

**REPORT (2001) OF THE COUNCIL FOR TRADE IN SERVICES
TO THE GENERAL COUNCIL**

1. Since its last report to the General Council, dated 23 November 2000, the Council for Trade in Services has held four formal meetings. Reports of the meetings are contained in documents S/C/M/51 to 54. The Council has also held one special meeting dedicated to the review of the Annex on Air Transport Services, the report of which is contained in document S/C/M/50. The reports of the meetings should be read in conjunction with this report. During the reporting period, the Council addressed the following matters:

I. REVISION OF GUIDELINES FOR THE SCHEDULING OF SPECIFIC COMMITMENTS

2. At the Council meeting of 23 March 2001, the Council addressed the draft Revised Guidelines for the Scheduling of Specific Commitments, contained in document S/CSC/W/30, and a draft decision by the Council to adopt these revised guidelines, document S/C/W/190. The Chairman of the Committee on Specific Commitments informed the Council that the Committee had agreed a text reflecting the revision of the Guidelines for the Scheduling of Specific Commitments under the GATS at its meeting on 22 March 2001. The Committee recommended that the Council for Trade in Services adopt that text according to the terms reflected in the draft decision. The Council adopted the draft decision (S/L/91), taking into account that the final version of the revised guidelines would be rectified with regard to a typing error. The adopted Guidelines for the Scheduling of Specific Commitments under the General Agreement on Trade in Services (GATS) are contained in document S/L/92.

II. NOTIFICATION OBLIGATIONS PURSUANT TO ARTICLE V OF THE GATS

3. At the meeting held on 1 December 2000, the Council continued discussions of a statement by the delegation of the United States, contained in document S/C/W/147, concerning the question of how to improve the timeliness of notifications of economic integration agreements pursuant to Article V of the GATS, and their transmittal to the Committee on Regional Trade Agreements (CRTA) for examination. The Council requested the Secretariat to draw up a list of all economic integration agreements notified to the Council for Trade in Services, with an indication of those which had not been referred to the CRTA.

4. At the meeting held on 23 March 2001, the Council agreed to refer seven economic integration agreements, listed as "not referred" in the Secretariat's list (JOB(01)/33), to the CRTA for examination.

III. NOTIFICATIONS MADE TO THE COUNCIL PURSUANT TO GATS ARTICLES III:3, V AND VII:4

5. At the meeting held on 23 March 2001, the Council took note of the following notifications:

(i) Notifications pursuant to Article III:3 of the GATS concerning modifications to services regulations in sectors where specific commitments have been undertaken:

Egypt	(S/C/N/116)
Kyrgyz Republic	(S/C/N/177-120)
United States	(S/C/N/121)
Costa Rica	(S/C/N/123)
Slovak Republic	(S/C/N/124)
Czech Republic	(S/C/N/125-126)
Japan	(S/C/N/127-131)
Madagascar	(S/C/N/132-137)
Poland	(S/C/N/138-141)

(ii) A notification pursuant to Article V concerning an economic integration agreement:

Chile and Mexico (S/C/N/142)

(iii) A notification pursuant to Article VII:4 concerning recognition measures and agreements or arrangements:

Costa Rica (S/C/N/122)

6. The Council referred the economic integration agreement between Chile and Mexico to the CRTA.

IV. BRAZIL'S ARTICLE II (MFN) EXEMPTION IN BASIC TELECOMMUNICATIONS

7. Based on a communication from Brazil, contained in document S/C/W/160, the Council had discussed the item in two meetings prior to the reporting period. The delegation of Brazil had informed the Council of its consultations with other Members concerning their revised commitments in basic telecommunications. The delegation of Brazil had also referred to the proposed procedure which would allow Brazil to bind its basic telecommunications commitments and maintain the MFN exemption listed during the negotiations of the Fourth Protocol.

8. At the Council meetings of 1 December 2000 and 23 March 2001, the representative of Brazil informed the Council of the status of consultations with other delegations. At the meeting of 23 March, Brazil presented a draft decision on the exemption from Article II (MFN) listed by Brazil in Basic Telecommunications to the Council as a room document.

