

DRAFT

**REPORT TO THE GENERAL COUNCIL
ON ACTIVITIES DURING 1999**

Revision

1. Since its last report to the General Council, dated 7 December 1998, the Council for Trade in Services has held eight formal meetings. Reports on the meetings are contained in documents S/C/M/32-39 and should be read in conjunction with this report. The Council addressed the following matters:

I. MULTILATERAL DISCIPLINES ON DOMESTIC REGULATION IN THE ACCOUNTANCY SECTOR

2. At the Council meeting of 14 and 15 December 1998, the Council discussed the report of the Working Party on Professional Services concerning its work on the development of multilateral disciplines in the accountancy sector. The report had four documents annexed to it: a Draft Council Decision (Job No. 6481/Rev.1); the text of the Disciplines (S/WPPS/W/21); a Chairman's Note on discussion of Articles VI, XVI and XVII (Job No. 6496); and the Decision on Professional Services (S/L/3). The Council adopted the draft decision attached to the report (S/L/63) and the text of the disciplines (S/L/64).

II. REOPENING OF THE FOURTH PROTOCOL FOR ACCEPTANCE

3. At the Council meeting of 14 and 15 December 1998, following a request from Ghana, the Council adopted a decision to re-open the Fourth Protocol for acceptance by Ghana. Members welcomed as a positive development the fact that Ghana could accept the protocol, but stressed that deadlines had an important function and that they must be observed. They agreed that the re-opening in this case should not constitute a precedent.

III. NOTIFICATIONS TO THE COUNCIL PURSUANT TO GATS PROVISIONS

4. At its meeting of 14 and 15 December 1998 the Council took note of the following notifications:

- (i) Notifications pursuant to Article III:3 of the GATS concerning modifications to services regulations in sectors where specific commitments had been undertaken:

Nigeria	(S/C/N/69)
Switzerland	(S/C/N/70)
Peru	(S/C/N/71)
Thailand	(S/C/N/72)
Thailand	(S/C/N/73)
Japan	(S/C/N/74)

Japan	(S/C/N/77)
Indonesia	(S/C/N/78)
Indonesia	(S/C/N/79)
Indonesia	(S/C/N/80)
Indonesia	(S/C/N/81)
Japan	(S/C/N/82)
Japan	(S/C/N/83)
Japan	(S/C/N/84)
United Kingdom	(S/C/N/85)

- (ii) Notifications pursuant to Article VII:4 of the GATS concerning recognition measures and agreements or agreements:

Australia	(S/C/N/67)
United States	(S/C/N/68)
Switzerland	(S/C/N/75)
Liechtenstein	(S/C/N/76)

IV. ENTRY INTO FORCE OF THE FIFTH PROTOCOL

5. By the deadline of 29 January 1999, the Fifth Protocol had been accepted by 53 out of 71 participating Members. Those who had accepted the Protocol had to decide on its entry into force within 30 days, that is by 1 March 1999. The accepting Members decided on 11 February 1999 that the Protocol should enter into force on 1 March, as would automatically have been the case if all Members concerned had accepted it by the deadline.

6. The Services Council subsequently agreed that the Protocol should be open for acceptance by those Members who had not yet done so from 15 February until 15 June 1999. It also agreed to renew the standstill commitment not to take any measures inconsistent with the Schedules annexed to the Protocol (Decision on Acceptance of the Fifth protocol to the General Agreement on Trade in Services, S/L/68 of 15 February 1999).

7. At the meeting held on 21 September 1999, following a request from Costa Rica and Nicaragua, the Council adopted a decision to re-open the Fifth Protocol for acceptance by these two Members. Members welcomed as a positive development the fact that Costa Rica and Nicaragua could accept the Fifth Protocol, but stressed that deadlines had an important function and that they must be observed. They agreed that the re-opening in this case should not constitute a precedent.

V. PREPARATION FOR NEGOTIATIONS UNDER ARTICLE XIX OF THE GATS: THE EXCHANGE OF INFORMATION

8. At the Ministerial Conference held in Singapore in 1996, Ministers endorsed a recommendation in paragraph 47 of document S/C/3 calling upon the Council for Trade in Services to develop an information exchange programme with the aim of facilitating the access of all Members, in particular developing country Members, to information regarding laws, regulations and administrative guidelines and policies affecting trade in services.

