

**Council for Trade in Services  
Special Session**

**REPORT OF THE MEETING HELD ON 12 JULY 2001  
ON THE TREATMENT OF AUTONOMOUS LIBERALIZATION**

Note by the Secretariat

1. The Council for Trade in Services held a special meeting on 12 July 2001, devoted to the issue of treatment of autonomous liberalization. The agenda for the meeting is contained in document WTO/AIR/1582. The agenda was adopted.
2. At the beginning of the meeting, it was agreed that the meeting would be held in informal mode, but the Secretariat would prepare a summary report attributing statements to individual delegations.
3. All delegations thanked the Secretariat for the informal note Job(01)/65, dated 7 May 2001. They considered that the note was a very good basis to structure the discussion on this issue.
4. The representative of Chile said that in some circumstances the treatment of autonomous liberalization as envisaged in Article XIX of the GATS could be less beneficial than expected for countries which had adopted autonomous liberalization measures. Firstly, it would seem that not any autonomous liberalization would be recognised. In fact, according to Article XIX of the GATS and to the negotiating guidelines and procedures, trade liberalization measures carried out by Members only since previous negotiations - in this case the Uruguay Round - would be eligible for credit and recognition. This situation might be particularly unfair for those countries which, like Chile, had initiated and fully achieved an autonomous liberalization process in the area of services well before the Uruguay Round was concluded. This group of countries would be at a disadvantage in this negotiation given the fact that, because of this early opening, they would not enjoy recognition or credit and they might be subject to greater demands or requirements from their trading partners. Additionally, these countries would not only be deprived of the right to enjoy this recognition, but would also be obliged to grant recognition or credit to other Members for their autonomous liberalization measures. That dual effect would put countries like Chile at an even greater disadvantage. He expected that this additional element would be taken into account when the basic criteria and definition on credit for autonomous liberalization be adopted.
5. The representative of Turkey agreed that, regarding questions after paragraph 6 of the Secretariat note, measures to be considered for the purposes of this discussion should only be those susceptible of being scheduled. Both sector-specific measures and measures of general application should be covered. Only multilateral MFN liberalization should be eligible for credit. Liberalization undertaken in the context of regional trade agreements should not be granted credit. With regard to questions under paragraph 8, she agreed that "liberalization undertaken autonomously" meant "liberalization undertaken by individual Members unilaterally, outside a negotiating context", but she suggested to add the following: "but not necessarily bound in the end". Concerning the questions following paragraph 9, if the previous definition of autonomous liberalization was to be accepted then the results of the extended negotiations on movement of natural persons, financial services, and basic telecommunications could not be considered as included. However, the efforts exerted by Members during the extended negotiations should also be taken into account during the process of granting

credit. With reference to the difference between criteria and modalities, she preferred that a two-stage process of developing criteria first, and modalities afterwards, be followed. Multilateral modalities for the granting of credit needed to be developed on the basis of multilaterally agreed criteria, as stated in the Negotiating Guidelines and Procedures. Regarding the questions after paragraph 16, she said that the term credit was to be used, instead of recognition, since credit was the word used in the Negotiating Guidelines and Procedures. With respect to the question whether Members should be able to seek credit for liberalization undertaken autonomously in the past and ask their trading partners to reciprocate on that basis, she considered that the issue depended on the bargaining power of the parties concerned. Taking into account that developing countries had weaker bargaining power, a mechanism for securing concessions from developed trading partners should be established. The meaning of "trading partners" should be clarified as well.

6. On the questions after paragraph 24, she said that credit for autonomous liberalization measures should be granted first, and the measures for which credit had been granted might be bound at the end of the negotiations. Regarding the assessment of the value of measures, it seemed to be very difficult to use quantitative approaches. Instead, multilaterally agreed model schedules might be more practical and appropriate. As regards questions after paragraph 35, she considered that autonomous liberalization measures for which Members were seeking credit might be notified. She preferred a collective discussion about the measures and their value in terms of liberalization. Otherwise, there was the risk that similar liberalization measures might be assessed on a different basis. It would be more appropriate to deal with autonomous liberalization within a multilateral framework or, at least, to agree on a mixed approach (multilateral and bilateral).

7. The representative of Switzerland also dealt systematically with all the questions raised in the Secretariat note. Regarding questions after paragraph 6, he considered that only measures that were susceptible of being included in a schedule of commitments should be considered. He agreed that only measures taken on a MFN basis should be discussed. He agreed with the definition of autonomous liberalization given by the Secretariat in paragraph 8 of the note.

