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SERVICES

MINUTES OF THE MEETING HELD ON 1-2 APRIL 1985

Chairman: Ambassador F. Jaramillo

1. In opening the meeting the Chairman recalled that, at the first meeting on services held on 24 January 1985, there had been a consensus to consider, at the next meeting, the first eight national examinations submitted in 1984. These were listed in GATT/AIR/2121. He noted that as a number of questions on the five examinations discussed in January remained unanswered, delegations might want to return to them as well. While there were therefore thirteen examinations before the meeting, he proposed to begin with the eight submitted in 1984.

2. The representative of Canada said the Canadian examination had focussed on tradeable services, defined as international trade in services conducted at arms' length. The Task Force, which had been established by the Canadian government, and whose final report in July 1982 formed the basis of the submission to the GATT, relied on balance-of-payments current account statistics; while acknowledging the problems with these statistics, he felt they still served to increase the knowledge and understanding of trade in services.

3. In 1983 services (defined as economic outputs other than tangible goods and including services generally not considered tradeable) had accounted for 73 per cent and 75 per cent of Canada's GDP and employment, respectively; services imports comprised 18.6 per cent of all imports and services exports 11.9 per cent of all exports. Canada's current account had shifted from a negative balance in 1981 to slight positive balances in 1982 and 1983 due to increased merchandise trade receipts which covered the services account deficit. In 1983 the services account deficit was $16.8 billion, of which almost $11.2 billion were in the interest, dividend and miscellaneous income category, which were factor payments and not considered tradeable services. Canada's deficit in tradeable services had increased sharply between 1981 and 1983, though it was impossible to fully explain this change due to aggregation of statistics. He hoped to be in a better position to do so by mid-1985 when the latest statistical survey, which was now being conducted on an annual instead of a quadrennial basis, would become available.

4. Some of the recent changes affecting services sectors included those which either had occurred or were being proposed in the financial institutions sector. The maximum share of the Canadian market open for foreign banks had been increased from 8 to 16 per cent of assets. In the securities industry, which fell within provincial jurisdiction, a February 1985 proposal from the Ontario Securities Commission called for the relaxation of non-resident ownership restrictions. The Foreign Investment Review Act (FIRA) was in the process of being replaced by new legislation, which would eliminate much of the current review of foreign investment in Canada. To this effect, an Investment Canada Bill had recently been introduced in Parliament; the Bill reserved, however, the government's right to review investments in culturally sensitive areas. Proposals for review of copyright

laws had also been tabled, and a new strategy in the tourism area, called Tourism Tomorrow, was being elaborated. In addition, changes had been made in the taxation system to improve the treatment of Canadian nationals earning income abroad, a factor which had affected the international competitive position of Canadian services companies working outside Canada. He concluded by stressing the importance his government attached to the principles of the multilateral trading system embodied in the GATT and to the need for contracting parties to discuss and seriously consider the issue of trade in services.

5. The representative of Switzerland was interested in exploring the motivations and objectives behind the obstacles listed in the section on foreign legislation affecting Canada's direct investment abroad. He suggested that structural changes, as well as obstacles to trade, could pose problems for service firms, and he wondered how far discussions on this point had gone in Canada. Reference was made in the Canadian submission to a suggestion contained in the discussion paper on import policy proposals which did not authorize the imposition of countervailing or antidumping duties on services as such. However, it would allow their imposition on goods to compensate for dumped or subsidized services. The representative of Switzerland wondered whether such an approach conformed with present GATT rules and whether one could consider the problem of unfair trade in services in the same way as for goods.

6. The representative of Argentina drew attention to the fact that the Canadian national examination focussed on international trade in services which implied a limited interpretation of the 1982 Ministerial decision which referred generally to services. He also noted that the Canadian study contained no analysis of the structure of the services sector with respect to monopolistic or oligopolistic practices and the respective participation of the public and private sectors. For example, it was unclear whether the growth rate of employment in some sectors could be attributed to the public or private sectors (e.g. in telecommunications). He also wondered if the Canadian delegation could provide more information regarding the activities of multinational enterprises in the service sectors, and to what extent these activities were affected by either sectoral or general Canadian legislation. He further asked to what extent the growth in the non-financial services component of Canadian investment outside Canada could be linked to foreign investment, particularly as regarded activities of foreign banks. In this respect, he noted the Canadian study referred to the right of establishment and other such issues which his authorities felt were not necessarily linked to services trade.

7. The representative of the European Community noted that a considerable number of sectors fell under provincial rather than federal jurisdiction, an issue which was not limited to Canada and merited future attention. He concurred with the observation in the Canadian study that a deficit in tradeable services was not necessarily undesirable nor symptomatic of a structural weakness, and underlined the interdependence between trade in services and trade in goods which argued for looking at balance-of-payments trends in their totality. It was also important to realize that barriers were widespread and did not only exist in developing countries as evidenced by Canada's remark concerning barriers in the OECD area in construction and engineering sectors. Canada's statement that the rapid transfer of technology via communication of knowledge in the consulting and other business services sector implied the need for continuous creation of new knowledge and might mean that comparative advantage was more ephemeral for services than for goods. This was an important issue which deserved careful

study. He wondered why Canada had decided to disband its national maritime transport fleet, and observed that this raised an interesting issue concerning national security.