9. As part of the information exchange exercise, a series of discussions was held on specific services sectors. The focus of these discussions was on the manner in which the services in question were defined, traded and regulated as well as on the existing trade barriers. The discussions were aimed at enabling Members to identify negotiating issues and priorities. The Council agreed on five questions which constituted a useful, but not exhaustive, framework for the discussions. These questions were:

- (i) What are the regulatory authorities, governmental and/or non-governmental?
- (ii) Are there any special or common problems encountered as regards transparency or the application of the most-favoured-nation principle?
- (iii) What are the most prevalent types of restriction on market access or national treatment?
- (iv) Are there other types of regulation - for example in the areas of licensing, technical standards or qualification requirements - which commonly restrict trade in the sector?
- (v) What are the main barriers exports face in the markets of other Members?

10. The Council asked the Secretariat to prepare background papers on the sectors to be discussed at each meeting. These papers were based on information available on each sector and on the analysis of specific commitments. They contained information on the economic importance of the service, issues of definition, the main ways in which the service was traded and regulated, existing regulatory barriers to trade, limitations commonly found in schedules and sources of further information.

11. Discussions on specific services sectors were held between June 1998 and March 1999. During the period covered by this report, the Council held discussions on Financial, Accountancy and Telecommunication Services, Presence of Natural Persons and the Structure of Commitments for Modes 1, 2 and 3.

VI. ASSESSMENT OF TRADE IN SERVICES – ARTICLE XIX:3 OF THE GATS

12. Paragraph 3 of Article XIX of the GATS provides that for each round of negotiations, guidelines and procedures shall be established. For this purpose, the same provision calls upon the Council to carry out an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of the GATS, including those set out in paragraph 1 of Article IV.

13. In the discussions on the assessment it was pointed out that trade in services suffered from a serious lack of statistical information which could constitute a proper basis for a quantitative assessment. This made it very difficult to envisage an assessment exercise which would lead to precise or quantified conclusions. A strong element of subjectivity was therefore inevitable in the assessment by each Member of how trade in services had developed in general or on a sectoral basis.

14. The Council requested the Secretariat to prepare a background note on the assessment of trade, to complement its work on statistics (S/C/W/27) and the economic effects of services liberalisation (S/C/W/26 and S/C/W/26/Add.1). Accordingly, the Secretariat prepared a note on Recent Developments in Services Trade (S/W/C/94), which together with other existing documents was meant to assist the Council in its assessment of trade in services. The Secretariat also produced an informal note on "Developmental Aspects of Services Liberalization." On the basis of the notes prepared by the Secretariat, Members have been conducting an assessment of trade at the Council meetings held between December 1998 and October 1999. At the July 1999 meeting, the UNCTAD Secretariat was invited to provide an overview of their work in the services area with a view to identifying material that might be relevant to the assessment by the Services Council. The UNCTAD Secretariat made a presentation to the Council and submitted a paper entitled "Assessment of Trade in Services: Possible contribution by UNCTAD". The paper was discussed at the Council meetings on 16 July and 21 September 1999. It was the general view that the assessment of trade in services

should be regarded as an on-going process rather than as a concluded exercise. It was therefore concluded that the Council would revert to it at an appropriate time in 2000.

VII. PREPARATION OF NEGOTIATIONS UNDER ARTICLE XIX – NEGOTIATING GUIDELINES AND PROCEDURES

15. At its meetings in April, May, June, July and September 1999 the Services Council held substantive discussions on the negotiating guidelines and procedures required by Article XIX of the GATS. Written submissions were presented by various delegations. In addition, several delegations also expressed their views at the meetings on what the negotiating guidelines should contain.

16. Although the General Council was the competent body to decide on negotiating guidelines, Members considered it useful to hold discussions on this issue in the Services Council. The discussions revealed a high degree of convergence between the views expressed by delegations.

VIII. SUBMISSION OF SCHEDULES OF COMMITMENTS UNDER THE CERTIFICATION PROCEDURE

17. At meeting of the Services Council held on 14 and 15 December 1998, Côte d'Ivoire submitted a schedule of commitments in financial services and a list of Article II exemptions under the certification procedure. At the same meeting Guatemala submitted a schedule of commitments in telecommunications services. At the meeting of the Services Council held on 9 and 15 February 1999, Korea submitted an improved schedule of commitments in Financial Services. The procedure was concluded for Côte d'Ivoire on 18 March 1999, for Guatemala on 12 March 1999, and for Korea on 13 September 1999.

