

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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## SERVICES

### DRAFT MINUTES OF THE MEETING HELD ON 2 MAY 1985

Chairman: Ambassador F. Jaramillo

1. The Chairman said that the purpose of this meeting, as indicated in the airgram (GATT/AIR/2146) and as mentioned at the end of the previous meeting, was to continue the exchange of information on the basis of the national examinations that had been circulated to date, and of the first analytical summary of these examinations prepared by the secretariat. Since the publication of the analytical summary, the secretariat had received documentation from the International Telecommunications Union (ITU) consisting of the Report of the Independent Commission for World-Wide Telecommunications Development entitled "The Missing Link" and the executive summary thereof, which was available for consultation in Room 1062, Centre William Rappard. He recalled that during the last meeting, a number of questions relating to specific points in the national examinations had been left unanswered, and invited the delegations concerned to reply if they were ready to do so.

2. The representative of Sweden responded first to a number of questions left outstanding concerning telecommunications. While there was no general legislation linking information flows between private companies and the state authority, there were indirect links as data information passed over the single Swedish public telecommunications network. There were also specific regulations regarding equipment that may be connected to the public network, but these primarily concerned compatibility of systems (information concerning these regulations could be found on pages 77-80 of Sweden's national examination). The growth of investment in Sweden's computer industry reflected the structural adjustment within that industry and its recognition of the need to remain competitive through modernization and rationalization of administrative procedures. Concerning civil aviation, he said that the phrase "a position and market share corresponding to the interests of Sweden" which appeared in the Swedish study, meant that in bilateral negotiations the Scandinavian Airlines System (SAS) tried to obtain the most advantageous conditions for its own flight operations, which had nothing to do with fixing civil aviation tariff rates. He was unable to reply to a further question from Argentina concerning Sweden's efforts to maintain an "adequate rôle" for its airline on a world level and whether Sweden had a priori defined in which sectors it wanted to play a given rôle, but could perhaps provide an answer later on a bilateral basis. Concerning preferences given to Scandinavian or Swedish seamen, he pointed out that the majority of Swedish sailors were under flags of convenience. There was no preferential legislation in force, but a Swedish work permit was required for foreign seamen and in view of the present labour market situation in Sweden, such permits were being granted restrictively.

3. In reply to questions remaining from the last meeting regarding telecommunications, the representative of Japan said that while there were still no laws specifically regulating data processing, new laws to liberalize the electric telecommunications market (telephone, telex, facsimile, data communications and value added network services) had been enacted on 1 April 1985. Anyone wanting to provide these services, including data processing, using new cables was now required to get prior approval, register or notify the authorities; those using existing cables were exempt from this requirement. Concerning copyright protection, his authorities were presently considering ways to protect programmes in accordance with existing copyright laws but were not considering bills which presupposed protection of programme rights. Multiple-operations companies were characteristic of all Japanese industries and were not confined to the services sector; however, the public or social character of some industries (e.g. banking) necessitated some regulations.

4. Regarding the insurance sector, non-Japanese firms comprised 3.6 per cent of the non-life market (in fiscal year 1983, on the basis of direct premiums); for life insurance, non-Japanese firms comprised 1.1 per cent. In principle, foreign insurance activities could be carried out via branch offices. While acknowledging the problems of delays and difficulties in obtaining approvals for licenses raised at the last meeting (MDF/10, paragraph 43), the Japanese authorities were now trying to respond positively and promptly, unless problems were involved concerning protection of the insured.

5. The distinction between business-related services and information-related services drawn in the Japanese national examination had been based on the Standard Industry Classification. Business-related services included, inter alia, stenography, copying, commodity inspection, weight certification, construction services and private vocational information services; information-related services included information services, news services, enquiry agencies and advertising services. Concerning jurisdiction over construction and engineering activities as provided for in the Construction Contractors Law, a company involved in two or more prefectures in Japan needed the approval of the Minister of Construction; those companies setting up an agency in only one prefecture needed the approval of the governor of that prefecture. There were technical specifications for twenty-eight categories of construction and engineering services needing approval; there were additional regulations relating to technicians and management ability: the latter was considered on the basis of a number of criteria, including previous experience in Japan. However, provisions of this law should not be seen as discriminating against foreigners. In reply to a further question on this subject he noted that his authorities had not received any application from non-Japanese to be considered as technicians or managers as provided for in the Construction Contractors Law.

