

# WORLD TRADE ORGANIZATION

RESTRICTED

**S/FIN/M/17**

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## **Committee on Trade in Financial Services**

### REPORT OF THE MEETING HELD ON 17 OCTOBER 1997

#### Note by the Secretariat

1. The seventeenth meeting of the Committee on Trade in Financial Services was chaired by Mr. Yoshio Okubo of Japan. The agenda for the meeting was contained in WTO/AIR/693 of 3 October 1997, and consisted of five items: exchange of views on progress in bilateral negotiations; recent developments in financial services trade; organization of future work; procedural issues regarding modification and entry into force of schedules, and other business.

Item A:            Exchange of Views on Progress in Bilateral Negotiations

Item B:            Recent Developments in Financial Services Trade

2. The Chairman reported on the status of the submission of offers; in total, twenty-four offers had been submitted. Five of them had been presented since the previous meeting by Iceland, Slovenia, Nigeria, Kenya and Egypt. The Secretariat had circulated the offers as documents S/FIN/W/12/Add.20 to 24. The Chairman invited those delegations that had submitted offers since the previous meeting to introduce them.

3. Iceland indicated that since the establishment of the European Economic Area there had been radical changes in the legal framework governing commercial and savings banks, other credit institutions, securities transactions, mutual funds, and the stock exchange. The most important aspects of that process consisted of: the adoption of stricter rules to ensure the economic viability of banks and other financial institutions while strengthening supervision; a process of deregulation including a gradual liberalization of capital movements completed in 1995; and the abolition of restrictions on investments in commercial banks by non-residents. In the insurance sector, foreign competition had forced domestic companies to merge and rationalize; the advent of insurance brokers enhanced competition in sectors previously dominated by domestic insurance companies, such as automobile insurance and small fishing vessel insurance, and reactivated previously stagnant sectors, such as investment-related life insurance. In addition, certain insurance monopolies, such as in the field of fire insurance for houses, had been abolished. Its offer took into account that liberalization process and reflected the opportunities provided by existing legislation.

4. Egypt indicated the main improvements in its offer. In the banking sector, it allowed foreign bank branches and joint ventures, and stated that foreign equity participation may exceed 49 per cent. In the insurance sector, the offer reflected an improvement in national treatment, established a date for the relaxation of the economic needs test, and increased the foreign equity participation limit to 51 per cent. In regard to other financial services, which included securities and financial leasing, the offer confirmed full liberalisation, since no limitations had been listed. Moreover, the offer did not include an MFN exemption list.

5. Nigeria stated that its offer allowed foreigners, both individual and corporate, to own up to 100 per cent equity in any domestic enterprise. Moreover, MFN treatment was accorded to all countries; however, as a member of the Economic Community of West African States, Nigeria was negotiating the use of travellers cheques in the course of economic integration of the sub-region. Kenya stated that its offer represented an improvement of its Uruguay Round commitments in the sector. It was based on the most recent reforms that had taken place in its financial system, and on the prevailing legal framework in Kenya. It invited any questions and comments in writing which would be forwarded to the relevant authorities. Slovenia indicated that the content of its offer was in line with what had been previously announced, except for the addition of a new element, i.e. the removal of restrictions for establishment in securities trading. Other main features were the removal of the MFN exemption, removal of an economic needs test in the area of banking, and the increase of market access in the banking sector through establishment in the form of branches. Moreover, the access to the securities market had been improved through banks.

6. The Chairman invited delegations that had not yet submitted offers to give any indications on the progress made. He also welcomed reports on recent developments in financial services trade as well as on recent developments in financial markets. He further invited comments on the general course of the negotiations. South Africa announced that a draft offer had been prepared but due to political consultations which needed to be completed, it had been unable to circulate it to Members. The improved offer would reflect the liberalizing changes which had occurred in South Africa since 1995. The offer would be presented shortly.

