

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

EC Approach to Services

Communication from the European Communities

The following communication, dated 28 May 1999, has been received from the Permanent Delegation of the European Commission.

1. As a result of the Uruguay Round negotiations, WTO Members committed themselves under Article XIX of the GATS to resume negotiations no later than five years from the date of entry into force of this Agreement – the "GATS 2000" negotiations. On this basis, all WTO Members are committed to further reducing obstacles to trade in services in line with the principle of progressive liberalization. The need to take into account the interests of all participants on a mutually advantageous basis to secure an overall balance of rights and obligations is emphasised. In particular, this entails that the particular situation of developing Members should be given due consideration.

2. The run-up to GATS 2000 has now started with the completion of the information exchange programme in the Council for Trade in Services followed by the assessment of trade in services required by Article XIX:3 of GATS. During the exchange of information programme, extremely useful contributions have been submitted by Members, and highly instructive background notes have been produced by the Secretariat. This information is particularly helpful for the Council for Trade in Services to carry out the assessment of trade in services, of which it is an integral part.

Assessment of trade/negotiating guidelines

3. In accordance with Article XIX:3 of GATS, "the Council for Trade in Services shall carry out an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of this Agreement, including those set out in paragraph 1 of Article IV". It is believed that, on the basis of the contributions of Members to the information exchange programme and the background notes from the Secretariat, including background note S/C/W/94 on recent developments in services trade, the Council for Trade in Services has now all the necessary elements to complete the assessment of trade necessary to establish negotiating guidelines.

4. We conclude from these facts and from the views exchanged in the Council for Trade in Services the following broad approach which could be reflected in the overall negotiating guidelines in due course:

- In overall terms, there is a need to reduce the current imbalance in commitments across countries, and service sectors. Therefore, the forthcoming negotiations should be comprehensive.

- Looking at individual sectors, the need for regulatory disciplines to underpin market access and national treatment commitments appears increasingly important, and also includes the question of pro-competitive principles.
- Finally, developing countries have emphasized their concern that the forthcoming negotiations should take better into account their interests in line with the objectives set by Article IV:1 of GATS. In this context, the benefits that developing and developed countries are gaining from the GATS have now been better analysed. The GATS is particularly relevant to development, as it provides a key opportunity for all countries to attract stable long-term investment and to improve the related infrastructure (transport, telecommunications, financial services), fostering their long-term growth and the competitiveness of their economies as a whole.

5. Based on the above elements, the EC and their member States propose that the following negotiating approach be considered, while noting that the negotiations should be open-ended, all Members being free to submit for discussion any topics that they may want to be subject to negotiation:

- (a) The GATS 2000 negotiations should bring about a deeper and broader package of improved commitments from all WTO Members to market access and national treatment.

Closing the gap between many Members' commitments and actual market practice would appear a priority, and commitments to further liberalization should be secured. Regarding service sectors, the negotiations will include *inter alia* a resumption of the maritime transport negotiations, and a re-assessment of the Annex on Air Transport Services. Additionally, MFN exemptions will have to be reviewed, as foreseen in the Annex on Article II Exemptions.

Finally, for the efficiency of the negotiations and in order to maximize the results while at the same time ensuring coherence of commitments by sectors and by mode of supply, horizontal formulas, when appropriate, should be considered as a useful tool for the negotiations. This would apply across the board to sectors committed, except where expressly indicated.

- (b) GATS disciplines based on Article VI:4 of the GATS should be strengthened.

The aim is to ensure a transparent and predictable regulatory environment which can provide legal certainty and confidence to service suppliers, investors, users and consumers. Pro-competitive principles may also be promoted, with a view to providing a basic international discipline to certain practices preventing or reducing market entry.

- (c) Any unfinished business which may remain, and may include for instance safeguards, subsidies, government procurement should be absorbed in the GATS 2000 negotiations. Likewise, other aspects of the functioning of GATS, which have been subject to inconclusive discussions on interpretation or implementation, could be reviewed.