6. The representative of the Netherlands observed that the low percentage of non-Japanese participation in the Japanese insurance market could be increased. He noted, however, that as of mid-April 1985 one Dutch insurance company, which had not previously been able to enter the market, was permitted to open an office in Tokyo. The representative of the United States commented that the low level of foreign participation in Japan's

insurance sector was striking as Japanese authorities said they followed the national treatment principle. He again raised the question as to whether national treatment in and of itself was adequate to ensure foreign participation in a market (see MDF/10, paragraph 43). In this connection, he pointed to the difficulty of obtaining information on whether an application made was likely or not to be accepted.

7. The Chairman suggested that, as the first round of discussions on the national examinations available had just been completed, the meeting turn to the analytical summary which had been prepared by the secretariat. This document was based on information contained in the available national examinations and also referred to information provided by relevant international organizations. While he had no preconceived ideas as to how the document should be used in the discussions, he noted that it provided what one might call an intellectual framework for looking at issues in the services sector. As it was based on information from a limited number of sources, the framework could not be considered complete although it did provide a starting point. In the course of the discussion, one might see a need for some additional considerations which had not been included in the available information base. Such considerations could be taken up at a later stage, as additional points referred to in the national examinations of interested contracting parties, or in any other way appropriate. He suggested that any corrections relating to detail which delegations may wish to introduce in an updated version of the analytical summary should be communicated directly to the secretariat and that the discussion focus on the substance of the document. Before proceeding on a sector-by-sector basis, he invited delegations to make general comments on the analytical summary.

8. The analytical summary was generally commended as being an accurate and objective reflection of the information contained in the available national examinations. It was also regarded as a useful tool to help guide further discussion. The representatives of Argentina, Brazil, Egypt, India, South Africa, Spain, Uruguay and Yugoslavia commented that there had not been enough time to properly consider the document and that it should also be considered at the next meeting.

9. Several delegations noted that the narrow mandate given to the secretariat to include material found solely in the national examinations together with information made available by international organizations had limited the scope and balance of the present document. The representative of the European Community noted two sources of imbalance: (1) only the views of developed countries were reflected as no developing country had yet submitted a national examination. He hoped that a more representative range of views would be available for incorporation into future work; (2) lack of information incorporated into the text concerning the exact nature of the work being done by international organizations. The representatives of Canada and Japan supported the view expressed concerning the first point; the representative of Switzerland added that it would be useful to broaden the data base by getting developing and additional developed countries involved in supplying material. In response to the point made by several delegations that a broader range of national examinations was needed, the representative of Argentina observed that a country's viewpoint could be ascertained either by its interventions during these meetings or through a

national examination it might wish to submit. Concerning the latter, each country was conducting an examination on the basis of both its interest in the subject and its available resources.

10. The representative of Sweden (on behalf of the Nordic countries) supported the view expressed by the European Community concerning the incorporation of work done by international organizations. The representative of Egypt remarked that a separate input from UNCTAD would be useful in this regard. The representative of Argentina, supported by the representative of Yugoslavia, suggested that one means of redressing the imbalance in the views presented in the analytical summary might be to take the work of UNCTAD into account, and that perhaps one should begin thinking of how this might be done. The representative of Yugoslavia agreed that more information was needed concerning the work of other international organizations, particularly as regards the trade aspect of services and the updating of statistical information.

11. A number of other general comments were made. The representative of Canada felt that the analytical summary provided not only a clear indication of the work and understanding already accomplished but also of the amount of work still to be done. The representatives of Poland and Yugoslavia noted that, although restricted to the submissions of developed countries, the coverage and views expressed were extremely diverse. The representatives of Spain and South Africa identified a number of problems emerging from the summary, including the diverse ways in which "services" were defined and the incomplete and heterogeneous statistical information. The representative of Spain felt that the sections on international and national regulations and the problems identified with respect to services transactions would be extremely useful in the future. The representative of South Africa added that the points included in the synopsis in paragraphs 138-140, i.e. that more knowledge was needed regarding services and that at this stage of research it was important for all countries to share a comparable process of thought, were particularly important.

