

WORLD TRADE ORGANIZATION

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Council For Trade in Services

COUNCIL FOR TRADE IN SERVICES

Draft Report on Work since January 1995

This report has been prepared pursuant to the procedures for an Annual Overview of the WTO Activities and for Reporting under the WTO (WT/L/93).

The Council for Trade in Services has held seven meetings in 1995. Reports on such meetings are contained in documents S/C/M/1 - 7 and should be read in conjunction with this report.

Rules of Procedure for the Council on Trade in Services

1. At its meeting of 30 May 1995 the Council had considered a draft for its Rules of Procedure (S/C/W/2). There had been an outstanding issue relating to Rule 33 (Decision Making), which was relevant to the three sectoral councils on goods, services and intellectual property. Therefore it was agreed that the Council would revert to the matter at a future meeting. At the meeting of the Services Council on 4 October 1995 the Chairman stated that the Council for Trade in Goods and the TRIPS Council had decided to add a footnote to Rule 33 indicating that, when a legal provision of an Agreement specifically requires a decision to be taken by consensus and the matter is referred to the General Council, the General Council shall take a decision only by consensus. In the case of the Services Council, the addition of such a footnote to the Rules of Procedure would not be necessary, since the GATS does not include any provision which specifically requires a decision to be taken only by consensus. Therefore he suggested that the Council adopt the draft Rules of Procedure without amendment. The Council adopted the Rules of Procedure (S/L/15).

Decisions Referred to the Council for Trade in Services by Ministers

2. The Final Act of the Uruguay Round contained four Decisions relating to the GATS to be adopted by the Council for Trade in Services. At its first meeting on 1 March 1995, the Council adopted the Decision on Institutional Arrangements for the General Agreement on Trade in Services, the Decision on certain Dispute Settlement Procedures for the General Agreement on Trade in Services, the Decision on Professional Services and the Decision on Trade in Services and the Environment. The Decisions are contained in documents S/L/1 - 4 respectively.

Participation of Observers

3. In accordance with the *ad hoc* procedure agreed by the General Council, the Council for Trade in Services decided at each of its meetings on which inter-governmental organizations were to be invited at its following meeting. The Council continued to invite the four organizations which had participated as observers in its first meeting, namely the IMF, World Bank, UNCTAD and the UN.

Guidelines for Notifications

4. The Sub-Committee on Services had developed a set of Guidelines for Notifications under the GATS. At its meeting on 29 November 1994, the Sub-Committee had agreed that the draft Guidelines contained in document PC/SCS/W/8 be submitted to the Council for Trade in Services for its approval. At its first meeting on 1 March 1995 the Council approved the Guidelines (S/L/5).

Notifications under Article XXVIII(k)(ii) of the GATS

5. Documents S/C/N/1, 2, 3 and 5 contained notifications from Canada, New Zealand, Australia and Switzerland, pursuant to Article XXVIII(k)(ii) of the GATS, to the effect that they accord substantially the same treatment to their permanent residents as they accord to their nationals with respect to measures affecting Trade in Services and that they assume, with respect to those permanent residents, the same responsibilities that other members bear with respect to their nationals. In accordance with Article XXVIII(k)(ii), the four Governments had submitted their notifications to the WTO at the time of their acceptance of the WTO Agreement. In addition, they transmitted them to the Council for Trade in Services for information. The Council took note of the notifications.