8. Several delegations were interested in the method of collecting and analysing data. The representative of Yugoslavia wondered whether different provinces used the same standards concerning data collection and analysis and asked in which service sectors did Canada encounter the greatest difficulties in obtaining data which provided some degree of international conformity. This could be important if there were ever to be consideration of anti-dumping or countervailing action. The representative of the United Kingdom wondered whether better data was expected from changing the quadrennial survey to an annual basis, particularly regarding individual services and trade between Canada and individual countries. He also requested more information concerning the rationale for the recent liberalization of foreign banking, notably as regards the change of the participation rate from 8 to 16 per cent.

9. The representative of Canada agreed that it would be important at some stage to look at socio-economic reasons for regulations, but the question had not so far been studied in depth in Canada. While it might be difficult to determine fair pricing or levels of subsidy, he felt that the issue of non-tariff measures such as countervailing duties and subsidies would have to be addressed seriously. Concerning the distribution of services between public and private sectors he said that the government portion of domestic services employment had started to fall and that growth was now occurring in the private sector. While he presently did not have firm statistics regarding the respective public and private shares in telecommunications, he noted that the sector had a heavily regulated oligopolistic structure. Regarding treatment of multinational corporations, those currently in Canada had been screened under the provisions of FIRA; once established, they received the same treatment as Canadian firms regarding their operations in Canada. Similarly, statistical compilation did not differentiate between domestic or foreign established firms as to the contribution to the domestic economy or to exports or imports of trade in services. He could not presently provide an accurate breakdown of the growth of financial versus non-financial services and the linkages to foreign banks but would do so if it became available.

10. The right of establishment was one issue that would have to be looked at in detail: services were delivered in a different manner from goods, sometimes requiring a presence which might necessitate rules regarding the right to conduct business. While recognizing that establishment had not been covered by GATT rules, Canada was keeping an open mind regarding all issues concerning how service firms conducted business and what constituted trade in services.

11. He acknowledged the European Community's concern regarding split jurisdiction between the federal and provincial level and hoped to engage in constructive discussion on this matter. Canada's government-owned deep sea merchant fleet had been abandoned after the second World War; while this issue remains under review, the general view held by many sectors in Canada was now that the ability of exporters to shop around for maritime transport

helped them in obtaining the most competitive transportation. Canada was trying to improve its data in cooperation with international bodies, but it was too early to know whether the data would ever be adequate to determine, say, antidumping or countervailing duties. Nor were major improvements in data to be expected over the next few years as a result of putting the quadrennial survey on an annual basis. As to the decision to increase participation of foreign banks from 8 to 16 per cent, he said this stemmed from the fact that the 8 per cent ceiling which had been established in 1981 had been reached more quickly than expected, due in part to the recession which had caused a decline in Canadian assets. The ceiling was now set at a level which Canadian authorities felt could be expected to be reached in the absence of restrictions. The justification for the restrictions was that the most valuable asset of foreign banks, that is their connection with the parent companies, was beyond Canadian jurisdiction. Special problems therefore arose in protecting Canadian depositors.

12. In introducing his country's examination, the representative of the United States said that the increasing attention paid to the services sector in the United States was the result of the substantial growth of this sector in the last 15 years: approximately 70 per cent of all employment was in the services sector, including government; 19 million out of the 20 million new jobs created in the 1970's were in services. While many of the structural changes in the economy had been accomplished through modernization of domestic industries, employment in those industries which were not competitive had shifted into newly created service sectors. On the other hand, while statistics were not necessarily reliable, during the 1970's the growth of U.S. service companies abroad had stagnated due, inter alia, to barriers being imposed by foreign governments. The United States' examination encompassed areas treated by a number of other studies, and reviewed some international understandings, including a preliminary analysis of how GATT rules might apply to trade in services. Detailed data had not been given because the information available was poor and data collection was being undertaken as a separate exercise. He noted that if there were inconsistencies in the descriptions of obstacles encountered by different sectors, these mainly reflected different perceptions of the operators. He hoped to be able to submit a detailed appendix on trade barriers by country by the next meeting. He concluded by saying that observations contained in the United States' examination had been made prior to any discussion in GATT, and had been intended to focus discussion on what some of the issues were and on the complex nature of these issues. The United States kept an open mind on the substance of the matter and looked forward to a fruitful exchange of views in the GATT context.

13. The representative of the European Community, referring to a statement in the United States' study to the effect that the growth of developing country exports in 1974-1980 in each IMF service category had outpaced that of developed countries, said that particular attention should be paid to comparative analyses of this nature as it was very important to ensure that the basic data used is correct. He noted that, like Canada, the United States had many local government regulations and that further information on these may be needed. He felt that the study did not explain the basis on which it formulated its "working assumptions", particularly that trade in services, like goods, was an engine of growth and that liberalized trade in services benefitted both producers and consumers. This was a matter for discussion and no firm conclusions had been reached yet. The representative of Argentina concurred with this observation, and felt that the assumptions on which the study was based may have influenced its conclusions.

14. The representative of Switzerland suggested that instead of analyzing whether GATT rules were applicable to services one could first look at the particular problems arising in the services sectors and then look only at what types of regulations may be needed and what existing rules were relevant. In this context, he suggested in particular that the motivations behind the measures hindering trade in services should be examined rather than just the measures themselves. Specifically, he wondered how the "right" to negotiate contracts with local business to supply services in a foreign country, included in the United States' concept of "access to the distribution system", could be formulated on an operational basis.

