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SERVICES

DRAFT MINUTES OF THE MEETING HELD ON 24-26 MARCH 1986

Chairman: Ambassador Felipe Jaramillo

1. The Chairman noted that, as indicated in airgram GATT/AIR/2259, the purpose of the meeting was twofold. First, the meeting would discuss services and the development process on the basis of UNCTAD document TD/B/1008/Rev.1 ("Services and the Development Process"), which had been distributed to delegations by the GATT secretariat; in that connection he welcomed the representative of the UNCTAD secretariat, Mr. Murray Gibbs, who would present that document and answer questions. Secondly, the meeting would discuss issues and concepts related to regulations affecting international transactions in services, on the basis of document MDF/W/59 prepared by the secretariat.
2. The representative of UNCTAD explained the background of the document, summarized some of the main points included therein and described some of UNCTAD's ongoing work in the area of services. "Services and the Development Process" (TD/B/1008/Rev.1) had been prepared in response to UNCTAD resolution 159 (VI), directing the UNCTAD secretariat to continue its studies of service issues including inter alia, the rôle of the services sector in the development process, keeping in view the special problem of the least developed countries. The document was an initial effort to establish a basis for considering services from an interdisciplinary and development-oriented perspective, and on a global rather than sectoral basis. The document concentrated essentially on two areas: (i) the rôle of services in the growth and development of the domestic economy, emphasizing the situation in developing countries (Chapter III); and (ii) issues relating to services in the international context which might be relevant to the development process (Chapter V). In addition, the rationale behind national and international regulations on services was examined (Chapter IV) as was the existing co-operation and current international debate on services (Chapter VI). Annex I examined statistical problems while Annex II suggested a very preliminary approach to studies to examine the rôle of services in the economy of an individual country. Chapter II entitled "Main Issues" contained preliminary observations and suggested areas for future study. He emphasized that the conclusions drawn were very preliminary, and had been intended primarily to provide a clearer focus to the ongoing international debate and to suggest areas for further study. These studies were being carried out under Trade and Development Board Decision 309 (XXX) which, inter alia, instructed UNCTAD to conduct further in-depth studies of the rôle of services in the development process to enable countries to analyze the rôle of the service sector and its contribution to the development process within their national economies.
3. The representative of UNCTAD, going over the main points emerging from different chapters of the document, said that Chapter III ("Services in the growth and development context") questioned the "three-stage" theory of economic development and emphasized the importance of certain services - particularly new, technologically advanced producer services - as inputs into

the productive process. Also questioned were traditional theories regarding the productivity of services, which had ignored the phenomenon of "interlinkages" both among services sectors and with the rest of the economy. A preliminary identification of such existence of these interlinkages in relation to specific sectors had also been attempted. The existence of these interlinkages often meant that many services figured more importantly in the development process than was indicated by their direct contribution to gross domestic product (GDP). It was also suggested that the major differences between the services sectors of developed and developing countries might be due to their composition and to the kind of support they provided to economic growth and development. The Chapter also drew attention to the simultaneous "internalization" and "externalization" of services production, particularly in developed countries. The chapter concluded that a better understanding of the contribution of services to the development process was urgently needed as part of a general reassessment of development strategies. While such an understanding would be facilitated by more intensive study at the international level (in both governmental or non-governmental bodies), the most important contribution would probably come from individual developing country examinations of their own national economies.

4. Chapter IV ("Public interest considerations and the rôle of services regulation") examined the logic behind service sector regulations, noting that in almost all countries service sectors were regulated both more extensively and differently than other sectors. A number of arguments to explain both phenomena were put forward, including considerations such as public welfare, the need to reduce dependence on foreign suppliers for both economic and strategic reasons, and concerns for cultural and national sovereignty versus those of efficiency or the advantages of competition.

5. In considering services in the international context, Chapter V made a number of observations which were relevant to development, including the predominant rôle of developed-market economies in services trade; the impact of advances in communication and information technology in making hitherto untraded services "tradeable" (which had affected trade flows and also expanded opportunities to supply goods and services in foreign markets directly through foreign investment); and the blurred boundary between "trade" and "investment" in services due to different means of penetrating foreign services markets. It was also noted that the dominant position of transnational corporations (TNCs) as service suppliers in the world market had been facilitated by the ownership of such factors as new technologies, international information networks and easier access to both human and other capital. In addition, a marked tendency to mergers between corporations to combine these factors within one enterprise had resulted in the emergence of corporations supplying an "integrated package" of services, or of services and goods, to the world market as a whole. As these corporations depended on information services and transborder data flows (e.g. telematics), policies affecting these services would considerably affect trade and production of other services. These had led UNCTAD to focus on the need to study possible ways to improve services statistics, which presently gave little insight into the composition of trade in services, let alone their direction. A certain amount of conceptual work was required to understand the different forms, and development aspects of "trade" in services, such as that incorporated in goods or taking the form of unrecorded flows of data "processed" into services in the importing country. Trade data should also be analysed to

identify where countries or groups of countries were changing their specializations between goods and services in international trade. Two other related areas of study included obtaining a better idea of the factors contributing to establishing a competitive position in international trade in services, and the link between services and competitiveness in exports of goods.

