

**COMMUNICATION FROM MEXICO**

Most Favoured Exemptions: Negotiation

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

**Most-Favoured-Nation Exemptions: Negotiation**

1. The purpose of this contribution is to share with the Members the position of Mexico<sup>1</sup> on the subject of the exemptions to Article II of the General Agreement of Trade in Services (hereinafter referred to as the GATS) in relation to the negotiations of market access mandated by Article XIX of the GATS.

**I. INTRODUCTION**

2. The Most-Favoured-Nation principle (hereinafter referred to as MFN) constitutes one of the fundamental pillars of the multilateral trading system. Because of its importance, this principle was included in Article II of the GATS and it is understood as a general obligation that applies to any measure affecting trade in services, regardless of whether the Member has acquired specific commitments on market access or national treatment.

3. The GATS allows, in certain cases and under strict conditions, Members to be exempted from fulfilling this general obligation. One of these exemptions<sup>2</sup> is the Annex to Article II of GATS (hereinafter referred to as the Annex). This Annex was introduced during the GATS negotiations because of the practical impossibility during the Uruguay Round of eliminating all restrictions to the unrestricted fulfilment of MFN treatment. Nevertheless, it was recognized that these exemptions constitute an irregular situation with respect to one of the determining elements of the extraordinary development of the world economy during the post-war era. For that reason, the Annex guarantees the expiry of such exemptions with the aim of achieving the application of the MFN principle to **all members alike, with no deviation and within the shortest possible time-period.**

4. Regardless of the expiry date noted in the exemption, or otherwise by default 10 years from the entry into force of the GATS, the Annex provides for the possibility of speeding up the elimination of these inconsistent measures through negotiation. Paragraph 6 of the Annex categorically states that "*in any event they shall be subject to negotiation in subsequent trade liberalizing rounds*".

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<sup>1</sup> Mexico reserves its right to modify at any time ideas expressed in this document. This contribution has no legal effect and does not prejudice Mexico's position on the issues addressed.

<sup>2</sup> The other two concern the economic integration process (Article V) and to the mutual recognition of licences (Article VII).

5. Thus, the Council for Trade in Services also recognized in the negotiating guidelines and procedures<sup>3</sup> the importance of the elimination of these inconsistent measures, by mandating that such measures would be a part of the negotiating process, while guaranteeing the appropriate flexibility for developing country Members.

## II. IMPORTANCE OF THE SERVICES SECTOR

6. Since the entry into force of the GATS in 1995, the services sector is the largest and fastest-growing sector in the world economy, representing more than 60 per cent of total output, and in many countries an even higher share in employment.<sup>4</sup>

7. In the mid-1990s, the services sector accounted for more than 60 per cent of GDP in Korea and Brazil, and 80 per cent of GDP in the USA.<sup>5</sup> It is important to note that some services have a more important role in the development process than their direct participation in the GDP alone. Due to their linkages with other activities, different services are the source of major externalities, with an important impact on the general economic development of countries.

8. In the year 2000, Mexico registered a 15 per cent growth in exports and an 18 per cent in imports of services. These figures situated Mexico among the countries with the highest growth in the services sector.<sup>6</sup> In recent years, the services have accounted for more than 60 per cent of Mexican GDP.

9. Countries that are competitive producers and exporters of any product require access to efficient services. In markets where supply is insufficient, imports of basic services can be as important as imports of goods. Thus, liberalization of trade in services leads to benefits in all other economic activities. Countries with a liberalized services market have developed, among other things, greater efficiency through more competition, lower prices, more innovation, more transparency and reliability, more foreign direct investment flows, more transfer of technology, and more employment.

## III. OBJECTIVE

10. One of the main objectives of the GATS is to promote the expansion of trade in services "*under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries*". In this respect, Mexico considers that during the on-going negotiations significant progress must be made on the elimination and reduction of MFN exemptions. To that end, a commitment of all Members is required in order to agree on a programme to eliminate those exemptions. Mexico would be in a position to contribute with the elimination of its MFN exemptions as part of this multilateral exercise.

11. Furthermore, all exemptions are subject to negotiation in accordance with paragraph 6 of the Annex, and the procedures for their total elimination need to be drawn up.

12. Mexico considers that a successful market access negotiation is only possible in a balanced environment that takes into account the capacity and the level of development of developing countries. Needless to say, negotiations in which the main advocates of market access proportionally maintain the most MFN inconsistent measures is by no means a balanced situation and are unlikely to succeed. In this regard, **it is fundamental that Members proceed to eliminate such exemptions as soon as possible.**

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<sup>3</sup> Paragraph 6, document S/L/93, 28 March 2001.

<sup>4</sup> WTO, GATS: Fact and Fiction, March 2001

<sup>5</sup> WTO, S/C/W/26

<sup>6</sup> WTO, Annual Report 2001

#### IV. PROPOSAL

13. In order to achieve this objective, Mexico proposes the following:

- (a) To include in the agenda for the Council for Trade Services, the subject of exemptions under the Special Session of the heading "*Termination of Exemptions: Follow-up*";
- (b) to agree, during the sectoral discussions, on a work programme under which Members will eliminate their exemptions with the aim of completing their elimination during 2002<sup>7</sup>;
- (c) at the same time, to agree upon the procedures for the notification of early elimination of exemptions. Once this has been implemented, to carry out the notification provided for in paragraph 7 of the Annex; and
- (d) due respect should be given to the flexibility provided for in the negotiating guidelines and procedures for developing country Members.

14. The adoption of procedures to ensure the prompt elimination of MFN exemptions during the ongoing negotiations would certainly be an essential factor for deriving full benefit from the negotiating proposals on market access put forward by Members on their own merits, thus benefitting the multilateral trading system as a whole.

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<sup>7</sup> See document S/CSS/W/42/Suppl.1, Japan.