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**MEMORIAL**

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**RECUEIL DE LEGISLATION**


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**A — N° 125****19 juillet 2013****S o m m a i r e**

**Loi du 9 juillet 2013 portant approbation de la décision 8123/07 du 23 juillet 2007 du Conseil et des représentants des gouvernements des Etats membres, réunis au sein du Conseil, relative à la conclusion des accords au titre de l'article XXI de l'AGCS avec l'Argentine, l'Australie, le Brésil, le Canada, la Chine, le territoire douanier distinct de Taïwan, Penghu, Kinmen et Matsu (Taipei chinois), la Colombie, Cuba, l'Equateur, Hong Kong (Chine), l'Inde, le Japon, la République de Corée, la Nouvelle-Zélande, les Philippines, la Suisse et les Etats-Unis d'Amérique concernant les modifications et ajustements compensatoires nécessaires à la suite de l'adhésion de la République tchèque, de la République d'Estonie, de la République de Chypre, de la République de Lettonie, de la République de Lituanie, de la République de Hongrie, de la République de Malte, de la République d'Autriche, de la République de Pologne, de la République de Slovénie, de la République slovaque, de la République de Finlande et du Royaume de Suède à l'Union européenne . . . . . page **2586****

**Loi du 9 juillet 2013 portant approbation de la décision 8123/07 du 23 juillet 2007 du Conseil et des représentants des gouvernements des Etats membres, réunis au sein du Conseil, relative à la conclusion des accords au titre de l'article XXI de l'AGCS avec l'Argentine, l'Australie, le Brésil, le Canada, la Chine, le territoire douanier distinct de Taïwan, Penghu, Kinmen et Matsu (Taïpei chinois), la Colombie, Cuba, l'Equateur, Hong Kong (Chine), l'Inde, le Japon, la République de Corée, la Nouvelle-Zélande, les Philippines, la Suisse et les Etats-Unis d'Amérique concernant les modifications et ajustements compensatoires nécessaires à la suite de l'adhésion de la République tchèque, de la République d'Estonie, de la République de Chypre, de la République de Lettonie, de la République de Lituanie, de la République de Hongrie, de la République de Malte, de la République d'Autriche, de la République de Pologne, de la République de Slovénie, de la République slovaque, de la République de Finlande et du Royaume de Suède à l'Union européenne.**

Nous Henri, Grand-Duc de Luxembourg, Duc de Nassau,

Notre Conseil d'Etat entendu;

De l'assentiment de la Chambre des Députés;

Vu la décision de la Chambre des Députés du 11 juin 2013 et celle du Conseil d'Etat du 18 juin 2013 portant qu'il n'y a pas lieu à second vote;

Avons ordonné et ordonnons:

**Article unique.** Est approuvée la décision 8123/07 du 23 juillet 2007 du Conseil et des représentants des gouvernements des Etats membres, réunis au sein du Conseil, relative à la conclusion des accords au titre de l'article XXI de l'AGCS avec l'Argentine, l'Australie, le Brésil, le Canada, la Chine, le territoire douanier distinct de Taïwan, Penghu, Kinmen et Matsu (Taïpei chinois), la Colombie, Cuba, l'Equateur, Hong Kong (Chine), l'Inde, le Japon, la République de Corée, la Nouvelle-Zélande, les Philippines, la Suisse et les Etats-Unis d'Amérique concernant les modifications et ajustements compensatoires nécessaires à la suite de l'adhésion de la République tchèque, de la République d'Estonie, de la République de Chypre, de la République de Lettonie, de la République de Lituanie, de la République de Hongrie, de la République de Malte, de la République d'Autriche, de la République de Pologne, de la République de Slovénie, de la République slovaque, de la République de Finlande et du Royaume de Suède à l'Union européenne.

Mandons et ordonnons que la présente loi soit insérée au Mémorial pour être exécutée et observée par tous ceux que la chose concerne.

*Le Ministre des Affaires étrangères,*  
**Jean Asselborn**

Palais de Luxembourg, le 9 juillet 2013.  
**Henri**

Doc. parl. 6549; sess. ord. 2012-2013.

**Décision du Conseil et des représentants des gouvernements des Etats membres, réunis au sein du Conseil, relative à la conclusion des accords au titre de l'article XXI de l'AGCS avec l'Argentine, l'Australie, le Brésil, le Canada, la Chine, le territoire douanier distinct de Taïwan, Penghu, Kinmen et Matsu (Taïpei chinois), la Colombie, Cuba, l'Equateur, Hong Kong (Chine), l'Inde, le Japon, la République de Corée, la Nouvelle-Zélande, les Philippines, la Suisse et les Etats-Unis d'Amérique concernant les modifications et ajustements compensatoires nécessaires à la suite de l'adhésion de la République tchèque, de la République d'Estonie, de la République de Chypre, de la République de Lettonie, de la République de Lituanie, de la République de Hongrie, de la République de Malte, de la République d'Autriche, de la République de Pologne, de la République de Slovénie, de la République slovaque, de la République de Finlande et du Royaume de Suède à l'Union européenne.**

LE CONSEIL DE L'UNION EUROPEENNE ET LES REPRESENTANTS DES GOUVERNEMENTS DES ETATS MEMBRES DE LA COMMUNAUTE EUROPEENNE, réunis au sein du Conseil,

vu le traité instituant la Communauté européenne, et notamment son article 133, paragraphes 1, 5 et 6, l'article 71 et l'article 80, paragraphe 2, en liaison avec l'article 300, paragraphes 2 et 3,

vu la proposition de la Commission,

vu l'avis du Parlement européen,<sup>(1)</sup>

considérant ce qui suit:

- (1) Le traité relatif à l'adhésion du Royaume de Norvège, de la République d'Autriche, de la République de Finlande et du Royaume de Suède à l'Union européenne est entré en vigueur le 1<sup>er</sup> janvier 1995<sup>(2)</sup>.
- (2) Le traité relatif à l'adhésion de la République tchèque, de la République d'Estonie, de la République de Chypre, de la République de Lettonie, de la République de Lituanie, de la République de Hongrie, de la République de Malte, de la République de Pologne, de la République de Slovénie et de la République slovaque à l'Union européenne est entré en vigueur le 1<sup>er</sup> mai 2004<sup>(3)</sup>.
- (3) Conformément à l'article XX de l'Accord général sur le commerce des services (ci-après dénommé «AGCS»), les membres de l'OMC établissent la liste des engagements spécifiques qu'ils prennent au titre de la partie III de l'AGCS.
- (4) La liste actuelle de la Communauté européenne et de ses Etats membres (ci-après dénommés la «Communauté européenne») couvre seulement les engagements spécifiques relatifs aux douze Etats membres de 1994. Les listes individuelles d'engagements spécifiques des Etats membres qui ont adhéré à la Communauté européenne en 1995 et 2004 (ci-après dénommés «nouveaux Etats membres») ont été adoptées avant leur adhésion.
- (5) Afin d'assurer, notamment, que les nouveaux Etats membres soient couverts par les limitations incluses dans la liste d'engagements spécifiques de la Communauté européenne et de garantir la cohérence avec l'acquis communautaire, il a été nécessaire de modifier ou de retirer certains engagements spécifiques inclus dans la liste des engagements spécifiques des Communautés européennes et dans la liste des engagements spécifiques des nouveaux Etats membres.
- (6) En vue de présenter une liste consolidée, la Communauté européenne a notifié, le 28 mai 2004, conformément à l'article V de l'AGCS, son intention de modifier ou de retirer certains engagements spécifiques inclus dans la liste des engagements spécifiques des nouveaux Etats membres, au titre de l'article V paragraphe 5 de l'AGCS et conformément aux dispositions de l'article XXI paragraphe 1 b) de l'AGCS.
- (7) A la suite de la soumission de la notification et conformément à l'article XXI paragraphe 2 a) de l'AGCS, dix-huit membres de l'OMC (l'Argentine, l'Australie, le Brésil, le Canada, la Chine, le territoire douanier distinct de Taïwan, Penghu, Kinmen et Matsu (Taïpei chinois), la Colombie, Cuba, l'Equateur, Hong Kong (Chine), l'Inde, le Japon, la République de Corée, la Nouvelle-Zélande, les Philippines, la Suisse, l'Uruguay<sup>(4)</sup> et les Etats-Unis d'Amérique (ci-après dénommés «les membres de l'OMC affectés») ont présenté des manifestations d'intérêt.
- (8) La Commission a engagé des négociations avec les membres de l'OMC affectés. A la suite de ces négociations, un accord a été trouvé concernant les ajustements compensatoires résultant de modifications et retraits notifiés le 28 mai 2004.
- (9) A la suite de la conclusion des négociations, conformément aux conclusions du Conseil du 26 juillet 2006, la Commission a été autorisée à signer les accords respectifs avec chacun des membres de l'OMC affectés. Ces accords couvrent tant les modifications et les retraits notifiés par la Communauté européenne que les ajustements compensatoires résultant de ces modifications et retraits. En vue de lancer la procédure de certification prévue par les règles de l'OMC applicables, la Commission a transmis, le 14 septembre 2006, le projet de liste consolidée au secrétariat de l'OMC. La procédure de certification a été achevée le 15 décembre 2006.

1 Avis du ... (non encore paru au Journal officiel).

2 JO C 241 du 29.8.1994, p. 9.

3 JO L 236 du 23.9.2003, p. 17.

4 L'Uruguay a retiré ultérieurement sa manifestation d'intérêt.

- (10) Les accords comportent des modifications qui concernent le commerce des services dans le domaine des transports et dans certains secteurs qui sont mentionnés à l'article 133, paragraphe 6, du traité instituant la Communauté européenne. Ils constituent un résultat satisfaisant et équilibré des négociations,

DECIDENT:

*Article premier*

Les accords au titre de l'article XXI de l'AGCS avec l'Argentine, l'Australie, le Brésil, le Canada, la Chine, le territoire douanier distinct de Taïwan, Penghu, Kinmen et Matsu (Taïpei chinois), la Colombie, Cuba, l'Equateur, Hong Kong (Chine), l'Inde, le Japon, la République de Corée, la Nouvelle-Zélande, les Philippines, la Suisse et les Etats-Unis d'Amérique concernant les modifications et ajustements compensatoires nécessaires à la suite de l'adhésion de la République tchèque, de la République d'Estonie, de la République de Chypre, de la République de Lettonie, de la République de Lituanie, de la République de Hongrie, de la République de Malte, de la République d'Autriche, de la République de Pologne, de la République de Slovénie, de la République slovaque, de la République de Finlande et du Royaume de Suède à l'Union européenne sont approuvés au nom de la Communauté européenne et de ses Etats membres.

Le texte des accords est joint à la présente décision.

*Article 2*

Le président du Conseil est autorisé à désigner la ou les personne(s) habilitée(s) à exprimer le consentement de la Communauté européenne et de ses Etats membres à être liés par les accords et à communiquer à l'OMC la date d'entrée en vigueur des modifications et des ajustements contenus dans ces accords.

*Article 3*

La présente décision est publiée au Journal officiel de l'Union européenne.