9. At the meeting held on 14 May 2001, the same draft decision was circulated as document S/C/W/192. The effect of the decision would have been to allow Brazil to maintain the MFN exemption resulting from the negotiations and listed under the Fourth Protocol, which would have taken legal effect upon the entry into force of Brazil's schedule of specific commitments in basic telecommunications. Brazil had further initiated a certification procedure for its draft schedule of commitments in basic telecommunications, contained in document S/C/W/191.

10. At the meeting held on 9 July 2001, the Chairman stated that the delegations of the United States (S/L/94); Hong Kong, China (S/L/95); the European Communities and their

Member States (S/L/96); as well as Japan (S/L/97) had notified their objections to Brazil's draft schedule of commitments in basic telecommunications. The representative of Brazil announced the withdrawal of the draft schedule of specific commitments in Basic Telecommunications. The formal withdrawal of the draft schedule is contained in document S/L/98. He also requested that the item on the draft decision on the MFN exemption be withdrawn from the agenda of the Council.

V. DATE OF FURTHER REVIEW OF ARTICLE II (MFN) EXEMPTIONS

11. The Council discussed the date for a further review of Article II (MFN) exemptions at the meetings of 1 December 2000, 23 March and 14 May 2001. At the May meeting, the Council decided that a further review of MFN exemptions should take place no later than June 2004.

VI. ISSUES ARISING FROM THE REVIEW OF ARTICLE II (MFN) EXEMPTIONS

12. At the meeting of 1 December 2000, the Council continued its discussion of a communication from Japan, Korea and Hong Kong, China, contained in document S/C/W/173, which addressed a number of general issues raised during the review of MFN exemptions conducted by the Council. The Council also started discussion of a paper by Chile, JOB(01)/34, on procedures for the reduction and withdrawal of MFN exemptions.

13. At the meeting of 14 May 2001, the Council continued its discussion of the papers from Japan, Korea and Hong Kong, China, S/C/W/173, and Chile, JOB(01)/34, and discussed a paper presented by Hong Kong, China, contained in Job No. 7775, on MFN exemptions that purported to grant less favourable treatment than that set out in the schedule of specific commitments. The Council asked that the Secretariat examine the legal aspects involved in the development of a procedure for the withdrawal or reduction of MFN exemptions.

14. At the meeting of 9 July 2001, the Council continued its discussion of the earlier contributions and discussed the paper produced by the Secretariat, contained in JOB(01)/106. The Council agreed to revert to the item at the next meeting.

VII. RECTIFICATION OF A TECHNICAL ERROR IN AN MFN EXEMPTION LIST

15. At its meetings of 1 December 2000, 23 March and 14 May 2001, the Council discussed a communication from the Dominican Republic (S/C/W/175) concerning a technical rectification of its list of Article II (MFN) exemptions concerning legal services.

16. At its meeting of 9 July 2001, Members agreed to omit the item from the agenda of the next meeting and to address the issue once the question of procedures for rectifications of MFN exemptions was settled.

VIII. REVIEW OF THE UNDERSTANDING ON ACCOUNTING RATES IN TELECOMMUNICATIONS

17. At the meeting held on 1 December 2000, the Council continued its discussions on the review of the understanding on accounting rates, as provided for in paragraph 7 of the Report of the Group on Basic Telecommunications contained in document S/GBT/4. The representative of the ITU Secretariat informed the Council of the conclusions reached at the World Telecommunications Standardization Assembly, contained in Job No. 8211.

18. The Council continued its discussion at the meeting held on 23 March 2001; at the meeting of 14 May 2001, the delegation of Australia proposed terms of reference for a Telecommunications

Accounting Rates Review, contained in JOB(01)/73, which were further discussed at the meeting of 9 July 2001. The Council agreed to revert to the item at its next meeting.