15. The representative of Argentina said his authorities requested further information concerning whether the process of deregulation of certain services sectors had led to concentration of activities, and if so, to what extent they were concentrated in multinational corporations. With respect to general data presented concerning trends in telecommunications, he wondered whether these were accurate or if the United States was projecting its individual experience in the sector as a whole to the rest of the world. He asked whether the sharp increase in the service component of families' total expenses could be attributed to higher social/medical costs rather than increased travel or leisure expenses or free time. He observed that, from a statistical point of view, the United States had used a very wide definition of services which might not be shared by other countries. For example, how had the 10 per cent figure for service value-added components in agriculture been derived? He further noted that state monopolies had been singled out as creating problems, but private monopolies could also apply protectionist measures.

16. The representative of the Netherlands saw an apparent contradiction between the general view espoused throughout the study concerning the usefulness of free competition and comparative advantage, and the statement in the section on maritime transport that free competition in liner shipping did not necessarily ensure efficient service or the best price over an intermediate or long run. In the light of the distinction made in the United States' study between government regulations which were clearly protectionist, those which served legitimate domestic objectives, and those which contained elements of both, he wondered why the United States did not believe it appropriate to talk about immigration policies in the GATT since there could be protectionist elements in such policies. The representative of Pakistan, noting that labour was an integral component of some service sectors, for example in construction or restaurant business, said that restrictions on immigration should be discussed in such situations. He asked whether the United States would treat such situations as being related to trade in services or to the overall problem of immigration.

17. The representative of Yugoslavia said that the United States examination focussed disproportionately on barriers imposed by other countries and that it would be useful to know more about United States' regulations. The representative of the United Kingdom, while finding useful the categorization of obstacles presented by the Unites States, would have liked to know more about the consequences that could be drawn from this. He also noted the absence of data on trade with individual countries in the United States' proposals to improve its data, and asked whether this aspect of trade was not considered important by the United States.

18. The representative of the United States recognized that there may be inconsistencies between the basic assumptions made in the United States' examination about the effects of free trade in services and arguments for protection made in some parts of the examination, but he did not think this affected one way or another his government's conclusions regarding the need to study the issues in the services sector. Regarding state jurisdictions in the area of services he acknowledged that this may affect the ability of the United States government to commit itself to certain principles. While state regulations were fairly open, the issue of sovereignty remained sensitive. The question was being examined in the United States, and his delegation would provide guidelines on it at a later stage.

19. On the question of access to the distribution system, he said that the "right" of access should be judged from the point of view of whether the regulations were reasonable. The problem was: could trade rules govern the right to own a distribution system? This was basically an investment issue, but the "right" to contract with a local distribution system was seen as a practical way of getting around the investment aspect.

20. The motive behind deregulation in a number of sectors in the United States had been the feeling that there was not enough competition, nor enough companies. As could be seen from the situation in coastal shipping, the degree of free competition needed was also an issue in his country. On the other hand, the dynamism that may have resulted from deregulation, say in telecommunications, could be attributed to management styles rather than to global trade trends, and of course some dominant firms remained in the market. As far as immigration was concerned, while ideally one should not exclude any issue from discussion, as a practical matter it would be difficult to subordinate immigration rules to trade rules. United States immigration laws were very strict, especially with respect to construction workers. Commenting on state regulations, and in particular the reciprocity provisions contained in them, he said that these were mainly aimed at other states, not at other countries. In practice these regulations did not operate to limit the activities of foreign firms. For its part, the Federal government would oppose the use of reciprocity as a tool to regulate trade.

21. The representative of Italy, speaking on behalf of the European Communities and its Member States, stated that the information exchanged up till now included both a European Communities' study and studies by several of the member States. This duality reflectd not only practical considerations but also the fact that the internal legal situation within the Community regarding the division of competence between the Community and its member states in pursuing external policy in the field of services was in a state of evolution. For this reason, not only the Commission but also individual members states of the Community would contribute to the proceedings in these meetings. When there was an agreed Community line this would, without prejudice to the question of where the competence lies, be expressed by the Commission.

22. The representative of the European Community outlined the content of the Community study. The study distinguished between market and non-market services, and compared developments in manufacturing and the economy as a whole, leaving out agriculture and utilities which were of little relevance to a discussion of services. The shifting trends in the structure of the

economy of the Community during the last fifteen years perhaps illustrated a structural adjustment process towards services. While some of the shift in production might be illusory, there was also evidence of increased services being sold to consumers. He outlined a number of data problems that had been encountered, including the inability to determine the extent to which data were accurate or represented what they were supposed to. Sometimes net rather than gross flows were presented, and geographical breakdown was not available or not reliable. Therefore, data should be treated with caution if used to draw conclusions on which policy decisions were to be based. He drew attention to the fact that Community legislation should be read in conjunction with that of individual member States. In conclusion, he referred to the recent declaration by the EC Council of Ministers that services seemed to be suitable for inclusion in a new round of multilateral trade negotiations in the GATT. Therefore, his delegation attributed great importance to the work on services being carried out as expeditiously as possible.

23. The representative of the United Kingdom characterised the United Kingdom's national examination as a descriptive document prepared in an attempt to apprehend what internationally-traded services were, what part various sectors played in the United Kingdom's foreign trade and how, if at all, they were regulated in the United Kingdom. Certain conceptual problems were encountered consistently, in particular what could legitimately be regarded as a traded service, and how the economic contribution of such a service could be evaluated. In this connection, care was needed in defining services as opposed to invisibles: the latter included items like government transactions, unrequited private or public sector transfers, which were classified as services in the statistics but realistically were not traded services. Similarly, there were differing views as to whether interest, profits and dividends should be regarded as a services activity or as a return on an investment. For private sector services activities, the government had relied very heavily on data supplied on a voluntary basis. The quality of the data gathered was inevitably affected by the degree of co-operation from particular sectors.