6. Chapter VI, "Policy Issues" briefly examined existing international co-operation in services and the most recent proposals for future action in this respect, as reflected in policy statements and the activities of various international organizations. Annex I discussed statistical issues with respect to production and trade in services, highlighting what was and was not covered by internationally comparable accounting systems. Annex II presented ideas as to how countries might assess the contribution of services to their own development process.

7. The meeting welcomed the representative of UNCTAD's presentation and the opportunity to discuss the rôle of services in the development process, based on document TD/B/1008/Rev.1 which was generally considered to be useful and illuminating. The representative of India said the document confirmed his delegation's view that it was inappropriate to discuss services without taking into account its rôle in growth and development, since such an approach would be partial and incomplete. The representatives of Argentina, Canada, the European Community, Egypt, Israel, Japan, Sweden (on behalf of the Nordic countries) and the United States also welcomed the opportunity to discuss the development aspects of services. The representative of Brazil said that the document illustrated why the developing country perspective on services necessarily differed from that of developed countries, including the issue of dependence. He joined the representative of Egypt in asking what was the current status of UNCTAD's work subsequent to issuing TD/B/1008/Rev.1. The representative of Malaysia said that it was important to study development aspects in view of the fact that developing countries such as his own were in an infant industry situation in the field of services.

8. In discussing the material presented in the summary and conclusions and Chapter I (introduction) the representative of the European Community said that some issues discussed were equally relevant for developed and developing countries, for example, the issue of economic interdependence versus dependence in services and the existence of restrictive business practices. Concerning the former, the fact that certain services were indispensable for growth and development (e.g. banking, transportation, insurance, telecommunications and public administration - see paragraph xi, page vi), while very few countries had broadly-based service sectors (paragraph 135, page 139) meant that all countries - developed as well as developing - would have to depend on imported services. He thus asked whether, and if yes to what extent, UNCTAD felt that dependence in services was more of a problem for developing countries. His delegation accepted this economic interdependence and thus sought international rules to ensure all would profit from this interdependence. He also noted that restrictive business practices posed problems for his delegation; as his delegation's argument for a multilateral agreement to liberalize world trade in services was based on the premise that the resulting increased international competition would benefit the world economy, the emergence of non-competitive markets, such as might be the case in information markets, would destroy that argument.

Finally, concerning the infant industry argument referred to in paragraph 12, he said what was at issue is to what extent industry policies could be successfully carried out in the field of services, given that the argument only made sense when applied to activities which can grow up to become internationally competitive.

9. While agreeing that all countries were dependent in the area of services, the representative of Brazil said that the real issue concerned economic interdependence among unequal parties. He noted that in the case of telematics, Chapter V, Section C (page 46) pointed out that the increasing centralization of control due to the expanded use of computer-communications system would heighten dependence and could result in insulating the peripheral economy. The representative of Argentina said that the absence of developing countries as major service exporters or having a favourable services balance meant that their situation was one of dependence on imported services rather than one of economic interdependence. The representative of India, supported by the representative of Malaysia, observed that real interdependence implied both mutuality of dependence and the availability of options with regard to dependence. In both these respects the situation differed between developed and developing countries, even in goods trade. As to services, while the interdependence referred to by the European Community may exist between some developed countries, this was not the case between developed and developing countries, as the latter were dependent on the former, particularly due to the revolution in information technology and telecommunications.

10. While recognizing that many developing countries were dependent on services imports, the representative of the United States suggested that the main problem may be for countries to determine how best to become competitive service exporters and thus become interdependent with, rather than dependent on, current service exporters. Citing paragraph 67 of the document, he noted that the issue was not simply independence or interdependence versus dependence but also efficiency versus self-sufficiency. Domestic services activities, especially those with a high technology content, could not be developed in a vacuum. In building up the best and most efficient domestic economy, the rôle of services as intermediate inputs necessitated their being provided to users on the best possible terms; thus it was not necessarily desirable to develop a full range of domestic service industries. The representative of Australia added that the notion of services exports should not be limited to high technology and that certain countries enjoyed a competitive advantage in certain low and medium technology services. The representative of Israel commented that being major services importers gave developing countries considerable bargaining power. He also noted that GATT provided for special and differential treatment, which could be invoked to deal with infant industry problems.

