

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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## SERVICES

### DRAFT MINUTES OF MEETING HELD ON 7 JUNE 1985

Chairman: Ambassador F. Jaramillo

1. The Chairman said that the purpose of the meeting, as indicated in the airgram GATT/AIR/2160, was to continue the exchange of information on services on the basis of national examinations and of the analytical summary prepared by the secretariat (MDF/7). He drew attention to the national examination recently submitted by Belgium which had been circulated on 3 June 1985 in the original French version; the English and Spanish versions would be circulated in due course.

2. In introducing Belgium's national examination, the representative of Belgium said he realized that its recent submission meant that delegations would need more time to consult their capitals before carrying on a substantive discussion. The heterogeneous nature of the services sectors had meant that the Belgian examination was preliminary; it had been completed as quickly as possible and did not present a global view of services in Belgium. Some of the shortcomings of the data used to portray Belgium's international trade in services included the fact that statistical data drawn from Belgium's external account from 1977 to 1983 were confined to a limited number of service sectors. In addition, international transactions in services could only be given concerning the balance of payments situation of the Benelux Economic Union as a whole. Only certain obstacles had been included in the chapter on trade barriers to avoid duplicating those already documented in studies by international and private organizations. The examination also included a summary of Belgian regulations and legislation in certain service sectors. He concluded by noting the increasing importance of trade in services in the Belgian economy; in view of the current protectionist forces, a multilateral approach to trade in services was necessary.

3. Several delegations welcomed the Belgian national examination and indicated that they would comment on it at a later date. The Chairman said that the group would revert to the examination at the next meeting to give capitals enough time to study the document.

4. The Chairman recalled that, as some delegations had not been in a position to comment on MDF/7 at the last meeting on 2 May 1985, it had been agreed that a second reading would be held. While the intention had been to supplement MDF/7 by a corrigendum listing factual and technical changes to the present text, as not all factual corrections announced by delegations had been communicated to the secretariat, and in order to limit paperwork, these changes would be incorporated into a revised version of the analytical summary which would cover, inter alia, the recent Belgian examination.

5. Concerning Section I.1 of MDF/7, "Definition and coverage", the representative of the European Community, supported by the representatives of Canada, Egypt, India and the United States, said that at this stage it was premature to discuss a definition of trade in services, a point which had been raised at the last meeting (MDF/13, paragraph 14). It might be better to look at coverage in a pragmatic fashion; at the end of the exercise, those elements which had been considered to be relevant might then provide the basis for a definition for use in future multilateral action, if any. The representative of Canada added that the focus should be on those sectors with a trade component.

6. Several delegations raised a number of points concerning the statistics used in section I.3, "Services in national economies" and the need to improve the data contained therein. The representative of Argentina noted that only six countries plus the European Community had submitted information concerning the distribution between the public and private sectors. He hoped those delegations which had already submitted studies, and were able to do so, would submit more information in this area. The representative of India supported this suggestion and, referring to a point raised by Argentina at previous meetings, added that it would also be interesting to obtain more information concerning the activities of transnational corporations, which transcended national regulations.

7. The representative of Argentina noted that the information contained in Table I.3 was not comparable. The representative of the European Community suggested that work be done by the secretariat to revise Table I.3 in order to remedy this problem. Moreover, as balance-of-payments figures compiled by member countries on the basis of IMF criteria constituted the primary source of data, one means of improving the data collected might be to formulate suggestions to the IMF concerning how data might be improved in the next Balance-of-Payments Manual. The representative of the United States added that it might be useful for the GATT secretariat itself to explore the question of how better data could be collected and how the IMF might better focus its work in this area. The representative of India suggested that delegations and those working in this area in capitals, (rather than the GATT secretariat) should attempt to develop the methodological approaches to remedy data inadequacies, before considering the merits or demerits of approaching the IMF.

8. Concerning Chapter II ("Conceptual framework") the representative of Argentina said that the reference to multinational corporations in paragraph 37 should also appear in section I "Basic economic concepts relating to production and trade in services" since it was not relevant only to "Statistical problems and methodologies". The representative of Egypt agreed with this point. Noting that the phrase "trade in services" was used for section II.1 while "transactions in services" was used in sections II.2 and III.3, he asked if there were conceptual differences between the two, as this would have implications for later discussions. He also indicated that "trade in services" was not mentioned in either the 1982 Ministerial decision or the 1984 Agreed Conclusions of the CONTRACTING PARTIES and that his delegation was very sensitive to that phrase. A representative of the secretariat said that although national examinations used different terminologies, "transactions" seem more general than "trade". However, the secretariat had no view of its own on the matter. The representative of the European Community did not see any problem in using either term.