24. He believed that the United Kingdom's regulatory regime was somewhat less onerous than that of other countries. There was also a strong tradition of self-regulation in the professions, subject to the requirements of competition law. Thus, draft legislation on financial services and investment protection, introduced in January 1985, provided for prior authorization for any "investment business" being conducted in the United Kingdom, and the power to grant this authorization could be delegated to one or more regulatory bodies composed of both providers and users of financial services.

25. He concluded by saying that an overall approach to services, giving the flexibility to handle special circumstances of individual sectors, offered the best chances of success at the international level. In this context, particular attention should be paid to the possible application of existing international provisions governing trade in goods and to the experience gained in preparing and operating those provisions.

26. In response to a question from the representative of Switzerland concerning whether problems encountered by private service entities in third markets stemmed sometimes more from restrictive laws and regulations in those

countries than from a lack of innovation or competitive efforts to adapt to change, the representative of the United Kingdom said that of course the least competitive would complain most, but his expectation was that the removal of restrictions would have positive economic effects in terms of allocation of resources and benefits to consumers, and those were the main aspects to keep in mind.

27. The representative of the Netherlands outlined and commented briefly on the Dutch examination. The categories of obstacles presented in the section on constraints encountered abroad had been based on replies by businesses to a detailed questionnaire. Some of the constraints were based on legitimate concerns and therefore his authorities felt that there was scope for international efforts, notably in GATT, directed towards the gradual elimination of barriers to international trade in services. In this connection, he shared the views of the United Kingdom's delegation concerning future work. He made available an annex to the Dutch examination dealing with tourism.

28. The representative of Argentina asked for clarification of expressions such as by "making better use of comparative advantage" or "early recognition of the special condition" of countries only involved on a limited scale in international trade in services, which were found in the Dutch study. Could the Netherlands' representative give data on the distribution of capital between domestic and foreign service enterprises and on the distribution between public and private services? Concerning the categorization of obstacles in the study, he asked which categories of services required direct investment abroad. He observed that the restrictions listed in the specific sectors generally concerned limitations on the establishment of companies or persons, and laws and regulations on foreign investment rather than services. Concerning shipping, he wondered what was the basis for stating that government interference was prompted solely by protectionist considerations and wished to know what specific documentation requirements were referred to as administrative constraints in this sector, and in which way they presented an obstacle. Finally, he queried how the Dutch requirement of reciprocity in air transport tallied with the statements made in the study concerning protectionism in shipping.

29. The representative of the Netherlands replied that while this was not yet demonstrated, the authors of the study felt that the theory of comparative advantage, as accepted in economic literature regarding trade in goods, also applied to trade in services. However, as service activities had reached different stages of development in different countries, special treatment along the lines of GSP for goods might be considered for services. While precise data were not readily available on the distribution between public and private sectors, he stated that the Dutch government participated to a substantial degree in public utilities, railways, post, telegraph and telephone services, and in KLM (the national airline). His authorities were however, in the process of privatizing the PTT to some extent. On restrictions, he said that banking and insurance were two fields in which restrictions on right of establishment could create special problems. In the area of shipping, the specific restraints listed had been compiled on the basis of replies from the business sector. Some of the problems resulted from general regulations concerning trade rather than being specifically related to the services element of the activity. Concerning air transport, the Netherlands had only one international airport, and as totally free

access to it would lead to congestion, this was the reason for applying the rule of reciprocity in this sector. In reply to a request for clarification from the representative of India regarding certain measures identified by Dutch firms as restraints faced in his country, he said that the fact that these measures were referred to did not imply that they were applied on a discriminatory basis against Dutch exporters of services.

30. The representative of Sweden described recent developments concerning Swedish trade in services. As of January 1985 the "principle of need" for establishing insurance companies had been abandoned; in order to deny a licence Swedish authorities must now prove that the establishment of a company would be harmful to the sound development of Swedish insurance business. As of July 1985 foreign banks would be allowed to establish in Sweden, subject to the same regulations as Swedish banks, e.g. they must form a joint-stock corporation in order to be allowed to take deposits from the public. The Swedish government recently presented a bill providing support to service exporters on the same basis as to goods exporting companies. It also suggested that a complete statistical publication on Swedish trade in services be compiled on a yearly basis. In addition, several hearings were held with service exporters to determine what kind of barriers they met on foreign markets; the results of those meetings would complement the information contained in the study.

31. In outlining the Swedish examination, she noted that services comprised nearly 65 per cent of GDP and employment, with nearly half of the latter in the public sector. Between 1981 and 1982 service exports had increased nearly 21 per cent; however, the 1984 service balance was going to be more negative than in 1982 due to increased interest payments, decreased construction exports, large foreign losses for insurance companies and losses in tourism. She noted that the increasing importance of service activities offered a promising potential for trade and economic growth. The growing number of regulations affected that potential and thus called for multilaterally agreed principles concerning their impact and legitimacy. The concept of "trade" in services also should be discussed, as it was difficult, for example, to separate services trade from trade in goods. As it would be difficult to apply separate rules and policies to trade in services if these were an increasingly integral element of trade in goods, careful consideration should be given to the extent to which GATT principles might be applied to services.

32. Concerning the recent changes in Sweden's banking regulations, the representative of the European Community asked why Sweden felt it was in its interest to liberalize unilaterally. The representative of the United States expressed the hope that Sweden would provide progress reports concerning the admittance of foreign banks and the future liberalization of that sector.

