

**Council for Trade in Services
Special Session**

MODALITIES FOR THE TREATMENT OF AUTONOMOUS LIBERALIZATION

Adopted by the Special Session of the Council for Trade in Services on 6 March 2003

I. INTRODUCTION

1. These modalities for the treatment of autonomous liberalization measures undertaken by a Member since previous negotiations are established pursuant to Article XIX:3 of the GATS, paragraph 15 of the Doha Ministerial Declaration (WT/MIN(01)/DEC/1), and paragraph 13 of the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93).¹

2. For the purposes of these modalities, a "liberalizing Member" is a Member seeking credit for an autonomous liberalization measure; and a "trading partner" is a Member from whom credit is being sought.

3. An "autonomous liberalization measure" is a measure

- (a) subject to scheduling under Part III of the GATS, and/or leading to the termination of an MFN exemption,
- (b) compatible with the MFN principle,
- (c) undertaken by the liberalizing Member unilaterally,² since previous negotiations, in accordance with Article XIX of the GATS, and
- (d) applicable to any or all service sectors.

II. CRITERIA FOR ASSESSING THE VALUE OF AUTONOMOUS LIBERALIZATION MEASURES

4. In assessing the value of an autonomous liberalization measure, a Member may use the following illustrative criteria:

- (a) sectoral coverage,
- (b) liberalizing nature of the measure concerned (e.g. elimination of measures restricting market access; elimination of existing measures which are inconsistent with national treatment and/or MFN),

¹ These modalities are without prejudice to the rights and obligations of Members under the GATS.

² It is understood that liberalization measures undertaken as part of economic reform programmes, including those under the auspices of the International Monetary Fund and the World Bank, should be considered as "autonomous liberalization measures" for the purposes of these modalities, in so far as they meet the criteria set out in this paragraph.

- (c) the date of entry into force and the duration of the measure,
- (d) share of the sector in the total trade of the trading partner,
- (e) share of the trading partner in the total trade in the sector autonomously liberalized by the liberalizing Member,
- (f) importance and impact of the autonomous liberalization measures on the liberalizing Member's economy,
- (g) market potential in the liberalizing Member for the trading partner,
- (h) opportunities for the expansion of foreign participation in the sector after the introduction of the measure,
- (i) whether the measure in question has already been scheduled and, if not, whether the liberalizing Member is willing to do so.³

5. To facilitate the assessment of the value of an autonomous liberalization measure, the liberalizing Member and its trading partner may agree to use either a qualitative or a quantitative approach (for example, formulae, improvement indices, ranking methods), or a combination of both approaches.

6. In assessing the value of credits, a Member may use the criteria and approaches set out in paragraphs 4 and 5 above, as appropriate.

7. In applying the above approaches and criteria, a Member shall take into account the level of development and the size of economies of individual Members, both overall and in individual sectors.

III. PROCEDURES

8. The application of these modalities may be advanced bilaterally, plurilaterally, or multilaterally. The granting of credit for autonomous liberalization measures shall be advanced through bilateral negotiations.

9. A liberalizing Member shall make the autonomous liberalization measure for which credit is being sought known to its trading partner. The liberalizing Member may, if it deems it appropriate, also notify such a measure to the Special Session of the Council for Trade in Services. It is understood that such a notification neither guarantees any right for credit, nor implies any obligation on the part of the liberalizing Member to bind the notified measure.

10. An autonomous liberalization measure notified or made known to a trading partner should contain information based on the relevant criteria set out in Part II of these modalities, and specify the credit being sought. The credit to be sought may take the form of,

- (a) a liberalization measure to be undertaken by a trading partner in sectors of interest to the liberalizing Member under the GATS,
- (b) refraining from pursuing a request addressed to the liberalizing Member, or

³ A measure's legal certainty and predictability would be greatly enhanced with a liberalizing Member's readiness to bind it at the conclusion of the current negotiations. This aspect should be duly taken into account when assessing both the value of specific autonomous liberalization measures and the corresponding credit.

- (c) any other form which the liberalizing Member and its trading partner may agree upon.

11. A liberalizing Member claiming credit for an autonomous liberalization measure shall be given adequate opportunity to discuss its request with its trading partner. If the trading partner considers that an autonomous liberalization measure is of little or no trading value, it should provide information on the evaluation as early as possible to allow time for the liberalizing Member to request further consultations.

12. Any Member may bring to the attention of the Special Session of the Council for Trade in Services any matter that relates to the application of these modalities.

IV. DEVELOPING COUNTRIES

13. Pursuant to the objectives of the GATS, as stipulated in the Preamble, Article IV, and Article XIX:2, and in line with paragraph 2 of the Doha Ministerial Declaration, these modalities shall be used *inter alia* as a means of promoting the economic growth and development of developing countries and their increasing participation in trade in services.

14. In the application of these modalities, and in recognizing and granting credit pursuant to these modalities, Members shall take fully into account the flexibility provided for individual developing country Members under the provisions referred to in paragraph 13 above, as well as the level of development of developing country Members in relation to other Members. Special consideration shall be given to the least-developed country Members.