FAIT à Bruxelles, le

Le président

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**JOINT LETTER**

**from the European Communities and its Member States on the one part, and Argentina, on the other part, 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 of 29 October 1999)

**relating to**

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Argentina submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/175 with regard to S/SECRET/8 and S/L/228 with regard to S/SECRET/9). The EC and Argentina entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Argentina have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Argentina was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8 and (3) the draft consolidated schedule of specific commitments

that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Argentina.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Argentina with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS<sup>(1)</sup>. The Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Alberto Juan DUMONT  
Ambassador  
Permanent Representative  
Permanent Mission of Argentina to the World Trade  
Organisation

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**REPORT ON THE RESULT**  
**of the negotiations conducted in accordance of Article XXI:2(a)**  
**of the General Agreement on Trade in Services (GATS)**  
**relating to**  
**the modifications proposed in the GATS Schedules of the**  
**European Communities and its Member States (hereafter the EC) to take account of the**  
**accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of**  
**Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of**  
**Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic,**  
**the Republic of Finland and the Kingdom of Sweden to the European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong, China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong, China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. Argentina submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/175 with regard to S/SECRET/8 and S/L/228 with regard to S/SECRET/9). The EC and Argentina entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and Argentina have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Argentina with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS<sup>(1)</sup>. This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Argentina was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Argentina.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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## ANNEX I

### A) Modifications notified in document S/SECRET/8

#### *Horizontal Commitments*

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

### **Sectoral commitments**

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.
- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

### **B) Modifications notified in document S/SECRET/9**

#### **Horizontal Commitments**

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

#### **Sectoral commitments**

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

## ANNEX II

**Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3
- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ



- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		

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### JOINT LETTER

**from the European Communities and its Member States on the one part, and Australia, on the other part, 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 of 29 October 1999)

relating to  
the modifications proposed in the **GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Australia submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/164 with regard to S/SECRET/8 and S/L/225 with regard to S/SECRET/9). The EC and Australia entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Australia have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Australia was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Australia.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Australia with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the WTO

H.E. Mr Bruce GOSPER  
Ambassador  
Permanent Representative  
Permanent Mission of Australia to the WTO

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### REPORT ON THE RESULT

#### of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on Trade in Services (GATS)

relating to

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. Australia submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/164 with regard to S/SECRET/8 and S/L/225 with regard to S/SECRET/9). The EC and Australia entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and Australia have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Australia with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Australia was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Australia.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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## ANNEX I

### A) Modifications notified in document S/SECRET/8

#### *Horizontal Commitments*

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

### **Sectoral commitments**

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.
- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

### **B) Modifications notified in document S/SECRET/9**

#### **Horizontal Commitments**

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

#### **Sectoral commitments**

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

## ANNEX II

### Compensation by the EC

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3
- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
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ES	Spain	SE	Sweden
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\*

### JOINT LETTER

**from the European Communities and its Member States on the one part, and Brazil, on the other part, 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 of 29 October 1999)

**relating to  
the modifications proposed in the GATS Schedules of the  
European Communities and its Member States (hereafter the EC) to take account of the  
accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of  
Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of  
Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic,  
the Republic of Finland, the Kingdom of Sweden to the  
European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Brazil submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/171 with regard to S/SECRET/8 and S/L/224 with regard to S/SECRET/9). The EC and Brazil entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Brazil have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Brazil was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Brazil.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Brazil with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Clodoaldo HUGUENEY  
Ambassador  
Permanent Representative  
Permanent Mission of Brazil to the  
World Trade Organisation

\*

**REPORT ON THE RESULT  
of the negotiations conducted in accordance of Article XXI:2(a)  
of the General Agreement on Trade in Services (GATS)**

relating to  
the modifications proposed in the GATS Schedules of the  
European Communities and its Member States (hereafter the EC) to take account of the  
accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of  
Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of  
Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic,  
the Republic of Finland, the Kingdom of Sweden to the  
European Communities,

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. Brazil submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/171 with regard to S/SECRET/8 and S/L/224 with regard to S/SECRET/9). The EC and Brazil entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

6. During such negotiations, the EC and Brazil have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Brazil with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Brazil was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Brazil.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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## ANNEX I

### A) Modifications notified in document S/SECRET/8

#### *Horizontal Commitments*

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.

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<sup>1</sup> This Agreement shall not be interpreted to prejudge the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).



- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

#### **Sectoral commitments**

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.
- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

### **B) Modifications notified in document S/SECRET/9**

#### **Horizontal Commitments**

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

#### **Sectoral commitments**

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

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## ANNEX II

### Compensation by the EC

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3
- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).

- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		

\*

#### **JOINT LETTER**

**from the European Communities and its Member States on the one part, and Canada, on the other part, 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 of 29 October 1999)

relating to

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Canada submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/165 with regard to S/SECRET/8 and S/L/216 with regard to S/SECRET/9). The EC and Canada entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Canada have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Canada was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Canada.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Canada with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Don STEPHENSON  
Ambassador  
Permanent Representative  
Permanent Mission of Canada to the  
World Trade Organisation

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## **REPORT ON THE RESULT**

### **of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on Trade in Services (GATS)**

#### **relating to**

**the modifications proposed in the GATS Schedules of the  
European Communities and its Member States (hereafter the EC) to take account of the  
accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of  
Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic  
of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of  
Finland, the Kingdom of Sweden to the European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. Canada submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/165 with regard to S/SECRET/8 and S/L/216 with regard to S/SECRET/9). The EC and Canada entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

6. During such negotiations, the EC and Canada have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Canada with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Canada was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Canada.
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## ANNEX I

### A) Modifications notified in document S/SECRET/8

#### *Horizontal Commitments*

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
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## ANNEX II

### Compensation by the EC

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
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- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n) of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.

- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
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DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		

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### JOINT LETTER

**from the European Communities and its Member States on the one part, and China, on the other part, 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 of 29 October 1999)

relating to

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, China submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/178 with regard to S/SECRET/8 and S/L/220 with regard to S/SECRET/9). The EC and China entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and China have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and China was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and China.