33. The representative of Switzerland asked for clarification on the concept of "definition of legitimate interests" used in the study, and wished to have a clearer view of the Swedish approach to the handling of investment issues, the rôle of which should also be examined on the basis of the Swedish study, given the fact that the Swedish study proposed that GATT should concern itself first of all with the aspects linked to the rules and instruments of the trading system. The representative of Argentina noted that, as other national examinations the Swedish paper referred to "trade in services" in

connection with the 1982 Ministerial Decision. This, however, only referred to "services" generally. Like Switzerland, he was interested in the concept of "legitimate interests", and how this related to the concept of liberalization of trade in services. In particular, what would happen if there were not yet a definition of legitimate interests for a particular country? Turning to specific aspects of the study, he asked whether the substantive participation of the public sector in services still persisted or whether it had been a structural trend. Concerning telecommunications and computer services, he wondered whether there was any legislation relative to the linking of information flows between private companies and Televerket, the central state authority. In the same sector, did the growth of investment (30 per cent for computers and computerized equipment) derive from internal or from external demand? His authorities wanted to know what criteria were used by the Swedish government to determine the nature and extent of subsidies provided to Swedish service project exports, and how Swedish authorities made certain that the subsidies did not get transferred beyond the stage of covering the costs of tendering, feasibility studies, seminars and educational activities. Regarding regulations concerning civil aviation, his authorities wanted to know what was meant by "a position and market share corresponding to the interests of Sweden", given that, e.g. tariffs were determined at the international level. The representative of Argentina also had a number of questions concerning statistics and there were also questions on statistics from the representative of the United Kingdom.

34. The representative of Yugoslavia requested more information concerning Nordic cooperation in the civil aviation sector, particularly as it related to trade issues and the removal of barriers. In addition, she asked whether Swedish shipping companies still had to give certain preferences to Swedish and other Scandinavian crewmen. She was also interested in the points made by the representatives of Switzerland and Argentina on some concepts put forward in the Swedish study.

35. The representative of Sweden said that the decision to liberalize the banking sector had been based on the fact that, as Sweden was one of the last countries in Europe to let in foreign banks, Swedish banks had faced problems with reciprocity requirements in other countries. No ceiling had yet been determined with respect to establishing foreign banks, which would be let into Sweden gradually. On the question of "legitimate interests", she did not think it would be possible to define common criteria as to what might be considered the legitimacy of government regulations, but it would at least be necessary to know the motivations behind the regulations that exist. As to investment, this was considered to be relevant to services trade because service exports often were achieved through this means. Finally, she stated that the public sector had increased its share of services in Sweden until 1982 but not since then, partly due to policy and partly due to the budget deficit. The support to Sweden's project exports should be seen as guarantees rather than subsidies. She would provide answers regarding telecommunications/computer services and airline traffic regulations at the next meeting.

36. The representative of Finland said that the Finnish study focussed on internationally traded services, and thus excluded investment and transfer items. The rising share of services in GNP and employment indicated their significance in Finland. Balance-of-payments data, based on the UN system of national accounts, showed steady growth in foreign trade in services since the 1970's; some of this might be attributed to structural changes resulting from the oil crisis and adjustments thereto. The services account was generally in surplus; however services imports were increasing faster than

exports. She gave some details concerning the maritime transport, travel and "other services" sectors; the latter accounting for one-third of total services trade in Finland. Finland's view was that international trade in services merited international consideration based on national reports already prepared and to be submitted. Of particular importance would be an analysis of what constituted international trade in services (especially what comprised "other services"). The subject of what could be done to improve multilateral cooperation in services also should be discussed.

37. The representative of Argentina again called attention to the fact that the Finnish examination referred to trade in services, which his delegation considered a limited way of interpreting the Ministerial decision and which could lead to future difficulties. He asked if certain services sectors showed greater dynamism in terms of their contribution to GNP and whether this was related to the degree of public or private sector participation in these sectors. He also asked which specific sectors were included in general terms in the study. He requested more information concerning the respective public and private shares in the maritime transport sector, which represented 40 per cent of services income. He sought clarification as to whether his authorities were correct in assuming that the reference to government subsidies which distorted or disrupted international trade was limited only to the construction sector. He asked to what extent statistical difficulties had hampered analysis of the specific sectors chosen. In view of these statistical problems, the lack of an accepted definition of services, and the need for a better understanding of the economic problems of this sector, he wondered how the Finnish study could conclude that GATT had an important rôle to play in analyzing the problem of trade in services. In this respect, his delegation felt that the Finnish conclusions had gone beyond what could be discussed at this stage.

38. The representative of India wondered whether the comment made in the Finnish study that special attention was required to secure small countries' access to the international services market meant that Finland had found special characteristics for services requiring this type of treatment. If so, this would seem to militate against the argument that the underlying principles of the General Agreement might be applied to the services sector as a whole.

39. The representative of Finland said that it would be hard to determine whether the public or the private sector had been more dynamic in her country as both had grown in parallel. She noted that "other services" seemed to have been the fastest growing sector. Concerning the problems of subsidies in the construction sector, public transfers had been a major problem in this sector in some countries and had made competition abroad difficult. Statistics of course needed refinement, but they provided an adequate overall picture to permit a general discussion of the kind Finland had proposed. In terms of the summary of problems and issues for further consideration contained in the study, she felt that there was a long exploratory process ahead. International negotiations could only take place after a common understanding had been reached concerning such problems and issues. In reply to India, she said that the thoughts put forward in the study were preliminary, but her authorities did feel that it was important to keep in mind the problems small countries might encounter in trying to enter an international services market.