11. Concerning the question of whether "dependence" was more significant for developing countries, particularly in terms of services imports, the representative of UNCTAD outlined two opposing arguments. The first was that the importance of services as inputs into the productive process argued for a liberal import policy. Conversely, certain key services which were linked to the ability to absorb technology and human capital and to the ability to conceive, design and innovate, were crucial to retain an overall comparative advantage in both goods and services. As these skills had not yet evolved in developing countries, their importation could impede the evolution of the

human capital necessary for development and thus condemn the developing countries to perpetual dependence in these areas. Regarding restrictive business practices, he noted that TD/B/1008/Rev.1 only listed arguments why services regulations were needed and not the rationale behind them. Restrictive business practices were a problem in general for goods and services. With regard to regulations, he noted that in the absence of a clear understanding of the impact (potential or otherwise) of technological developments on a certain service sector it was hard to comment on the adequacy, or lack thereof, of existing regulations.

12. Regarding Chapter II, "Main issues", the representative of India noted the relatively low share of traded services (8 per cent) in world production, compared to that of 45 per cent for agriculture and 55 per cent for manufactures (paragraph 14, page 5). This meant that the trade aspect was not very significant and that perhaps a distinction needed to be drawn between those aspects of services relevant to trade and those relevant to national economies as a whole.

13. The representative of the United States commented that the notion of "tradeable" services versus "non-tradeable" services was a function of how trade was defined. As services were invisible, classical definitions of trade in the context of cross-border movements were not relevant and the notion of "commercial presence" might be more appropriate. Where national regulations prohibited cross-border trade in certain services, regulations governing the establishment and provision of those services within the country could be seen as corresponding to the concept of trade. He suggested that the relatively small percentage of internationally recorded trade in services reflected these different concepts.

14. The representative of Australia said the crux of the matter was not in defining which services were or were not tradeable, but the dynamism of the services sector in which many services were rapidly becoming "tradeable" (as described in paragraphs 16-17) and the impact that services could have on economic development. He was also struck by the statement in the text to the effect that an increasing awareness of the developmental implications of alternative service policies should enhance the potential for coherent international co-operation in this area.

15. The representative of the European Community questioned the basis for the statement in paragraph 34 implying that the transnationalization of services had resulted in their "transsectoralization", i.e. that a significant number of transnational corporations (TNCs) had engaged in selling integrated packages of services. He felt this was a rather futuristic view of the real world.

16. The representative of Argentina, noting references (paragraphs 20 to 23) to the strong services component in the national economies of developed and some developing countries, wondered whether the dynamism of services in these countries was attributable to the same causes, whether the consequences were the same and whether the efficiency factors and external influences were comparable.

17. The representative of India, in commenting on the recurrent theme of the dynamic rôle of the new or information-based services, wondered whether it

would be appropriate for the meeting to examine in depth what elements made this area so important as to influence the entire services sector, including many aspects of its trade throughout the world and the rôle of transnational corporations in this area. This suggestion was supported by the representative of Brazil, who also said that the rôle of TNCs also merited more in-depth examination, notably as regards the difference of approach of the issue of services by TNCs on the one hand and governments on the other. In this connection, it might eventually be useful to invite a representative of UNCTC to make a presentation to the meeting.

18. In discussing Chapter III, "Services in the growth and development context", a number of delegations raised various issues concerning alternative strategies and priorities governments might choose in promoting a services economy best suited to their national needs. Given the importance to growth and development of having efficient and well-run services sectors in crucial areas (as noted in paragraphs 45, 53 and 67) the representative of the United States wondered whether, this objective was not in contradiction with the notion of government planning for services development, and whether such planning would mean that imports of certain services may be prohibited until a certain level of domestic development of these services had been reached. The representative of the European Community agreed that the key sectors identified in paragraph 53 (i.e. banking, transportation, insurance, telecommunications and public administration) should be provided to users in the best possible terms, as noted in paragraph 67, that is by avoiding the danger of inefficient, over-regulated services. The problem of bottlenecks in the supply of certain essential services (paragraph 54) primarily concerned non-tradeable services. This argued for a distinction to be drawn between those services which could be imported more competitively (tradeable) and those which must be produced domestically (non-tradeable). The issue thus was not of dependency or interdependency but concerned the choice between an efficient versus a local producer. He asked whether the representative of UNCTAD considered one indicator of the level of development to be the extent to which the crucial services could be provided domestically and if a distinction could be drawn between tradeable versus non-tradeable services.

19. The representative of India said that the question was not one of "prohibiting" or restricting certain services, which would work against the country's interest, but whether a country should first develop its own services infrastructure. This meant looking at services not merely from the point of view of trade but also in the context of national development. The representative of Brazil agreed that the issue was not one of prohibition until each country had developed a wide range of services activities but that there were certain indispensable service sectors, which could vary among countries according to their various goals. He observed that other criteria besides efficiency (e.g. national sovereignty, social and cultural objectives, security issues) determined general policy choices. Further, as the sequential nature of the "three stages" theory of development was now being questioned, developing countries needed to consider the importance of having these sectors available domestically as their absence could put them in an uncompetitive position not only with respect to certain services but also in their traditional exports. He also questioned whether countries should assume international obligations which would influence the development

of certain services, including those perceived as vital to economic development, as many developing countries had not even begun to regulate these sectors.