9. The representative of the United States raised a number of general and specific issues concerning chapter III: "National and international regulations governing individual services sectors", particularly with respect to the motivations behind a country's regulations. All regulations, whether designed to protect the domestic market or intended for "legitimate" purposes such as consumer protection, national security or social/cultural concerns, may have restrictive effects in terms of either trade in services and/or the ability of a foreign firm to do business on the domestic market. It was therefore important to consider the regulations' underlying motivations to attempt to determine what constituted a "reasonable degree of regulation". In this connection, he noted that the specificity and diversity of sectoral regulations may of themselves have economic effects which go beyond the objectives of the regulations.

10. The representatives of the European Community, Canada and Switzerland agreed with the United States that it was important to clarify the motivations underlying different regulations to distinguish between those serving purely protective purposes and those with other intentions. The representative of the European Community, however, disagreed with the idea that all regulations may have protective effects in the trade sense of discriminating in favour of domestic producers. Distinctions should be made on the basis of the primary purpose of the regulations. Views were bound to differ about what was reasonable and what was not. Some purposes of regulations would be more negotiable for some countries than for others. The representative of Canada also recognized that there would be different views in specific cases, and in this connection he pointed to the fact that there was often a mixture of motivations for regulations, which may be difficult to disentangle.

11. The representative of Argentina suggested that the secretariat simplify the presentation of the material in section III.1.2 "Regulations on a sector-by-sector basis", for example by adding an analytical chart showing where national and international regulations existed in different sectors.

12. Regarding section III.3 "Problems identified in relation to international transactions in services", the representative of the European Community said that the absence of an internationally agreed set of appropriate rules governing trade in services should perhaps be added to the chapter as constituting a general impediment, as such absence was often cited as an inhibiting factor in international trade in services due to the resulting uncertainty concerning government intervention. In response to a question from Argentina as to what was meant by "appropriate", he said that the European Community had no firm ideas as to what this would mean in detail; however, in general appropriate meant acceptable to all. Only the objective was clear at this stage, namely to encourage world trade in services and thereby stimulate the world economy. This should be achieved by constructing rules which encourage trade, given the constraints that might be imposed by "reasonable" regulations. The representative of Egypt said it was premature to discuss details of what would constitute an "appropriate" régime before a conclusion had been reached as to whether or not a régime in services would be appropriate at all, as mandated by the Ministerial decision and Agreed Conclusions of the CONTRACTING PARTIES.

13. In discussing Chapter IV: "Issues raised in connection with possible multilateral action on services", the representative of Argentina raised several points he had made at a previous meeting, particularly in connection with Finland's national examination (MDF/10, paragraph 37). In view of the inadequate statistical information available and the lack of an accepted definition of services, and of a clear distinction between those services which entered into trade and those which did not, his delegation felt many of the conclusions reached in this section may be premature. He again drew attention to the fact that a number of studies dealt only with trade in services which he felt was a limited point of view and not in keeping with the Ministerial decision. He also felt that some delegations had overstated the case for comparative advantage in trade in services.

14. The representative of Australia noted that other international fora, e.g. OECD, UNCTAD, IMF, IMO, ICAO, etc. had specific rôles and responsibilities in certain areas of services, which related to the implementation of existing legal instruments, whereas the GATT had no specific mandate in services up to now. While GATT may have an important rôle to play, as stated in paragraph 142 of the analytical summary, and the drafting of general principles may be a useful adjunct to the work of these other organizations, it was difficult to see how a new, global and independent legal instrument could be achieved given the diversity of technical instruments already being applied. He felt that the emphasis should, in general, be placed on the process of adjustment referred to in paragraph 137 of the summary.

15. While acknowledging that statistics may never be as complete for services as for goods, the representative of the United States believed that the absence of data should not prevent discussions of possible approaches to multilateral action. While the ideas presented in the national studies, including that of the United States, were preliminary, it was useful to have some discussion of possible solutions, lest one lost sight of the objective of these meetings. Moreover, contracting parties were free to raise any points they wished in their national examinations. The representative of the European Community noted that comparative advantage was only one of many possible sources of benefits from liberalized trade in services; economies of scale as well as the effects of international competition in open markets would also benefit the world economy. Clearly, one major objective would be to seek adjustment in government measures, as mentioned by Australia with reference to paragraph 137 of the analytical summary.

16. The representatives of Canada and Japan, while keeping an open mind on specific solutions, said it was certainly useful to examine how existing GATT principles might be applied to trade in services. In this context, the representative of Japan stressed his delegation's preference for a multilateral approach and the need to take into account the dynamic aspects of trade in services.

17. The representatives of Egypt and India believed that it was too early to determine whether multilateral action was needed with respect to trade in services on the basis of the conclusions of national examinations reproduced in chapter IV of the analytical summary, in view of the fact that these national examinations came from a limited number of GATT contracting parties thus far.

