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## **1 ARTICLE II OF THE GENERAL AGREEMENT ON TRADE IN SERVICES**

### **1.1 Text of Article II**

#### ***Article II***

##### *Most Favoured-Nation Treatment*

1. With respect to any measure covered by this Agreement, each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country.
2. A Member may maintain a measure inconsistent with paragraph 1 provided that such a measure is listed in, and meets the conditions of, the Annex on Article II Exemptions.
3. The provisions of this Agreement shall not be so construed as to prevent any Member from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

### **1.2 Scope**

#### **1.2.1 Measures relating to judicial and administrative assistance**

1. At its meeting of 1 March 1995, the Council for Trade in Services agreed to adopt the following conclusion of the Sub-Committee on Services concerning measures relating to judicial and administrative assistance:<sup>1</sup>

"At the end of the Uruguay Round it had been agreed by participants that Article II of the GATS (MFN) would not apply to measures relating to judicial and administrative assistance. This agreement was reflected in document [MTN.GNS/W/177/Rev.1/Add.1](#) which states:

'It is agreed by participants that the provisions of Article II (Most-Favoured National Treatment) do not apply to measures relating to judicial and administrative assistance. In the light of this agreement, the former footnote to Article II has been deleted.'

The agreement was based on the view that discrimination between service suppliers of different Members arising from judicial and administrative assistance measures, apart from what is already stipulated by the provisions of the GATS, would not have any significant effect on conditions of

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<sup>1</sup> [S/C/M/1](#), para. 14.

competition between service suppliers. In the subsequent consultations it was agreed that the same logic could be applied to the whole of the GATS and that therefore none of the provisions of the GATS would apply to such measures."<sup>2</sup>

### **1.2.2 Electronic commerce**

2. With respect to the application of Article II to electronic commerce, see the Progress Report adopted by the Council for Trade in Services in the context of the Work Programme on Electronic Commerce on 19 July 1999.<sup>3</sup>

## **1.3 Exemptions from Article II**

### **1.3.1 Annex on Article II Exemptions**

3. See the document on the Annex on Article II Exemptions (Practice).

### **1.3.2 Exemptions in financial services**

4. With respect to exemptions from Article II of the General Agreement on Trade in Services (GATS) concerning financial services, see the Fifth Protocol to the GATS<sup>4</sup>, adopted by the Committee on Trade in Financial Services on 14 November 1997.<sup>5</sup>

### **1.3.3 Exemptions in maritime transport services**

5. With respect to this issue, see the Decision on Maritime Transport Services adopted by the Council for Trade in Services at its meeting of 28 June 1996, which suspends negotiations on maritime transport services. The Decision further states that such negotiations will resume with "the commencement of comprehensive negotiations on Services" and that Article II of the GATS will enter into force with respect to "international shipping, auxiliary services and access to and use of port facilities" when these negotiations have been concluded.<sup>6</sup>

### **1.3.4 Exemptions in basic telecommunications**

6. With respect to this issue, see the Fourth Protocol to the GATS, adopted by the Council for Trade in Services at its meeting of 30 April 1996.<sup>7</sup>

### **1.3.5 Least-developed-country (LDC) services waiver**

7. On 17 December 2011, the 8<sup>th</sup> Ministerial Conference adopted a Decision allowing Members to waive the provisions of Article II:1 of the GATS to allow the granting of preferential treatment to services and service suppliers of least developed country Members.<sup>8</sup> Pursuant to that Decision, 24 notifications of preferences for LDC services and service suppliers have been submitted to the Council for Trade in Services.<sup>9</sup> The Decision stipulates that notified preferential treatment with respect to the application of measures other than those described in Article XVI of the GATS is subject to approval by the Council. The Council approved all such preferential treatment at its meetings on 2 November 2015 and 18 March 2016.<sup>10</sup>

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<sup>2</sup> [S/C/1](#), para. 6.

<sup>3</sup> [S/L/74](#), paras. 7-8.

<sup>4</sup> [S/L/45](#).

<sup>5</sup> [S/L/44](#).

<sup>6</sup> [S/L/24](#), para. 4.

<sup>7</sup> [S/L/19](#), para. 3.

<sup>8</sup> [WT/L/847](#).

<sup>9</sup> [S/C/N/792](#) and [Rev.1](#); [S/C/N/805](#); [S/C/N/806](#); [S/C/N/808](#); [S/C/N/809](#); [S/C/N/810](#); [S/C/N/811](#); [S/C/N/812](#); [S/C/N/813](#); [S/C/N/819](#); [S/C/N/820](#); [S/C/N/821](#); [S/C/N/824](#) and [Rev.1](#); [S/C/N/825](#); [S/C/N/833](#); [S/C/N/834](#); [S/C/N/835](#); [S/C/N/839](#); [S/C/N/840](#); [S/C/N/841](#); [S/C/N/853](#); [S/C/N/857](#); [S/C/N/860](#) and [S/C/N/890](#).

<sup>10</sup> [S/C/M/125](#) and [126](#), respectively.

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