12. Several delegations felt that Chapter I, Section 1: "Definition and coverage" of services, was an important and deceptively complex subject. In this context, the representatives of the United States, the European Community, Sweden and Canada felt a distinction should be made between traded and non-traded services. While he felt that trying to decide which specific sectors to consider would be an unproductive exercise, the representative of the United States suggested the work could be circumscribed by considering internationally traded services. Two items he felt should be excluded from that category (which appeared as services in balance-of-payments figures) were labour remittances (but not including those of individuals crossing borders to provide services, which would have to be discussed) and capital flows unrelated to rendering a service. He noted that in the United States, all capital flows were reflected in the banking sector, whether or not they comprised a banking service. In addition, work should focus on trade-related and not investment-related issues as the latter were not within the purview of the GATT (although his government felt many trade problems were related to investment issues). One trade-related issue his government felt deserved attention included those service activities whose facilitation/marketing was needed from abroad. This was related to the concept included in the United States' national examination of "access to the distribution system", where the distribution system itself could not be owned but where access to it was needed to trade in those services.

13. The representative of Canada said that while his delegation wanted to keep the question of which sectors to discuss open to allow all countries to participate in that decision, the tradeability aspect should be focussed on in any sectors to be discussed. He agreed with the United States concerning the exclusion of labour and capital returns as these often were factors in a production process rather than involving trade as such. The representative of Spain also agreed that labour remittances and capital flows should not be considered as services, and raised a question as to whether they were considered as such in the IMF Balance-of-Payments Manual. Labour remittances, which were an important element in Spain's economy, had never been considered a service. As capital flows were almost always transacted through banks, a clear-cut distinction had to be drawn between those flows which constituted a service (e.g. remuneration for transacting a capital flow) and those which did not. In terms of future discussions, he suggested that an appropriate concept for dealing with international trade in services might be to consider services which gave rise to international transactions. He also suggested that in the future it might be useful to condense the information provided in Table I.1 by finding appropriate terminology to categorize the essential nature of the services listed therein rather than to list the various sectors and subsectors as presented in the national examinations.

14. Several delegations felt it was too early to have a substantial discussion on definition and coverage of services, and in particular that it would be unwise at this stage to talk about excluding certain items as suggested by the United States. Questions were also raised concerning the purpose of the present exercise. The representative of Switzerland, supported by the representatives of Brazil and India, felt that while the issues raised by the United States and the European Community might merit further reflection in the future, the present exercise should focus on correcting the text of the analytical summary rather than to include further elements for consideration. It would be inappropriate to direct the work in a specific direction at this stage. The representative of India added that the group was currently in the process of exchanging information, as set out in the 1982 Ministerial decision and in the Agreed Conclusions of the CONTRACTING PARTIES at their 40th Session, and that a discussion of definitions and how to approach services would preempt substantive issues. The representative of Egypt felt that a discussion of definitions should come at the end rather than at the beginning of the exercise. He was also concerned that a discussion of whether or not to exclude certain areas, such as labour remittances or capital flows, or whether investment issues fell within or outside of the GATT bordered on a discussion of the application of GATT rules in this area, which was not the purpose of the exercise.

15. The representative of Turkey felt that at this stage it was premature to talk about excluding specific sectors. He noted that the analytical summary suggested two approaches for delineating the services sector: residual and de facto. His delegation felt the former was more logical and would incorporate everything not in the primary and secondary sectors, including, e.g. labour remittances and capital flows. His delegation also felt that as neither services nor investment were covered by GATT rules, neither should be excluded from the discussion. However, at present the meeting should restrict its discussion to the analytical summary.

16. The Chairman said that the purpose of the exercise was to carry on a discussion on the basis of the framework as presented in the analytical summary. The final aim of this discussion was to see how to proceed and not to modify what was contained in the analytical summary.

17. In reply to some of the concerns raised regarding his previous intervention, the representative of the United States said his remarks had not been directed towards establishing a definition but to explore what some of the problems were in this area. The purpose of this exercise was to exchange information and views among delegations rather than to arrive at rules or agreements. While he agreed with the representative of Egypt that a definition should emerge from, rather than precede, such an exercise, the lack of agreement as to what one was talking about had always frustrated previous discussions on this topic and could make consideration of the analytical summary more difficult. Finally, while neither services nor investment were within the GATT, it was clear that traded services were relevant to this exercise; his discussion of the trade/investment-related issues had thus been intended to illustrate what could be considered trade issues.

