as follows:

- the negotiations should encompass all energy services,
- the negotiations should aim for increased commitments as regards market access and national treatment,
- energy services are complex and highly regulated, and it is therefore important to address regulatory issues specifically. A reference paper in line with the one established for telecommunication services could be developed. Central elements in such a paper would be rules on transparency, non-discriminatory access to with energy networks and grids, an independent regulator and requirements that prevent anti-competitive practices for energy services in general,
- we believe that a model schedule or a checklist for energy services could serve as a useful negotiating tool, and assist Members in making commercially meaningful commitments.

## **ANNEX 1**

### **DRAFT CHECKLIST**

#### **SUPPLEMENT TO THE MARITIME TRANSPORT MODEL SCHEDULE**

Commitments in the maritime and land transport sectors with some relevance to international maritime transport and not covered by the maritime transport model schedule:

##### **Maritime cabotage transport in general**

- Maritime cabotage transport feeder services related to international cargo
- Maritime cabotage transport of empty containers for international trade
- Maritime cabotage transport servicing offshore petroleum exploration and production

##### **Road cabotage transport in general**

- Road cabotage transport of cargo as part of transports where an international sea leg is involved
- Road cabotage transport of containerized cargoes as part of transports where an international sea leg is involved

##### **Rail cabotage transport in general**

- Rail cabotage transport of cargo as part of transports where an international sea leg is involved
- Rail cabotage transport of containerized cargo as part of transports where an international sea leg is involved

## ANNEX 2

### DRAFT CHECKLIST FOR ENERGY SERVICES

This checklist is preliminary, intended for discussion purposes only, and should be considered as "work in progress". Furthermore, the checklist is without prejudice to our final position as to the question of classification. Norway expects to table a revised list at a later stage in these negotiations.

Several of the CPC numbers cover activities with dual/several end-uses. In these cases, the reference is to the energy -relevant component of these activities.

W/120 Classification	Prove. CPC Numbers	Provisional CPC Heading
1.A Professional Services		
	8672	Engineering services
	8673	Integrated engineering services
1.B. Computer and Related Services	84	Computer and Related Services
1.C. Research and Development Services	851	Research and experimental development services on natural sciences and engineering
1.E. Rental and Leasing Services, without Operator	83107, 83109	Rental and leasing services without operators relating to construction machinery and equipment or other machinery and equipment, without operator (note: rental of equipment <i>with</i> operator is classified under construction services, CPC 518).
	83103	Rental/Leasing Services without operators relating to ship)
1.F. Other Business Services	865	Management consulting services
	866	Services related to management consulting
	8676	Technical testing and analysis services
	883	Services incidental to mining
	884, 885	Services incidental to manufacturing
	887	Services incidental to energy distribution
	8675	Related scientific and technical consulting services
	886	Maintenance and repair of equipment
	8790	Other Business Services

W/120 Classification		Prove. CPC Numbers	Provisional CPC Heading
3.	Construction and Engineering Services	Related511	Pre-erection work at construction sites
		512	Construction work for buildings
		513	Construction work for civil engineering
		515	Special trade construction work
		516	Installation work
		518	Renting services related to equipment for construction or demolition of buildings or civil engineering works, with operator
4.	Distribution Services	621	Commission agents' services
		622	Wholesale trade services
		632	Non-food retailing services
		6111, 6113,	Sales of motor vehicles, motorcycles and
		6121	snowmobiles, and related parts and accessories
		613	Retail sales of motor fuel
6.	Environmental Services	940	Sewage and refuse disposal, sanitation and other environmental protection services
9.A	Hotels and restaurants	64199	Other lodging services n.e.c. (offshore accommodation services)
11.	Transportation Services including	7112	Freight transportation by railway
		7123	Freight transportation by road
		713	Transport services via pipeline
		7212	Maritime freight transportation (Maritime cabotage transport servicing offshore petroleum exploration and production)