IX. PROPOSALS CONCERNING A TECHNICAL REVIEW OF GATS PROVISIONS

19. At its meeting held on 23 March 2001, the Council discussed, under Other Business, a proposal by the delegations of Australia; the European Communities; Hong Kong, China; Japan; Norway and Switzerland, contained in JOB(01)/40, to place the item of Technical Review of GATS Provisions on the agenda of the Council on a regular basis.

20. At the meeting held on 14 May 2001, the Council continued its discussions and agreed to revert to this item at the next meeting.

21. At the meeting held on 9 July 2001, the Council continued its discussion of JOB(01)/40 and considered a paper by Japan, JOB(01)/107, containing suggestions with regard to possible issues to be addressed in a technical review. The Council agreed to discuss in substance at its next meeting the various provisions that had up to that point been presented for a technical review, i.e. (i) Article XX:2; (ii) Articles XVI – XVII; (iii) paragraphs 1 and 2 of Article XVI, and (iv) Article XXVIII: (g) together with paragraph 5 (b) of the Annex on Financial Services.

X. WORK PROGRAMME ON ELECTRONIC COMMERCE

22. At its meeting held on 23 March 2001, the Council discussed a communication from the European Communities on electronic commerce, contained in document S/C/W/183. The Council agreed to revert to this item at the next meeting.

23. At the meeting held on 14 May 2001, the Chairman noted that the General Council, at its meeting on 8 May 2001, had agreed that the subsidiary bodies should continue their discussions and report back to the General Council. The delegation of Cuba introduced a contribution to the electronic commerce work programme, contained in document S/C/W/193. The Council agreed to revert to this item at the next meeting.

24. At the meeting held on 9 July 2001, the Council continued its discussion on the work programme, including on a communication from Mercosur to the General Council, WT/GC/W/434, which identified a number of sectoral issues on which the Services Council should continue its work. The Council agreed to revert to the item at the next meeting.

XI. NEGOTIATIONS UNDER ARTICLE X OF THE GATS ON EMERGENCY SAFEGUARDS

25. At the meeting held on 1 December 2000, the Council received a communication from the Chairperson of the Working Party on GATS Rules proposing to extend the deadline for the negotiations under Article X of the GATS on the question of emergency safeguard measures, contained in document S/C/W/184. The Chairman of the Working Party on GATS Rules presented a proposal for the new deadline of 15 March 2002, and provided that the final date for the entry into effect of the results of these negotiations shall be no later than the date of entry into force of the results of the services round. The Council adopted the draft decision proposed by the Chairman of the Working Party, (S/L/90).

XII. REOPENING OF THE FIFTH PROTOCOL FOR ACCEPTANCE

26. At the Council meeting of 1 December 2000, following requests from Kenya and Nigeria, the Council adopted a decision, contained in document S/L/89, to re-open the Fifth Protocol to the GATS relating to financial services for acceptance by Kenya and Nigeria.

XIII. PROPOSAL FOR A CO-OPERATION AGREEMENT WITH THE UNIVERSAL POSTAL UNION (UPU)

27. At the meeting held on 1 December 2000, the Council addressed a communication from the UPU Secretariat containing a draft "Memorandum of Understanding on cooperation between the Universal Postal Union and the World Trade Organization", as set out in a note by the Secretariat in document S/C/W/180. At an earlier meeting in February 2000, the Council had received a communication from the Universal Postal Union (UPU), circulated as Job No. 865, containing a proposal by the UPU that a cooperation agreement in the form of a memorandum of understanding be concluded between the UPU and the WTO. The Council agreed to revert to this item at a future meeting.

XIV. COOPERATION BETWEEN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO) AND THE WTO

28. At its meeting held on 14 May 2001, the Council discussed a note by the Secretariat, JOB(01)/64, containing a letter from the Secretary-General of ICAO with the proposal to develop a memorandum of understanding or a co-operation agreement between ICAO and the WTO. The Council agreed to revert to this item at its next meeting and to invite a representative of ICAO to the next meeting in order to clarify the objectives of the envisaged cooperation agreement. At the meeting on 9 July the items was further deferred to the following meeting.