8. Only those measures bound between two negotiating rounds or to be bound at the end of these negotiations could possibly receive a credit provided that the measure had led to trade benefits for the trading partners for the Member who liberalised it. Members should not have an automatic right to a credit for liberalization measures that were of no interest to their partners. Regarding the question under paragraph 9, he said that the extended negotiations were part of the preceding round. On paragraph 11, he said that the distinction between criteria and modalities was appropriate. A two stage process could be envisaged by which multilaterally agreed criteria would be set up in the first place, for example, on the basis of the elements contained in the communication by Hong Kong China (Job 7580); then some modalities for bilateral treatment would be defined. The notion of credit was in fact extremely difficult to define. The communication by Korea (Job 7634 and Add.1) had shown the limits of a quantitative approach. It was not possible to determine the value of a liberalization measure globally for all Members in all sectors. That value would depend on the sector involved and the modes of supply. He found it difficult to envisage this notion of credit in a context other than a bilateral one. However, the notion of recognition is related to transparency and the fact that the trading partners become aware of a liberalization measure. In his view the answer to the second question under paragraph 16 was clearly no. A member which had undertaken autonomous liberalization measures in the past should not necessarily ask for credit. It was not sure that a liberalization measure had really been advantageous to the trading partners of that Member. The notion of mutual advantage must be at the heart of these discussions. A Member would be able to request a credit only if the autonomous measure which he had to offer fully respected this mutual advantage.

9. Regarding paragraph 24, he said that autonomous liberalization measures had generally been taken for reasons of domestic policy and could not therefore automatically involve a request for credit from trading partners who had not requested anything at all. Whether the liberalization measures had

been taken outside or inside a negotiating context was in fact less important the actual binding of such a measure in a schedule of commitments. Above all, what was more important was the interest of other Members. The principle of progressive liberalization was related more to successive rounds of negotiations than to liberalization outside such rounds. He answered the second question after paragraph 24 in the negative and the third one in the affirmative. On paragraph 31, he said that implementing a multilateral quantitative approach was extremely difficult. Quantification was subjective and could introduce distortions. Individual liberalization measures were not of equal interest to all trading partners in all sectors. Regarding the questions after paragraph 31, he replied to both of them in the negative. Formula approaches were not feasible when the objectives varied so widely from one country to another. However, it would be useful to rely on qualitative assessments to be worked out by the Member concerned together with its trading partners in bilateral negotiations. Regarding questions after paragraph 35, he considered that notification of autonomous liberalization was important, but that the mere act of notifying would not give right automatically to any credit. Regarding questions under paragraph 38, he said that instead of trying to develop a multilateral formula it would be more realistic to look at credit and recognition in the context of requests and offers in bilateral negotiations. Paragraph 11.d) of the submission by Hong Kong, China (Job 7580) offered a practical approach. Switzerland could agree on a combined approach (multilateral and bilateral), with the establishment of a multilateral framework within which credits or recognition could be determined on a bilateral or plurilateral basis. Finally, he considered that binding a measure would be a logical conclusion of a negotiating process, rather than a necessary prerequisite for any discussion on credits.

10. The representative of Korea said that an effective mechanism to grant credit for autonomous liberalization was a prerequisite for further liberalization of trade in services to be agreed at the multilateral level. He announced that his country was preparing a paper on the possible criteria, based on a qualitative approach. Regarding the definition of autonomous liberalization, only MFN liberalization should be eligible for credit. The expression "since previous negotiations" should also include the results of the extended negotiations on basic telecommunications, the movement of natural persons and financial services. He added that asking for binding commitments before granting credit was not an appropriate approach since it impinged on the negotiating position of credit-demanding countries. Regarding transparency, he said that the notification of measures was the first step to negotiate credit. Liberalization measures should be notified to all WTO Members. Restricting the treatment of the issue to bilateral negotiations might affect the negotiating leverage of the country seeking credit. A mixed approach (multilateral plus bilateral) might be more realistic.

11. The representative of Hong Kong, China said that both developed and developing Members had undertaken autonomous liberalization measures since the Uruguay Round and the subsequently extended negotiations, which were an integral part of the Uruguay Round. The scope of liberalization measures to be considered should include measures susceptible of being scheduled (i.e. under articles XVI, XVII, and XVIII of the GATS), as well as non-discriminatory but restrictive measures falling under article VI.4 and those related to the liberalization of MFN exemptions. Only those measures liberalized on a MFN basis should be eligible for credit. She noted the difficulty in developing an objective benchmark. She agreed that autonomous liberalization meant the liberalization undertaken by individual Members on a voluntary basis outside the negotiation context. It was important to distinguish between bound and unbound measures. Measures to be considered were those undertaken after the Uruguay Round and the conclusion of the extended negotiations. She did not see any significant difference between criteria and modalities. In keeping with the negotiating guidelines, Hong Kong, China envisaged the development of modalities prior to the start of the negotiation of specific commitments. Coming to the question of binding, she considered that both the measures for which credit was granted and the credit so granted should be bound, so as to provide predictability, legal certainty, and fairness. Transparency about the measures was also important. If there should be no bound commitments for measures for which credit was requested then the question would arise as to whether the credit should also be subject to withdrawal at a later stage, specially if the measure in question were to be adjusted or revoked subsequently. The most feasible approach would be a

combination of bilateral and multilateral recognition, whereby the Council for Trade in Services could multilaterally agree factors to be taken into account during bilateral negotiations. In paragraph 11.d) of the submission by Hong Kong, China (Job 7580), a possible list of such factors was suggested.