18. The representative of the European Community expressed the view that multilateral action was necessary and that services were an appropriate subject for negotiations in GATT. He found it puzzling that the same countries who had claimed there was inadequate information available on services at this point to reach a conclusion as to whether multilateral action on services would be appropriate had been able, in another context, to conclude that any new round of multilateral negotiations should be restricted to goods. The representative of India took note of the views expressed and said his delegation was not trying to impose their views on anyone. His delegation felt the process of exchange of information should continue, and that it should be recognized that there was still a long way to go. He suggested, however, that issues under discussion in the present meeting should not be considered in the context of discussions in other bodies.

19. The Chairman, drawing the discussion of MDF/7 to a close, addressed certain procedural and substantive issues concerning the rôle of international organizations, information of the Council of Representatives, and future work and documentation on services. On the first item, he recalled that at the last meeting he had said that he would consult with the secretariat of UNCTAD and with interested delegations on how best to respond to the request by UNCTAD to submit comments and to present its documentation to this meeting. Some consultations had taken place, but he had found it difficult at the present time to identify very clear positions on this question. The fact of the matter was that other organizations had informally expressed an interest in presenting their views in the context of these discussions, and some non-contracting parties also would welcome an opportunity to observe these proceedings. He suggested, therefore, that this was a matter which should be given careful consideration, especially in view of the special character of these meetings. Perhaps the matter should be examined in the context of the organization of the work for the autumn. He recalled that the November 1984 decision of the CONTRACTING PARTIES referred, in its paragraph 4, to "comments provided by relevant international organizations" and said delegations could conceivably allocate some time in the autumn to hearing any comments which organizations might wish to make orally.

20. As regards the possible attendance of non-contracting parties, this had not been mentioned so far in these meetings. However, he had brought it up because the suggestion had been made at the previous meeting that UNCTAD might be invited to attend the coming meetings as an observer, and of course the invitation of observers would raise the question of the status of these meetings as well as of the right of non-contracting parties which had observer status in GATT to attend them.

21. These were all difficult procedural issues and that he did not expect that they could be solved at the present meeting. However, what he had wished to stress in bringing them up was that the questions raised at the last meeting concerning UNCTAD might have more far-reaching implications than had been envisioned at that time. Therefore he would like to invite delegations to reflect on them fully between now and the next meeting and he proposed to continue his consultations on this extended basis.

22. The representative of Argentina observed that it seemed of interest that an agreement be reached among all delegations participating in these meetings during consultations that would be held in a few weeks time as to how the various international organizations could participate in these meetings. One possibility would be to invite them on an ad hcc basis. His delegation would have more difficulty with the idea of the participation of non-contracting parties as observers. For the time being, he was not prepared to contemplate extending attendance beyond contracting parties, especially in view of the fact that many of the latter did not take part in the meetings.

23. The representative of the European Community agreed with the Chairman that more time was needed for reflection on these questions and that the next meeting would be the appropriate time to discuss them. When presenting the preliminary views of his delegation, he said that he was to some extent disappointed by the progress in these meetings, in particular at the level of participation by countries which had not yet prepared national studies on services. The result would be that the report presented by the Chairman to the CONTRACTING PARTIES would be less complete and less balanced than he would have wished. Nevertheless it seemed to his delegation that a number of questions had been clarified and a number of important issues raised in this exchange of information. He believed that when the material available from other international organizations would be analysed by the secretariat and incorporated into the analytical summary in the very near future, the analytical summary would have taken the discussions a very good step forward.

24. At the last meeting, his delegation had suggested some areas in which the secretariat could make an analytical contribution of its own to this process, with the aim of providing more clarity on some points which still remained obscure. Another suggestion had also been made that the secretariats of other international organizations could be invited to present and discuss their work in this forum. According to his delegation, no other secretariat could have a better claim to contributing to these meetings than the GATT secretariat. Any decision on this issue should therefore reflect this fact. Finally, he emphasized the importance his delegation attached to the process of discussions in these meetings. When looking back over the period since the Ministerial Meeting in 1982, he saw a clear trend of an increasing number of countries becoming convinced of the necessity of taking services into account in the formulation of general economic policy. His delegation hoped that this growing consensus would continue to be furthered by the work in these meetings, that the necessity of a multilateral action on services in this organization would emerge at the end of the process and that the next meeting would be able to take decisions to help moving further along that road.

25. The representative of India, expressing preliminary views on the suggestions made by the Chairman, addressed the question of the possible inclusion in the analytical summary of work done by relevant international organizations. In this connection, he recalled his delegation's earlier suggestion to try and ascertain how UNCTAD itself would view its possible contribution, whether this be in written or oral form or through questions and answers with the delegations participating in these meetings. At this stage, his delegation did not wish to enlarge the scope of the deliberations either by granting observer status or by inviting direct participation of

other organizations in present discussions. The intention was simply to gain a better understanding of some other related aspects of services. He therefore proposed that the secretariat seek other organizations' assistance in preparing a summary of their work, but without incorporating this summary in the existing analytical summary of national studies. The integrity of the analytical summary would thus be preserved as representing the views of those who had participated in the exchange of information while at the same time an opportunity would be given to consider the relevant activities of other organizations. He had taken note that the Chairman would be conducting informal consultations. His delegation would stand ready and willing to participate in any such consultations.