XV. REVIEW OF THE ANNEX ON AIR TRANSPORT SERVICES UNDER PARAGRAPH 5 OF THE ANNEX

29. The second meeting devoted to the review was held on 4 December 2000. The Council discussed a paper produced by the Secretariat, contained in document S/C/W/163/Add.1 and 2, as well as communications from the European Communities, S/C/W/168, and New Zealand, S/C/W/185. A representative of ICAO introduced its revised policies on the economic regulation of airport and air navigation, S/C/W/188. The report of the meeting is contained in document S/C/M/50.

XVI. WORK OF SUBSIDIARY BODIES

30. The activities of subsidiary bodies are reflected in their respective reports which are annexed to this report as follows:

Annex I	Report of the Committee on Specific Commitments (S/CSC/6)
Annex II	Report of the Committee on Trade in Financial Services (S/FIN/6)
Annex III	Report of the Working Party on Domestic Regulation (S/WPDR/3)
Annex IV	Report of the Working Party on GATS Rules (S/WPGR/6)

Annex 1

Committee on Specific Commitments

S/CSC/6
3 October 2001

**REPORT OF THE COMMITTEE ON SPECIFIC COMMITMENTS
TO THE COUNCIL FOR TRADE IN SERVICES**

1. Since its last report to the Council for Trade in Services, the Committee on Specific Commitments held three formal meetings between 1 November 2000 and 30 September 2001. The reports of these meetings are contained in documents S/CSC/M/18, 19 and 20. The Committee's work in this period focused on two items: the revision of the scheduling guidelines and classification issues.

2. At its meeting on 1 November 2000, the Committee considered the organization of its work and, in the light of the best endeavours deadline of March 2001, decided to give priority to the completion of the revised guidelines for the scheduling of commitments under the GATS. Following intense consultations on the draft of the revised guidelines conducted by the Chairperson, the Committee was able at its 22 March 2001 meeting to agree on a revised text, which it recommended to the Council for Trade in Services for its adoption as a non-binding set of guidelines. The Council for Trade in Services adopted a Decision to that effect at its meeting of 23 March 2001. The text of the Guidelines for the Scheduling of Specific Commitments under the GATS and the Decision taken by the Services Council on its adoption are contained in documents S/L/92 and S/L/91 respectively.

3. The Committee continued its work on classification issues regarding five services sectors: environmental services; energy services; legal services; postal and courier services; and construction services. Discussions were without prejudice to the inclusion of any other sector, whose classification Members might want to revise, and to the positions of Members as to the outcome of this exercise. During the reporting period, discussions of the sectors took place in informal and formal modes, on the basis of existing or revised proposals submitted by Members which focused on possible amendments to the existing Secretariat's services classification list (document MTN.GNS/W/120). As in the past, regular accounts of the informal discussions on the sectors were given by the Chairperson to the Committee and are contained in the reports of the formal meetings referred to above. Members also continued their discussion of "manufacturing on a fee or contract basis", on the basis of a paper prepared by the Secretariat and questions posed by the Chairperson. At its May meeting, the Committee agreed on this issue not being a matter of priority at that stage.