This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and China with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Sun ZHENYU  
Ambassador  
Permanent Representative  
of the People's Republic of China  
to the World Trade Organisation

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## REPORT ON THE RESULT

### of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on Trade in Services (GATS)

relating to  
the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities,

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. China submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/178 with regard to S/SECRET/8 and S/L/220 with regard to S/SECRET/9). The EC and China entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and China have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and China with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and China was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the China.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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## ANNEX I

### A) Modifications notified in document S/SECRET/8

#### *Horizontal Commitments*

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

### **Sectoral commitments**

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.
- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

### **B) Modifications notified in document S/SECRET/9**

#### **Horizontal Commitments**

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

#### **Sectoral commitments**

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

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## ANNEX II

**Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3
- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ

- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

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### JOINT LETTER

**from the European Communities and its Member States on the one part, and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, on the other part, 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 of 29 October 1999)*

**relating to  
the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu submitted a claim of interest pursuant to Article XXI:2(a) of the GATS (S/L/169) with regard to S/SECRET/8. No claim of interest was submitted with regard to S/SECRET/9. The EC and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Yi-Fu LIN  
Permanent Representative of the  
Permanent Mission of the Separate Customs  
Territory of Taiwan, Penghu, Kinmen and  
Matsu to the WTO

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**REPORT ON THE RESULT  
of the negotiations conducted in accordance of Article XXI:2(a)  
of the General Agreement on Trade in Services (GATS)**

**relating to  
the modifications proposed in the GATS Schedules of the  
European Communities and its Member States (hereafter the EC) to take account of the  
accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of  
Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic  
of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of  
Finland, the Kingdom of Sweden to the European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu submitted a claim of interest pursuant to Article XXI:2(a) of the GATS (S/L/169) with regard to S/SECRET/8. No claim of interest was submitted with regard to S/SECRET/9. The EC and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu with

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

7. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.
8. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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## ANNEX I

### A) Modifications notified in document S/SECRET/8

#### *Horizontal Commitments*

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.

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<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

#### **Sectoral commitments**

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.
- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

### **B) Modifications notified in document S/SECRET/9**

#### **Horizontal Commitments**

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

#### **Sectoral commitments**

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.



## ANNEX II

**Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3
- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „ At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ

- *Hairdressing services*

- Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		

\*

### JOINT LETTER

**from the European Communities and its Member States on the one part, and Colombia, on the other part, 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 of 29 October 1999)

relating to

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Colombia submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/176 with regard to S/SECRET/8 and S/L/223 with regard to S/SECRET/9). The EC and Colombia entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Colombia have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Colombia was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Colombia.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Colombia with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Claudia URIBE  
Ambassador  
Permanent Representative  
Permanent Mission of Colombia  
to the World Trade Organisation

\*

**REPORT ON THE RESULT  
of the negotiations conducted in accordance of Article XXI:2(a)  
of the General Agreement on Trade in Services (GATS)**

relating to

**the modifications proposed in the GATS Schedules of the  
European Communities and its Member States (hereafter the EC) to take account of the  
accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of  
Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of  
Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic,  
the Republic of Finland, the Kingdom of Sweden to the  
European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. Colombia submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/176 with regard to S/SECRET/8 and S/L/223 with regard to S/SECRET/9). The EC and Colombia entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and Colombia have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Colombia

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Colombia was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Colombia.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

\*

#### ANNEX I

#### A) Modifications notified in document S/SECRET/8

##### *Horizontal Commitments*

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
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  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		

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### JOINT LETTER

**from the European Communities and its Member States on the one part, and Cuba, on the other part, 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 of 29 October 1999)

relating to

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Cuba submitted a claim of interest pursuant to Article XXI:2(a) of the GATS (S/L/174) with regard to S/SECRET/8. No claim of interest was submitted with regard to S/SECRET/9. The EC and Cuba entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Cuba have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Cuba.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Cuba with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, provided that an agreement has

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Juan Antonio FERNANDEZ PALACIOS  
Ambassador  
Permanent Representative  
Permanent Mission of Cuba to the  
World Trade Organisation

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## REPORT ON THE RESULT

### of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on Trade in Services (GATS)

relating to  
the modifications proposed in the GATS Schedules of the  
European Communities and its Member States (hereafter the EC) to take account of the  
accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of  
Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of  
Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic,  
the Republic of Finland, the Kingdom of Sweden to the European Communities,

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. Cuba submitted a claim of interest pursuant to Article XXI:2(a) of the GATS (S/L/174) with regard to S/SECRET/8. No claim of interest was submitted with regard to S/SECRET/9. The EC and Cuba entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and Cuba have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Cuba with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Cuba.
8. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, provided that an

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).



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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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## ANNEX I

### A) Modifications notified in document S/SECRET/8

#### *Horizontal Commitments*

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

#### *Sectoral commitments*

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities

of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.

- Space Transport. The commitment included in the schedule of Austria is withdrawn.
- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

## **B) Modifications notified in document S/SECRET/9**

### ***Horizontal Commitments***

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

### ***Sectoral commitments***

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

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## **ANNEX II**

### **Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3

- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3
- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
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FR	France	SK	Slovak Republic
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# JOINT LETTER

**from the European Communities and its Member States on the one part, and Ecuador, on the other part, 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 of 29 October 1999)

**relating to**

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Ecuador submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/172 with regard to S/SECRET/8 and S/L/229 with regard to S/SECRET/9). The EC and Ecuador entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Ecuador have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Ecuador was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Ecuador.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Ecuador with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Eva GARCIA FABRE  
Ambassador  
Permanent Representative  
Permanent Mission of Ecuador  
to the World Trade Organisation

\*

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

**REPORT ON THE RESULT**  
**of the negotiations conducted in accordance of Article XXI:2(a)**  
**of the General Agreement on Trade in Services (GATS)**

relating to  
**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. Ecuador submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/172 with regard to S/SECRET/8 and S/L/229 with regard to S/SECRET/9). The EC and Ecuador entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and Ecuador have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Ecuador with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Ecuador was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Ecuador.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

\*

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

## ANNEX I

**A) Modifications notified in document S/SECRET/8*****Horizontal Commitments***

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

***Sectoral commitments***

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.

- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

## **B) Modifications notified in document S/SECRET/9**

### ***Horizontal Commitments***

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

### ***Sectoral commitments***

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

\*

## **ANNEX II**

### **Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3

- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN.GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		



**JOINT LETTER**

**from the European Communities and its Member States on the one part, and Hong Kong, China, on the other part, 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 of 29 October 1999)

**relating to**

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Hong Kong, China submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/170 with regard to S/SECRET/8 and S/L/219 with regard to S/SECRET/9). The EC and Hong Kong, China entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Hong Kong, China have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Hong Kong, China was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Hong Kong, China.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Hong Kong, China with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Tony MILLER  
Ambassador  
Permanent Representative of the  
Hong Kong Special Administrative Region  
of China to the World Trade Organisation

\*

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

## REPORT ON THE RESULT

### of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on Trade in Services (GATS)

relating to

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. Hong Kong, China submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/170 with regard to S/SECRET/8 and S/L/219 with regard to S/SECRET/9). The EC and Hong Kong, China entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
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6. During such negotiations, the EC and Hong Kong, China have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Hong Kong, China with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Hong Kong, China was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Hong Kong, China.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		

**JOINT LETTER**

**from the European Communities and its Member States on the one part, and India, on the other part, 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 of 29 October 1999)

**relating to**

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, India submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/163 with regard to S/SECRET/8 and S/L/221 with regard to S/SECRET/9). The EC and India entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and India have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and India was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and India.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and India with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Ujal SINGH BHATIA  
Ambassador  
Permanent Representative  
Permanent Mission of India to the  
World Trade Organisation

\*

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

**REPORT ON THE RESULT**  
**of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on**  
**Trade in Services (GATS)**

relating to  
**the modifications proposed in the GATS Schedules of the European Communities and its**  
**Member States (hereafter the EC) to take account of the accession of the Czech Republic, the**  
**Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the**  
**Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the**  
**Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the**  
**European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. India submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/163 with regard to S/SECRET/8 and S/L/221 with regard to S/SECRET/9). The EC and India entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and India have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and India with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and India was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and India.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

\*

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

## ANNEX I

**A) Modifications notified in document S/SECRET/8*****Horizontal Commitments***

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

***Sectoral commitments***

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.



- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

## **B) Modifications notified in document S/SECRET/9**

### ***Horizontal Commitments***

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

### ***Sectoral commitments***

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

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## **ANNEX II**

### **Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3

- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN.GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
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**JOINT LETTER**

**from the European Communities and its Member States on the one part, and Japan, on the other part, 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 of 29 October 1999)

relating to

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Japan submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/168 with regard to S/SECRET/8 and S/L/218 with regard to S/SECRET/9). The EC and Japan entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Japan have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Japan was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Japan.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Japan with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Iohiro FUJISAKI  
Ambassador  
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\*

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

## REPORT ON THE RESULT

### of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on Trade in Services (GATS)

#### relating to

#### the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities,

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
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8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Japan.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

\*

1 This Agreement shall not be interpreted to prejudge the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

## ANNEX I

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- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
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- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
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- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
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***Sectoral commitments***

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
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- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

## **B) Modifications notified in document S/SECRET/9**

### **Horizontal Commitments**

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

### **Sectoral commitments**

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
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- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

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## **ANNEX II**

### **Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
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  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
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- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.

- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
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DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		

\*

**JOINT LETTER**

**from the European Communities and its Member States on the one part, and the Republic of Korea, on the other part, 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 of 29 October 1999)

**relating to  
the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, the Republic of Korea (hereafter Korea) submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/173 with regard to S/SECRET/8 and S/L/226 with regard to S/SECRET/9). The EC and Korea entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Korea have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Korea was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Korea.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Korea with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
*Chargé d'Affaires a.i.*  
*Permanent Delegation of the*  
*European Commission to the World*  
*Trade Organisation*

Choi HYUCK  
*Ambassador*  
*Permanent Representative*  
*Permanent Mission of the Republic of Korea*  
*to the World Trade Organisation*

\*

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).



## REPORT ON THE RESULT

**of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on Trade in Services (GATS)**

**relating to**

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. The Republic of Korea (hereinafter Korea) submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/173 with regard to S/SECRET/8 and S/L/226 with regard to S/SECRET/9). The EC and Korea entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and Korea have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Korea with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and Korea was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Korea.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's

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internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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## ANNEX I

### A) Modifications notified in document S/SECRET/8

#### *Horizontal Commitments*

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
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FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
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**JOINT LETTER**

**from the European Communities and its Member States on the one part, and New Zealand, on the other part, 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 of 29 October 1999)

relating to

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, New Zealand submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/167 with regard to S/SECRET/8 and S/L/222 with regard to S/SECRET/9). The EC and New Zealand entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and New Zealand have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and New Zealand was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and New Zealand.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and New Zealand with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>1</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Crawford FALCONER  
Ambassador  
Permanent Representative  
Permanent Mission of New Zealand  
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\*

<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

**REPORT ON THE RESULT**  
**of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on**  
**Trade in Services (GATS)**

relating to  
**the modifications proposed in the GATS Schedules of the European Communities and its**  
**Member States (hereafter the EC) to take account of the accession of the Czech Republic, the**  
**Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the**  
**Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the**  
**Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the**  
**European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. New Zealand submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/167 with regard to S/SECRET/8 and S/L/222 with regard to S/SECRET/9). The EC and New Zealand entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and New Zealand have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and New Zealand with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and New Zealand was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the New Zealand.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

## ANNEX I

**A) Modifications notified in document S/SECRET/8*****Horizontal Commitments***

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

***Sectoral commitments***

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.

- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

## **B) Modifications notified in document S/SECRET/9**

### ***Horizontal Commitments***

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

### ***Sectoral commitments***

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

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## **ANNEX II**

### **Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in Mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3



- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN/GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		

**JOINT LETTER**

**from the European Communities and its Member States on the one part, and the Philippines, on the other part, 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 of 29 October 1999)

**relating to**

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, the Philippines submitted a claim of interest pursuant to Article XXI:2(a) of the GATS (S/L/179 with regard to S/SECRET/8. No claim of interest was submitted with regard to S/SECRET/9. The EC and the Philippines entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and the Philippines have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the Philippines.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and the Philippines with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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**REPORT ON THE RESULT  
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## ANNEX I

**A) Modifications notified in document S/SECRET/8*****Horizontal Commitments***

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- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

***Sectoral commitments***

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.

- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

## **B) Modifications notified in document S/SECRET/9**

### **Horizontal Commitments**

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

### **Sectoral commitments**

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

\*

## **ANNEX II**

### **Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*
  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3

- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		

**JOINT LETTER**

**from the European Communities and its Member States on the one part, and Switzerland, on the other part, 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 of 29 October 1999)

relating to

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, Switzerland submitted a claim of interest pursuant to Article XXI:2(a) of the GATS (S/L/162 with regard to S/SECRET/8. No claim of interest was submitted with regard to S/SECRET/9. The EC and Switzerland entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8. Switzerland on its part submitted a memorandum stating its position in these negotiations.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and Switzerland have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Switzerland.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and Switzerland with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

Danilo NUCCI  
Chargé d'Affaires a.i.  
Permanent Delegation of the  
European Commission to the World  
Trade Organisation

Pierre-Louis GIRARD  
Ambassador  
Permanent Representative  
Permanent Mission of Switzerland  
to the World Trade Organisation

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<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

**REPORT ON THE RESULT  
of the negotiations conducted in accordance of Article XXI:2(a)  
of the General Agreement on Trade in Services (GATS)**

relating to  
the modifications proposed in the **GATS Schedules of the European Communities and its Member States (hereafter the EC)** to take account of the accession of the **Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. Switzerland submitted a claim of interest pursuant to Article XXI:2(a) of the GATS (S/L/162 with regard to S/SECRET/8. No claim of interest was submitted with regard to S/SECRET/9. The EC and Switzerland entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and Switzerland have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and Switzerland with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and Switzerland.
8. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).



## ANNEX I

**A) Modifications notified in document S/SECRET/8*****Horizontal Commitments***

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

***Sectoral commitments***

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.

- Space Transport. The commitment included in the schedule of Austria is withdrawn.
- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
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## **B) Modifications notified in document S/SECRET/9**

### ***Horizontal Commitments***

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

### ***Sectoral commitments***

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- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

\*

## **ANNEX II**

### **Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
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  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
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  - Market Access and National Treatment Commitments by CY and MT in Mode 2
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  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3

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  - Removal of the ENT applied on Mode 4/CSS by the UK
  - Market Access and National Treatment commitments by SK in Mode 3
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  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
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  - Addition of a clarificatory footnote.
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  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
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  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
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  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
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DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
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**JOINT LETTER**

**from the European Communities and its Member States on the one part, and the United States of America, on the other part, 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 of 29 October 1999)

**relating to**

**the modifications proposed in the GATS Schedules of the European Communities and its Member States (hereafter the EC) to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the European Communities**

On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications, pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS.

Following the submission of each Communication, the United States of America (hereafter the United States) submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/166 with regard to S/SECRET/8 and S/L/217 with regard to S/SECRET/9). The EC and the United States entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.

With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006). During such negotiations, the EC and the United States have agreed on compensatory adjustments related to the withdrawals and modifications contained in document S/SECRET/8.

With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and the United States was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.

The Report on the result of these negotiations, which is attached to this letter, includes (1) the proposed modifications in the notifications referred to above, (2) the agreed compensatory adjustments with regard to the modifications or withdrawals notified in S/SECRET/8, and (3) the draft consolidated schedule of specific commitments that results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the United States.

This letter and Annex I and II of the report attached to it constitute the Agreement between the EC and the United States with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> The Agreement shall not be interpreted to modify the Lists of Article II Exemptions of the EC and its Member States. The Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.

Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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August 4, 2006

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<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

**REPORT ON THE RESULT**  
**of the negotiations conducted in accordance of Article XXI:2(a) of the General Agreement on**  
**Trade in Services (GATS)**

relating to  
**the modifications proposed in the GATS Schedules of the European Communities and its**  
**Member States (hereafter the EC) to take account of the accession of the Czech Republic, the**  
**Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the**  
**Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the**  
**Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden to the**  
**European Communities,**

Pursuant to paragraph 5 of the Procedures for the implementation of Article XXI of the GATS (S/L/80 of 29 October 1999), the EC submits the following report:

1. On 28 May 2004 and on 4 April 2005, the EC submitted two respective Communications pursuant to Article V of the GATS (circulated as document S/SECRET/8, dated 11 June 2004, and as document S/SECRET/9, dated 12 April 2005), whereby it notified its intention to modify or withdraw the specific commitments included in the list attached to the communications (hereafter „the proposed modifications“), pursuant to Article V:5 of the GATS and in accordance with the terms of Article XXI:1(b) of the GATS. The proposed modifications are contained in Annex I.
2. Following the submission of the notification contained in document S/SECRET/8, and pursuant to Article XXI:2(a) of the GATS, eighteen WTO Members (Argentina, Australia, Brazil, Canada, China, Chinese Taipei, Colombia, Cuba, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, the Philippines, Switzerland, Uruguay and the United States of America (hereafter the United States)) submitted a respective claim of interest.
3. Following the submission of the notification contained in document S/SECRET/9, and pursuant to Article XXI:2(a) of the GATS, fourteen WTO Members (Argentina, Australia, Brazil, Canada, China, Colombia, Ecuador, Hong Kong China, India, Japan, Korea, New Zealand, Uruguay and the United States) submitted a respective claim of interest.
4. The United States submitted two respective claims of interest pursuant to Article XXI:2(a) of the GATS (S/L/166 with regard to S/SECRET/8 and S/L/217 with regard to S/SECRET/9). The EC and the United States entered into negotiations pursuant to Article XXI:2(a) of the GATS with regard to S/SECRET/8 and S/SECRET/9.
5. With regard to the procedure initiated by the notification contained in document S/SECRET/8, the initial period for the negotiations, which expired on 26 October 2004, was extended (by mutual agreement) five times (until 26 April 2005, until 27 February 2006, until 1 June 2006, until 1 July and until 17 July 2006).
6. During such negotiations, the EC and the United States have agreed on compensatory adjustments related to the modifications and withdrawals contained in document S/SECRET/8. Annex I and II of this report, together with the joint letter to which it is attached, constitute the Agreement between the EC and the United States with regard to S/SECRET/8 for purposes of Article XXI:2(a) of the GATS.<sup>(1)</sup> This Agreement shall not be interpreted to modify the lists of Article II Exemptions of the EC and its Member States. This Agreement shall not be interpreted to affect the Parties' rights and obligations under Article VIII of the GATS.
7. With regard to the procedure initiated by the notification contained in document S/SECRET/9, no agreement between the EC and the United States was reached by the end of the period provided for negotiations and no affected Member referred the matter to arbitration within the applicable deadline pursuant to paragraph 7 of S/L/80. Pursuant to Article XXI:3(b) of the GATS and subject to completion of the procedures set out in paragraphs 20-22 of S/L/80, the EC shall be free to implement the modifications and withdrawals proposed in document S/SECRET/9.
8. In view of the foregoing, the proposed modifications and the agreed compensatory adjustments are incorporated into the EC's draft GATS consolidated schedule, which results from merging existing schedules of commitments of the EC and its Member States and from inserting therein both the modifications or withdrawals of commitments notified by the EC under documents S/SECRET/8 and S/SECRET/9 and the compensatory adjustments agreed between the EC and the United States.
9. Pursuant to the procedures referred to in paragraphs 20 to 22 of S/L/80, the EC will transmit, to the Secretariat for circulation, the draft consolidated schedule for certification by 14 September 2006, 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, after completion of the certification procedures, on a date to be specified by the EC following completion of the EC's internal approval procedures, which the EC endeavours to accelerate as much as possible. The modifications and withdrawals proposed in documents S/SECRET/8 and S/SECRET/9 shall not enter into force until all of the compensatory adjustments indicated in Annex II have entered into force.

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<sup>1</sup> This Agreement shall not be interpreted to prejudice the outcome of separate discussions within the WTO concerning the classification of telecommunication services (basic telecommunications and value-added services).

## ANNEX I

**A) Modifications notified in document S/SECRET/8*****Horizontal Commitments***

- Market access entry (page 9): „In all EC Member States services considered as public utilities at a national or local level may be subject to public monopolies or to exclusive rights granted to private operators“. This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, Slovakia, Finland and Sweden. This limitation now applies to all Member States.
- National treatment limitations on branches, agencies and representative offices under mode 3 (pages 9 and 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidiaries under mode 3 (page 10). This entry was not included in the schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. This limitation now applies to all Member States.
- National treatment limitations on subsidies under mode 3 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Malta, Austria, Slovenia, Slovakia, Finland and Sweden included only part of the limitations on subsidies on mode 3 inscribed in the schedule of the EC and its Member States. These limitations are now extended to these Member States.
- National treatment limitation on subsidies under mode 4 (page 13). The schedule of specific commitments of the Czech Republic, Estonia, Cyprus, Latvia, Hungary, Malta and Slovakia did not include the limitation on subsidies under mode 4 inscribed in the schedule of the EC and its Member States. This limitation is now extended to these Member States.
- Cyprus' market access commitments on mode 4. These commitments are withdrawn.
- Market access entry on mode 4 – Intra-company transfers (ICT) (page 26). The schedule of specific commitments of the Czech Republic, Latvia, Lithuania, Hungary, Poland and Slovakia did not include the limitation that the receiving entity must be effectively providing like services in the territory of the Community Member State concerned. This limitation is now extended to these Member States.
- Market access entry on mode 4 – Business visitors (BV) – service sellers (page 30). The schedule of specific commitments of Poland did not include the limitation that those representatives will not be engaged in making direct sales to the general public. This limitation is now extended to this Member State.
- Market access entry on mode 4 – Business visitors (BV) – establishment of commercial presence (page 30). The schedule of specific commitments of Lithuania did not include the limitation that those representatives will not be engaged in making direct sales to the general public or supplying services. This limitation is now extended to this Member State.
- Lithuania's market access commitments on mode 4 – Business visitors (BV) (page 32). These commitments are partially withdrawn.
- Latvia's market access commitment on mode 4 – contractual services suppliers (CSS) (page 33). The schedule of specific commitments of Latvia did not include the limitation that the temporary entry and stay within the Member State concerned shall be for a period of not more than three months in any 12 months period. This limitation is now extended to this Member State.

***Sectoral commitments***

- Rental/Leasing services without operators – Relating to Aircraft (page 95). The market access limitation under mode 2 is extended to Estonia, Lithuania, Hungary, Austria, Slovenia, Finland and Sweden and the market access limitation under mode 3 is extended to Estonia, Hungary and Austria.
- Services incidental to manufacturing (pages 109 and 110). The commitments included in the schedule of Latvia, Lithuania and Austria are withdrawn.
- Education services (page 156): limitation to „only privately funded services“. This limitation was not included in the schedule of Estonia, Latvia, Lithuania, Hungary, Austria, Slovenia (only not included with regard to adult education services) and Slovakia. This limitation is now extended to these Member States. In the case of Slovenia, such an extension only refers to adult education services.
- Banking and other financial services (excluding insurance) (pages 193, 213 and 217). The market access limitations indicating that „the establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies“ and that „only firms having their registered office in the Community can act as depositories of the assets of investment funds“, both under mode 1 and 3, were not included in the schedule of Czech Republic as regards mode 3, Estonia (not included in mode 1 nor in mode 3), Latvia as regards mode 3, Lithuania as regards mode 1, Hungary as regards mode 3 and Slovakia as regards mode 3. These limitations are now extended to these Member States.
- Space Transport. The commitment included in the schedule of Austria is withdrawn.

