

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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COMMUNICATION FROM CANADA, JAPAN, SWEDEN AND SWITZERLAND

Addendum

The following communication is circulated at the request of the permanent delegations of Canada, Japan, Sweden and Switzerland to the members of the Group of Negotiations on Services.

At the Ministerial meeting in Brussels in December 1990, the delegations of Canada, Japan, Sweden and Switzerland presented a proposal for a Financial Services Annex to the draft General Agreement on Trade in Services (GATS). The proposal was distributed as MTN.TNC/W/50. On 9 July 1991, the same delegations presented an addendum to the December 1990 document, which was distributed as MTN.TNC/W/50/Add.1. The addendum contained new text to replace the language in the two first paragraphs of Part III of MTN.TNC/W/50.

We now present a further addendum to MTN.TNC/W/50. We propose that the attached text be inserted to replace the language in Parts I and II of MTN.TNC/W/50. The text reflects, for the most part, technical amendments to the original proposals.

The text also includes an introductory paragraph, stating the objectives of the Financial Services Annex, and an article on Harmonization and Recognition, the substance of which was contained in an attachment to MTN.TNC/W/50.

It is recognized that additions or deletions may be required, depending on the final language of the Services Framework.

DRAFT ANNEX ON FINANCIAL SERVICES¹

Objectives

To facilitate the liberalization of the provision of financial services and in recognition of the importance and special needs and characteristics of the financial services sector, the PARTIES wish to establish a sectoral Annex to modify, supplement and clarify the application of the Articles of the General Agreement on Trade in Services (hereinafter referred to as the "Framework") to financial services so that the Framework applies to financial services, except to the extent that the Annex provides otherwise.

PART I: SCOPE AND DEFINITIONS

Ad Article I: Scope and Definitions

1. This Annex applies to measures affecting the provision of financial services. Reference to the provision of a financial service in the Annex shall mean the supply of a service as defined in paragraph 2 of Article I of the Framework.
2. Sub-paragraph 3(b) of Article I of the Framework shall not apply.
3. (a) Nothing in this agreement requires a Party to permit financial service providers to conduct activities carried out by a central bank or any other public entity for the account or with the guarantee or using the financial resources of the government.

(b) If financial service providers of a Party are allowed to conduct any of the activities referred to in sub-paragraph 3(a), that

¹Interpretive note

This note is designed to provide additional guidance for the interpretation of the provisions of the Agreement as they apply to financial services. The specific provisions applicable to financial services reflect the special characteristics and requirements of the financial services sector, especially in the regulatory areas. The words and phraseology of the provisions of the Annex, as well as the consideration of how and whether particular provisions of the Framework would apply to financial services, were based (a) on the ordinary meaning of the terms, without specific reference to the jurisprudence under the General Agreement on Tariffs and Trade, and (b) where they have special meanings, on their customary usage in the financial services sector.

Party shall apply the provisions² of this agreement with regard to the conduct of such activities.

PART II: GENERAL OBLIGATIONS AND DISCIPLINES

Ad Article VI: Domestic Regulation

In addition to the information referred to in paragraph 3 of Article VI of the Framework, the competent authorities of a Party shall provide, without undue delay, information as to what may be necessary to reach a decision concerning an application referred to in that paragraph.

Ad Article VII: Harmonization and Recognition

In lieu of Article VII of the Framework, the following shall apply to financial services:

Each Party may adopt arrangements or enter into agreements that provide for recognition of measures of, harmonization of measures with, or cooperative arrangements with any other Party or any other country relating to the provision of a financial service, provided the Party is willing to adopt comparable arrangements and agreements with any other Party in like circumstances. Such arrangements and agreements shall not be formulated or applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Parties. Each Party shall administer these

²Interpretive note

Paragraph 3 of Article I of the Annex is intended to clarify that a Party has no obligation to permit participation by financial service providers in the governmental activities referred to in sub-paragraph 3(a). If a Party conducts any such activities through financial service providers of the Party, or if financial service providers of the Party engage in activities that are comparable to or in competition with such activities, financial service providers of another Party shall have the right, to the extent that the Party has undertaken relevant market access and national treatment commitments, to participate on the same basis as the Party's financial service providers.

For example, although a Party is not required to allow a financial service provider to collect taxes, if it were to do so, it would have to allow financial service providers of another Party the right to compete for such business on the basis of national treatment. Similarly, a Party would not be required to allow a financial service provider to extend student loans funded by public monies at subsidized or market rates, but if such loans were disbursed through financial service providers of a Party, financial service providers of another Party would be entitled to compete on the basis of national treatment.

arrangements and agreements in a reasonable, objective and an impartial manner. Each Party shall promptly inform the PARTIES of any such new arrangements and agreements and of any significant changes therein.

Ad Article XIV: Exceptions

In addition to Article XIV of the Framework, the following shall apply:

1. Nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Party of reasonable measures taken for prudential reasons, including for the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service provider, or to ensure the integrity and stability of a Party's financial system. Such measures shall not be applied in a manner which would constitute a means of arbitrary or unjustifiable (a) restriction on the provision of financial services by financial service providers of another Party or (b) discrimination between domestic and foreign financial service providers or between countries.
2. Nothing in this Agreement shall be construed to require a Party to disclose any confidential or proprietary information. The PARTIES shall not be prevented from concluding procedures under Article XXIII of the Framework with respect to a Party invoking this paragraph.