12. The representative of the European Union said that Members should be able to come up with multilaterally agreed criteria or modalities - she did not see a great difference between the two terms. They could relate to transparency and the factors to be taken into account. Much of the work would need to be done on a bilateral basis. The question of transparency was very important. However, each Member should decide on what measures to put into the discussion, and should be in control of whom it wished to be transparent with. The European Union would not favor a mandatory notification to the Council, since Members would prefer to negotiate with one or several partners with whom they had specific liberalization interests. Obviously, the results would be applied on an MFN basis. It was up to each Member to have control of the process when looking for recognition or credit. As regards the question of binding, there was a link between binding liberalization and credit, but it was rather a question of deciding at the end of the process how much of the liberalization and credit would be bound by partners. Binding would come at the end of the process, assuming that a satisfactory solution had been negotiated between partners. Different levels of negotiating power should be considered. She suggested that the modalities could indicate that where a Member believed that it was not getting sufficient recognition or credit in the discussions, it should be open to it to bring the matter to the attention of the Council under the agenda item on "Review of progress in negotiations". The elements put forward in the submission by Hong Kong, China could be useful in trying to form criteria for the multilateral aspect of the process.

13. The representative of Thailand said that multilaterally agreed criteria to be developed would apply to all Members, regardless of their size and level of development, and credit should be given in accordance to these criteria. Autonomous liberalization did provide an opportunity to operationalize Article IV of the GATS. Thailand was exploring ways to have special and differential treatment for developing countries built into the modalities to be developed in the future. For example, through additional flexibility on how the credits could be used. The notion of criteria was flexible. Criteria could be established for different purposes and at different stages of the exercise. For instance, there could be criteria on measures that would be eligible for credit; or criteria on how the credit could be used. The distinction between criteria and modalities was not particularly important.

14. Thailand's views were made known at the previous meeting on the relationship between negotiations and autonomous liberalization. In that connection, Thailand explored some liberalization measures that were related with a negotiating context, such as those undertaken as part of IMF programmes. A few examples of those measures included the maintenance of a convertibility entailing foreign exchange backing of the currency; statutory limitations on central bank financing of the public sector; streamlining antitrust legislation and issuing of legislation for the protection of competition; regulatory changes that would lower costs for banks and would remove distortions that inhibited the development of checking accounts; reform of the public administration, by streamlining its activities and eliminating redundant entities and programmes; strengthening controls over procurement practices and cost-effectiveness of spending programmes; tightening of capital and prudential requirements; bringing regulatory standards closer to best international practices; and revamping of bank supervision practices. These examples showed the variety of measures that could be taken, either sector specific or horizontal. These measures should be considered in the deliberations on autonomous liberalization. These measures would imply greater transparency, predictability and accountability in administrative procedures; would introduce pro-competitive principles; and would remove impediments to trade and investment. Instead of focusing on the definition of "autonomous liberalization", she suggested to concentrate on the definition of "liberalization measures" eligible for credit. The definition of measures contained in Article XXVIII of the GATS could be relevant in that regard.

15. The next question was how to treat these measures for the purpose of this exercise. There should be a system of voluntary notification. This would facilitate transparency. Members could also develop a set of criteria to determine what measures would be eligible for credit. Such criteria could include the duration of the measures; the long lasting effect of the measures; or the criteria included in Article V of the GATS, such as substantial sectoral coverage, elimination of existing discriminatory measures, and prohibition of new or more discriminatory measures. The latter might be adapted to qualify horizontal liberalization measures for credit. Only measures available on a MFN basis should be eligible for credit. On how to assess the value of the measures, factors such as the size of the sector *vis-à-vis* the economy; and the country's share in world services trade could be considered.

16. The representative of Cyprus said that, on the definitional issue, liberalisation measures undertaken autonomously should meet the following criteria, in order to be considered as eligible for recognition or credit: be taken on a voluntary basis; be capable of being scheduled; be either sector specific or applicable in many or all sectors (horizontal measures); and be compatible with the MFN principle. Furthermore, for credit purposes, such measures must have been taken outside a negotiating context and countries concerned should demonstrate willingness to bind them under the GATS. All measures taken since the end of the Uruguay Round and meeting the criteria mentioned before should be considered, including the results of the extended negotiations on the movement of natural persons, telecommunications and financial services. The distinction made between the concepts of credit and recognition in the Uruguay Round was the most appropriate. While "recognition" covered autonomous liberalization measures taken by Members more generally, "credit" should be directly linked to binding commitments.

17. Concerning the linkage between the negotiations and autonomous liberalization, it was important to define a process foreseeing the binding of these autonomous liberalization measures at the end of the negotiations. On the issue of assessing the value of the benefit stemming from liberalization of measures undertaken autonomously, Cyprus considered that the construction of benchmarks or yardsticks was very difficult and cumbersome. Even if it were possible to devise such a formula, the value would differ depending on the country, the size of the economy, and the sector. Only a qualitative assessment could be worked out. On the issue of transparency, it was essential to ensure that all liberalization measures undertaken autonomously be made known to the WTO membership. A mixed system involving bilateral as well as multilateral negotiations would be appropriate. She supported a multilaterally accepted framework, through which recognition and credit could be worked out on a bilateral, plurilateral or multilateral basis. Such a multilateral framework could also encompass transparency issues.

