



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11/6/2008
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RESTREINT UE

Proposal for a

COUNCIL DECISION

on the conclusion of negotiations with the United States of America on the necessary compensatory adjustments resulting from the US intended withdrawal of specific commitments on gambling and betting services pursuant to Article XXI of the General Agreement on Trade in Services (GATS)

EXPLANATORY MEMORANDUM

The terms and conditions under which Members of the World Trade Organization ("WTO") commit access to their market to the services and service suppliers of other Members are listed in a Member's Schedule of specific commitments ("Schedule") under the General Agreement on Trade in Services ("GATS").

The GATS provides in its Article XXI for a procedure that Members can use to modify or withdraw any commitments in their Schedule. A Member that chooses to modify or withdraw a commitment should notify other Members of the WTO of its intention. Any Member of the WTO which considers that its benefits under the GATS are affected by the proposed modification should communicate its claim of interest to the 'modifying Member'. Subsequently, the modifying Member and the affected Member enter into negotiations with a view to reaching agreement on any necessary adjustment to be made by the modifying Member in compensation. The adjustment should endeavour to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in the Schedule prior to the negotiations.

On 8 May 2007, the United States of America ("US") notified the WTO of its intention to withdraw from its schedule commitments on gambling and betting services in accordance with Article XXI of the GATS.

Further to the US notification to withdraw its commitments on gambling and betting services, on 19 June 2007, the European Communities identified itself as an affected Member pursuant to Article XXI of the GATS. As foreseen by Article XXI of the GATS, the EC entered into negotiations with the US to determine appropriate compensatory adjustments to be made by the United States. Such compensatory adjustments take the form of specific commitments on services.

The Council of the European Union authorised on 10 September 2007 the Commission to conduct negotiations with the United States with a view to reaching agreement on necessary compensatory adjustment for the withdrawal of commitments on gambling and betting services.

The European Communities and the United States determined on 17 December 2007 the compensatory adjustments to be made by the United States to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in the Schedule of the United States prior to the negotiations. Specifically, the United States agreed to incorporate into its Schedule commitments in the area of storage and warehouse services, technical testing and analysis services, research and development services and postal and courier services.

The present Commission proposal for a Council decision aims at formally endorsing the compensatory adjustments determined through the negotiations between the EC and the United States.

Proposal for a

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on the conclusion of negotiations with the United States of America on the necessary compensatory adjustments resulting from the US intended withdrawal of specific commitments on gambling and betting services pursuant to Article XXI of the General Agreement on Trade in Services (GATS)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 (1) and (5), in conjunction with Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The United States of America ("United States") notified the Council for Trade in Services of the World Trade Organization on 8 May 2007 of its intention to modify its Schedule of specific commitments in accordance with Article XXI of the General Agreement on Trade in Services ("GATS") and the Procedures for the Implementation of Article XXI of the General Agreement on Trade in Services (S/L/80 of 29 October 1999).
- (2) In its notification to the Council for Trade in Services, the United States indicated its intention to exclude gambling and betting services from the sub-sector coverage of its commitment on Recreational, Cultural & Sporting Services.
- (3) The European Communities notified on 19 June 2007 the World Trade Organization and the United States that it considered that the benefits of the European Communities under the GATS may be affected by the modification proposed by the United States. In doing so, the European Communities identified itself as an affected Member pursuant to Article XXI of the GATS.
- (4) The European Communities and the United States entered into negotiations pursuant to Article XXI:2(a) of the GATS. The initial period for negotiations, which expired on 22 September 2007, was extended by mutual agreement to 22 October 2007, and subsequently to 14 December 2007.
- (5) The European Communities and the United States completed their negotiations on 17 December 2007 on the compensatory adjustments to be made by the United States to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in the Schedule of specific commitments of the United States prior to the negotiations.

- (6) The compensatory adjustments will become effective no earlier than the completion of the certification procedure set out in paragraphs 20-22 of the Procedures for the Implementation of Article XXI of the General Agreement on Trade in Services (S/L/80 of 29 October 1999),

HAS DECIDED AS FOLLOWS:

Sole Article

The compensatory adjustments to be made by the United States, as reflected in the attached agreement, are hereby approved on behalf of the European Communities.

The text of the Agreement is attached to this Decision.

Done at Brussels, [...]

For the Council
The President
[...]