Issues Relating to the Scope of the GATS

6. The statement of the Chairman of the GNS dated 14 September 1993 (MTN.GNS/W/260) provided the mandate for participants to consult on issues relating to the scope of the GATS for an additional year until 15 December 1994 and stipulated that the result of such consultations would be reported to the Council for Trade in Services. However, at the end of the consultation process, it had not been possible to reach agreement in the Sub-Committee on Services on the adoption of a report to the Council. Therefore, the Chairman of the Sub-Committee had presented a report (contained in document S/C/1) on his own responsibility to the Council. The report stated that consultations had taken place on the five categories of measures referred to in document MTN.GNS/W/177/Rev.1. On two categories, namely measures relating to judicial and administrative assistance and measures relating to entry and stay of natural persons, agreed conclusions had been reached and were contained in paragraph 6 of the report. In so far as the other three categories were concerned, namely measures relating to social security, measures relating to the settlement of disputes under bilateral investment treaties and measures relating to the entry and temporary stay of certain categories of natural persons, no agreed conclusions had been reached. The Council adopted the conclusions contained in paragraph 6 and took note of the remainder of the report at its first meeting on 1 March 1995.

Notifications under Article V of the GATS

(a) *Enlargement of EU*

7. Document WT/L/7 dated 19 January 1995 contained a communication from the European Communities informing the WTO of the accession of Austria, Finland and Sweden to the European Union on 1 January 1995 and notifying their readiness to participate, as appropriate, in future work in accordance with the relevant provisions of the respective Agreements of the WTO. The European Communities considered that notification to be in fulfilment, *inter alia*, of the requirement in paragraph 7(a) of Article V of the GATS and indicated at the first meeting of the Council for trade in Services that it intended to submit a more detailed notification providing information on all aspects of the enlargement of the European Union relating to services, including a new schedule of commitments of the European Communities and its fifteen Member States. At its meeting on 30 March 1995 the Council for Trade in Services established a Working Party on the Enlargement of the European Union. At a subsequent meeting on 4 October an agreement was reached on the following terms of reference for the Working Party:

"To examine the Treaty of Accession of Austria, Finland and Sweden to the European Union and to report to the Council for Trade in Services on its consistency with Article V of the General Agreement on Trade in Services".

North American Free Trade Agreement

8. At its first meeting on 1 March 1995, the Council for Trade in Services received a joint communication from Canada, Mexico and the United States (S/C/N/4) notifying the North American Free Trade Agreement to the Services Council pursuant to paragraph 7(a) of Article V of the GATS. At its meeting on 30 May 1995, the Council established a Working Party with the following terms of reference:

"To examine the North American Free Trade Agreement and to report to the Council for Trade in Services on its consistency with Article V of the General Agreement on Trade in Services".

European Union

9. At its meeting on 22 November 1995, the Council for Trade in Services received a communication from the European Communities and their Member States notifying 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 notification was made pursuant to paragraph 7(a) of Article V of the GATS.

Verification of Schedules

10. During 1995 the Council for Trade in Services has verified the technical accuracy and legal consistency of schedules of commitments as follows:

- (a) At its meeting on 30 March 1995, the Council for Trade in Services verified the Schedules of Commitments covered by the Decision of the General Council adopted on 31 January 1995 concerning Finalization of Negotiations on Schedules on Goods and Services (WT/L/30).
- (b) At its meeting on 30 May 1995, the Council for Trade in Services verified the Schedules of Commitments of Least-Developed Countries, which according to the Ministerial Decision on Measures in Favour of Least-Developed Countries, had been given additional time of one year until 15 April 1995 to submit their schedules.
- (c) At its meeting on 4 October 1995, the Council for Trade in Services verified the Schedules of Commitments listed in document S/C/W/10. The list contained thirty-one schedules and sixteen lists of MFN Exemptions relating to Financial Services, six schedules relating to Movement of Natural Persons, as well as two schedules relating to Saint Christopher and Nevis and the Solomon Islands.

