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COMMUNICATION FROM THE UNITED STATES

Distribution Services

The attached communication has been received from the delegation of the United States with the request that it be circulated to Members of the Council for Trade in Services.

I. INTRODUCTION

1. The United States presents this proposal on distribution services for consideration of all Members. It is intended to stimulate discussion and liberalization of this important sector in the world economy.

II. IMPORTANCE OF DISTRIBUTION SERVICES

2. Supply chains have become an integral part of consumer and industrial product manufacturing and marketing. They constitute an essential feature in the infrastructure of modern economies. Retailers, franchisors, wholesalers, direct sellers and marketers, and product manufacturers, working together in strategic alliances, have increasingly re-engineered the supply chain in a number of countries. Technological advances have resulted in the emergence of large-scale mass retailing, which is capable of providing consumers large quantities of mass-produced products and exceptionally low prices at one end of the scale, and one-to-one marketing in person or via the telephone, post and Internet at the other end of the scale. Mass production and mass retailing, whether through direct mail or electronic sales, store sales, direct sales, or franchise sales, are important factors in the quality of life. These sectors consistently produce large numbers of jobs and income opportunities both directly and in other ancillary services, such as transportation, packaging, logistics management, and information technology. Retailers and wholesalers are among the largest employers in a number of countries.

III. PURPOSE

3. No economy can be truly modern if it imposes obstacles that slow the movement of goods between and among manufacturers, wholesalers, retailers, and the consuming public. The most efficient economies, where consumers enjoy high standards of living, a wide selection of consumer goods, and low consumer prices, are those in which the distribution sector has been left relatively free of government regulation and barriers to investment and market entry, but with appropriate public protections.

4. The purpose of this proposal is to help create conditions favorable to economic growth by removing and reducing obstacles to the establishment and operation of facilities and outlets needed for efficient movement of goods and services to business and household consumers. This will lead to increased production and employment in the local economy.

IV. SECTOR COVERAGE

5. The informal WTO classification list (W/120) considers “distribution services” to include:

- commission agents’ services
- wholesaling services
- retailing services
- franchising services

6. Efficient operation of this sector involves additional activities throughout the supply chain, such as inventory management; direct contracting for production of merchandise domestically and internationally; customs brokerage activities; consolidation and deconsolidation of merchandise; delivery and transportation services that include postal service, storage services, garage services, and fleet maintenance; installation and product services; sales promotion, marketing, and advertising services, which themselves require access to other ancillary services, including telephone, television, radio, and Internet services.

V. PROPOSAL

7. This paper proposes discussion of various aspects of an open regime in the distribution sector. This would entail countries considering to apply existing GATS market access and national treatment disciplines, as well as additional GATS disciplines addressing sector-specific regulatory issues, including transparency and fairness of administration. Consistent with these disciplines, governments would retain the right to regulate to meet domestic policy objectives.

8. The paper proposes that WTO Members that have not yet made commitments on distribution services formulate their commitments based on the list of obstacles identified below. Members are invited to inscribe in their schedules “no limitations” on market access and national treatment, as some Members, including the United States, already have done. Further, the paper proposes that all Members consider undertaking additional commitments relating to regulation of this sector.

9. This proposal is not presented as a legal text, but rather as a list of obstacles identified in reviewing this service sector. Some items on the list may be market access restrictions, or national treatment limitations, or both. In addition, some obstacles, although not limitations on market access or national treatment *per se*, may result from regulatory provisions which make it difficult for foreign suppliers to market their services.

Obstacles in this sector

- Local equity requirements in excess of 49 percent
- Limitations on the purchase or rental of real estate
- Economic needs tests for service suppliers in this sector
- Prohibition on size and/or location of stores and other facilities without an opportunity to establish such facilities under prescribed conditions

- Denial of permission for service suppliers to enter into and exit from joint ventures with local or non-local, private or government partners
- Limitation on the number of outlets in chain store operations
- Mandatory requirements for partnerships with locals as a condition for establishment and, in other cases, denial of opportunity to form partnerships with locals on a voluntary basis
- Where government approval is required, exceptionally long delays are encountered and, when approval is denied, no reasons are given for the denial and no information is given on what must be done to obtain approval in the future
- Overly burdensome fees and/or taxes are imposed on repatriation of profits or on conversion of currencies to repatriate profits
- Denial of access to, and use of, services essential to this sector (e.g., highways, airports, railroads) on reasonable and nondiscriminatory terms and conditions
- Denial of access to government programs available to domestic service providers
- Tax treatment that discriminates against foreign service suppliers
- Discrimination against foreign service suppliers within respect to choice of business organizations available to domestic suppliers
- Discrimination against foreign partners in a joint venture
- Discrimination against franchises as opposed to and other forms of business organization
- Discrimination against foreign franchises
- Discrimination against direct selling and as opposed to other forms of business
- Lack of transparency of domestic laws and regulations and fairness of administration, including lack of pre-determined, objective criteria for licensing requirements
- Lack of readily available information on zoning and lack of an opportunity for service suppliers to meet with local officials and community representatives to discuss location of facilities
- Lack of consumer choice in selection of postal or other delivery services
- Discriminatory treatment with respect to size, configuration, and/or location of terminals, warehouses, and other facilities and denial of authorization to such facilities under prescribed condition
- Discriminatory treatment with respect to the scope of business and transportation licenses that may be required
- Overly burdensome regulation of telephone and electronic media marketing

- Prohibitions on service providers to offer incentives, rewards, and other promotional programs
 - Minimum requirements for local hiring are disproportionately high, causing uneconomic operations
 - Lack of means to facilitate temporary entry and exit of specialized, skilled personnel (including managers)
 - Restrictions or excessive fees/taxes on international currency transactions
 - Restrictions or excessive fees/taxes on licensing or royalty payments
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