18. Concerning Section I.2, "Services in the world economy", the representative of the European Community felt that not enough data was available to enable any conclusions to be drawn. Specifically, he noted that Table I.2 (on page 15) omitted one EC member State. The statistical information describing trends in world services exports (paragraph 8) had been drawn from only one national examination and was therefore incomplete. He felt it would be useful for the secretariat to do some additional work as an independent body to check, complete and amend the information to give as complete a picture as possible. The representative of Denmark noted that his country had not been included in Table I.2 because the United States (on whose examination the figures were based) had not included 1980 figures. He would be willing to supply these figures.

19. While based on only one national examination, the representative of Canada felt the information in this section illustrated several interesting elements, e.g. the importance of services in the international economies of countries at all levels of development; the impact of services on goods production and trade; the importance of assuring that service sectors remained dynamic and competitive to facilitate the changes which will be required by future structural adjustment; and the rôle of trade based on comparative advantage. He urged countries who had not already submitted national examinations or those with additional views to submit information to assist the secretariat in expanding on this sector.

20. Regarding the suggestion of the European Community that the secretariat do some independent checking, the representatives of India and Egypt felt that in the context of the Agreed Conclusions of the CONTRACTING PARTIES at their 40th Session, it would be better for the concerned contracting party to check the data and inform the secretariat of any changes rather than have the secretariat perform independent work. The representative of Brazil added that while clarification might be necessary on a number of points, as there had not been enough time for his authorities to properly consider the document he could not agree to having the secretariat do any independent work.

21. The representative of the European Community pointed out that the Agreed Conclusions of the CONTRACTING PARTIES at the 40th Session had provided that the secretariat, on an agreed basis, could undertake tasks as required. His delegation felt that anything that would help clarify the situation while remaining within the strict framework agreed to would be useful, and thus some independent work by the secretariat to this end would be indicated. However, he realized that any decision on further work would have to wait until all delegations had an opportunity to study the document.

22. Regarding the improvement of data contained in Table I.2 on page 15, the Chairman invited delegations to submit information in writing to the secretariat.

23. Referring to Section 3, "Services in national economies", the representative of Canada said that the Canadian national study on services proved to be a most useful tool in beginning to develop an in-depth understanding of the rôle of services in the domestic economy of Canada. This study identified numerous areas where further work was being undertaken or desirable. He commended to those countries which had not yet started this process to do so as it was a most useful starting point for gaining a greater understanding of the services sector in a domestic economy.

24. The representative of Finland noted that Section 3 showed the dynamics of the services sector in some national economies as well as the differences of distribution of services exports and imports. She was of the opinion that more work should be done on these two topics. She also invited comments on these issues from those countries which had not yet submitted their national examinations. With respect to the differences of distribution of services exports and imports, she suggested that the delegations participating in these discussions should improve the compilation of the various tables by giving basic information for the same years to the secretariat.

25. The representative of the United States highlighted the fact that Table I.3 which ranked services sectors in terms of exports and imports distribution did not give any data concerning telecommunications and computer services. While the current data simply did not reflect those sectors in any meaningful way, as they were without any doubt some of the most difficult services sectors to measure, he noted their significance not only in terms of their effects on other services sectors but also of the volume of trade which had taken place in the last 10 or 15 years. He made these remarks as a general comment on the inadequacy of data as ways of formulating too precise conclusions relating to exports and imports of services.

26. The representative of the United Kingdom said that the statistics in the different national studies varied in definition and classification. For example, this was the case with respect to interest and tourism. By no means all the differences were dealt with in the footnotes to Table I.3. He felt that the findings in paragraph 15 were sometimes affected by this situation. He noted the difficulties in producing comparisons for services on a consistent basis. The International Standard Industrial Classification of the United Nations and the definitions found in the Balance-of-Payments Manual of the International Monetary Fund were the only internationally agreed definitions and classifications which could presently provide reliable comparisons. He recognized that in many ways these definitions and

classifications might not be completely appropriate for the ultimate needs of the countries participating in these discussions. Considerations outlined in Chapter II, Section 3 were far from clear about what data were appropriate. This delegation would however, help any subsequent revisions of the document on the basis of the established international conventions, while recognizing their limitations in the GATT context, and that this would involve data not appearing in the national studies.

27. The representative of the European Community made a number of remarks of a technical nature about the presentation of the basic statistics on services contained in Table I.3.

28. Under Chapter II, "Conceptual Framework", in response to a question from the representative of Argentina as to whether the concept of transnational corporations mentioned in the Canadian national study should not be referred to in this context, the representative of Canada said that the Canadian Task Force found that the concept of multinational enterprises was a most interesting one in the context of world trade in services; however, his authorities were not able to come up with more information about their impact than what was already contained in the study.