18. The representative of Argentina said it was necessary to pass to a more concrete stage of the work. In his view the distinction between credit and recognition worked out during the Uruguay Round was no longer relevant. The relevant question was actually how to define the credit. One important question was how far the multilateral work could go. Transparency was an essential element that should be considered at a multilateral level. Also, an attempt should be made, in a sort of second step, to measure the scope of the autonomous liberalization. Some of the indicators included the share of trade in that sector *vis-à-vis* the total trade of the country; the share of world trade in this sector *vis-à-vis* global trade in services; the length of the autonomous liberalization measures; the relationship between a liberalized sector and other sectors in the economy; and the sector's growth expectation, both domestically and globally. Regarding the scope of liberalization measures, he considered that the whole process of liberalization should be taken into account for the purposes of this exercise. He reiterated it was necessary to move discussions forward, by identifying the main indicators that could be used to assess the value of autonomous liberalization measures.

19. The representative of Norway said that the aim of the GATS 2000 negotiations was to achieve progressively higher levels of liberalization of trade in services with due respect to national policy objectives. Negotiations should clearly lead to real and meaningful liberalization being laid down in Members' specific commitments. Autonomous liberalization generally took place because a Member

benefited from such a measure. Backtracking would not seem logical or desirable. Norway therefore expected Members to put forth offers that at least reflected their present trade regime in areas where they had liberalized autonomously. Credit should be sought through the request/offer method of negotiations. At the same time, all Members should focus on the opportunities to commit on additional liberalization beyond the present regime. Countries willing to make binding commitments should be credited for this. Similarly, credits should also be given for autonomous liberalization undertaken since the previous negotiations when those measures were bound. Liberalization which was unbound did not provide sufficient basis to give credit, because of the uncertainty and unpredictability inherent in such situations. Binding commitments constituted a crucial element and the granting of credit should stimulate such a development.

20. The representative of Hungary said, in reply to the questions after paragraph 6 of the Secretariat note, that liberalization measures to be considered for the purpose of this exercise were those that might be scheduled, including article XVIII measures. A distinction between sectoral measures and measures that affect all sectors was possible. However, it was not clear whether measures affecting all sectors had a higher value than sectoral measures. Only MFN liberalization should be eligible for credit. As regards non-MFN liberalization under regional trade agreements, paragraph 8 of Article V made it clear that parties to a regional trade agreement should not seek compensation for trade benefits that accrued to any other Members from such an agreement. Regarding the questions after paragraph 8 of the Secretariat note, he agreed with the definition given to the expression "liberalization undertaken autonomously". Modalities should be established in order to encourage Members not only to liberalize autonomously, but also to bind such liberalization, if possible between services negotiations. On the question under paragraph 9, he said that the expression "since previous negotiations" included the results of the negotiations on the movement of natural persons, basic telecommunications and financial services. On the questions after paragraph 16, he believed that the distinction between credit and recognition along the lines indicated in paragraph 14 (i.e. the concept of credit as being limited to binding commitments and the concept of recognition as being applied more generally to liberalization initiatives) was useful, logical and appropriate in the WTO context.

21. Credit for autonomous liberalization should be given in the context of negotiations. Since the value of autonomous liberalization measures was subjective, i.e. a particular measure would be valued differently by different Members having different sectoral interests, the bilateral request/offer process seemed to offer the best avenue for seeking and granting credit. He agreed however that due to the difference in negotiating leverage, the process should not be left entirely to bilateral discussions. Criteria to be agreed-on multilaterally should be used in the bilateral negotiating process. In addition, he was interested in the idea of a voluntary peer review, keeping the possibility for Members to bring specific cases to the Council when there was disagreement between the negotiating partners on the use of the multilaterally agreed criteria. The issue of binding was of crucial importance. Members seeking credit in return for their autonomous liberalization steps should show readiness to bind those measures, at least partially. Binding should not be a condition to be met up front, but at the end of the bilateral negotiations. Regarding the assessment of the value of measures, the use of a qualitative factors seemed to be more feasible and appropriate. On transparency, he did not see the need to set up an extensive and burdensome process of notification covering all autonomous liberalization measures. The process was voluntary and therefore, there should not be an obligation to notify. Information about successful bilateral negotiations on the granting of credit could also be provided on a voluntary basis. Finally, in his view, Article XIX.3 of the GATS and paragraph 13 of the negotiating guidelines and procedures did not limit the treatment autonomous liberalization only to developing countries.

22. The representative of Mexico said that it was necessary to have a common understanding about basic concepts. On the scope of the measures, he said that all measures (sectoral and horizontal) should be discussed. He said that when the GATS was negotiated, paragraph 3 of Article XIX was aimed at credit and recognition for autonomous liberalization undertaken by Developing

Countries. Those who stood to benefit were the developed countries, who would give credit and recognition for autonomous liberalization in developing countries. There should be a two-stage process: first, the development of criteria, and second, the modalities. The assessment of particular measures would depend on the country, the sector, the benefits offered to its trading partners, and the coverage of the measures. It would vary from one country to another. It would be very difficult to establish a general guideline for the assessment of all measures, since the situation would vary from country to country. It would be in the interest of the country seeking credit or recognition to notify the measure. The detail of measures to be notified would depend on the country, and on whether it wanted to make it known to all Members or only to some of them. The basis for notification should be voluntary. He added that Mexico did not have a final position on whether this issue should be dealt with multilaterally or bilaterally. Finally, he suggested that the Secretariat prepare a brief note or matrix highlighting the main views on each issue under discussion.