Annex II

Committee on Trade in Financial Services

S/FIN/6
3 October 2001

**REPORT OF THE COMMITTEE ON TRADE IN FINANCIAL SERVICES
TO THE COUNCIL FOR TRADE IN SERVICES**

1. Since its last annual report to the Council for Trade in Services, the Committee on Trade in Financial Services has held three formal meetings, on 29 November 2000, 2 April 2001, and 9 May 2001. Reports of those meetings are contained in documents S/FIN/M/29 to 31. The discussions of the Committee focused on four items: the acceptance of the Fifth Protocol to the GATS; the sectoral classification of financial services; other issues for future discussion; and recent developments in financial services trade.
2. Concerning the acceptance of the Fifth Protocol, the Council for Trade in Services decided at its meeting on 1 December 2000 to reopen the Protocol to allow for the acceptance by Kenya and Nigeria. The two Members accepted the Fifth Protocol on 1 and 7 December, respectively. Seven Members have not yet accepted the Protocol: Bolivia, Brazil, Dominican Republic, Jamaica, Philippines, Poland, and Uruguay. As part of its monitoring function, the Committee invited those Members to report on the situation regarding their domestic ratification processes and acceptance procedures. In the period under consideration, the Committee heard progress reports from Brazil, Jamaica, Poland, Philippines, and Uruguay. Details of those reports are contained in documents S/FIN/M/29 to 31.
3. Regarding the sectoral classification of financial services, discussions focused on an informal note submitted by Japan on the classification of activities carried out through the Internet, such as Electronic Communication Networks (ECNs) or Internet Initial Public Offerings (IPOs). While a few delegations felt that the issues raised by Japan deserved further attention by the Committee, others considered that the broad definitions contained in the Annex on Financial Services already covered those service activities. At the meeting held on 9 May 2001, the delegation of Japan indicated that even though it still considered that the classification of those services would merit further analysis, it had no intention to insist on its original proposal if, as it appeared to be the case, most Members did not wish to pursue the discussion at that stage. However, a few delegations indicated that they might revisit the issues raised by Japan at future meetings since they were still considering them.
4. Under the agenda item on other issues for future discussion, the Committee agreed to organize an informal briefing session by three international standard-setting organizations, namely the Basel Committee on Banking Supervision, the International Organization of Securities Commissions, and the International Association of Insurance Supervisors, to be held on 10 October 2001. The objective, modalities and agenda are contained in document JOB(01)/56.
5. With respect to recent developments in financial services trade, at the meeting held on 29 November 2000, the Committee heard a statement by Argentina on its financial reforms. At subsequent meetings, although no particular presentation was heard, some delegations considered that this agenda item represented a good opportunity for Members to provide information on national experiences regarding regulatory reform processes in the area of financial services.

Annex III

Working Party on Domestic Regulation

S/WPDR/3
3 October 2001

**REPORT OF THE WORKING PARTY ON DOMESTIC REGULATION
TO THE COUNCIL FOR TRADE IN SERVICES**

1. Since its last annual report to the Council for Trade in Services, the Working Party on Domestic Regulation (WPDR) held five formal meetings and one informal meeting. Minutes of the formal meetings are found in WTO documents S/WPDR/M/9 to M/13.
2. Since November 2000, formal papers were submitted to the Working Party by Mexico, Canada, the European Communities, Australia, Switzerland and Thailand (S/WPDR/W/12 to W/16, and W/18), together with informal papers from the Chairperson,¹ Member² and the Secretariat.³
3. Discussions of the Working Party with respect to the development of horizontally applicable disciplines on domestic regulation have continued to focus mainly on necessity and transparency issues, as identified by Members in the informal document *Checklist of Issues for WPDR* (Job No. 5067, dated 17 August 2000) at the meeting of the WPDR on 11 May, Members agreed to revise the *Checklist* (JOB(01)/92, dated 19 June 2001) to add issues related to equivalency and technical standards. As requested by delegations, an updated informal summary of the *Checklist* discussions was added as an annex to the minutes of each WPDR meeting.
4. The Secretariat presented an informal paper, *Examples of Measures to be Addressed by Disciplines under GATS Article VI:4* (JOB(01)/62, dated 10 May 2001) at the meeting of the WPDR on 11 May. A number of Members stated that additional examples, and greater specificity, would be useful. Delegations also discussed issues related to distinguishing between the scope of GATS Article VI:4 and that of Articles XVI and XVII.
5. With respect to the development of horizontal disciplines for professional services, the Secretariat at the WPDR meeting on 29 November introduced its *Synthesis of Results to Date of the Domestic Consultations in Professional Services* (Job No. 7667, dated 29 November 2000) which was subsequently revised (current version is JOB(01)/145, dated 26 September 2001) to include additional Member reports on their domestic consultations with professional services organizations.
6. Members discussed the organization of future work at the Working Party meeting on 11 May, based on a Chairperson's Note (JOB(01)/59, dated 27 April 2001). They agreed to continue focusing on necessity and transparency issues, in regard to the development of any necessary regulatory disciplines, but also to begin discussion of equivalency and technical standards, on the basis of submissions by Members, if any. Members also discussed ways in which the work to develop horizontally applicable disciplines on domestic regulation and the work to develop horizontal disciplines for professional services could be made more complementary.