ANNEX

Joint letter from the United States of America and the European Communities pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the General Agreement on Trade in Services (GATS) (S/L/80)

The United States of America (the "United States") submitted a notification (S/SECRET/10) dated 8 May 2007 in accordance with the terms of Article XXI:1(b) whereby it notified its intention to modify, in part, its commitment on "Other Recreational Services" in its Schedule of Specific Commitments, GATS/SC/90 (the "U.S. Schedule"). In its notification, the United States indicated its intention to exclude specifically gambling and betting services from the subsector coverage.

Following the notification, pursuant to Article XXI:2(a) of the GATS, the European Communities notified the United States that it considered that its benefits under the GATS may be affected by the proposed modification with regard to the S/SECRET/10 notification (S/L/289, circulated 19 June 2007). Subsequently, the United States and the European Communities entered into negotiations pursuant to Article XXI:2(a) of the GATS.

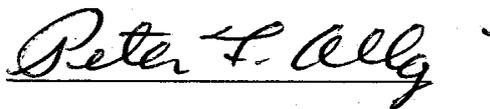
The initial period for the negotiations, which expired on 22 September 2007, was extended (by mutual agreement) to 22 October 2007, and subsequently to 14 December 2007. As a result of these negotiations, the United States and the European Communities have determined the compensatory adjustments related to the modifications contained in document S/SECRET/10.

Specifically, the United States has agreed to incorporate into the U.S. Schedule the commitments reflected in the Annex to this letter as compensatory adjustments relating to the modifications of its schedule as proposed in S/SECRET/10. The agreed compensatory adjustments reflected in the Annex are considered to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in Schedules of specific commitments of the United States prior to such negotiations.

This letter and the Annex attached to it constitute the result of the negotiations between the European Communities and the United States with regard to S/SECRET/10 for purposes of Article XXI:2(a) of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the United States will transmit to the Secretariat for circulation, the draft consolidated schedule for certification by December 17, 2007, provided that an agreement has been signed with all affected Members, or the period foreseen in paragraph 7 of S/L/80 has expired, and no arbitration has been requested. The results of the negotiations are to enter into force, upon completion of the certification procedures.

Ambassador Peter F. Allgeier Permanent
Mission of the United States to the World Trade
Organization



Date: 17 December 2007

Ambassador Eckart Guth Permanent
Delegation of the European Commission to the
International Organisations in Geneva



Date: 17 December 2007

ANNEX

11. TRANSPORT SERVICES		
H. SERVICES AUXILIARY TO ALL MODES OF TRANSPORT		
b) Storage and warehouse services (except maritime transport services or services to which the Annex on Air Transport Services applies) (CPC 742)	1) None 2) None 3) None	1) None 2) None 3) None

1. BUSINESS SERVICES		
F. OTHER BUSINESS SERVICES		
e) Technical testing and analysis services, other than government-mandated services or services financed in whole or in part by public funds (part of CPC 8676) ¹	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	1) None 2) None 3) None 4) None

¹ Vessel and aircraft testing and evaluation services fall within the relevant transportation service.

1. BUSINESS SERVICES		
C. RESEARCH AND DEVELOPMENT SERVICES		
a) b) c) R&D services on natural sciences, social sciences and humanities, and interdisciplinary R&D services, excluding R&D financed in whole or in part by public funds (part of CPC 851, 852, 853)	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section	1) None 2) None 3) None 4) None

2 COMMUNICATION SERVICES

A/B. Postal/Courier Services ¹		
- Land-based courier services	1) None	1) None
- Delivery of outbound international letters ²	2) None	2) None
	3) None	3) None
	4) Unbound, except as indicated in the horizontal section	4) None

¹ The commitments for the sectors listed in this section do not include maritime transport services or services to which the Annex on Air Transport Services applies. In addition, these commitments do not include any rights to access the U.S. Postal Service network, including any rights provided under the Universal Postal Union Acts, Universal Postal Union Rules and Standards, or other international postal agreements or arrangements, or to access U.S. Postal Service post office boxes and recipient mail receptacles.

² For purposes of this Schedule, delivery of outbound international letters means the collection and carriage of letters from the United States to a foreign country for deposit in its domestic or international mails for delivery to an ultimate destination outside the United States. Commitments under this sector are scheduled without prejudice to measures requiring extraterritorial offices of exchange to operate under competitive conditions comparable to private operators.