23. The representative of Japan agreed that only measures susceptible of being scheduled should be considered. Such measures should be consistent with the MFN principle. Credit should only be given after such liberalization measures had been bound as a commitment. This was compatible with the principle of progressive liberalization since Members were free to bind or not their autonomous liberalization. It was important that information on those measures be shared by all Members. For that reason, a notification to the WTO would be desirable.

24. The representative of Indonesia said that it was important to discuss further the criteria and modalities for the treatment of autonomous liberalization, as this was of utmost importance to developing countries. Indonesia would like to consider broader notions of credit, and different ways and means for granting such credit, before focusing on the technicalities of different calculating methods. Autonomous liberalization measures to be considered for the purpose of this exercise should cover those taken since the conclusion of the Uruguay Round. Credit could only be received by binding the autonomous liberalization measures. However, autonomous liberalization should not result in simply asking Members to bind such liberalization in order to get credit. This was not an appropriate solution since it would prejudice the negotiating position of the Member concerned. Also, there should be flexibility for developing country Members to make adjustments to their unbound measures in situations where any binding of credits would be detrimental to the Members concerned.

25. The representative of Uruguay said that according to paragraph 13 of the negotiating guidelines and procedures, criteria for the treatment of autonomous liberalization should be agreed on before the beginning of negotiations of specific commitments. He then addressed three issues. Firstly, although Article XIX:3 of the GATS did not distinguish between developed and developing countries, it was true that both the negotiating history of the Uruguay Round and the treatment of this issue in the WTO implied that autonomous liberalization was meant specifically for developing countries. In the Montreal meeting in December 1988, and in Geneva in April 1989, during the mid-term review, under the subheading F (Increasing participation of Developing Countries), it was stated that "autonomous liberalization of market access of services exports of developing countries should be allowed". In addition, paragraph 3 of Article XIX came after paragraph 2, which dealt with the appropriate flexibility for developing countries. At the same time, the sentence after paragraph 3 referred specifically to the special treatment for least-developed countries. In the negotiating guidelines and procedures, paragraph 13 was placed after paragraph 12, which dealt with the appropriate flexibility for developing countries. Finally, discussions held at the GATT and the WTO on autonomous liberalization of trade in goods referred specifically to autonomous liberalization undertaken by developing countries. The 1991 guidelines on autonomous liberalization measures, developed by the negotiating group on market access, were entitled "negotiations on market access and developing countries". More recently, in the WTO, the issue of autonomous liberalization had been discussed at the Committee on Trade and Development.

26. Secondly, he considered that the expression "since previous negotiations" referred to the Uruguay Round, whose results entered into force in 1995. So the period to be considered should go

from the Uruguay Round until the present. There were at least two examples of autonomous liberalization that should be recognized and perhaps credited. In the first case, there were Members who, after the negotiation of the Fourth and Fifth Protocols, unilaterally bound schedules of commitments in these sectors. These countries should receive credit and recognition for such actions. The second case concerned the Members who participated in negotiations on basic telecommunications and financial services, who should also be recognized and credited for their greater degree of participation in these negotiations. Thirdly, on the question of bindings and credit, he said that Uruguay was not seeking credit, but concessions from other Members in these negotiations. Finally, he thought that there was a need to move to a subsequent phase in the discussion. He agreed in that regard with Argentina and Mexico. He suggested to have an informal paper that would enable Members to focus the discussion.

27. The representative of Israel expressed her concern that the debate might evolve into an academic exercise without ever reaching broader conclusions. She agreed that although it was necessary to reach a common understanding of terms, Members should focus first on developing a more general approach. It could be agreed that autonomous liberalization was undertaken for internal reasons, and that first and foremost the Member's own economy stood to benefit from that liberalization. However, trading partners also benefited directly from autonomous liberalization. Autonomous liberalization also met the GATS objective of progressive liberalization. Therefore, Members should be granted credit and this should be reflected in the negotiations. Although in the past credit had been linked to bindings, in light of the difference between goods and services negotiations and the fact that Members should be encouraged to undertake autonomous liberalization, it was necessary for the system to have some degree of flexibility and provide some leeway for adjustment. She showed interest the European Union's suggestion about the use of a bilateral, rather than a mandatory, multilateral notification system.

28. The representative of Brazil concurred with the views expressed by Argentina, Uruguay, and Israel to the extent that the debate might lead to an academic discussion. There was a need to have some criteria to use as a basis for the work, and move the discussion forward.

29. The representative of Cuba endorsed the statement made by Uruguay. It would be interesting to have another paper giving some answers to the questions posed in the Secretariat note. This issue required further analysis and debate.