IX. COOPERATION BETWEEN THE ITU AND THE WTO

18. The question of a cooperation agreement between the International Telecommunication Union (ITU) and the WTO was discussed at several meetings of the Services Council during 1998. The Council mandated the Secretariat to consult with the ITU Secretariat on the possible form and content of such an agreement. On the basis of these consultations, the WTO Secretariat produced a draft which was discussed by Members in the Services Council. Members approved the text of the agreement with the ITU at the meeting of the Services Council held on 22 and 23 March 1999. The text was forwarded to the ITU.

X. SPECIAL SESSION ON TELECOMMUNICATIONS SERVICES

19. On 25 June 1999, the Services Council held a special Information Session on Telecommunication Services. The Information Session examined in depth technical assistance to developing countries on regulatory issues such as the establishment of an independent regulator, interconnection and competitive safeguards. Experts from other international intergovernmental organizations including the International Telecommunications Union and the World Bank participated as well as national regulators from capitals.

XI. TRADE FACILITATION

20. On 1 September 1998 the Chairman of the Council for Trade in Services received a letter from the Chairman of the Council for Trade in Goods requesting the Services Council to include "trade facilitation" as an item on the agenda of its following meeting to address its relationship with the GATS and provide the results of such discussions by March 1999, to the Goods Council as an input to its further discussions on the subject.

21. At its meeting of 22 and 23 March 1999, the Services Council discussed the subject of trade facilitation. It was the general view that the concept of trade facilitation as originally raised in the context of trade in goods, i.e. mainly concerned with simplifying, streamlining and modernising customs formalities and administrative procedures, was not as such applicable to trade in services. However, in a broader sense, it was felt that liberalization of trade in services could play an important role in facilitating trade in goods. It was also suggested that issues of trade facilitation in services could be taken up as they related to individual sectors in the context of the exchange of information exercise, while specific issues relating to Electronic Data Interchange (EDI) could be taken up in the context of the work programme on Electronic Commerce. The main points raised by delegations in discussions on trade facilitation held in the Services Council were communicated in a letter from the Chairman of the Services Council to the Chairman of the Goods Council.

XII. WORK PROGRAMME ON ELECTRONIC COMMERCE

22. The Services Council addressed the Work Programme on Electronic Commerce at its meetings held between October 1998 and July 1999. Discussions focused on the twelve issues contained in paragraph 2.1 of the work programme adopted by the General Council on 25 September 1998 namely: (i) scope (including modes of supply) (Article I); (ii) MFN (Article II); (iii) transparency (Article III); (iv) increasing participation of developing countries (Article IV); (v) domestic regulation, standards, and recognition (Articles VI and VII); (vi) competition (Articles VIII and IX); (vii) protection of privacy and public morals and the prevention of fraud (Article XIV); (viii) market-access commitments on electronic supply of services (including commitments on basic and value added telecommunications services and on distribution services) (Article XVI); (ix) national treatment (Article XVII); (x) access to and use of public telecommunications transport networks and services (Annex on Telecommunications); (xi) customs duties; (xii) classification issues.

23. At its meeting on 22 and 23 March 1999, the Council approved an Interim Report to the General Council (S/C/8), as required by the Work Programme. At the meeting held on 19 and 20 July 1999, the Services Council agreed on a Progress Report to the General Council (S/L/74) as mandated by the Work Programme.

XIII. SYSTEMIC ISSUES ARISING FROM ARTICLE V OF THE GATS

24. At the meetings held on 26 April 1999, on 22 and 24 June 1999 and on 19 September 1999 the Council discussed issues relating to Article V of the GATS (Economic integration). Some delegations submitted written communications on this subject. Several delegations expressed interest in the issues raised and in clarifying certain aspects of Article V. Some suggested that these issues could be taken up in the context of the next round of negotiations. Other delegations, however, maintained that there was no need to revise or modify Article V, whose requirements and parameters were clear enough. The importance of adhering to the notification obligations contained in Article V was also stressed. Although delegations had a useful debate on these issues, there was no common view on how to advance discussions in the Services Council. Proposals had been made in the General Council on clarifying and reinforcing WTO rules on regional and economic integration agreements in the next round of negotiations. The Council took note of the debate and of the statements made by delegations and agreed to wait for some directions on this issue from the debate in the General Council.

