



Committee on Specific Commitments

REPORT OF THE MEETING HELD ON 29 JUNE 2021

NOTE BY THE SECRETARIAT¹

The Committee on Specific Commitments (CSC) held a meeting on 29 June 2021 chaired by Mr. Toshihide Aotake from Japan. The Chairperson stated that he would address the issue of the appointment of the Chairperson of the Committee under the item of Other Business. The agenda for the meeting, contained in document WTO/AIR/CSC/15, was adopted as modified.

1 ITEM A – IMPLEMENTATION OF SPECIFIC COMMITMENTS

1.1. The Chairperson recalled that following a proposal from the United States (S/CSC/W/69, dated 5 March 2020), this Committee had been conducting an exercise examining conditional commitments in GATS schedules. Commitments of this type usually contained certain language which made the entry into force, implementation or updating of commitments conditional upon a domestic process, such as the adoption of new legislation, policy reviews, or the review of pre-existing regimes. The purpose of the proposed exercise was to improve transparency and technical accuracy of specific commitments. The discussion under this item had been facilitated with a compilation of conditional commitments (S/CSC/W/70, dated 13 November 2020) prepared by the Secretariat upon the request of this Committee. A number of delegations had provided information on their commitments in previous discussions, and some other Members had expressed that they were holding internal consultations in relation to this exercise. At the last meeting, the Committee had requested the Secretariat to prepare a revision of the compilation by including entries related to financial services and adding a column with information on further developments concerning conditional commitments, such as relevant notifications or Trade Policy Review Reports. Accordingly, the Secretariat had prepared the revision (S/CSC/W/70/Rev.1) which had been circulated to Members on 7 June 2021. The Chairperson invited the Secretariat to introduce this document.

1.2. The representative of the Secretariat stated that this Revision had been prepared in response to a request by the Committee on Specific Commitments at the meeting of 10 March 2021. As requested, it added financial services to the initial compilation for the sake of completeness. Therefore, the Note now encompassed the conditional commitments on all sectors in the Schedules of Specific Commitments under the GATS. For the purpose of this Note, conditional commitments referred to those entries containing certain conditions attached to the entry into force, implementation, or updating of specific commitments. Most of the conditions were related to domestic processes. For the sake of completeness, this Note also included those entries where the conditions might appear vague or indefinite. Also as requested, an additional column was included in the compilation to reflect any developments in the implementation of relevant conditional commitments, subject to the availability of information. Sources of information included Members' notifications under GATS Article III:3, reports of Trade Policy Review, Services Trade Policy Database of I-TIP Services, as well as updates provided by Members at meetings of this Committee. It was Members' responsibility to verify and complement the information included in this document. Further revisions would be issued incorporating new updates provided by Members.

1.3. The representative of Russia stated that the entries on financial services were a useful contribution and relevant to the ongoing discussion on conditional commitments. The additional column gave more clarity to the implementation of conditional commitments. Russia urged Members to provide updates or additional information on their commitments. This exercise was useful for

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

transparency purposes and completely in line with the Committee's mandate. Russia encouraged Members to work on strengthening transparency in this organization, a priority area for Russia. Russia wished to see improvement in transparency both at the horizontal level and on individual issues, as noted in Russia's communication MC12: Shaping the Package Agenda (JOB/GC/261).

1.4. The representative of Japan appreciated the Secretariat's work. For transparency purposes, Japan explained the entry in its Schedules of Specific Commitments on banking and other financial services as referred to on page 12 of the revision of the Compilation. According to the entry, "appropriate authorities permit the Pension Welfare Service Public Corporation to allow investment advisory companies to participate in the management of its fund assets through a variation of the 'Shiteitan' framework. At the time of the next comprehensive review of the Japanese pension system in 1999 this scheme would be reviewed." "Shiteitan" referred to a designated money trust in which beneficiary owners did not specify individual objects of stocks, bonds or other financial instruments to be purchased. After the comprehensive review, the previously mentioned Pension Welfare Service Public Corporation had been disestablished and succeeded by the Government Pension Investment Fund which managed pension funds by itself. Also under the reform, the participation in the management of the pension assets by investment advisory companies became no longer limited to through the "Shiteitan" framework. Japan had notified this regulatory change in November 2001. Since then, further reform had taken place and the Government Pension Investment Fund had become an independent administrative agency specialized in the management of pension funds. The participation in the management of pension assets by investment advisory companies remained open, and not limited to through "Shiteitan" framework.

