

COMMUNICATION FROM THE REPUBLIC OF KOREA

Examination of MFN Exemption Measures

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

I. BACKGROUND

1. The two special review sessions for the MFN exemption measures during the year 2000 proved to be successful in sharing information in detail on the nature of the current exemption measures. During the review sessions, some, if not many, members stated that they have not invoked MFN exemption measures since 1995, and some even indicated the willingness to eliminate those measures on a voluntary basis.
2. After the review sessions, Hong Kong, China, Japan and Korea submitted a joint proposal (S/C/W/173) on matters arising from the review. The joint proposal has identified many issues for further discussion. In this vein, Hong Kong, China has specifically proposed through Job. 7775 that members who have MFN exemptions which purport to grant less favorable treatment than that set out in a specific commitment should review and delete the said exemptions.
3. Japan has recently circulated an analysis and proposal (S/CSS/W/42/Suppl.1) on MFN exemptions. This analysis showed that only a handful of members occupy a larger portion of the total MFN exemptions, and Japan proposed that developed countries with many exemptions especially should take the initiative to reduce their exemptions as much as possible.
4. In June this year, OECD issued a very comprehensive in-depth study on MFN exemptions (TD/TC/WP(2001)25). This study showed, among other things, more than half of the exemptions were taken in sectors that might be said to have provided for relatively limited multilateral liberalization.

II. RELATIONSHIP BETWEEN MFN EXEMPTIONS AND ECONOMIC STATISTICS

5. Korea has conducted a study on the relationship between MFN exemptions and a number of economic statistics. The study revealed that the number of MFN exemptions is inversely related to the level of economic development as shown in Table 1. As can be seen from the Table 1, higher income group members have more MFN exemptions on the whole as well as on average, and that a larger number of lower income group members have not sought MFN exemptions at all.

6. Interesting results were also obtained by examining the relationship between the MFN exemptions and services trade statistics. Using the WTO data on trade in commercial services,¹ a statistically significant positive relationship was found between the number of MFN exemptions and the trade balances in commercial services among members. This relationship is rather surprising since it could imply that countries with more favorable trade performance in commercial services have maintained more MFN exemptions. Since there was no causality test, this relationship could also be said to indicate that MFN exemptions may serve to improve BOP. However, similar result was obtained for the relationship of the MFN exemptions and the total amount of trade in commercial services, which would not support the previous argument that MFN exemptions would improve BOP.

TABLE 1. RELATIONSHIP BETWEEN MFN EXEMPTIONS AND INCOME GROUP

| Members with MFN exemptions ² | | | Income Group ³ | Members without MFN exemptions |
|--|--------------------|-------------------|---------------------------|--------------------------------|
| Avg. number of measures | Number of measures | Number of members | | Number of members |
| 6.1 | 164 | 27 | High | 10 |
| 4.5 | 95 | 21 | Upper Middle | 6 |
| 4.1 | 82 | 20 | Lower Middle | 10 |
| 4 | 60 | 15 | Low | 26 |

7. Another interesting result from a study carried out by a Korean researcher is that the number of MFN exemptions is also positively related to the level of specific commitments. His study counted the number of sub-sectors where specific commitments were made,⁴ and then assigned the same weight for each sub-sector. Such calculation was done for 11 sectors, again equally weighted. According to this calculation, members who made a higher level of commitment also maintain a larger number of MFN exemptions. All these findings seem to suggest that more developed countries maintain more specific commitments and at the same time more MFN exemptions.

III. COMPLIANCE WITH MFN GUIDELINES

8. Job 2061 of September 15, 1993 provided a guideline to the members how an MFN measure is to be listed. According to that guideline, a measure, not just the names of laws or agreements, is to be listed which gives preferential treatment for certain countries, and the duration of the measure should not exceed 10 years in principle.

9. According to the OECD paper mentioned in paragraph 4 above, only 9 of the 424 exemptions are said to apply for a duration of 10 years, and 10 exemptions specified that the exemption measures will be reviewed for removal. The Korean study mentioned in paragraph 7 further showed that as many as 98 measures explicitly or implicitly indicate future treatments, not existing treatments, and 111 measures did not clearly mention what are the preferential treatments.

¹ International Trade Statistics 2000, WTO

² Based on Job. 1551

³ World Bank definition

⁴ Quality of commitments was not considered.

IV. FURTHER EXAMINATION INTO THE CURRENT MFN EXEMPTIONS

10. As has been pointed out by Hong Kong, China in its proposal of Job. 7775, an exemption measure is to specify the preferential treatment over those in specific commitments. If specific commitments were made, and at the same time, MFN exemption was listed for those commitments, such exemption would not relieve a member of extending its commitments to all other members. However, such cases are quite wide spread in the current MFN exemptions. The Korean study pointed out that as many as 53 measures potentially indicate less favorable treatment, since these measures were taken against the specific commitments listed in the national schedules.

11. Also concerned is the breadth of certain exemption measures. Some exemptions seek complete exemption for any measures in a sector, or even across all sectors. These measures are not prohibited from being listed by any provisions or guidelines, but such broad exemptions are against the general goal of multilateral liberalization through the WTO. According to the quoted Korean study, there are 34 such measures. One interesting point is that these measures for less preferential treatment and for broad exemptions are slightly more listed by lower income group members.

12. Certain measures would require further examination as to whether they can be listed as exemptions. Examples would include those which purport to give less favorable treatment for unilateral retaliation, and those which provide differential pricing arrangements as in telecommunications.

V. CONCLUSIONS

13. Previous review sessions and in-depth studies have shown that the current status of MFN exemptions certainly needs to be improved, and there have been several proposals from the members for continued discussion and improvement. In this regard, Korea proposes that members give serious consideration for the voluntary removal of the current MFN exemption measures at the earliest possible date. Members with many MFN exemptions should take the lead in removing exemptions. Korea further proposes a parallel discussion in the Committee on Specific Commitments on the revision of the current guideline of listing MFN exemptions (Job 2061). Joint proposal by Hong Kong, China, Japan and Korea (S/C/W/173) would provide a good basis for discussion.