XIV. ESTABLISHMENT OF THE WORKING PARTY ON DOMESTIC REGULATION

25. At the meeting held on 26 April 1999, the Council discussed the issue of how to manage the two overlapping mandates, of paragraph 4 of Article VI, which called upon the Council to develop disciplines on domestic regulation on all services sectors, and the Decision on Professional Services

which called upon the Working Party on Professional Services (WPPS) to fulfill the same task for professional services. For this purpose, at the same meeting, the Council adopted a decision establishing the Working Party on Domestic Regulation (WPDR). This replaces the WPPS and will be responsible for carrying out all the work foreseen under Article VI, including the tasks of the WPPS. The WPDR would give priority to the development of horizontal disciplines applicable to all services sectors, while retaining the possibility of developing further disciplines applicable to specific sectors or groups of sectors.

XV. EXTENSION OF THE DEADLINE FOR NEGOTIATIONS UNDER ARTICLE X OF THE GATS (EMERGENCY SAFEGUARD MEASURES)

26. At the meeting of the Council held on 22 and 24 June 1999, the Council received a proposal from the Chairperson of the Working Party on GATS Rules to extend the deadline for the negotiations under Article X of the GATS on the question of emergency safeguards measures (document S/C/W/111). The Chairman of the Working Party on GATS Rules presented the proposal, which set the date for the conclusion of the negotiations on emergency safeguards measures at 15 December 2000, and provided that the final date for the entry into effect of the results of these negotiations shall be no later than the date of entry into force of the results of the next services round. The Chairman of the Working Party on GATS Rules also pointed out that the extension did not prejudice any country's position on the desirability and feasibility of an emergency safeguard mechanism in services. The Council adopted the Decision proposed by the Chairman of the Working Party.

XVI. PROCEDURES FOR THE IMPLEMENTATION OF ARTICLE XXI OF THE GATS – DRAFT PROCEDURES PROPOSED BY THE COMMITTEE ON SPECIFIC COMMITMENTS (S/C/W/114, S/CSC/W/21)

27. Article XXI:5 of the GATS calls upon the Council for Trade in Services to establish procedures for the modification of schedules. At its meeting on 29 May 1997, the Council had decided to refer this task to the Committee on Specific Commitments. At the meeting held on 19 and 20 July 1999, the Council received the draft procedures from the Committee, which were contained in document S/CSC/W/21. The Council adopted the Decision proposed by the Chairman of the Committee.

XVII. REVIEW OF THE ANNEX ON AIR TRANSPORT SERVICES UNDER PARAGRAPH 5 OF THE ANNEX

28. At the Council meetings held on 19 and 20 July, on 21 September and on 18 October 1999, Members began discussions on the review of the Annex on air transport services pursuant to paragraph 5 of the Annex. The Council asked the Secretariat to gather information on the work carried out by other bodies in this area. In response the Secretariat prepared a note contained in document S/C/W/129.

XVIII. REVIEW OF ARTICLE II (MFN) EXEMPTIONS

29. At the Council meetings held on 21 September and on 18 October 1999, the Council began discussions on the review of MFN exemptions as mandated by paragraph 3 of the Annex on Article II exemptions. The Council asked the Secretariat to compile a list of existing MFN exemptions as a basis to start the review process. In response, the Secretariat prepared an informal note, Job No. 6116.

XIX. REQUESTS FOR OBSERVER STATUS

30. At the meeting held on 18 October 1999, the Council, noted requests for observer status from the Islamic Development Bank, from the League of Arab States and from the World Health Organization with a view to making a decision at a subsequent meeting.

XX. WORK OF SUBSIDIARY BODIES

31. The activities of Subsidiary bodies are reflected in their respective reports which are annexed to this report as follows:

Annex I - Report of the Committee on Specific Commitments (S/CSC/..)

Annex II - Report of the Committee on Trade in Financial Services (S/FIN/..)

Annex III - Report of the Working Party on Domestic Regulation (S/WPDR/1)

Annex IV - Report of the Working Party on GATS Rules (S/WPGR/..)
