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the growing importance of trade in services for the growth and development of the world economy;

to establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries;

the early achievement of progressively higher levels

inter alia, that, in establishing the GATS, Members sought the expansion of trade in services 'under conditions of transparency'. This requirement of transparency is undoubtedly an object and purpose of the GATS – and the WTO in general – and applies equally to GATS schedules of specific commitments. Indeed, schedules of specific commitments determine, inter alia, the scope of market access and national

"We now verify whether our interpretation of China's commitment on 'Sound recording distribution services' is consistent with the object and purpose of the GATS. We note that the Preamble of the GATS indicates that the Agreement is aimed, , at establishing 'a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization'. In light of this general object and purpose, the Preamble also provides that commitments negotiated under the Agreement should aim at 'securing an overall balance of rights and obligations' between the Members. We find that our interpretation of China's commitment on 'Sound recording distribution services' is consistent with this object and purpose."⁵

5. In , China argued on appeal that the Panel's interpretation of "Sound recording distribution services" is inconsistent with the object and purpose of the GATS and, in particular, with the principle of "progressive liberalization". More specifically, China argued that the Panel interpreted the entry "Sound recording distribution services" according to the contemporary meaning of the words it contains, but that the principle of "progressive liberalization" does not allow for the expansion of the scope of the commitments of a WTO Member by interpreting the terms used in the Schedule based on the meaning of those terms at the time of interpretation. The Appellate Body saw no error in the Panel's consideration of the object and

7. In _____, the Appellate Body explained that, through various flexibilities and exceptions, "the GATS seeks to strike a balance between a Member's obligations assumed under the Agreement and that Member's right to pursue national policy objectives". The Appellate Body further observed:

"A Member's right to pursue national policy objectives is recognized in the preamble of the GATS, including the third and fourth recitals. The term 'national policy objectives' in the preamble, which is general and undefined, may cover a wide array of objectives, and Members retain various means to pursue these objectives. To begin with, measures pursuing national policy objectives may be taken outside the sectors or supply modes covered by GATS Schedules. Furthermore, a Member may pursue a wide range of policy objectives while acting consistently with its obligations or commitments assumed under the GATS. Indeed, a Member's commitments under the GATS could in some cases serve to further its national policy objectives. Where measures are found to be _____ with a Member's obligations or commitments under the GATS, the GATS provides for various mechanisms, such as Article XIV, which take account of policy objectives underlying such measures."⁷

8. The Appellate Body also disagreed with the Panel's view that the relevance of the "regulatory aspects concerning service suppliers" for the purpose of assessing whether there is "treatment no less favourable" is confirmed by the object and purpose of the GATS as expressed in its preamble:

"[W]e agree that the scope of the 'national policy objectives' referred to in the preamble is broader than the objectives listed in the exceptions. As long as Members comply with their GATS obligations and commitments, they are free to pursue national policy objectives that they consider appropriate. In this regard, Panama is correct in stating that 'Members, on a daily basis, regulate services sectors and pursue a wide range of national policy objectives without violating their obligations under the GATS', and that they only act inconsistently with their non-discrimination obligations when they pursue policy objectives pursuant to regulations that discriminate between like services or service suppliers. The exceptions contained in the GATS recognize a limited number of policy objectives that, under certain conditions, may be pursued by measures that are otherwise _____ with the GATS. In other words, the pursuit of a Member's national policy objectives is not equivalent to violation of a Member's GATS obligations, and can be accommodated without the need to invoke exceptions. Only when a Member, in pursuing its objectives, imposes measures that are inconsistent with its GATS obligations – e.g. by modifying the conditions of competition to the detriment of like services or service suppliers of any other Member – would the need to invoke exceptions arise.

Therefore, an interpretation of the term 'treatment no less favourable' that is based on a measure's detrimental impact on the conditions of competition does _____ prevent a Member from pursuing a wide range of national policy objectives beyond those identified in the exceptions. Moreover, a Member's right to pursue national policy objectives does not, as the Panel seemed to suggest, confirm 'the relevance of the regulatory framework established to meet these objectives' for the purpose of analysing 'treatment no less favourable'. For these reasons, we also disagree with the Panel that the relevance of the 'regulatory aspects concerning service suppliers' is 'confirmed by the object and purpose of the GATS'.⁸

9. In _____, the Appellate Body also referred to Members' "national policy objectives" in the third and fourth recitals of the preamble of the GATS when assessing the scope of paragraph 2(a) of the Annex on Financial Services. The Appellate Body found that "[a]n interpretation limiting the types of measures that could potentially fall under paragraph 2(a)

⁷ Appellate Body Report,

, para. 6.114.

⁸ Appellate Body Report,