40. The representative of Japan, in presenting his country's examination, first alluded to the statistical problems that had to be met, due to the lack of a clearly established industrial classification, or of any internationally agreed classification of basic concepts of "services", including what was meant by traded services. He then emphasized that his government was doing its best to deregulate, in order to accelerate the internationalization of Japan's economy; in this respect relevant information would be provided whenever further deregulation decisions would be taken which had an important impact on international transactions. On a preliminary basis, whatever definition was used, his authorities had come to the conclusion that services constituted an important and dynamic economic activity as regards employment, output and international transactions. The lack of sufficient knowledge in this field necessitated further discussion in international fora, particularly in the GATT, concerning, but not limited to: services definition and coverage; statistical problems and methodologies; national and international regulations, including the underlying rationale and motivations. It would therefore be useful to have a comparative study on all the national examinations already submitted and those to be submitted, and he urged the secretariat to expedite the preparation of the analytical summary of information provided for in the November 1984 Decision of the CONTRACTING PARTIES.

41. The representative of Argentina observed that no distinction had been drawn between employment in the private and public sectors in the Japanese study. In this respect, he asked if those services showing the most growth had been in the public sector. He also asked whether the tendency towards multiple operations of industrial enterprises resulting from strong industrial concentration was a characteristic of Japanese service sectors or would apply to other countries as well.

42. The representative of the European Community thought the point made in the Japanese study well taken that the social and public character of a number of service sectors (e.g. finance, insurance, telecommunications) necessitated government intervention, and that perhaps this was an area where services differed from goods. He also took note of the point made that the set of tradeable services was smaller than the services sector as a whole, as their large human element or regional nature required that a number of services be produced and consumed in situ. On the same point, the representative of India asked why government regulations which could impede increased international trade in services should be seen by Japan as a necessity in services sectors with a social or public character when others saw these regulations as obstacles. Regarding the second point raised by the European Community, he asked why a large human element or regional character would exclude certain service sectors from trade. The representative of Switzerland asked whether there might be a certain conflict in the aims of the Japanese banking law, recognizing the "public nature" of banking versus also respecting, as much as possible, banking institutions' autonomy and originality of management. In that context, he also referred to the fact that the Japanese study indicated that the public authorities intervened actively in financial services through regulations because of the "public" character of those services. The representative of India sought clarification as to the nature of those services which had been supplied without payment to enterprises and households and which were presently developing into a new commercial industry. Also, how had Japan reached the conclusion that services were less dependent on trade than goods? Concerning this last point, the representative of the United Kingdom felt Japan could not draw that conclusion on the basis of the figures presented as the percentages compared the gross value of exports with the value added.

43. Regarding telecommunications, the representative of Argentina sought clarification as to what Japanese authorities considered to be the information sector: did it comprise just telecommunications or also data processing? His authorities also wished to know to what extent it could be considered that there were no laws specifically regulating data processing since there were general laws relating to telecommunications. The representative of the European Community asked if there were plans to introduce legislation in this field. In the light of the recent privatization of the NTT, the representative of the United States wondered whether proposed regulations regarding participation of domestic and foreign private companies would be made available in draft form to enable interested governments to comment. Concerning insurance, while foreign and Japanese companies received national treatment according to the regulations, United States' insurance companies were having problems in applying for licences which were not granted unless new forms of insurance were to be provided. Similarly, while lawyers were not discriminated against on the basis of nationality, he asked when was the last time a non-Japanese lawyer had been admitted to the Japanese bar. This raised a basic question as to whether providing national treatment translated into an ability to conduct business. The representative of the European Community echoed these concerns about the insurance and legal sectors. Regarding insurance, the representative of the Netherlands requested figures indicating the share of the Japanese insurance market taken up by non-Japanese companies.

44. Concerning construction and engineering, the representative of the European Community observed that certain regulations were under provincial rather than federal jurisdiction. The representative of India requested specific information as to the provisions of the Construction Contractors Law of 1949 (as amended in 1978) relating to restrictions on foreign participation in Japan.

45. The representative of Japan said he would refer many of the questions back to his authorities in Tokyo and submit their responses at a later meeting. He made the general observation that virtually all service activities in Japan currently were being reoriented towards internationalization. He also stressed that a number of qualitative as opposed to statistical analyses had been included in his country's study. In reply to one question, he said he was unable to provide information on the breakdown between public and private sector employment as there was presently no standard demarcation in Japan between these two sectors regarding service industries and the situation was evolving as a result of deregulation. Similarly, it was not possible to say which sector was growing fastest. As far as multiple operations of services enterprises were concerned, there were no regulations in Japan restricting entities from extending their activities into different sectors. He did not think such extension was a particularly Japanese characteristic but rather reflected the behaviour of firms guided by the profit motive. Regarding banking regulations, he stated that government intervention had been designed to secure the autonomy and independence of banking management, and there was therefore no contradiction with recognizing the "public nature" of banking. As to the general statement about the human element in services made in the study, he said this should be understood to mean that some services, like lawyers, were characterised strictly by their human element, and that trade in goods, e.g. televisions, could not be compared with trade in lawyers. Examples of new services products formerly provided without cost included

cooking instructions for pre-packaged or pre-cooked meals for new ovens, and telephone answering services for households.

46. His authorities considered that the rôle of telecommunications consisted primarily in providing reliable services networks. Data processors were considered users of those networks. The telecommunications regulations cited in the study only aimed at assuring the high quality of the networks. This was why no specific regulations existed at present on data processing. He noted that his authorities presently were considering legislation to protect programme rights. Regarding the advance publication of draft regulations in the telecommunications sector, he noted that the problem was one of balancing the legitimate concerns of foreign authorities against the need to maintain the integrity of their system. However, the issue raised by the representative of the United States was of a bilateral nature at this stage and this was not a appropriate forum in which to discuss it.

