

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Services

TAXATION ISSUES RELATED TO ARTICLE XIV(d)

Note by the Secretariat

Addendum

Negotiators have requested the Secretariat to provide further clarification on the meaning of provisions in the GATS relating to the exclusion of tax measures from the scope of the Agreement. In particular, the following question was asked:

Is the tax terminology used in Article XIV(d) and its Note to be defined with reference to the laws of the country taking the measure at issue?

The point has been made that in its note of 10 November (MTN.GNS/W/178) the Secretariat had made clear that the question whether a person is a resident or a non-resident for tax purposes would be determined in accordance with the tax legislation of the country taking the measure in question, and that this might create the a contrario implication that the interpretation of other terms or concepts in Article XIV or its footnotes would not be so determined.

The first footnote to Article XIV(d) (footnote 8) refers to "measures taken by a Member under its taxation system". The phrase "under its taxation system" was intended to make it clear that the tax terminology used in the Article and its footnotes was to be defined with reference to the laws and regulations of the country taking the measure. The Secretariat Note of 10 November explained this point with reference to the determination of resident and non-resident status because that was the specific question which had been raised. But the point is valid with reference to the definition of other tax terminology in the Articles and the footnotes, such as "source". These terms also would be determined in accordance with the law and regulations of the country taking the measure.