30. The representative of Malaysia noted that there were two opposing philosophies on how to treat autonomous liberalization measures: on the one hand, supported by Malaysia those who would seek credit without necessarily binding those autonomous liberalization measures; and, on the other hand, those who feel that in order to get credit a Member would have to bind the autonomous liberalization measures. In that regard, he suggested that the question of binding could be left aside until the end of the negotiations, when every Member would assess what measures to bind and to what extent. He agreed with the definition of autonomous liberalization provided by the Secretariat note in paragraph 8. It was important to identify what type of measures would fall under autonomous liberalization. The representative of Thailand pointed out some of those measures. In fact, a Member seeking credit could give a quantitative assessment of the scope of liberalization undertaken domestically. For example, by showing the increase in foreign participation in a given sector after its liberalization. Qualitative assessments could also be provided, by showing cases for instance, where applied regimes are more liberal than what was bound in a schedule of specific commitments. Those situations were part of autonomous liberalization, and should also be taken into account.

31. Regarding time-frames, the starting-point for the consideration of measures was the end of the Uruguay Round and the extended negotiations. However, there were cases where, due to historic reasons, some regulations – for instance in the field of professional services - had been in place for many years, perhaps since Malaysia gained its independence in 1957. At that time, for instance, Malaysia rolled over many United Kingdom regulations on professional services. Moreover, by

virtue of those actions, there had been a fair amount of trade liberalization in some of those sectors. It was therefore important to have certain flexibility in order to allow for the consideration of cases, like the Malaysian one, in which liberalization had taken place well before the Uruguay Round, since 1957. He suggested that the criteria to assess the value of measures could be agreed multilaterally. The issue of whether the credit and recognition would be worked out bilaterally, plurilaterally or multilaterally was something that could be discussed later. In that regard, he favoured in principle a qualitative approach. Those qualitative criteria could include issues such as the potential for market access; transparency of regulatory regimes; and the length of the measure in place. In addition, some statistics of trade in services could be considered. Also, consideration should be given to whether the measures in question met the objectives of the GATS. The issue of what kind of credit would be granted needed to be further discussed.

32. The representative of Canada noted that during the Uruguay Round progress was made on treatment of autonomous liberalization with regard to tariff reduction, but negotiators were unable to find a way in the case of non-tariff barriers. And since all measures in services trade were non-tariff barriers, this meant that finding a way forward would be difficult. Credit for autonomous liberalization would have to be linked to a notification procedure, different to the one set out in paragraph 3 of Article III. Canada saw a link between credit for autonomous liberalization measures and the binding of these measures, since binding was a fundamental benefit of international trade agreements. It was likely that the value of specific measures for which credit could be considered would have to be first determined on a bilateral basis. The commercial interests of trading partners on particular measures would differ substantially. She then made specific comments on the Secretariat note. With regard to the question under paragraph 6, she agreed that measures to be considered for the purposes of this exercise were only measures susceptible of being scheduled. She agreed with the definition of autonomous liberalization provided in paragraph 8. Regarding paragraph 9, she agreed that the expression "since previous negotiations" should also include the results of the extended negotiations. With regard to the last question under paragraph 24, she agreed that autonomous liberalization for which credit was granted should be bound at the end of the negotiations. With no bindings, autonomous liberalization measures might not necessarily be of a long-lasting character. With regard to the questions under paragraph 31, it was unlikely that an objective or quantitative yardstick for assessment of autonomous liberalization could be developed, specially in light of the fact that autonomous liberalization would benefit some trading partners more than others, depending on their specific commercial interests. However, further thought should be given to the idea of qualitative assessments of autonomous liberalization to be worked out by the Member concerned together with its trading partners in bilateral negotiations (i.e. the request/offer stage). Regarding the question on transparency under paragraph 35, notification would likely form an important part of any approach to autonomous liberalization. Since it was important that all Members benefit from the transparency that would arise from the possible notification process, only bilateral notification did not appear to be practical. With regard to paragraph 38, it was possible that the best way to seek credit for autonomous liberalization would be to proceed bilaterally within an overall multilateral framework. Finally, she considered that it was premature to ask the Secretariat to produce a more concrete text at this point in the absence of more contributions from Members.

33. The representative of Paraguay supported the idea of moving to a higher level of the discussion, in order to come up with agreed-on modalities and criteria. He agreed with the definition offered in paragraph 8 of the Secretariat note, although he noted that liberalization undertaken in plurilateral negotiations should also be taken into account. Special and differential treatment must be granted to developing country Members who had undertaken autonomous liberalization measures. Perhaps a double valuation and credit could be given. On the distinction between criteria and modalities, he considered that it was necessary, first of all, to develop criteria with which to assess autonomous liberalization measures undertaken by Members, and then to develop the modalities for granting credit. The actual granting of credit would come in a third phase, in bilateral, plurilateral or multilateral negotiations. He considered that credit and recognition were two different concepts. Receiving recognition for liberalization undertaken autonomously did not mean that a Member

needed to bind those measures. But if there were a credit granted in order to exchange concessions, his delegation would commit itself to bind that liberalization in a schedule. Reciprocity would be one of the modalities to treat these credits. Binding should take place after the granting of credit, at the final stage of the negotiations. On the possible use of formulas, he said that his delegation had not yet found a mathematical formula which would be appropriate and effective for the negotiations. But, as far as criteria were concerned, not only quantitative but also qualitative criteria were important. Factors such as trade flows, participation of the sector in the GNP, the contribution of the sector to employment, and the market potential could be considered to assess the value of particular measures. Regarding transparency, he said that the notification of measures should in no case give rise to a legal obligation to bind them. Setting up transparency provisions would be extremely useful. Finally, both the criteria and modalities should be the subject of multilateral negotiation, while the determination of credit would take place in bilateral, plurilateral or multilateral negotiations.