47. The Chairman invited delegations to consider replies to the outstanding questions on the national examinations discussed at the meeting of 24 January 1985.

48. The representative of the Federal Republic of Germany provided the following replies to questions outstanding from the last meeting: Areas of harmonization which could lead to progress in international services activities (MDF/6 page 7, paragraph 29) were considered to be, from the government's side: legal conditions of data flow across borders; from the telecommunications administration's side: tariff principles for circuits charged on a terminal-sensitive basis and technical standards for interworking between data technical equipment and networks; and from the manufacturers/users' side: application of internationally harmonized standards, (e.g. ISO, CCIT). Regarding the DBP regulation on processing of data issued in early 1982, generally, in the service area of the DBP, neither the type, contents nor place of processing of cross-border data flows were subject to influence or control by the DBP. Specifically, a subscriber had complete freedom as to the use of his circuit if it were charged on a traffic-sensitive basis (this was also applicable if international public data networks were used). For circuits charged on a flat-rate basis (which could also be leased): (a) for international point-to-point leased circuits without access to public switched networks, the data processing system or data concentrator must not be used exclusively or predominantly for the purpose of transmitting digital information for other persons or subscribers; (b) for international leased circuits with access to public switched networks, the data must be processed before being passed on the international leased circuit. It was up to the customer to choose which of the various above-mentioned possibilities he would want to use.

49. Regarding licensing practices applicable to foreign insurance companies, the Insurance Supervisory Act stipulated that licences were only necessary for insurance business done through authorized signatories or intermediaries. No licence application had been refused since 1945 provided that the legal prerequisites had been satisfied. Licences were not required under the Insurance Supervisory Act when there was no business through authorized signatories or intermediaries through authorized signatories or intermediaries involving e.g. the conclusion and implementation of insurance contracts by correspondence or in foreign countries. The Foreign Trade and Payments Act required licences for the conclusion of individual hull

underwriting, ship liability, and aircraft insurance contracts, except passenger air accident insurance contracts. This applied only to insurers domiciled in countries not appearing on a list including 149 countries. In this context, reciprocity may be brought into play. Nonetheless, licences must be granted if no persistent adverse effects would result from the various insurance branches in the Federal Republic of Germany. Since the economic importance of this regulation was minimal, consideration was currently being given to its possible cancellation.

50. Regarding the banking sector, higher equity capital requirements were not imposed on "full-merchant scale companies" under foreign control, and the managers thereof could be foreign. German banks had refrained from engaging in certain types of foreign business because there was no need for them to do so, not because of government interference.

51. The "special factors" accounting for the balance in the foreign transport account in 1982 had been an increase in air transport revenue and decrease in transport payments due to a general decrease in the volume of sea transportation.

52. The representative of Pakistan noted that in his country, insurance was considered both as a service and as a method of capital formation, and for this reason was kept in the public sector. The same remark was true for banking. He wondered whether in other developed countries insurance was considered primarily for its service or for its capital formation function.

53. In reply to a question raised at the last meeting by the United States, the representative of Denmark said that Danish citizens were prohibited from taking out life insurance directly abroad for balance-of-payments reasons. His authorities had an open attitude towards considering the removal of this restriction once the current balance-of-payments deficit had been overcome. In reply to Pakistan's question regarding insurance, he said that except in some cases where insurance operations were related to capital movements (especially in life insurance) insurance activities were considered as a private service.

54. Concerning the application of professional standards in the construction/engineering sector, he said that foreign enterprises had free access to and could establish in the Danish market. There were certain general standards concerning the quality of building projects which applied equally to Danish and foreign companies. Regarding the granting of concessions to private telecommunications companies, he explained that in this and other sectors with a propensity toward natural monopolies, Denmark traditionally had chosen to regulate these activities by granting concessions to private or public companies rather than to establish state monopolies.

55. It was difficult to answer Argentina's question regarding the impact of the strength of the U.S. dollar on Danish sea transport receipts and total exports as this was only one factor, the effect of which could not easily be separated from e.g. factor price developments and international demand for sea transport. Concerning the rôle of state monopolies and oligopolistic market structures in services, he noted that postal services and radio and television broadcasting were the only state monopolies. As Denmark was a small open economy, often no clear distinction was drawn between domestic and international service markets; oligopolistic market structures therefore did not play a significant rôle in the domestic service economy.

56. The representative of Norway, responding to questions raised at the last meeting concerning recent changes in the banking sector, said that Norway's trade policy objective of allowing free and liberal economic exchanges, as well as the operation of the reciprocity principle, had made it unreasonable to continue prohibiting foreign banks. A more liberal policy regarding right of establishment might also promote the internationalization of Norway's banking sector. On 25 January concessions had been granted to enable seven foreign banks to establish in Norway, on a reciprocity basis. Replying to a further question by the representatives of Pakistan and Argentina, he indicated that foreign savings banks had to form a joint-stock bank in order to apply for establishment in Norway. If granted licence, they would be regulated by the Act on Commercial Banks. Specific oligopolistic problems had not arisen in this sector and thus this issue had not been focussed on in formulating the revised policy towards foreign banks.