¹JOB(01)/59, dated 27.04.01; JOB(01)/93, dated 21.06.01; and JOB(01)/130, dated 14.09.01.

²Job No. 1954 dated 20.03.01 (Communication from Japan); JOB(01)/69, dated 10.05.01 (Communication from Australia); and JOB(01)/77, dated 28.05.01 (Communication from Japan).

³Job No. 7630, dated 29.11.00; Job No. 7667, dated 29.11.00; Job No. 1872, dated 16.03.01; Job No. 1873, dated 16.03.01; JOB(01)/62, dated 10.05.01; JOB (01)/92, dated 19.06.01; JOB(01)/98, dated 28.06.01; JOB(01)/99, dated 28.06.01; and JOB(01)/145, dated 26.09.01.

Annex IV

Working Party on GATS Rules

S/WPGR/6
3 October 2001

**REPORT OF THE WORKING PARTY ON GATS RULES
TO THE COUNCIL FOR TRADE IN SERVICES**

1. Since its last annual report,⁴ the Working Party on GATS Rules has held five formal meetings. Minutes of the meetings are contained in documents (S/WPGR/M/30-34). In each meeting, the Working Party considered the three negotiating mandates: emergency safeguard measures (Article X); government procurement (Article XIII); and subsidies (Article XV).

**I. NEGOTIATIONS ON EMERGENCY SAFEGUARD MEASURES UNDER GATS
ARTICLE X**

2. At its meeting on 20 November 2000, the Working Party agreed to extend the negotiating mandate under Article X until 15 March 2002 (doc. S/C/W/184). This proposal was adopted by the Council for Trade in Services at its meeting on 1 December 2000.

3. Differing views continued to be expressed regarding the desirability and feasibility of an emergency safeguard mechanism (ESM) in services. Most discussions were held on the basis of the illustrative list of themes circulated by the Chairperson (Job No. 1979/Rev.1). The list includes issues such as situations justifying safeguard action, the definition of "domestic industry" and the issue of "acquired rights", the modal application of a safeguard mechanism, the concept of "like service", the identification of indicators and criteria for determining injury and causality, the possible forms of a safeguard measure, the questions of compensation and special and differential treatment, and relevant procedural matters. A number of delegations presented informal written contributions on specific aspects of a possible ESM. Moreover, a group of delegations presented an informal *Draft agreement on emergency safeguard measures for trade in services*, on 31 October 2000. All issues were examined in both formal and informal meetings.

4. The Working Party also discussed the organization of future work, keeping in mind the negotiating deadline of 15 March 2002. In July 2001, the Working Party requested the Chairperson to prepare, under his responsibility, a synopsis which would outline the current state of the discussion under the ten items identified in the Chairperson's Note, Job No. 1979/Rev.1. The synopsis was circulated on 7 August (JOB(01)/122) and is without prejudice to the questions of desirability and feasibility, nor to the form that a possible ESM might take. It presents, in a synthetic way, the main options proposed until July 2001, and indicates comments made by Members.

**II. NEGOTIATIONS ON GOVERNMENT PROCUREMENT UNDER GATS
ARTICLE XIII**

5. Discussions have continued on definitional issues as well as on possible multilateral disciplines in this area.

⁴ S/WPGR/W/35, 3 November 2000.

III. NEGOTIATIONS ON SUBSIDIES UNDER GATS ARTICLE XV

6. The Working Party has continued to consider the need for, and possible scope of, disciplines on subsidies which may have trade-distortive effects. Delegations proceeded on the basis of the Chairperson's Checklist (Job No. 4519/Rev.1), and took up one item at each successive meeting. The fifth and last item was addressed in July. At that meeting, it was decided that the Checklist would remain on the table for the time being and that the five topics it contains would remain open for discussion.