1.5. The representative of Canada thanked the Secretariat for updating the compilation. This document contributed to the broader transparency efforts of the WTO. Canada appreciated the updates provided at the last meeting and invited any interested Member to offer updates or comments on the measures cited in the document.

1.6. The representative of the European Union thanked the Secretariat for putting together a list of conditional commitments and welcomed the updates Members had provided at previous meetings. This exercise could contribute to greater transparency of GATS commitments. Members were free to decide how to follow up. She noted that the revised compilation (S/CSC/W/70/Rev.1) included five conditional commitments on financial services undertaken by two EU Member States: one of them being in the headnote for financial services (Hungary), two concerning insurance and insurance-related services (Slovenia), and another two about banking and related services (Slovenia). Following legislation adopted in the two EU Member States, and as mentioned in the last column of the compilation, these limitations had either been clarified or were practically no longer maintained. Regarding the Hungarian limitation, legislation on credit institutions and financial enterprises and on insurance activities as well as legislation implementing the EU Directive on Solvency II specified that foreign branches were allowed in the financial services sector; for insurance services, the central branch office was required to be located in Hungary. Regarding the Slovenian limitations, according to the Insurance Act and the legislation implementing the EU Directive on Solvency II, there were no longer limits on foreign participation in the reinsurance sector. Nor were there any restrictions on the establishment of foreign branches. The Foreign Exchange Law had freed up consumer credits and, according to the Banking Act, credit arrangements no longer needed to be registered with the Bank of Slovenia. The Banking Act also laid down a non-discriminatory measure specifying that the provision of banking services was subject to the authorisation from the Bank of Slovenia. Third country branches were allowed in Slovenia. The European Union would provide the Secretariat with clarifications concerning the column titled "updates" in the revision to ensure that the references to national legislation were accurate.

1.7. The representative of China stated that the implementation of specific commitments was a basic obligation of WTO Members. China was open to discussing related issues. The review and update of schedules should be limited to the implementation of Members' existing commitments, without entailing further market opening obligation. Meanwhile, considering that related work required Members to conduct a lot of domestic consultations and coordination, he suggested that Members exchange general views as a first step, and move forward progressively. In addition, given that there existed procedures regarding modification of services schedules adopted by the CTS, the WTO Secretariat could continue to provide technical guidance in this regard.

1.8. Referring to his delegation's additional commitments listed in the compilation, the representative of Brazil noted that the situation remained unchanged, and that no legislation had

been adopted by the National Congress of Brazil in relation to the services concerned, i.e. work accident insurance and services provided by financial institutions for factoring services. Should there be any progress in relation to these additional commitments in the future, Brazil would provide updates through certification of any changes.

1.9. The representative of the United States stated that the additional column in the updated Secretariat Note was useful and reflected the development of initial conditional commitments. The Note should be updated as appropriate. Providing updates on conditional commitments by Members was a voluntary exercise designed to help inform other Members of developments regarding the conditions in the relevant sectors. Presumably these conditions or policy reviews were not meaningless. Otherwise, Members would not have scheduled them. He thanked Japan for providing updates to the Committee and those Members who were reviewing their commitments in capital. He noted that in some instances Members had indicated that they would provide an updated schedule. It would be useful to know the status of domestic procedures for submitting those updated schedules. In other instances where commitments simply referred to ongoing policy reviews, it would also be useful to know the outcome of those processes. While a voluntary exercise was a preferred approach, the United States wished to see more Members provide updates to the membership. The United States was open to considering additional steps to increase the participation by those Members with conditional commitments.

1.10. The Chairperson thanked delegations for their interventions. He particularly thanked those Members who had provided information on their commitments in the spirit of transparency. He encouraged Members to continue to do so at future meetings. He suggested that the Committee take note of statements made and revert to this item at its next meeting.

1.11. It was so agreed.

2 ITEM B – CLASSIFICATION ISSUES

2.1. The Chairperson recalled that at the last meeting, the UN Statistics Division and the WTO Secretariat provided a joint presentation on the new functionalities of the UN classification website and illustrated how Members could navigate between the different CPC versions and between the CPC and other classifications. The presentation was well received by Members. Following the comments received during the meeting, the UN Statistics Division had implemented the search functionality in the explanatory notes of the classifications, which was a very useful addition to the revamped website. Following the presentation, some Members had expressed interest in having a direct correspondence between the CPC Provisional and the latest version of the CPC, i.e. CPC Version 2.1, because the Services Sectoral Classification List (MTN.GNS/W/120), created for undertaking specific commitments under the GATS, was based on the CPC Provisional. The UN Statistics Division had taken into consideration WTO Members' interest and was willing to work together with the WTO Secretariat to create a direct correspondence between the CPC Provisional and the latest version of the CPC, i.e. CPC Version 2.1, as an additional tool for WTO Members.