57. Regarding insurance, he noted that while there were generally no restrictions on Norwegian customers' direct purchase of insurance services from abroad, in accordance with the Act on Insurance Companies of 1911, foreign insurance services could not be handled by domestic brokers, except in shipping and air transport. Recent amendments to the Act on Insurance Companies of 1911 attempted to create more equal competitive conditions between domestic and foreign insurance companies. The term "special right" had been used in connection with granting concessions to insurance firms because this sector was considered of great public interest. The companies must fulfill several obligations vis-à-vis the insurees, in particular as regards certain economic guarantees.

58. In response to questions about the shipping sector, he said that according to the Central Bureau of Statistics of Norway, the Norwegian figures for shipping receipts were not seriously affected by underrecordings. Both gross and net income for Norwegian shipping had declined from 1981 to 1983. In the same period, world seaborne trade in ton-mile had declined by 20 per cent, while the world fleet had remained fairly constant. He underlined Norway's concerns regarding various cargo sharing arrangements and other barriers in the shipping field. While no detailed studies had been made as to the possible effects of these barriers on Norwegian sales of shipping services, measures of this nature did have a negative impact on the competitive position of individual ship-owners in third countries. In clarifying Norway's policy regarding coastal shipping, he said Norway generally did not reserve cabotage for domestic traders; virtually all coastal goods transport was subject to open market competition. However, a licence to run scheduled maritime transport of persons and goods within Norwegian territory was required by the Ministry of Communications, for which a permanent personal address and/or business address in Norway were prerequisites. This was regulated by the Law of Communications of 4 June 1976 No. 63. In response to further questions from the representative of Pakistan, he said there were no local content requirements concerning procurement of supplies. Regarding employment recruitment, one third of the crew was allowed to be of foreign nationality; the only regulation with respect to officers required that the captain be of Norwegian nationality.

59. Concerning value-added network services and telematics, formal regulations existed only to a minor degree in the computer sector, including data processing. The value-added services were subject to formal legislation concerning the use and storage of processed data and the registered persons' rights regarding those maintaining the register. Data transmission carried

by the Norwegian Telecommunications Authority (NTA) was subject to the national legislation described in the study; NTA was a public monopoly and in charge of the telecommunications infrastructure. For products falling outside NTA's competence, his government's principal objective was to offer value-added network services on a competitive basis, which with few exceptions, were open to international trade.

60. "Sheltered sectors" were defined in the Norwegian national account as an economic sector (e.g. health, education) not faced with international competition either wholly or in part. He noted, however, that recently there had been a tendency in most service sectors towards openness to international influence and competition. In addition, a large part of the production of "sheltered services" could be exposed to competition when combined with direct import and export-competing activities. Regarding Norway's participation in service activities agreements, in the EFTA context, neither the Stockholm convention nor various EFTA schemes covered activities in either shipping or any other service sectors.

61. In response to a question raised at the last meeting by the United States concerning the economic implications of projected Swiss legislation on protection of privacy, the representative of Switzerland said that his authorities were reviewing this area because they felt that inter alia in the light of technological progress, existing legislation would no longer be entirely adequate. As regards the draft legislation, they were aware that the economic implications thereof had to be taken into account, as well as the need to maintain a balance between the legitimate protection of privacy and the free flow of information.

62. With regard to banking, it would not be reasonable in practice to try to determine mechanically how many countries were able to meet the reciprocity requirements because of differing rules in banking sectors of different countries. He added that Swiss reciprocity requirements were intended inter alia to ensure fair and equitable treatment of Swiss banks in third countries rather than to hinder entrance of foreign banks into Switzerland.

63. Responding to a question by Argentina concerning different degrees of government intervention in different sectors, he said that account had to be taken of the fact that for historical reasons or due to different perspectives, some sectors were more highly regulated than others, both among different service sectors and within the same sector in different countries. The idea in raising this point in the services study had been to suggest that the discussion of services should not be approached mechanically.

64. While understanding the reasons for focussing on certain issues, the representative of Pakistan felt that crucial information concerning specific sectors was missing from the Swiss national examination. For example, in banking, what were the "required conditions" for a foreign firm to become established? In the air traffic sector, he sought more information on the structure of the market and the degree to which Swissair had a monopoly or foreign airlines were able to operate. Caution should also be exercised in using the term "reciprocity" in the context of air transport as it really implied bilateral monopoly. The representative of Switzerland replied that a foreign bank could establish itself in Switzerland if reciprocity was guaranteed, the bank's name in no way implied that the establishment was Swiss, and the bank observed Swiss policy in regard to monetary and credit matters. Concerning the air traffic sector, the Chicago Convention was applicable, and activities were split between domestic and foreign firms.

65. In closing the discussion, the Chairman said that the next meeting had been tentatively scheduled for 2-3 May 1985. A number of questions rasied on the thirteen national examinations available so far needed further consideration and he suggested that the first part of the next meeting be devoted to clarifying these points. At the same time, if other national examinations were made available between now and the next meeting, he expected that delegations would want to proceed with the consideration of such examinations as they had done so far with the thirteen that had been tabled. In addition, he had been informed that the secretariat had completed a first draft analytical summary of the national examinations circulated so far, together with information made available by relevant international organizations. He recalled that at the last meeting he had said that on the basis of tables of contents of the existing national examinations, some guidance might be found up to a certain point as to the main headings under which various aspects of the subject matter might be discussed in the future. The first analytical summary prepared by the secretariat may also provide a basis for looking at common elements contained in the information at the disposal of delegations. Therefore, when this summary would be made available, delegations may wish to consider whether it would be appropriate to steer the discussions according to such common elements. This could guide the proceedings during the second part of the next meeting as well as during succeeeding meetings.