20. The representative of Poland argued that irrespective of the level of development, all countries needed certain vital services to be economically viable. The fact that the share of services in GDP did not vary significantly between developed and developing countries obscured the differences in the structure of these services which was a more significant element in the make-up of an economy.

21. The representative of Argentina remarked that there were a number of interlinkages present in an economy, not only between the production of different services or of goods and services, but also in terms of the efficiency of sectors, irrespective of a country's level of development or whether in the hands of government or private enterprise. Constraints regarding the allocation of scarce resources and the ability to pay for imports of high-cost technology used in certain service sectors factored into the decisions of developing countries, in addition to considerations of efficiency or priorities regarding which sectors to develop domestically which were previously mentioned.

22. The representative of Yugoslavia noted that a country's level of development and the extent to which it could utilize a range of available services might influence choices as to the pace and extent to which technologically advanced services were promoted or imported. The representative of Pakistan added that this issue of appropriate technology, and who determined what was "appropriate", merited further consideration.

23. In referring to the view in paragraph 46 that the application of new technologically advanced services could reduce labour costs per unit and thus undermine developing countries' competitive position in labour-intensive goods and services, the representative of Japan wondered whether any consideration had been given to the labour-creating impact of these new technologies.

24. The representative of Australia emphasized the fact that international trade was dependent on an efficient services sector (e.g. shipping) and that his country's advances in such trade (i.e. initial ability to trade commodities, and eventually manufactures) had been linked to advances in transportation.

25. The representative of UNCTAD commented that the issues raised regarding the extent, causes and implication of the differences in the services sectors between developing and developed countries and whether the introduction of new advanced services technologies were able to compensate for the labour displaced related to the basic issue of what factors were behind the growth of certain services in particular countries. While no firm conclusions could be drawn concerning this issue, or the question whether the growth of the services sectors had an overall positive or negative effect on national economies, two prevalent views were (1) diminishing opportunities in the manufacturing sector, whether due to a decline in competitive position (e.g. as a result of protectionism) or due to the use of new labour-replacing

technology, had pushed people to seek employment in services; and/or (2) this growth was based on a pull from the services sector, drawing people to more advanced, higher paying jobs becoming available in this sector. In response to Argentina's question as to the source and consequences of the dynamic element in the services economies of developed and developing countries, he cited differences in the composition of the services sectors between developing and developed countries and thus in the level of support that services sectors could give to the overall efficiency of the respective manufacturing sectors. For example, in the 1970s "other business services", and "other services", which incorporated the most technologically advanced services, were among the fastest growing services sectors in developed countries yet declining in developing countries. Conversely, "trade and financial services" had been stagnant in developed countries while increasing in developing countries. The major challenge facing developing countries was how to organize the work force engaged in services to contribute directly to the efficiency and well-being of the economy.

26. With respect to the comment by the United States concerning the mix of services to be imported versus those developed domestically, and that by the European Community as to whether a country's level of development could be judged by the quality of its services, he suggested that the growth of the services sectors reflected the growth of an economy's complexity. Rather than waiting for the services sector to develop as a result of the country's overall development, which would tend to follow the three stage development theory which was now being questioned, developing countries might be encouraged to take measures to stimulate the efficient production of services to facilitate and encourage the "development of complexity". To this end, firms might want to externalize a number of services which presently were performed in-house to enhance the interlinkages with the rest of the economy. In terms of obtaining the best services on the best terms, he cited several examples in which developing countries had relied on certain services imports which had been supplied inexpensively (e.g. feasibility studies for engineering consulting services), yet had resulted in a higher final cost to the developing country than if they had been able to analyze the domestic situation and purchase the capital goods and financing arrangements on a component basis rather than the package recommended by the foreign firm. He added that while the import of efficient services could enhance the efficiency and comparative advantage of a country's exports of goods or services, certain local services were necessary to absorb technology; this technology transfer occurred only if the recipient could absorb it and adapt it to its productive process. The integration of goods and services into the productive process, including the components of design and innovation, facilitated a country's continual adaptation of its goods and services to changing world demand, which was one means of maintaining comparative advantage, and perhaps the crucial component of structural adjustment.