- Air Transport – Rental of aircraft with crew (page 246). Two market access limitations (one under modes 1 and 2 and another one under mode 3) are introduced for Poland.
- Air Transport – Sales and Marketing (pages 247 and 248). The schedule of specific commitments of Estonia did not include the national treatment limitation on distribution through CRS of air transport services provided by CRS parent carrier.
- Air Transport – Computer Reservations System (page 248). The schedule of specific commitments of Hungary did not include the national treatment limitation on the obligations of parent or participating carriers in respect of a CRS controlled by an air carrier of one or more third countries.
- Services auxiliary to all modes of transport – Cargo handling services (page 259). A market access limitation under mode 3 has been introduced for Estonia, Latvia and Lithuania.

## **B) Modifications notified in document S/SECRET/9**

### ***Horizontal Commitments***

- Cyprus' and Malta's commitments on mode 4 under national treatment (pages 25, 29 and 32 of S/SECRET/8). These commitments are withdrawn.

### ***Sectoral commitments***

- Computer and Related Services – a) Consultancy Services related to the Installation of Computer Hardware (CPC 841) (page 82) – b) Software Implementation Services (CPC 842) (page 83) – c) Data Processing Services (CPC 843) (page 85) – d) Data Base Services (CPC 844) (page 86). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Research and Development Services – b) R & D Services on Social Sciences and Humanities (CPC 852) (pages 89 and 90). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Insurance and Insurance-Related Services – (i) Direct insurance (including co-insurance): (a) life and (b) non-life (pages 211 and 212). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Banking and Other Financial Services (excluding insurance) – (x) (e) transferable securities (page 223). Cyprus' commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Hotels, Restaurants and Catering (CPC 641, 642 and 643) (page 232). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Travel Agencies and Tour Operators Services (CPC 7471) (pages 233 and 234). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.
- Maritime transport services – excluding cabotage transport – (a) Passenger transportation (CPC 7211); (b) Freight transportation (CPC 7212) (page 242). Malta's commitments on mode 4 (ICT, BV and CSS) under national treatment are withdrawn.

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## **ANNEX II**

### **Compensation by the EC**

- *Mode 3 horizontal limitation on public utilities*
  - Footnote on coverage indicating that this limitation does not apply to telecommunication and computer and related services.
- *Mode 3 horizontal limitations on investment*
  - Removal of the national treatment limitation for AT in Mode 3 on branches of foreign joint stock companies (Aktiengesellschaften) and limited liability companies (Gesellschaften mit beschränkter Haftung).
- *Mode 4 for intra-corporate transferees and business visitors*
  - Market Access and National Treatment commitments by CY and MT in the horizontal section and in the sector-specific section in the sectors where CY and MT have undertaken Mode 3 commitments.
- *Professional services – Engineering services (CPC 8672)*
  - Market Access and National Treatment Commitments by CY and MT in Mode 2
  - Market Access commitments by CY, CZ, MT & SK in Mode 3
  - National Treatment commitments by CY and MT in Mode 3
  - Removal of the market access limitation for PT in mode 3
- *Professional services – Integrated Engineering Services (CPC 8673):*

- Removal of the ENT applied on Mode 4/CSS by the UK
- Market Access and National Treatment commitments by SK in Mode 3
- *Professional services – Urban planning and landscape architectural services (CPC 8674):*
  - Market Access and National Treatment commitments by CY, CZ, MT, PL, SI & SK in Mode 3.
  - Market Access and National Treatment commitments by HU on Landscape Architectural Services in Mode 2.
- *Computer and related services*
  - Addition of a clarificatory footnote.
  - Market Access and National Treatment commitments by HU in Modes 1, 2 & 3 for CPC 845 and 849
  - Improved conditions for CSS/Mode 4 by SE for computer and related services in the horizontal section and new commitments by SE for CSS/Mode 4 for CPC 845 and 849.
- *Advertising services (CPC 871):*
  - Market Access and National Treatment commitments by CY, MT & PL in Mode 1
- *Telecommunication services*
  - New and improved commitments by the entire EC as offered in its revised DDA offer.
  - A clarification from FI that its three Mode 3 horizontal limitations on legal entities under market access, on subsidiaries, branches, agencies and representative offices under national treatment, and on investment under market access do not apply to telecommunications services.
  - A clarificatory footnote indicating that Sub-sectors 2.C.h) to 2.C.m) of the Services Sectoral Classification List contained in MTN,GNS/W/120 (value-added services) and Sub-sectors 2.C.a) to 2.C.g) of that List are included here. Sub-sector 2.C.o) of that List is also included here to the extent that it falls under this definition. For the purpose of this schedule, subsector 2.C.n of that list (on-line information and/or data processing) is reflected in this schedule of Commitments under 1.B (Computer and related services).
- *Financial services (insurance services):*
  - Removal of part of the market access limitations for SK in Mode 3
- *Financial services (banking)*
  - FI: change in Mode 3 permanent residency requirements („At least one of the founders, the members of the board of directors, the supervisory board and the managing director shall have their permanent residence in the European Community ...“ instead of „At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Community ...“).
- *Hotels, Restaurants and Catering*
  - New (less restrictive) language for IT's ENT in mode 3 on bars, cafes and restaurants, including a commitment on its non-discriminatory nature.
- *Travel Agencies and Tour Operators Services*
  - Removal of the ENT applied on Mode 3 by the CZ
- *Hairdressing services*
  - Market Access and National Treatment commitments by CZ, FI, HU and SK in Modes 2 & 3

The following abbreviations are used to indicate the Member States:

AT	Austria	IT	Italy
BE	Belgium	LT	Lithuania
CY	Cyprus	LU	Luxembourg
CZ	Czech Republic	LV	Latvia
DE	Germany	MT	Malta
DK	Denmark	NL	The Netherlands
EE	Estonia	PL	Poland
EL	Greece	PT	Portugal
ES	Spain	SE	Sweden
FI	Finland	SI	Slovenia
FR	France	SK	Slovak Republic
HU	Hungary	UK	United Kingdom
IE	Ireland		