

Opinion of the Economic and Social Committee on the 'Proposal for a Council Decision concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the results of the World Trade Organization negotiations on financial services'

(98/C 407/47)

On 28 July 1998 the Council decided to consult the Economic and Social Committee, in accordance with Article 198 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Economic and Social Committee appointed Mr Robert Pelletier as rapporteur-general to prepare its work on the matter.

At its 357th plenary session of 9 and 10 September 1998 (meeting of 10 September) the Economic and Social Committee adopted the following opinion by 69 votes to three with four abstentions.

The Economic and Social Committee has noted that the European Community will be presenting to the Council a proposal for a decision on the final results of the World Trade Organization (WTO) negotiations on financial services.

1. Recent background

1.1. *The interim agreement of 28 July 1995*

The WTO was set up in December 1993 following completion of the Uruguay Round of multilateral negotiations. The final act of the new WTO was officially signed in Marrakesh on 15 April 1994 at the Ministerial Conference of GATT (General Agreement on Tariffs and Trade). When the WTO was being set up, the General Agreement on Trade in Services (GATS) was also adopted and the framework and timetable for negotiations in certain service sectors, including financial services, were laid down.

Negotiations on financial services, which were scheduled to begin on 1 January 1995 and be concluded within six months, were actually completed on 28 July 1995; they were a partial failure because the United States refused to sign, regarding the offers made by the principal developing countries (South-East Asia and Latin America in particular) as inadequate. However, thanks entirely to a last-ditch effort by the European Union, the abstention of the United States was secured and an interim agreement adopted. The centrepiece of this interim agreement was the second protocol to the General Agreement on Trade in Services (GATS).

Offers and MFN exemption lists were appended to the second protocol. The deadline for their introduction was fixed for 1 November 1997. Members would then have 60 days to amend or withdraw all or part of their offers and/or file any requests for MFN exemptions. Plans were also made to open a new negotiating period during the second half of 1997 in a bid to reach a definitive agreement.

1.2. *Negotiations in the second half of 1997*

The Committee recognizes the importance of the negotiations opened in the second half of 1997 and leading to a new agreement on 12 December 1997. This fifth protocol to the General Agreement on Trade in Services was signed by 102 countries of which 70⁽¹⁾ (the EU counting as one) submitted new offers, whilst 32 countries maintained their offers of 1995.

2. The agreement of 12 December 1997

2.1. *Entry into force*

The Committee notes that the agreement is due to enter into force on 1 March 1999 after the signatory countries have accepted the 'fifth protocol' to GATS (General Agreement on Trade in Services) by signature or ratification before 29 January 1999. If, by 30 January 1999, not all the members concerned have approved the fifth protocol, those members which have approved it in time may decide that it will still come into force, may extend the deadline for its approval, or may decide that it will not come into force. After 29 February 1999 a 60-day period would be set aside so that those countries which had ratified the 'fifth protocol' could redraft it in the event of certain signatories to the agreement finding

⁽¹⁾ Australia, Bahrain, Bolivia, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Cyprus, Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, European Communities and their Member States, Ghana, Honduras, Hong Kong (China), Hungary, Iceland, India, Indonesia, Israel, Jamaica, Japan, Kenya, Korea, Kuwait, Macau, Malaysia, Malta, Mauritius, Mexico, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Romania, Senegal, Singapore, Slovak Republic, Slovenia, South Africa, Sri Lanka, Switzerland, Thailand, Tunisia, Turkey, United States, Uruguay, Venezuela.

that they were unable to comply with the procedure set out therein.

After having verified the situation, individual lists of commitments to be appended to the fifth protocol were approved by the WTO's Council for Trade in Services on 26 February 1998.

2.2. Overall evaluation of the agreement

The Committee recognizes that the agreement has resulted in progress. It encompasses 95 % of the world market in financial services and its principal merit lies in having put an end to the transitory and rather unsatisfactory situation existing since July 1995. The United States' decision at the time not to be party to the interim agreement meant in practice that the world's leading financial player was rejecting the case for a multilateral agreement based on the fundamental principle of the 'most-favoured-nation clause' whereby an advantage granted to the trade of any one signatory country is automatically extended to all signatory countries.

However imperfect the offers submitted by some WTO countries, the agreement of December 1997 is based on respect for the principles of non-discrimination, national treatment, and the most-favoured-nation clause. The agreement makes the whole financial services sector (banks, insurance, investment services) subject to the multinational disciplines and rules of the GATS and is important for two other reasons:

- The period of validity of the agreement is unlimited, which clearly shows that, like other economic sectors already covered by the WTO, financial services have now entered a phase where they are under permanent scrutiny by the World Trade Organization. Furthermore, none of the major countries has coupled its offer with a request for a general waiver from most-favoured-nation treatment. Finally, any signatory country can appeal to the WTO body responsible for resolving disputes if it considers that another WTO member has failed to observe its commitments under the agreement.
- Most of the offers emanating from the leading emerging countries show a marked improvement in commitments to liberalization compared with the situation prevailing in 1995.