7. Peru said that its authorities were finalizing the offer, which would be presented in the following days. The offer would reflect the new and liberal regime of the financial system as prescribed by legislation enacted in 1996, which provided for new financial products and no state intervention in setting the costs of operations and services offered. Improvements in the offer included those concerning incorporation in the banking and other financial services sector, with no restrictions in mode 3 except for requiring institutions to take the form of limited companies when incorporating, and a guarantee of national treatment for foreign direct investments. Indonesia said that it would continue taking a positive approach to the negotiations despite the difficulties encountered recently. Discussions and consultations had been carried out with its trading partners. Indonesia was close to a concrete formulation of an offer. In doing so, it was seeking a balance, taking into account the current situation of the country, between the interest of trading partners and the multilateral system, and the importance of the principle of progressive liberalization which was the wisest approach for the increasing participation of developing countries. There were some technicalities to be worked on before submitting the offer, but it would be on time for a successful conclusion of the negotiations by December.

8. Mexico stated that due to delays in the process of internal consultations, its offer had not yet been presented; however, some indications as to its content could be given. The offer would contain significant improvements such as greater sectoral coverage; the inclusion of the administration of pension funds and the activities of stock exchange specialists; enhanced market access through an increase in foreign participation in all financial intermediaries; and technical changes which would facilitate comprehension. The offer would be submitted very soon. Poland announced that its offer had been prepared and was subject to an internal procedure at that moment. The conclusion of that process had been delayed by a change in the government; nevertheless, the offer would be submitted as soon as possible. The Philippines was working to improve its 1995 commitments. Upon completion of the internal process, an improved offer would be submitted in November. The Philippines was reviewing its financial sector regulation with a view to adopting more prudent financial policies; liberalization in banking and other financial services would be pursued but with proper pacing and sequencing.

9. The Dominican Republic announced that an offer improving its 1995 commitments would be tabled in the following days. It would contain commitments in the insurance sector and in banking and other financial services, with no exemptions to MFN treatment. Chile indicated that although its authorities had been working intensively in the preparation of an offer, important technical questions still required some clarification. It hoped to be able to submit its offer in the following weeks.

10. Sri Lanka stated its appreciation of the rationale and policy objectives for the liberalization of financial services. It also recognized the need for countries to enter into binding obligations for that purpose. It had already taken substantive positive measures in that direction, which included, for example, a variety of possibilities afforded to foreign nationals and entities to participate in the provision of financial services. It expected to make its offer in early November. It also thanked the Secretariat for conducting a regional seminar in Colombo on the GATS and negotiations in progress. Brazil observed a greater level of commitment to a successful conclusion of the negotiations than in previous weeks. That observation was evidenced not only by the number of offers already presented or being worked on, but also by the increased awareness of possibilities and limitations deriving from the specificities of the situation in each Member. A combination of ambition and realism in expectations was fundamental in overcoming the difficulties that had led to failure in the past. Brazil was engaged in an attempt to overcome the difficulties that had so far prevented it from submitting an offer. It was seriously exploring approaches allowing to identify areas where realistic commitments could be offered and was considering tabling an offer by the next meeting of the Committee.

11. Malaysia recognized the benefits that could be derived from a liberal trading environment. It observed that many Members had been giving advice regarding the virtues of liberalization of the financial sector. Some of those Members, however, had taken positions demonstrating reservations as to the virtues of liberalization in other areas in the WTO context, specifically in regard to liberalization of sectors of interest to Malaysia. Such inconsistency was not helpful. Malaysia was committed to doing what it considered good for its economy. Nevertheless, it was hoping to contribute to the negotiations, as indicated in the budget speech made by the Deputy Prime Minister on that very day. Malaysia expected to bring proposals for further improvements to its existing schedule before the next meeting of the Committee.

12. Tunisia indicated that it was on the verge of tabling an offer improving its commitments regarding the financial market, the banking sector and the liberalization of foreign investments. Foreign participation would be allowed up to 50 per cent in financial institutions and other Tunisian enterprises. It would liberalize foreign lending by resident enterprises within certain ceilings for banks as well as for other enterprises. For export companies, it would allow the free financing of liaison offices and subsidiaries abroad, also within a ceiling. In banking services, the offer would include merchant banking and the criteria and procedures for the approval of foreign banks. Other improvements related to leasing, securities investment companies, and the exercise of securities brokerage as a business. Bolivia said that the process of economic liberalization, initiated in 1985, continued to progress. In line with that process, its government was committed to presenting an offer which was still under preparation in the capital. To that effect a national commission had been set up with the participation of the Central Bank, the Superintendent of Banks and a representative of the Foreign Affairs Ministry. It was expected that the offer would meet the interests of its trading partners.