27. Discussion of chapter IV, "Public interest considerations and the idea of services regulation" focussed on different arguments and priorities concerning the formulation of national regulations versus deregulation of national service industries, and views concerning the desirability of developing an international framework in this area. In this context the representative of Japan drew attention to similarities between regulations for goods and services, and noted that public interest considerations also

were relevant to goods and were incorporated in Article XX of the GATT. He said his country was in the process of deregulating certain services sectors and suggested that the need to regulate might be variable both with respect to stages of development and also as between different services industries. It might be useful to consider which of the public interest considerations in Article XX were specific to certain service industries, and to which developing countries.

28. The representative of the European Community commented that services were regulated very differently from goods, and doubted that Japan's approach could be followed. For example, there was the need to distinguish between the standard of the service supplied and the person supplying it, which argued for regulating entry into specific services industries (paragraph 95). His delegation believed the purpose of "liberalization" of trade in services would not be to abolish regulations but to reach agreement on the most appropriate and least discriminatory forms thereof. His delegation thus agreed with paragraph 97 that, given the case for government intervention, there was no reason to distinguish between domestic and international transactions.

29. The representative of the United States commented that his country's decision to deregulate had been based on its own economic interest; other countries' decisions to deregulate would depend on the structure of their respective economies. His delegation took issue with paragraph 120's contention that inadequate and inappropriate regulation of certain key services sectors might have serious repercussions, and in this context, felt the Brazilian model cited in paragraph 121 had resulted in a high degree of protection and was therefore not a useful one to follow.

30. In response to the statement by the European Community, the representative of Argentina observed that it would be premature to identify certain principles, such as non-discrimination, on which to base any regulations on services. The needs and priorities of developing countries might necessitate regulation favouring domestic enterprises rather than a framework of international rules. Rather than try and extend certain GATT principles to services, it would be preferable to try and define common principles which would take into account differences of competitiveness in services between developed and developing countries. The representative of Brazil added that, depending on the level of economic development, even the principle of non-discrimination could permanently exclude competitors in different services markets or could delay the development of certain indigenous services sectors and thus force reliance on foreign suppliers in sectors perceived as vital. His country's policy on informatics was one response to a rapidly changing situation and was not necessarily intended to serve as a model. It was precisely because developing countries were having trouble responding to these rapidly changing services sectors that they would need to seriously reflect before they could embark on any exercise to develop international rules in this area.

31. The representative of India pointed to evidence that services were more highly regulated in developed or in developing countries. Many developing countries had not yet developed a policy framework for new services e.g. telematics, where developed countries had already gained considerable experience. He added that services regulations should not be analyzed in an

across-the-board manner, nor should they be viewed solely through the lens of trade. The heterogeneity of services regulations, of which the "Brazilian model" was just one example, might be explained by the fact that these regulations were developed in response to varying situations concerning different services sectors. These different motivations should be examined. For example, services sectors affected by rapid advances in technology may need to be regulated differently from more traditional services sectors. He also noted that deregulation was a recent phenomenon which thus far had not been applied across the board. He drew attention to a number of passages in the text arguing that welfare benefits could be derived from national regulations, including the need to control restrictive business practices and monopoly situations, and he suggested that the meeting should give further consideration to the issues, in particular that of restrictive business practices.

32. The representative of Brazil agreed that it would be important to focus on restrictive business practices in the light of the pattern and high degree of concentration of companies in the services sectors. He suggested that restrictions to market entry, collusive tendering, price fixing and other restrictive practices hampered international competition as much as did regulation of these sectors. While agreeing that restrictive business practices could be given closer consideration with a view to collective developing rules to deal with them, the representative of the European Community drew a distinction between the concentration of market power (which could lead to economies of scale) and market domination by a few companies, noting that the existence of a dominant position did not necessarily mean its abuse. He also pointed out that in some activities, e.g. accounting, one had witnessed the emergence of international partnerships which should not be confused with TNCs with centralized decision-making. The representative of the United States added that while the issue of restrictive business practices merited closer examination, national competition laws and how monopoly practices were disciplined in different countries also deserved careful consideration.

33. The representative of Switzerland felt the issue of national regulations should be the cornerstone of future discussions. It was important to determine what were the economic and political motivations underlying existing regulations to identify common elements which would lend themselves to multilateral trade rules. Not only services, but goods also were heterogeneous, and this had not precluded the elaboration of multilateral rules.

34. The representative of Yugoslavia was of the view that services regulations should be examined on a sectoral basis and suggested that all countries submit a list of obstacles encountered in the services area similar to Annex IV of the United States national study.

35. The representative of UNCTAD said that the rapidly changing services environment meant that a number of existing regulations might be outdated and require further analysis, although it was unclear as to whether there should be more or less regulation in individual sectors. Regarding questions raised concerning the degree to which services were regulated, he said that it was more a matter of differences in kind rather than in number of regulations among services sectors. For example, the need to maintain certain standards

in services where there was a direct linkage between the producer and consumer and thus no means of checking the "product" in the interim often resulted in a highly regulated entry into the market. He drew attention to a number of documents, on which TD/B/1008/Rev.1 either drew or which complemented it, including a number of UNCTAD documents on specific sectors and on restrictive business practices, as well as publications by the United Nations Centre on Transnational Corporations, the Intergovernmental Bureau of Informatics and the Club of Cali.