3. General comments

The Committee welcomes the proposal for a Council decision in the light of the three points set out below.

3.1. Position of the banking community

The Banking Federation of the European Union has repeatedly pressed for a definitive agreement embracing

major commitments from the largest number of countries and has maintained special relations with representatives of the European Community and the governments of Member States of the European Union.

3.2. Impact on the strategy of banks

The opening up of world markets is crucial to the strategy of banks and all other players in financial markets, both in terms of honing the quality of the services to customers (who are themselves internationalizing their activities under the pressure of market forces) as well as in terms of developing their own operations in new territories where they need firm guarantees that regulations will be transparent and that all banks and financial services will be subject to the same prudential rules and regulatory systems.

3.2.1. The globalization of markets

The globalization of economies, whether good or bad, willed or just passively endured, is an established fact. Large, medium and small-scale enterprises often suffocate within the bounds of their national markets and need to cross the rubicon and operate internationally. This trend will no doubt be accentuated by the introduction of the single currency.

It is the responsibility of banks to keep pace with their customers' needs. Whilst it is true that large-scale enterprises have already been 'internationalized', it is also clear that there will inevitably be a second wave affecting medium-sized firms. The internal markets of industrialized countries are shrinking under the twin impact of over-production and demand satisfaction. The whole of the productive sector will therefore have no choice but to seek new pastures. Banks will accordingly have to globalize their operations so that banking networks can, geographically, offer an infinitely more extensive range of services.

3.2.2. Transparency

The establishment of uniform, comprehensible and permanent rules will stimulate the activities of lenders and make it possible for banks to increase their contribution to the financing of the developing world in a climate of confidence and greater risk-control. In so doing, the banks of developed countries will discover that the increasing internationalization of their activities and financial operations will provide them with the additional income they can no longer always obtain on domestic markets.

A new world-wide balance between fund-providers and borrowers, supported by universally accepted banking rules, will lead to the re-establishment of financial and monetary fluidity — the guarantee of stable relations between countries.

3.2.3. Non-discrimination

The acceptance and application of the fundamental GATT principle (the most-favoured-nation clause), which puts all partners on an equal footing and guarantees that there is no discrimination between contracting parties, whatever their origin or nationality, obliges states to eliminate the privileges they naturally tend to confer on their own nationals.

The agreements signed in Geneva last December show that considerable progress has been made in this respect.

3.3. *Long-term expansion of capital flows to emerging countries or to relatively underdeveloped countries*

The long-term increase in the flow of capital to emerging or relatively underdeveloped countries should continue to help the development of such countries. It should also make it easier to restructure their economies and restore investor confidence in the Asian countries affected by the crisis (South Korea, Thailand, Indonesia).

4. The opening up of markets to competition in the insurance sector

4.1. As with banking, Europe's insurance sector considers that the agreement resulting from WTO negotiations constitutes a great success for the EU and for European insurers.

4.2. The fifth protocol negotiated between WTO member countries, as well as the commitments given via the Commission's offer, do not present any difficulties for Europe's insurance market.

4.3. The insurance sector considers that, unlike the interim agreement concluded in July 1995 on the initiative of the EU, the agreement of 12 December 1995 is definitive and does not derogate in any way from the principle of the most-favoured-nation.

4.4. The December agreement puts an end to a situation which has been highly prejudicial to the smooth functioning of multilateral trading arrangements and to

the interests of the European financial and insurance services sector because of the June 1995 decision of the United States to maintain derogations from the most-favoured-nation clause and negotiate bilateral agreements on the opening up of markets.

4.5. In the field of insurance, this agreement marks a major quantitative and qualitative improvement in the offers emanating from the emerging countries of Asia, Latin America, Central and Eastern Europe, Africa and the Middle East.

4.6. Under the terms of most of the 60 offers put on the table, it will now be possible to gain majority foreign holdings, to open branches, to be treated in the same way as national insurers, and to engage in unlimited trans-frontier operations both in respect of transport insurance and re-insurance.

4.7. It is important to remember that Japan has agreed to include in its offer, in the form of additional commitments, all terms of the bilateral insurance agreement concluded with the United States in December 1996.

5. Conclusion

The Committee considers that the agreement signed in the World Trade Organization in December 1997 represents a major step forward in the direction of liberalizing financial markets and supports the Commission's recommendation that the Council should approve the text of the fifth protocol on behalf of the European Community, insofar as matters lie within the latter's competence.

This said, there is still a great deal of progress to be made since two of the biggest markets on the planet, China and Russia, are still not subject to the agreements. The commitments entered into also vary a great deal in quality, depending on the particular country involved. Negotiations should therefore be pursued to improve on these commitments, to fight if possible any regulatory systems limiting competition, and to genuinely remove obstacles. Steps should also be taken to make sure that further negotiations likewise cover supervisory and control operations.

Brussels, 10 September 1998.

The President
of the Economic and Social Committee
Tom JENKINS