Taxes and Subsidies at the Sub-federal Level

11. In accordance with the Statement by the Chairman of the GNS dated 13 December 1993 (MTN.GNS/50), participants in the Uruguay Round were given an additional period of time until 15 June 1994 to complete the scheduling of measures relating to taxes and subsidies at the sub-federal level which were inconsistent with Article XVII (National Treatment) of the GATS. The statement also stipulated that "It is understood that this process will not result in any alteration in the negotiated balance of rights and obligations. For a period of thirty days starting on 16 June 1994, if any participant

considers that such balance has been altered as a result of scheduling additional measures, it may consult with the participant or participants concerned with a view to reaching a satisfactory adjustment". Pursuant to that statement, the United States submitted a Communication through the Sub-Committee on Services contained in PC/SCS/W/4. The communication was subject to multilateral consultations under the auspices of the Sub-Committee on Services during 1994. Consultations continued under the auspices of the Council for Trade in Services during 1995. The Council has received reports on the consultations at its meetings on 1 and 30 March, 4 October and 22 November.

Statistics on Trade in Services - Note by the Secretariat

12. At the meeting of the Council on 30 March 1995, it was noted that the problems relating to the availability and comparability of statistics were most serious and required urgent attention. Accordingly, the Secretariat was asked to prepare a background note on services statistics and classification as a basis for initiating work in these two areas and to assist delegations in their consideration of the issues involved. Accordingly, the Secretariat produced the note contained in document S/C/W/5 which was presented to the Council and discussed at its meeting on 4 October 1995. It focuses primarily on issues relating to the creation of a statistical framework to service GATS needs. A number of delegations stated that, although the subject was of great importance, it seemed premature to take any decisions on the establishment of a special body to conduct the necessary work.

The Working Party on GATS Rules

13. At its second meeting on 30 March 1995, the Council decided to establish a Working Party to conduct negotiations on Safeguards, Government Procurement and Subsidies, as stipulated in Articles X, XIII and XV of the GATS respectively. It was agreed that the Working Party should take up the three subjects in the order in which they appear in the GATS, that is safeguards, government procurement and subsidies, and start work on the three subjects on staggered dates with intervals of four months, so that work on safeguards would start in July and on government procurement and subsidies in November and March respectively.

Decisions on Financial Services

14. At its meeting on 30 June 1995, the Council for Trade in Services adopted the Decision on the Application of the Second Annex on Financial Services (S/L/6). The Decision provided for the extension of the deadline provided for in the Second Annex on Financial Services, by which Members may modify their commitments and/or MFN exemptions, from 30 June until 28 July 1995.

15. At its meeting on 21 July, the Council for Trade in Services adopted the two following Decisions:

- (a) Decision on Commitments in Financial Services (S/L/8), which stipulates that if the Second Protocol to the General Agreement on Trade in Services to which new commitments on financial services are annexed does not enter into force, Members may during a period of sixty days beginning on 1 August 1996 modify their commitments and/or MFN exemptions.
- (b) Second Decision on Financial Services (S/L/9), which stipulates that after the entry into force of the Second Protocol to the GATS, Members may during a period of sixty days beginning on 1 November 1997, modify their commitments and/or MFN exemptions.

Decisions on Movement of Natural Persons

16. At its meeting on 30 June 1995, the Council for Trade in Services adopted the Decision on Movement of Natural Persons (S/L/7) which provided for the extension of the deadline provided for in the Marrakesh Ministerial Decision on Negotiations on Movement of Natural Persons from 30 June until 28 July 1995.

17. At its meeting on 21 July 1995, the Council adopted the Decision on Movement of Natural Persons Commitments (S/L/10). The Decision contained the adoption of the Third Protocol to the GATS to which new commitments on movement of natural persons were annexed. It also provided that, to the fullest extent consistent with their existing legislation, Members shall not take measures which would be inconsistent with their undertakings resulting from the negotiations in this area.

Establishment of a Committee on Specific Commitments

18. At its meeting on 4 October 1995, the Council decided to establish the Committee on Specific Commitments. [At its meeting on 22 November, the Council adopted the Decision on the Terms of Reference for the Committee on Specific Commitments (S/L/16)].

Progress reports on on-going negotiations

19. The Council for Trade in Services has been receiving progress reports on on-going negotiations in basic telecommunications and maritime transport services. It has also been receiving progress reports on the negotiations on movement of natural persons and on financial services up to their conclusion on 21 July 1995.