36. In speaking on Chapter V, "Services in the international context", the representative of Argentina, supported by the representatives of Brazil and India, said that neither services nor trade in services could be discussed in isolation and both must be considered in the development context. He reiterated his delegation's position that the meeting's mandate was to look at services and not trade in services. The representative of Brazil added that developing countries would have to assess whether it was in their interest to assume international obligations in services, taking into account whether these would detract from their development needs and aims. He also noted that paragraph 177, which highlighted some of the consequences of giving credence to the "three-stage" theory of economic development, vitiated the arguments made that increased access to developing country services markets would not only accelerate internal adjustment in developed countries but also increase opportunities for manufactured exports from developing countries. Given the interlinkages between these two sectors and the rôle of services as inputs into the productive process, developing countries would not gain from such arrangements. The representative of India concurred that this paragraph was useful in provoking developing countries to evaluate more fully the emerging realities of the changing services environment.

37. The representative of the European Community responded that in order to progress, it was sometimes necessary to isolate certain elements which in effect were interlinked. His delegation believed that the exchange of information in GATT should concentrate on trade, as that was that organization's primary focus. In this context, it would be important to arrive at a definition of trade in services which went beyond an illustrative list of different means of selling services; paragraph 146 discussed the need for a "commercial presence" and suggested two criteria in differentiating between trade and investment, i.e. (i) whether the ultimate transaction was between residents and non-residents, and (ii) whether or not the majority of the value-added was exchanged between residents and non-residents. Regarding Brazil's comments on the three-stage theory, the complementarity between goods and services in a well-functioning world economy would preclude dividing countries into exporters of services versus those of manufactures and agricultural products. Rather, as a country's net surplus in services increased, its corresponding surplus in a different type of export may decrease. He noted that, while it was true that internationally traded services were increasingly the domain of skilled labour (as noted in paragraph 168) there was no lack of skilled labour in developing countries, but perhaps more a lack of complementary capital.

38. The representative of Japan commented that the services deficits in some developed countries and surpluses in some developing countries illustrated the dynamism of international trade. He also said that identifying prices for certain services was one problem involved in devising a definition of the tradeability of services.

39. The representative of the United States felt that while the dangers were overdrawn in paragraphs 174-175 concerning the dependency resulting from the presence of TNCs, developing countries faced a real dilemma between wanting to rely on and develop their own services versus the costs to their economies of having to wait until efficient services sectors were developed.

40. The representative of India said the UNCTAD document confirmed his impression that there was a need to differentiate between the newly emerging information-based technology intensive services which impinged on the production and trade of all other in services, and traditional services industries. He agreed with the representative of the European Community that there were differences in the skill level of labour involved in these two types of services, the latter of which tended to be supplied by developing countries due to the transnationalization of service operations described in paragraph 168. The fundamental question concerned the amount of value added by labour to the service. The issue of migrant labour, in the context of the flow of factors of production other than capital, would need to be addressed in later discussions on the tradeability of services. Concerning the distinction between trade and investment, he said that confusion persisted because the boundary between these two was still unclear. He drew attention (together with the representative of Brazil) to the observation made in the text to the effect that TNCs considered the issues of trade and investment as elements of their global strategy, while governments viewed them as different elements to be considered in terms of productive and export capabilities and economic development (paragraph 169). He asked whether developing country trade in services was primarily between developing countries. He said that paragraph 179 summarized the range of issues developing countries must evaluate (inter alia balance-of-payments considerations, employment effects and the extent to which the supply of a service could effectively transfer technology to the country as a whole) when considering introducing or developing services into its economy, and illustrated why services could not be examined solely in the context of trade.

41. In response to questions concerning the notion of "tradeability", the representative of UNCTAD said this word was not necessarily an appropriate description of transactions in services. Some thought was currently being given to the notion of the "transportability" of services (notably by the International Management Institute in Geneva). This concept included elements such as services embodied in goods and whose imports affected employment in the services of the country into which it was imported (e.g. video cassettes) and the transportability of services through pure transborder data flows processed by the recipient. Another phenomenon to be taken into account when considering the "tradeability" of services was the dramatic increase in foreign income derived from services enterprises which exceeded statistical measures of increased trade in services. The tradeability of services had increased the profitability of, and thus demand for, foreign investment. The "transnationalization of services production" to which he had referred, derived from these changes in corporate structure as well as advances in technology. While this process might be in the incipient stage, as noted by the European Community, this transnationalization was a trend which would be expanding to fill the already established global "information grids". Recent research had indicated that mergers between TNCs were allowing the consolidation of human and other capital to provide a wide range of services at lower cost. While he agreed with the European Community that there was a pool of skilled labour in the