2.2. The representative of Canada thanked the WTO secretariat and the UNSD for the great news. Looking forward to a direct correspondence between CPC version 2.1 and CPC provisional, she sought information concerning a possible tentative timeframe for developing such correspondence.

2.3. The representative of the Secretariat stated that the work aimed at establishing direct correspondence between CPC version 2.1 and CPC provisional would start in the second half of 2021. So far there was no information on the timeframe. The Secretariat would keep the Committee informed of the progress of this work.

2.4. The Chairperson stated that this Committee provided a good forum for all Members to exchange information, catch up with the evolution in services trade and improve their understanding collectively. He therefore encouraged delegations to continue the useful discussion in the Committee. He suggested that the Committee take note of the statements made and revert to this agenda item at its next meeting.

2.5. It was so agreed.

3 ITEM C - SCHEDULING ISSUES

3.1. The Chairperson moved to Item C on Scheduling Issues.

3.2. The representative of Russia asked two sets of questions related to the ongoing discussions in the WTO. The first set of questions was about the procedures for the undertaking of new commitments in services, and the second concerned verification. Regarding making new commitments, it would be useful to clarify the understanding of document S/L/84, the Procedures for the Certification of Rectification or Improvements to Schedules of Specific Commitments. In particular, she asked whether and to what extent additional commitments would qualify as "new commitments, improvements to existing commitments" within the meaning of this document. In addition, according to Article XVIII of the GATS, additional commitments were not subject to scheduling under Article XVI or XVII of the GATS. She asked the Secretariat to clarify how then to add additional commitments for MA and NT in services schedules. With respect to the verification of schedules of specific commitments, despite that services negotiations in the Doha Round were not concluded, it would be useful to understand how the verification procedure was supposed to be done in the Doha Round: after or before the adoption of negotiation results and what was the difference in terms of practical implications? She also asked the Secretariat to shed light on the experience of verification with respect to the Reference Paper on Basic Telecommunication Services. She noted that the Reference Paper had not been fully adopted or had been adopted with amendments by some Members. She also noted that some Members only made reference to the Reference Paper in their schedules without having textual provisions included therein. She asked whether the different ways of treating the Telecom Reference Paper in schedules were the result of an imperfect verification or a policy choice. If it was the result of political consideration, and verification did not serve as a control mechanism, she asked what then the value of verification was in the context of certification.

3.3. The representative of the Secretariat stated that it was for Members to interpret S/L/84 as this document was negotiated and adopted by Members. Regarding the question on verification, she noted that past practice was always followed. She recalled that in 2010 and 2011, this Committee had discussed how to conduct a verification exercise at the end of the Doha Round. It was understood that the objective of the verification exercise was to verify the technical accuracy and clarity of commitments to ensure that draft schedules reflected what Members had agreed upon in negotiations and that existing commitments were not undermined. It was for Members to define the objective and scope of each verification exercise. With respect to the verification of additional commitments on the Telecom Reference Paper, she recalled that the verification exercise at the end of the extended telecom negotiations had focused on market access and national treatment commitments and that Members had had discretion as to how to deal with the Reference Paper.

3.4. The representative of China questioned about the legal status of the Reference Paper itself. He sought confirmation on the understanding that the Reference Paper had binding force under the GATS only when it was attached to a Member's schedule or fully or partially quoted in the schedule and that the Reference Paper itself had no binding force and was not subject to verification.

3.5. The representative of the Secretariat confirmed China's understanding.

3.6. The representative of El Salvador asked whether there were any particular cases where the verification exercise at the end of the Uruguay Round had entailed renegotiations on commitments.

3.7. The representative of the Secretariat reiterated that the verification exercise was to verify technical accuracy and clarity of draft schedules resulting from negotiations. It was not renegotiation and thus should not change the substance of commitments Members had already agreed upon in negotiations.

3.8. The Chairperson suggested that the Committee take note of the statements made and revert to this agenda item at its next meeting.

3.9. It was so agreed.

4 ITEM D – OTHER BUSINESS

4.1. The Chairperson stated that the handover of the chairmanship of the Committee should normally have taken place already. However, since the consultations conducted by the out-going Chair of the CTS remained to be concluded, the handover would have to be postponed. He urged Members to respond to the out-going CTS Chair's call to show flexibility and bring the process of the appointment of the Chairpersons to a prompt conclusion.

4.2. No intervention was made under this item.

4.3. The meeting was then adjourned.