34. The representative of the United States said, commenting on other Members' interventions, that measures dealing with regulatory transparency could indeed be scheduled. He also agreed that, according to the plain meaning of article XIX of the GATS, all WTO Members could benefit from autonomous liberalization, not only developing countries. It would seem counterproductive to set up procedures under which developed countries would be discouraged from liberalizing between rounds. He then commented on some of the questions posed in the Secretariat note. In his view, autonomous liberalization measures would need to be bound to be eligible for credit. From that perspective, the universe of measures to be included for the purpose of autonomous liberalization would include those that could be bound. The alternative seemed to be what was called recognition in the Uruguay Round. The distinction between credit and recognition worked out during the Uruguay Round seemed to be useful. Regarding sector-specific measures and measures of general application, and whether they should be addressed differently, he said that the distinction would be based on the perceived value of particular measures. Horizontal measures could in fact be more valuable, for instance in the case of economy-wide equity restrictions that would be liberalized. Alternatively, sector-specific measures could be more valuable, for example numerical limitations on a particular sector that had been liberalized. It would depend on the trading partners' interests. Regional liberalization could also be considered as long as it was bound, and therefore available on an MFN basis. On definitions, he said that the term liberalization seemed to be dealt with in the GATS in the context of specific commitments, i.e., bindings. That meant that the focus on autonomous liberalization would be whether the measures were bound at the WTO or not. Liberalization taken outside a negotiating context should not be excluded. There was a small number of WTO Members that had submitted new schedules between rounds, not as part of negotiations, and when those offers contained liberalization they should not be excluded from the consideration of autonomous liberalization. The phrase "since previous negotiations" included the results of the extended negotiations. On the question of bilateral vs. multilateral approaches, he said that the initial US submission (S/CSS/W/4) contained his country's views on that. Targets could be conceived, and in fact that submission provided an example of what could be considered as similar to a zero target for tariffs or the removal of non-tariff measures for trade in goods. Bilateral negotiations had a very important role to play. Consideration of credit should not involve the judgement of countries with no trade interest in a particular sector being discussed by two other countries. Finally, he supported the factors proposed by Hong Kong, China in its written submission (Job 7580) which constituted a very good starting-point for the consideration of criteria for assessing the value of autonomous liberalization from a multilateral perspective.

35. The representative of Australia said that her country would only grant credit for bound commitments capable of being scheduled. She took the expression "susceptible of being scheduled" to mean a liberalization measure relating to a service that was listed in document MTN.GNS/W/120, either now or in the course of negotiations. Regarding sector-specific and generally applicable measures, she considered that although such a distinction could be helpful as a general guide, ultimately Members would need to make their assessments and weight up the relative value of sector-specific and general liberalization measures in the context of bilateral request/offer negotiations. She agreed that liberalization should be bound in a Member's schedule and be made available on an MFN

basis. The starting-point for credit should be Members' bound commitments. Credit should be calculated from the last time a Member made bound commitments in its schedule. For example, in the case of financial services, Members who revised their bound commitments under the Fifth Protocol should have their credit calculated on liberalization since 1997. However, Members who did not make commitments under the Fifth Protocol should have credit calculated since 1994. That was based on the premise that participants in the financial services negotiations had already benefited from trade-offs. Criteria and modalities seemed to have the same meaning in practice. Credit should be requested, interpreted and given during bilateral negotiations. The value of autonomous liberalization *per se* should be heavily discounted if it was not bound because there would be an ongoing risk of backsliding. The binding of autonomous liberalization was consistent with the principle of progressive liberalization, since Members were free to choose not to bind such liberalization or to bind a lesser degree of liberalization. Australia did not think that quantitative yardsticks were practical. On transparency, she said that a process of voluntary notification to the Council could be beneficial. However, she also agreed with the European Union that in some cases bilateral disclosure might need to be confidential. Finally, she said that any multilateral criteria would need to comprise a general and flexible set of broad principles or factors to be taken into account, in order to accommodate a variety of approaches in bilateral and plurilateral request/offer negotiations.

36. The representative of Kenya cautioned against going down an academic path. He then answered some of the questions posed in the Secretariat note. Regional liberalization should be taken into account for two reasons. Firstly, the integration agenda at the regional level was generally more advanced. Secondly, all paragraphs of article XIX should be read together, and the notions of progressive liberalization, flexibility, and due respect for national policy objectives needed to be taken into account. He favoured a multilateral approach, since that would be the only way of assuring credit for autonomous liberalization measures of countries that did not attract any particular interest. On transparency, he considered it reasonable that measures be notified.