26. Concerning the remark made by the representative of the European Community about the possible direct involvement of the GATT secretariat in the work of the meeting, he said the secretariat was providing delegations with very useful assistance, but this should not be put on a par with the involvement of other organizations, which would be limited to providing information on their activities.

27. The representative of Egypt supported the views expressed by the representatives of Argentina and India. He referred to the complexities of the services issues and emphasized that they deserved careful consideration and should not be dealt with in hasty manner. He pointed out that the Ministerial Declaration and the November 1984 decision on services mentioned that the results of the examination of national studies should be received along with the information and comments provided by relevant international organizations. His delegation was very interested in seeing the contribution of UNCTAD and was ready to participate in the consultations proposed by the Chairman. Concerning the rôle of the GATT secretariat, he noted that this had been clearly circumscribed in the footnote to the November 1984 decision, including the last sentence of the footnote.

28. The representative of the United States supported the suggestions made by the Chairman concerning consultations to be held between this and the next meeting. With regard to the way in which UNCTAD could participate in the work of this meeting, he said there was no question that UNCTAD had done a lot of work on services and that its expertise could be usefully incorporated in the current process. But his delegation could not accept this idea of UNCTAD or any other organization's participation in the meeting, even on an ad hoc basis, as long as the GATT secretariat was unnecessarily prohibited from carrying out any independent analysis of its own. At the last meeting, the representative of the European Community had made a very useful suggestion relating to statistics. This was an area where the GATT secretariat could have assisted delegations without overburdening its operations. His delegation was fully aware of the limitations on the rôle of the secretariat, but he recalled that it could perform additional tasks on agreed upon basis. The question was not whether the secretariat would be capable of doing certain kinds of work, but they felt there were certain delegations which did not want it to do so because it this might have implications for GATT competence in services. This was very unfortunate because delegations were at a point where they were trying to come to grips with a very complex subject.

29. The representative of Argentina said it seemed rather impracticable at this stage to adopt positions on the rôle of the GATT secretariat that might create misunderstandings. The specific question of procedure that had been raised should be taken up separately as an issue through consultations, as suggested by the Chairman.

30. The representative of India said that his delegation had expressed its preliminary views on the kind of participation from other international organizations that the participants in this meeting might be willing to accept. He did not envisage at this stage to introduce UNCTAD and its expertise into the present deliberations in any form, nor that of any other international organization. However, he had proposed that it would be useful for all delegations to receive written information of a factual nature from other international organizations on the basis of which the secretariat could prepare a summary. Since delegations were not drawing upon the views, comments or expertise of UNCTAD, it seemed logical that similar strain was not put on the resources of the GATT secretariat.

31. The Chairman noted that there was a consensus to proceed as proposed by the representative of India.

32. Concerning the information to be given to the Council, the Chairman referred to paragraph 3 of the 1984 Decision of the CONTRACTING PARTIES and suggested that he should use the opportunity of the 17 July Council meeting to present orally, on his own responsibility, a brief report on progress made in the work on services. It was so agreed.

33. Regarding future work, he invited delegations to reflect on the preparations that would be needed to fulfil the mandate contained in paragraph 4 of the 1984 Decision. First, there was the report that would be made to the CONTRACTING PARTIES at their November 1985 Session. Second, there was the possible contribution of the secretariat to the preparation of this report. He suggested that the report itself should be made by him directly to the CONTRACTING PARTIES, but that it would be appropriate to have the report ready before the last Council meeting preceding the Session, so that delegations might have an opportunity to comment on it in the Council if they so wished. In terms of the secretariat's input, he suggested that the "summary of issues" referred to in the statement by the Chairman of the CONTRACTING PARTIES at the November 1984 Session, could form the substantive basis for his report. This summary should cover not only the main elements of the information made available by delegations and by relevant international organizations, but also the points made in the discussions during the meetings on services. He was also of the opinion that delegations ought to reflect on the need for further meetings in the autumn and on the items that should be discussed at these meetings so that a tentative schedule and perhaps a sort of informal agenda could be fixed.

34. The representative of Argentina said that the suggestion by the Chairman to have his report to the CONTRACTING PARTIES as the summary of issues to be prepared by the secretariat was a reasonable one. The representative of Egypt, for his part, expressed the view that a decision should be taken on the question of the contribution of other organizations before dealing with the possible shape of the Chairman's report.

35. The Chairman announced that the next meeting had been tentatively scheduled for 15-16 July 1985.