

**COMMUNICATION FROM THE EUROPEAN COMMUNITIES
AND THEIR MEMBER STATES**

Autonomous Liberalisation of Trade in Services

Elements for Criteria and Modalities

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

-
1. GATS Article XIX:3:2 requires negotiating guidelines to establish modalities for the treatment of liberalisation undertaken autonomously by Members since previous negotiations.
 2. The Negotiating Guidelines adopted at the Council for Trade in Services Special Session on 28-30 March 2001 (paragraph 13) state that "Based on multilaterally agreed criteria, account shall be taken and credit shall be given in the negotiations for autonomous liberalisation undertaken by Members since previous negotiations. Members shall endeavour to develop such criteria prior to the start of negotiation of specific commitments."
 3. The Council for Trade in Services has for some time now been discussing the issue of autonomous liberalisation. Work has been greatly assisted by the input of Members and the helpful background documentation prepared by the Secretariat. The discussions have mainly focussed on the definition of basic concepts, the relationship between negotiations and autonomous liberalisation, assessment of liberalisation measures, transparency and bilateral/multilateral treatment of autonomous liberalisation.
 4. On the basis of the work carried out to date, the European Communities and their Member States (EC) believe that it is now possible to envisage a set of possible criteria and modalities for the treatment of autonomous liberalisation. The attached annex contains possible elements for such criteria and modalities, which are submitted as a contribution to the debate.

Modalities and Criteria for the Treatment of Liberalisation undertaken Autonomously by Members

1. General considerations

- Modalities and criteria for the treatment of autonomous liberalisation should be developed to allow Members to seek credit for such measures on the basis of agreed principles. Special consideration should be given to the situation of developing, and in particular least developed, country Members.
- In the context of the negotiating process favourable consideration will be given by Members to requests for credit for measures of autonomous liberalisation if and to the extent such measures are bound in the schedule of specific commitments of the Member concerned as part of the final outcome of the negotiations.
- Full transparency is an important element for the process of assessing requests for credit for measures of autonomous liberalisation. GATS Article III already contains transparency obligations for Members and these could be supplemented by the procedures set out in section 4, particularly for sectors where no specific commitments have yet been made.
- Members having provided information about autonomous liberalisation measures shall be given appropriate opportunity to discuss their request with the Members from whom credit is sought.

2. Relevant Measures

- Measures that could give rise to credit are those susceptible of being scheduled in the Member's list of specific commitments.
- Such measures should have been undertaken autonomously since previous negotiations by the Member seeking credit in the sector concerned.

3. Criteria to be taken into account in determination of credit

- In seeking to agree on the appropriate credit, the Members concerned shall, inter alia, take account of the following criteria:
 - the liberalising nature of the specific measure concerned,
 - the WTO conformity of the measure,
 - the contribution of the measure to the objectives of the GATS negotiations,
 - the relevance of the measure to the Member from whom credit is sought,
 - the binding nature of the liberalisation.
- Verifiable statistical evidence, where available, should also be taken into account.

4. Procedures

- A Member wishing to seek credit for any or all of its relevant measures should inform either the Council for Trade in Services, or the specific Members, of its intention to seek appropriate credit for such measures.
 - Such information should clearly identify the measure for which credit is being sought, give details based on the criteria above and specify the credit being sought.
 - Information about relevant measures shall be given at such time to allow appropriate time to evaluate the request.
-