37. The representative of Venezuela said that a more pragmatic approach to this issue should be adopted. Only developing countries should benefit from autonomous liberalization, not developed countries. She said that there was a clear difference between the concepts of credit and binding. Credit was an autonomous concept, which was parallel and complementary to negotiations. It was entirely independent from any binding. Flexibility was an inalienable right of developing countries under the agreement that would be seriously undermined if there was an obligation to bind those measures. She supported the idea put forward by Argentina and Uruguay to have a draft paper containing simple and pragmatic criteria or guidelines.

38. The representative of the Slovak Republic said that liberalization undertaken autonomously by individual countries outside the negotiating context of the Uruguay Round, which had been bound or not on an MFN basis, should be subject of further discussions. No benefit could be derived from autonomous liberalization measures if it was first requested to bind those measures in order to be considered as eligible for credit. Therefore, it was necessary to establish clear conditions for using the credit, when establishing modalities or criteria for the treatment of liberalization undertaken autonomously. She agreed with the European Union that Members should be flexible to choose which measure they would notify on a voluntary basis, and to negotiate bilaterally or plurilaterally. The result of such negotiations would be multilateralized. On the assessment of the value of autonomous liberalization measures, serious analysis was necessary since the value of measures differed according to the specificity of the sectors and countries concerned.

39. The representative of Switzerland said that the best way to avoid the risk of engaging in an academic discussion was to move forward step by step, trying to answer the questions raised by the Secretariat.

40. The representative of Jordan said that any treatment of autonomous liberalization to be agreed upon should take into account the level of liberalization already existing in specific commitments of

individual countries, including the sectoral coverage and the date of implementation of such commitments. Countries who had joined the WTO during the Uruguay Round would be entitled to take into account autonomous liberalization undertaken by them since 1995. For a country like Jordan, who recently became a WTO Member, account would normally be taken of its autonomous liberalization since the year 2000; while it had already undertaken commitments with relatively higher level of liberalization in comparison with other countries. Jordan expected a balanced treatment of autonomous liberalization that secured benefits for all WTO Members.

41. The representative of the Philippines said that the expression "liberalization undertaken autonomously" included measures unilaterally undertaken, whether or not necessitated by the inherent economic needs of the Member liberalizing. He did not subscribe to the opinion that if a Member undertook the liberalizing measure because it was in its benefit, then it should not be entitled to recognition and credit. The concept of liberalization undertaken autonomously should be limited to measures subject to scheduling under Part III of the GATS. This should include domestic regulatory measures in the context of Article VI of GATS. A further criterion was that autonomous liberalization be compatible with the MFN principle. On the distinction between sector-specific and horizontal measures affecting several or all sectors, he was uncertain whether the latter should be entitled to greater recognition and credit than the former. No distinction should be made between liberalization bound outside a negotiating context and unbound liberalization as long as both met the criteria. Liberalization undertaken autonomously should only refer to measures undertaken since the end of the Uruguay Round. For sectors and modes of supply covered by the extended negotiations, the measures to be considered as not autonomously undertaken were those that directly arose out of commitments made in those negotiations. He agreed that the process of obtaining recognition and credit did not necessarily require a priori binding. The act of binding should occur only after autonomous liberalization had been duly recognized in accordance with multilaterally agreed criteria. Notification for the purpose of obtaining credit and recognition should be voluntary. He agreed that matters arising from bilateral negotiations on credit for autonomous liberalization could be brought by individual Members to the attention of the Council under the agenda item on review of progress in the negotiations. He also supported the notion of special and differential treatment for developing countries in this context. He recognized the difficulties in formulating an objective yardstick for the multilateral assessment of measures, including the possibility of a formula approach. He looked forward to discussions on a qualitative approach to this issue.

42. The representative of India associated himself with the statements of Malaysia, Israel, Hungary, Thailand, Argentina, Uruguay, Philippines, and Turkey.

43. The representative of St. Lucia said that getting credit and recognition for autonomous liberalization was significantly important because, although her country was committed to liberalization, it had very limited negotiating capital. The notion of potential market access needed to be stressed in cases of countries which might not attract enough interest from other trading partners. Liberalization undertaken in the services context was different from that undertaken in the goods area, because it was more difficult to reverse it due to structural changes in the market.

44. In concluding, the Chairman said that all delegations were pleased with the Secretariat's note, which proved to be extremely helpful in taking the discussion beyond the preliminary stage. The note brought out the complexities of the issues involved and helped structure the discussion in terms of their different elements.

45. It was also said that the discussion should not lead to an academic exercise. The question then was how to move to a more operational phase. Some suggestions were made in that regard. One was to ask the Secretariat to prepare a paper on possible criteria to assess autonomous liberalization measures. Another one was to ask the Secretariat to prepare a compilation of issues raised in order to better focus the discussion on the specific elements. In his view, the discussion was not exhausted. In fact, some Members indicated their intention to submit further papers on the subject. In addition,

some delegations said that additional papers of this kind by the Secretariat were premature in the absence of more contributions by Members. He further considered that there were different and divergent views on the issue of autonomous liberalization that could only be solved politically.

46. He suggested that the Secretariat be asked to prepare a brief note pointing out the broad views expressed under each relevant issue.

47. The Council so agreed.

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