13. Thailand restated its commitment to the financial services negotiations. Its contribution had been submitted in 1995, and remained valid. Its authorities, nevertheless, had been considering how to improve these commitments in light of the objectives of the GATS. In so doing, Thailand was taking into account its financial situation and the requests from trading partners. It could not commit to presenting an offer at the following meeting, but it would do its best. Senegal informed the Committee of a working meeting held by its authorities with a representative of the Secretariat to explore the practical modalities for preparing a schedule of commitments in financial services, and to analyze the

specificities of the financial sector regulation in Senegal. In doing so, due consideration had to be given to existing regional treaties in which Senegal participated, as well as the implications that Senegal's commitments in the sector would have for the other 7 Members of the West African Economic and Monetary Union. It confirmed its determination to submit an offer as soon as possible.

14. In assessing the progress of the negotiations, the European Communities reiterated the objective of the negotiations which was to lead to an agreement not only consolidating the present degree of market access, but also setting the ground for increased international trade and investment. In its discussions that week with industry representatives, it saw a commitment by them to invest abroad, but only when there was a predictable legal environment for investment and operation in the host country. Countries wishing to develop their financial systems or aspiring to create regional financial centres could reach those objectives more easily if they were ready to undertake commitments in the WTO, offering real market access opportunities and guarantees for non-discriminatory operating conditions. Against this background, the assessment was still nuanced. The number of new offers was limited since the last meeting, and there was still a long way to go. Although it appreciated the new offers made, it was still awaiting submissions by a number of countries that had an important role in the negotiations. Quite a number of positive and encouraging signals had been received, nevertheless, in two ways; firstly, no country had contested the economic benefits of liberalization in the financial sector; and secondly, an important number of countries had indicated their intentions to submit improved offers as soon as possible. Some of those improvements were significant. However, those promises needed to be confirmed by the actual tabling of offers as quickly as possible, to enable meaningful discussions to take place during the week of 10 November. If a deal which all participants could accept were to be reached, substantial improvements of commitments in force since 1993 and 1995 were required.

15. Canada observed that its offer tabled in July would bind the current regime on a full MFN basis; however, the offer did not cover any anticipated change to the regime. The main prospective change related to foreign bank branching. After the previous meeting, its government had released a discussion paper to solicit the views of the industry on the proposal. It expected to conclude those consultations and have draft legislation ready by the end of the year. Accordingly, it expected to be able to table at the next meeting a revised offer which would reflect the policy commitment of the Canadian government.

16. Japan was encouraged by the offers submitted and by the detailed indications given by those who had not yet done so. It stated that the process of liberalization under the GATS should take place with due respect for national policy objectives and the level of development of individual Members. Accordingly, there should be flexibility for developing country Members to progressively extend market access in line with their development situations. Members should aim at promoting the interest of all participants on a mutually advantageous basis. Some Members had achieved sustainable, non-inflationary growth under sound macroeconomic management, a strong supervisory system, and rules for transparent transactions. Those countries that were already prepared for liberalization should take the lead in opening their markets and set an example. It encouraged those Members in less favourable conditions to make efforts to liberalize their markets, bearing in mind that more foreign participation would strengthen their financial system through providing more capital and expertise. It underlined that the establishment of a multilateral framework in financial services depended on the success of the negotiations.

17. Switzerland expressed concern as to the limited number of offers tabled so far, especially considering that only 60 days remained for the conclusion of the negotiations. It invited those, who had not yet submitted offers to contribute to the multilateral effort. Hong Kong, China stated that it appreciated the complications faced by Members in preparing offers. It would certainly help if proponents of trade liberalization were more consistent in their approach. Its overall impression of

the negotiations was undoubtedly positive. It echoed the call for an early submission of offers before the November meeting of the Committee.