developing countries (e.g. in oilfield services, engineering and construction services, software operation) immigration restrictions imposed by developed countries impeded the importation of the labour-content of these services. He had no figures on the direction of trade flows and thus could not respond to the question raised by the representative of India; this however pointed to the need for more statistical data based on individual national studies. He agreed with the representative of the European Community that the division of countries into producers of agriculture, manufactures or services was simplistic. It was thus unfortunate that the argument that some countries must open up their markets to services to enable others to open theirs for goods was being advanced at the political level as it would inhibit the co-operation needed to help developing countries develop their services sectors. The complementarity between services and goods merited study in further depth.

42. The meeting then discussed a number of issues including the transfer of technology, the international flow of skills as well as views of various authors as presented in Chapter VI, "Policy issues: the existing framework and current proposals for future action". The representative of Brazil requested that reference to one author's observation that "The assumption that barriers to services originate almost exclusively in developing countries is misguided ..." (paragraph 239) appear in the records of the meeting.

43. The representative of UNCTAD in response to earlier questions, described the ongoing work of his organization, based on Resolution 309(XXX) of the Trade and Development Board, which included: (a) consideration of the definitional aspects of services; (b) strengthening and refining the data base at national levels, together with improvement of methodologies in this field; (c) future in-depth studies of services in the development process to enable countries to consider the contribution of the role of their respective services sectors in their development process and (d) assisting, upon request, interested member States in analyzing the role of services in their economies.

44. The Chairman drew the discussion of TD/B/1008/Rev.1 to a close and, on behalf of the meeting, thanked the representative of UNCTAD for his presentation and comments. He then directed the meeting's attention to the second item on the agenda, issues and concepts related to regulations affecting international transactions in services, which had been dealt with in document MDF/W/59 prepared by the secretariat. Following a brief introduction by the secretariat outlining the document, delegations were invited to first comment on the paper as a whole and then to consider the questions posed in paragraph 23 of the document.

45. Document MDF/W/59 was considered to be generally useful in facilitating and stimulating consideration of issues. The representatives of India, Israel, Brazil, and the European Community drew a distinction between the status of the UNCTAD document, which itself had been the focus of discussion, and that of the GATT secretariat document, whose purpose was merely to serve as background to a discussion of this item. Consequently, it would not be appropriate to examine the context of the document in detail.

46. The meeting considered questions posed in paragraph 23 of MDF/W/59. The first question was "how important it was to define various types of international transactions in services for purposes of considering the appropriateness and desirability of multilateral action in these matters?"

47. The representative of India urged that, as international trade was only one facet of the services issue, regulations should not be considered only in terms of the extent to which they restricted trade. The representative of Brazil concurred and added that the importance of discussing various types of international transactions depended on whether multilateral action was being considered in the field of international transactions, versus that of, for example, reaching development goals. The representative of Argentina added that since any multilateral action in services would have both direct and indirect effects on the economies of all countries, all aspects of services and not merely trade were relevant to considering whether multilateral action would be appropriate and desirable. The representative of Yugoslavia queried the order of the questions in paragraph 23, which did not leave room for dealing with important aspects of the issue, such as TNCs, or for a discussion of sectoral activities, in particular telecommunications.

48. The representative of the European Community, Israel, Japan and the United States felt that the answer to the first question was yes. The representative of the European Community said that as multilateral action was necessary for "tradeable" services while it was not for "non-tradeable" one, distinctions had to be drawn between different types of transactions in services to help clarify what was meant by "tradeable". The representative of Japan said that, given the speed with which non-tradeable services were becoming tradeable, typologies for transactions in services were necessary to structure consideration of this issue. He suggested that a typology for types of regulations should also be developed. The representative of Sweden said that looking at the effects of regulations was more important than defining or classifying them. The representative of Canada recognized that some delegations were interested in looking at services in a broad context, but disagreed that focussing on international transactions was taking too narrow a view. In services as in goods, international transactions had important broader repercussions on national economies.

49. Several delegations called attention to the "IMF-plus" definition of international transactions in services as defined in paragraph 7 of MDF/W/59 as including "all forms of sales involving a change of ownership between nationals of one country (or firms controlled by them) and nationals of another (or firms controlled by them)". The representative of Poland said that this concept seemed to imply that the criteria for determining international transactions was the status of the provider of the service vis-à-vis the country of sale whereas the GATT concept was based on the status of the object vis-à-vis the country of sale. The implications of this difference would lead his delegation to conclude that the present international agreements for goods based on the traditional classification of transactions would not be directly applicable to services. The representative of India agreed. He also wondered whether the "IMF-plus" reference to "change of ownership" applied to factor services such as rendered by temporary or immigrant labour (which were excluded from the

current IMF payments criterion). The representative of the European Community said that his delegation could accept the "IMF-plus" definition of international "transactions" in services, although it would have problems if this concept were applied to "trade" in services.

