

WORLD TRADE ORGANIZATION

RESTRICTED

S/C/M/8

29 March 1996

(96-1225)

Council for Trade in Services

REPORT OF THE MEETING HELD ON 4 MARCH 1996

Note by the Secretariat

1. The Council for Trade in Services held a meeting on 4 March 1996. The agenda for the meeting is contained in Airgram WTO/AIR/264. Under Other Business the Chairperson added a statement concerning the Chairmanship of the Committee on Trade in Financial Services.

Item A: Procedures for the Implementation of Article XXI (Modification of Schedules)

2. The Chairperson drew attention to a second revision of the text of the draft procedures for the modification of schedules dated 29 February 1996. She stated that informal consultations had taken place in an effort to finalize the text for submission to the Council. Although considerable progress had been achieved during those consultations, two issues remained outstanding: The first: in case a modifying Member does not comply with the findings of the arbitration regarding a compensatory adjustment, should an affected Member be free to take retaliatory action without any prior procedural step? The second: if the procedures were to require the arbitrator to identify the appropriate level of retaliatory action, should that finding be made at the same time the arbitrator identifies the appropriate level of compensatory adjustment? In other words, should the arbitration process be limited to one stage or should it be divided into two separate stages (the first for the consideration of the appropriate level of compensatory adjustment and the second for the appropriate level of retaliatory action if the process reaches that stage)?

3. Several delegations expressed the view that, while they agreed with the Chairperson's description of the two outstanding issues, they would still like to reserve the possibility of raising other issues in the light of further examination of the text by their capitals.

4. The Chairperson suggested that the Council take note of the statements made and that informal consultations should continue with a view to producing a final draft for the consideration of the Council at its next meeting.

5. The Council so agreed.

Item B: Taxes and Subsidies at the Sub-federal level - Interim report on the status of the consultations

6. The Chairperson recalled that at the last meeting, the Council had agreed that informal consultations would continue on issues arising from the communication by the United States contained in document PC/SCS/W/4 dated 30 June 1994 concerning taxes and subsidies at the sub-federal level. Accordingly, an informal meeting had been held on 18 December 1995 at which it had been agreed that the Secretariat would prepare an interim report on the progress achieved in consultations thus far. She drew attention to document S/C/W/13 dated 13 January 1996 entitled "Interim Report on the Status of Consultations on Taxes and Subsidies at the Sub-Central level". A representative of the Secretariat introduced the report.

7. The representative of Japan stated that there was a need to work out a solution rather quickly. However, more consultations were needed to clarify the issues. The representative of Canada stated that his delegation was disappointed with the lack of progress in informal consultations in spite of a wide agreement among participants that certain measures contained in the US communication were not necessary and could prejudice the future interpretation of the national treatment provision of the GATS. His delegation was concerned with the legal uncertainty surrounding the list of reservations submitted by the US. In his view, new precise language would be necessary for the scheduling of those measures. He noted that informal consultations had not so far addressed measures relating to subsidies contained in the communication by the United States. He suggested that further informal consultations should focus on concrete proposals by the United States to resolve the outstanding issues.

8. The representatives of Australia, Argentina and India supported the views expressed by Canada and added that future informal consultations should not be directed toward fact finding. It should focus on practical solutions to the problems identified in previous discussion. The representative of Argentina stated that the list submitted by the United States should be confined to existing measures and not future ones.

9. The representative of the European Communities stated that her delegation was disappointed that the statement of the Chairman of the GNS (MTN.GNS/50) had been used to that extent. She stated that the scheduling of future or undefined measures was not possible under the GATS. She disagreed with a claim by the United States during consultations that the impact of the measures on trade in services was insignificant, pointing out that the GATS does not contain any *de minimis* provision.

10. The representative of the United States stated that throughout the consultations the positions of delegations had not changed. There was a clear difference of opinion on how national treatment in the GATS should be interpreted. Further consultations to clarify the US list and to provide additional information on measures would probably not be helpful. They should focus on practical solutions. He added that his delegation was ready to have consultations on measures relating to subsidies at the first opportunity.

11. The Chairperson suggested that the Council take note of the statements made and agree that informal consultations should continue at a multilateral as well as the bilateral level with a view to reaching a satisfactory outcome. She also suggested that the Council revert to this matter at a future meeting.

12. The Council so agreed.

Item C: Progress Reports on Current Negotiations on Basic Telecommunications and Maritime Transport Services

13. The Chairperson stated that the Negotiating Group on Maritime Transport Services had held its eighth meeting on 13 and 16 February 1996. During the same week bilateral negotiations had taken place on the basis of offers and requests submitted by participants. At that meeting, three new offers had been submitted by Korea, Switzerland and Chile, bringing the total number of offers submitted thus far to nine. Also, a significant number of written requests had been made bilaterally. Most participants in the Negotiating Group had expressed satisfaction with the bilateral negotiations which had taken place during that week. At that meeting, there had also been statements by the delegations of Colombia and Mexico indicating their intention to submit offers in the near future. The delegation of Iceland had submitted its response to the questionnaire on Maritime Transport Services, leaving only 7 Members and 13 Observers to do so. The Negotiating Group had continued its work on the draft schedule on Maritime Transport and informal consultations had been held on issues relating to multimodal transport. There were 42 full participants and 16 observers in the Negotiating Group.

The next meeting of the Negotiating Group was scheduled for 26 and 29 March 1996, with bilateral negotiations taking place during that week.

14. The Negotiating Group on Basic Telecommunications had held its 13th meeting on 28 February - 1 March 1996. Senior level officials had participated to help provide impetus to the final stretch of bilateral negotiations leading up to the 30 April deadline. Reports on the senior-level bilateral sessions had been generally optimistic that substantial commitments on an MFN basis could be obtained but it had been noted that there is much yet to be accomplished. With the announcement of Thailand that it will participate fully, there were 50 governments involved in the negotiations. Four new draft offers had been tabled during the week, bringing the total number of offers to 23, covering 37 of the participating governments. The United States had submitted a revised draft offer reflecting its new telecommunications reform law. This brought to 4 the number of revised offers made thus far. Regarding work by participants on regulatory issues, considerable progress had been made on a reference text that would enable commitments to be undertaken concerning certain regulatory disciplines. The next period of negotiations on basic telecommunications was scheduled for 18-22 March. The Chairperson reminded participants that this would also be the last session prior to the final phase of negotiations in April. She hoped that all participants were doing their utmost to bring these negotiations to a balanced and successful conclusion.

Other Business

Chairmanship of the Committee on Trade in Financial Services

15. The Chairperson stated that according to the Guidelines for the Appointment of Officers to WTO Bodies (WT/L/31) of 7 January 1995, the one year term of the Chairman of the Committee on Trade in Financial Services had expired. The same guidelines also stipulated that the incumbent Chairperson may be considered for reappointment whenever this is found to be in the interest of the efficient functioning of the body. The Chairperson suggested that, unless by 15 March delegations suggested otherwise, Mr. Frank Swedlove of Canada, the former Chairman should be re-appointed for another year.

Date of next meeting

16. The Chairperson suggested that the Council for Trade in Services should hold its next meeting on 21 May 1996.

17. The Council so agreed.