18. Hungary recalled that its conditional offer would bind not only the existing liberal regime, but also the liberalizing measures under preparation. In that respect, it informed that the first draft of the legislative package, necessary to allow commercial presence through branches, had been discussed by the Government the previous day. Korea echoed the observation as to the need of using the remaining time for the negotiations efficiently. It emphasized the importance of the efforts to be made by both developed and developing countries, especially by the advanced countries, to construct common ground based on mutual understanding.

19. Turkey indicated that although its liberal offer had been tabled already, its Government was working on legislation to perfect the financial system. It hoped that this bill would be passed before the 12 December deadline. New Zealand echoed other delegations as to the need for prompt submissions in light of the short period of time left for the negotiations. Australia was heartened by the efforts made by Members in preparing offers despite the difficulties. In that respect, it added that the transparency and predictability that would be provided by the offers could only assist Members in dealing with those difficulties. Norway noted that the positive spirit seen in the previous meeting had improved. To provide for real and fair negotiations to take place before the December deadline, it urged Members to submit their offers by November. It did not wish that a "take it or leave it" situation would emerge as a result of offers being held back until December, which would jeopardize a positive outcome of the process. It also echoed the call for due respect of the different levels of development of countries.

20. The United States welcomed the improved offers and the indications of forthcoming submissions. Only with improved offers could Members enter into an intensive negotiating phase which would be critical for a successful outcome in December. It reiterated what the U.S. was seeking, namely, substantially improved offers that guarantee the right of establishment, permit full majority ownership, provide national treatment, and maintain the existing rights of foreign financial service providers, across a full range of subsectors. The U.S. recognized that a number of countries might not be able to commit to a complete opening of their markets by December, nor would they be able to respond to all its requests. Mindful of that, it had underscored its priorities and had given concrete and constructive suggestions to address all of the concerns involved. It had advanced the bilateral process as far as it could in the absence of concrete offers. For the U.S., success meant substantially improved offers from a critical mass of countries. It reiterated its views as to what was being negotiated. Exchange rate policy and the right of monetary authorities to take appropriate monetary policy measures was not the subject of the negotiations. In this context, it referred to a letter sent by the Secretary of the Treasury, Mr. Rubin, to the Director-General of the WTO, Mr. Ruggiero, addressing those points.

21. The Chairman was encouraged by the strong confirmation of the commitment of delegations to accelerate their efforts in achieving a successful conclusion by the deadline. He reiterated the importance of maximising the efforts and making progress in terms of the number and substance of the offers for the negotiations to succeed.

#### Item C:            Organization of Future Work

22. The Chairman observed that, according to the indicative timetable, the next meeting should take place on Friday, 14 November. In the informal consultations that he had conducted, suggestions had been made to have that meeting at senior level, and to advance the date of the meeting to 12 November in order to allow senior level officials to spend their time more intensively in the Committee and in bilateral negotiations in Geneva. In view of those consultations, The Chairman suggested to have the next meeting of the Committee at senior level on Wednesday, 12 November, and depending

on the progress of the negotiations, to have a follow-up meeting on Friday, 14 November, if thought useful.

23. The Committee so agreed.

Item D: Procedural Issues Regarding Modifications and Entry into Force of Schedules

24. The Chairman indicated that in the informal meeting which took place the day before, drafts of a Protocol and two accompanying decisions, one to be made by the Committee and the other by the Council, had been discussed. The Secretariat explained the content of those drafts as requested by the Chairman. The Chairman observed that a key question in the informal discussion was the date to be filled in paragraph 2 of the Draft Protocol, which would determine the period in which Members needed to finalize their ratification and other procedures for the formal acceptance of the Protocol. In that regard, preliminary views had been expressed in the informal discussions as to the length of that period. Some delegations suggested that the period be kept as short as possible, perhaps until autumn 1998, since it was desirable to implement the results of the negotiations as quickly as possible. Others, however, suggested a longer period, until early 1999, due to the need to secure ample time for the completion of domestic ratification procedures. The Chairman stressed that the matter was of a procedural nature, and should be guided by practical needs and pragmatic considerations. He proposed to continue informal consultations and expressed the desirability of delegations communicating their views to him by early November, so that the Committee could reach a consensus on the matter before the last week of the negotiations. He suggested that the Committee revert to that question at its following meeting.

25. The Committee so agreed.

Item E: Other Business

26. No issues were raised under this agenda item.