50. The meeting turned to question 2 of MDF/W/59, namely: "Is the sheer complexity and diversity of existing national regulations the central problem facing services industries internationally, or is it the current level of protection which these regulations afford against various forms of market access?"

51. The representatives of Canada, the European Community, Japan, Sweden on behalf of the Nordic countries and the United States believed both elements constituted problems meriting closer consideration. The representative of the European Community felt that the complexity and diversity of existing national regulations would need to be addressed, for example the existence of a number of different regulations in a country with a federated structure, but that did not mean that regulations would have to be removed. Compared with the protective effects - or intents - of regulations, complexity appeared as a secondary issue. The representative of the United States agreed with the latter point. The representatives of Japan and Sweden said that it would be difficult to differentiate between the two sets of problems as the diversity of national regulations was inherently connected with the issue of protection. The representative of Sweden said that a complex set of regulations without transparency could also function as a protective device in itself. The representative of Canada added that it was not necessary to decide which of the two problems was more important; further work on transparency should be undertaken and he noted that Canada was working on identifying specific examples of barriers (as had been presented in the national studies of the Netherlands and the United States) to help the meeting focus on this aspect.

52. The representative of Brazil, supported by the representatives of Argentina and India, said the formulation of the question was misleading as it implied that problems were limited to these two elements. He suggested that other problems facing services industries internationally had emerged during the previous discussion, including the lack of access to technology and information networks, restrictive business practices, the dominant position of TNCs, and the absence of national regulations in developing countries in some important new services sectors.

53. The representative of India emphasized that the complexity and diversity of national regulations simply revealed the complexity and diversity of the services economy and reflected the attempts of national administrations to come to terms with this fact. Referring to Figure 1, he drew attention to the asymmetry between considerations applied to international versus national regulations and asked why the intent behind the regulation was considered relevant to the latter and not the former. When focussing on the trade aspects of services, one should look at the trade effects of, and not the motivations behind nor legitimacy of, the regulations. Furthermore, if the intent of a regulation were under consideration, the choice presented between "restrictive intent" versus "maintained for other reasons" was inadequate as the latter lumped into one generic category too many considerations which might be of great relevance to this issue. The representative of Pakistan

added that it was his understanding that it was premature to discuss motivations before consideration had been given to the conceptual framework in which this issue would be viewed. The representative of Brazil said that the motivations behind a country's decision to apply a certain type of regulation could not be questioned; in the absence of international rules and commonly agreed law in this area, national rules were ipso facto legitimate. However, if there was an interest in tackling the issue from this angle, he would be willing to try.

54. The representatives of Canada, the European Community, Israel, Switzerland and the United States, said it was important to look at the motivations behind as well as the effects of national regulations. The representative of the United States added that it was useful to look at the "legitimacy" of a regulation, though a country's sovereign right to regulate could not be questioned. The representative of the European Community observed that the motivation behind a regulation only became an issue when a third country considered that the regulation in question hindered its trade. Further, the fact that two countries might see the same regulation in a different perspective did not imply that the existence of the regulation would be affected (e.g. while safety and health labelling regulations in the United States might hinder the European Community's exports, his delegation would not question the legitimacy of the regulations). The representative of Canada suggested that examining concrete examples of regulations which different countries perceived as barriers would facilitate consideration of this issue. He added that a discussion of the motivations did not impinge upon national sovereignty because, at the end of the day, it was up to the country in question to maintain or change the regulation. The representative of the European Community proposed that delegations begin working on drawing up lists of specific examples of regulations which were perceived as barriers. This was endorsed by the representatives of Australia, Canada, Chile, India, Japan, the Philippines and the United States. The representative of India echoing a point made by the representative of the European Community, said that one way to proceed would be first to determine whether a certain regulation had an effect on trade, and if so, to look at the motivations behind the regulation. If regulations could be looked at in this way, that may be a first step towards unlocking the issue.

55. The Chairman said that the discussion of issues and concepts related to regulations affecting international transactions in services would be continued at the next meeting, scheduled for 17-18 April. Regarding the next stage of work, he recalled that it had been agreed to consider point (2) of paragraph 15 of his report to the CONTRACTING PARTIES at their 41st Session (L/5911) namely "conceptual framework, statistical problems and methodologies". At the same time, the meeting could consider how to handle the question of the work of relevant international organizations. He also suggested that the following meeting be held on 12-13 May, at which time it would discuss item (1) in paragraph 15 of L/5911, "general characteristics of services". It was so agreed.