

WORLD TRADE ORGANIZATION

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Council for Trade in Services

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NOTIFICATION PURSUANT TO ARTICLE V:7(a) OF THE GENERAL AGREEMENT ON TRADE IN SERVICES

The following notification has been received from the European Communities and their Member States.

Pursuant to Article V paragraph 7(a) of the GATS, the European Communities and their Member States hereby notify the "economic integration agreement" as instituted by the Treaty of Rome, subsequently enlarged, and modified most recently by the Treaty on the European Union. The formal notification, made in accordance with the "*Guidelines for notifications under the General Agreement on Trade in Services*", as adopted by the Council for Trade in Services, is attached to this communication.

To facilitate the examination by the Members, the relevant provisions on trade in services in these treaties have been identified in the notification. The full texts of the Treaties where these provisions can be found, in their original version, are already available at the WTO Secretariat. A consolidated version of these Treaties is published in the Official Journal of the European Communities (C224, volume 35, of 31 August 1992).

This notification reflects the state of play prior to the latest enlargement to Austria, Finland and Sweden which is subject to a separate review procedure.

NOTIFICATION

1. **Members notifying:** The European Communities and their Member States (12).
2. **Notification under Article V** paragraph 7 (a).
3. **Date of entry into force/duration:** 1958/indefinite.
4. **Agencies responsible for implementation and enforcement of the measures:** European Council, European Parliament, European Commission, Court of First Instance, European Court of Justice and Member States' legislative, regulatory and judicial authorities.
5. **Description of the measures:**
 - (a) Provisions in the Treaty establishing the European Community, as amended most recently by the Treaty on the European Union, which are relevant to the scope of the GATS:
 - Articles A, B, C, D, E, F (objectives) of the Treaty of European Union
 - Articles 2, 3, 3A (objectives) of the Treaty on European Community
 - Article 5 (obligation to respect EC law)
 - Article 6 (general prohibition of discrimination based on nationality)
 - Article 7A (establishment of internal market)
 - Title III (free movement of workers, persons, services and capital), including Articles 48 and 49 (workers), 52 to 58 (right of establishment) 59 to 66 (supply of services without establishment), 67 to 73H (movement of capital and payments)
 - Title IV (Articles 74 to 84) concerning transport
 - Articles 85 and 86, 92 (distortion/modification of the conditions of competition)
 - Article 90 (monopolies and exclusive service providers)
 - Article 99 (fiscal harmonization)
 - Articles 100 and 100A, 101, 102 (approximation of laws)
 - Article 113 (common commercial policy)
 - Fifth Part: Articles 137 to 198E (institutional provisions)
 - Sixth Part: Articles 210, 213, 219, 220, 221, 222, 223, 224, 225, 227, 229, 232, 233, 234, 235, 238, 239 and 240 (general and final provisions).
 - (b) These provisions of the Treaty establishing the European Community constitute an agreement liberalizing trade in services between the Member States, in the sense of Article V, paragraph 1, given that:
 - it provides for a universal sectoral coverage of all service activities, as defined under Article 60 EC, subject only to the exceptions provided for under Articles 55 and 56 (see also Art. 66), and 223 paragraph 1(b) EC which are fully consistent with the exceptions provided for under Articles I 3(b), XIV and XIVbis of GATS;
 - it provides for the liberalization of trade through all modes of supply, i.e. 'cross border' trade, 'consumption abroad' and 'commercial presence' (with or without movement of natural persons) as well as 'movement of natural persons' (see Articles 48, 52, 58, 59, 60, 66, 73B paragraph 2 and 75);

- it provides for the absence or elimination of substantially all discrimination through elimination of existing discriminatory measures and prohibition of new or more discriminatory measures (see, *inter alia*, Articles 6, 48.2, 52 paragraph 2, 53, 54, 59 first indent, 62, 63, 65, 76, 79 paragraph 1, 80 paragraph 1, 85, 86, and 92). Providing for the elimination of substantially all discrimination according to the EC Treaty, by the Community as such and/or by the Member States on the basis of national legislation, may result in more favourable treatment to service suppliers of all members of the European Community as compared to non-member service suppliers;
 - the degree of liberalization of trade in services goes beyond the requirements and disciplines of the GATS in many respects: *de jure* and *de facto* discrimination is forbidden not only on the basis of the Treaty provisions but also on the basis of the jurisprudence of the European Court of Justice which condemns all measures which are discriminatory or having such an effect on trade between the Member States. To achieve such full national treatment, additional disciplines and means of liberalisation are in place such as: mutual recognition and approximation of laws, behaviour of monopolies and exclusive service providers, restrictive business practices, payments, transfers, and free movement of capital, right of establishment, movement of natural persons, etc.
- (c) Consideration should also be given, pursuant to Article V paragraph 2 of GATS, to the relationship of this agreement to the wider process of economic integration among the Member States, provided for under the European Community Treaty. Economic integration among the Member States is not only taken place in the field of services, but also in respect of trade in goods and in economic and monetary relations in general.
6. **Members specifically affected, if any:** None. The agreement entered into force prior to the conclusion of the Uruguay Round, and the European Communities and their Member States have negotiated their Schedule of Specific Commitments and list of MFN exemptions on the basis of the level of integration achieved at the date of that conclusion. Since the entry into force of the WTO, no substantial modification or amendment has intervened. The enlargement of the European Communities of 12 to 15 Member States by the accession of Austria, Finland and Sweden is subject to a separate review procedure.
7. **The full texts of the treaties are available from:**
- WTO Secretariat
 - European Commission