29. In referring to page 13 of the Canadian national study, the representative of Uruguay said that it was necessary to obtain information on all activities of trade in services and in this respect it was evident that one of the major areas of uncertainty and lack of knowledge related to multinational enterprises where much more intensive analysis would be required. The representative of Argentina wondered whether the comments in the Canadian study on transnational corporations were simply a question of statistics and methodology to be dealt with under Section 3, "Statistical problems and methodology".

30. Regarding the categorization of services in five broad categories as described in paragraph 19, the representative of Japan pointed out that some further deliberations might be needed on the distinction between trade and investment, particularly with respect to the fifth category on sales of services through branches or other affiliates. Referring to another classification listed in paragraph 20, he said that it would be interesting to discuss further how to reach a consensus on the concepts of "elements of trade in services that are an integral part of trade in commodities". As a preliminary comment, he suggested that if the price of services were included in the export price of commodities, these services were then an integral part of trade in commodities.

31. In commenting on the observations of the representative of Argentina, Uruguay and Japan, the representative of the United States said that his authorities were aware of the importance of the two issues, namely the sales between affiliates and their measurement, and the trade/investment aspects. In the context of the improvement of data collection, a distinction should be made between classical tradeable activities and trade between affiliates, which would sometimes not necessarily be counted as trade.

32. The representative of Uruguay, while recognizing that it would be very difficult to measure on a systematic basis services in international trade, recalled that the United Nations Center on Transnational Corporations was finalizing a major study on trade and foreign direct investment in data services which would be ready during the summer of 1985.

33. On the question of basic concepts relating to the conduct of international transactions in services, the representatives of the European Community, Finland and Sweden pointed out that the descriptions which were given in the analytical summary of the concept of market access did not faithfully reflect the positions taken on this subject in their national examinations. The representative of the Republic of Korea asked which national examinations except the four already cited, listed restrictions to the movement of labour.

34. Concerning statistical problems and methodologies, the representative of Japan said that countries should agree on uniform and effective rules for the collection of figures which could be compared internationally sector-by-sector. In its national study, Japan followed the guidelines and definitions of the Balance-of-Payments Manual drawn up by the International Monetary Fund.

35. In outlining the inadequacies of data, the representative of Switzerland said that his authorities had come to the conclusion that, for the time being, it probably would be misleading to give statistical data representing the relative importance of trends of given sectors, which were based on far from sufficient material. He was of the opinion that countries should first agree on some issues of methodology before presenting inadequate data. He wondered whether a clear footnote should be introduced to this effect under this section or whether the data should be annexed to the analytical summary until progress was made.

36. The representative of the European Community said that broad analysis of available data was not necessarily misleading. Some general conclusions on the world services economy as well as on world transactions in services could be drawn from the existing data. In addition, he did not share the view reported in paragraph 35 that difficulties in developing data stemmed from the diversity of services activities. On the contrary, as all services were invisible, diversity was not an issue in the area of statistics. The representative of the United States said that services data would never be established with the same degree of precision as for goods, and that the discussions and resolutions of most of the important conceptual trade issues in services could proceed on the basis of the current statistical data available.

37. Some delegations made a number of comments of a factual and technical nature on the content of Chapters III, IV and V of the analytical summary. In particular the representative of Yugoslavia suggested that information should be included on the work being done by the World Tourism Organization. In addition, the representative of Australia informed the participants to this meeting that his country might submit a national study possibly by mid-1985.

38. In summing up the discussions, the Chairman noted that some delegations had not yet been in a position to offer comments on the analytical summary. A second reading would therefore be held at the next meeting on the basis of the existing document MDF/7 supplemented by a corrigendum listing the factual and technical changes to the present text. He noted that the meeting would return at a later stage to the possible incorporation of the information submitted by international organizations into Chapters I to IV of the analytical summary. Following an exchange of views on a suggestion by the representatives of Argentina, Egypt and Uruguay to respond to the request by UNCTAD to submit comments and to present its documentation to the meeting, by giving UNCTAD observer status or otherwise, he said he would consult on the matter with the secretariat of that organization and interested delegations and report on the consultations at the next meeting. Finally, he indicated that the next meeting, which had been tentatively scheduled for 30-31 May, was now scheduled for 7 June 1985.