

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MDF/W/70

2 September 1986

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## SERVICES

### DRAFT MINUTES OF THE MEETING HELD ON 29 AUGUST 1986

Chairman: Ambassador F. Jaramillo

1. The Chairman opened the meeting by recalling the terms of GATT/AIR/2304 and the fact that at the previous meeting, on 27 and 30 June 1986, he had indicated that in view of the lack of consensus on the matter, it seemed to him that the only recommendations one could envisage were that the CONTRACTING PARTIES should take note of the exchange of information and of the stock-taking that had taken place at that meeting, and consider any further steps towards the implementation of the 1982 Ministerial Decision on services. Since the meeting of 27 and 30 June, he had held consultations on this subject and in that period, consultations had also taken place among a large number of delegations. It was his impression that there was not at this stage a sufficient basis of agreement for attempting to formulate meaningful recommendations for the CONTRACTING PARTIES in September. On the other hand, there had been indications that some delegations were prepared to look for points of convergence among the participants in these meetings which might form the basis for further efforts to reach consensus on the question of appropriateness, desirability and modalities for possible multilateral action on services. These delegations suggested that the present meeting be used to give an opportunity for individual delegations to state their positions and to identify such points of convergence. His suggestion was that the meeting proceed along these lines, since agreed recommendations to the CONTRACTING PARTIES seemed, for the moment out of reach. If the meeting agreed, the statements made today would form the basis for the concluding remarks of his report on the proceedings under the November 1985 decision of CONTRACTING PARTIES on services, which he intended to make on his own responsibility to the September Session.

2. The representative of the European Community said that the Community had always emphasized that it should be possible to launch multilateral action on services which would be in the interests of all and believed that a way to do so could be found in Punta del Este. In the past, there had been too much emphasis on differences of views. In view of the basic political priorities of different delegations, this was understandable, and he was under no illusion as to the extent to which divergences could disappear, but the emphasis placed on them obscured a large degree of convergence on many fundamental questions, for example: many of the perceived obstacles to trade in services were national regulations which had been conceived for domestic rather than external policy reasons. The appropriateness of national regulation of services sectors would need to be respected as a legitimate constraint on any multilateral action on trade in services; any agreement would therefore need to strike a balance between the benefits accruing from liberalization of trade on a non-discriminatory basis and those pursued by regulation of services sectors for the promotion of domestic economic and political goals such as development; although trade in services had elements in common with trade in goods, it also had important specificities which

would need to be taken into account in any multilateral action. This was true of services as a whole and of individual service sectors; the absence of tariffs on imports of services meant that any agreement on trade in services would need to have a structure different from that of the General Agreement itself; any liberalization of trade in services could not be achieved overnight but would need to be progressive and the result of a negotiating process; in view of the inadequate statistics and the imperfect state of knowledge in this field, improved transparency with regard to trade flows and to the constraints to which they are subject was important.

3. These were but some examples of what the European Community saw as common ground between contracting parties as a result of the exchange of information, and which could serve as a solid basis for progress in future negotiations, if some way could be found to agree to launch them.

4. The representative of India recalled that his delegation was among those which had proposed that if it was decided that the Ministerial Meeting at Punta del Este would be a Session of the CONTRACTING PARTIES, a further meeting on services should be convened in order to evaluate the work carried out in pursuance of the Decision of the CONTRACTING PARTIES on the exchange of information on services, and to consider what recommendations would be possible for the consideration of the CONTRACTING PARTIES. The minutes of the meeting held on 27 and 30 June 1986 clearly incorporated the views of his delegation, but he wished to reiterate some points. While the exchange of information carried out so far had been useful, it had also clearly demonstrated that data provided so far had been insufficient and imbalanced, that basic definitions had been lacking and that important issues raised by developing countries had not been adequately addressed. As had been clearly recognized in the exchange of information, it would be necessary to take account of the development dimension of services as well as of the rôle of transnational corporations in any further work. Similarly, detailed sectoral analyses would also be necessary. The exchange of information had made it clear that the link sought to be established between services and the General Agreement on Tariffs and Trade was untenable and the Articles of the GATT were not applicable to services. Neither had a credible case been made to deal with all manner of services across-the-board. On the contrary, a number of delegations and national examinations had attested to the extreme variety and heterogeneity of service sectors. All in all, the process of exchange of information has remained inconclusive, despite constructive efforts. Reviewing the exchange of information so far, it would clearly be premature and unfeasible to attempt to draw up a set of recommendations for the consideration of the CONTRACTING PARTIES.

5. That being said, his delegation would agree that the exchange of information, while reflecting a number of divergencies, had also reflected some concerns, e.g. in respect of the rôle of services in the development process, the recognition of the rôle of national regulation of service sectors, and the rôle of transnational corporations in services. He would agree with the representative of the European Community that, should it be found to be feasible and desirable, any possible multilateral action on services would have to take account of the importance of services in the promotion of national economic and political goals, such as development. It was also obvious that any such multilateral action would have to recognize the specificities of services and individual service sectors. He certainly

could not disagree with the view that given the differences between goods and services, any form of multilateral action that sought to deal with trade in services would have to be structurally different from the GATT.

6. His delegation remained of the opinion that multilateral action in services across-the-board was unnecessary and untenable. However, for their part, they were prepared to recognize that multilateral action on trade in services could be a priority for others. Under these circumstances, they would be prepared to join in further exploration of the possibility of such action, provided first that such consideration was consistent with their basic concerns and took full account of their preoccupations, which had been amply voiced here and in other forums and, secondly, provided that the appropriate institutional arrangements, independent of the GATT framework, for initiation and conduct of such a process could be agreed upon. His delegation wished to make it clear that they would object to any attempt to force a consensus decision on this issue at Punta del Este which did not take care of their fundamental concerns and, further, that they could not conceive of participation in any exercise that may be decided on such a basis.

7. The representative of Brazil noted that the meeting was coming to the final stages of a process of exchange of information on services which had been started in pursuance of the Agreed Conclusions of November 1984, and conducted within the framework of the 1982 Ministerial Decision on services. It had been decided to continue this exercise in December last year, in the expectation that one might be in a position to "prepare recommendations for consideration by the CONTRACTING PARTIES at their next session", which now meant the forthcoming GATT Ministerial Meeting in Punta del Este.

8. Though the exchange had been quite useful, it was clear from the proceedings, as the Chairman himself had acknowledged, that the participants were not ready to fulfil that expectation. In the absence of an established conceptual framework and of adequate statistical data, the exchange carried out, as it had been done, on the basis of national examinations prepared solely by developed countries, could not avoid being unbalanced and inconclusive.

9. In the mind of his delegation, no evidence had emerged from the exercise that "a multilateral action on services" was either "desirable or appropriate", particularly in a GATT context. No theoretical or concrete support could indeed be produced to show whether and in what manner basic principles of the General Agreement on Tariffs and Trade were relevant and applicable to services in general or even to trade in services.

10. Domestic regulation in the area of services, conceived for the promotion of economic and political goals and reflective of the constitutional structure of government and social and economic system of a country, could not be considered obstacles to trade in services and subordinated to the concept of liberalization. Any attempt to regulate trade in services would have, in the view of his delegation, to start from that basis of the legitimacy of national regulation.

11. Quite apart from the perception that there may be an inherent inconsistency between the principles and the structure of the General Agreement, on the one hand, and the special characteristics of the services

sector, on the other, one could not proceed from the assumption, adopted by some, that a round of trade negotiations in GATT or in a GATT framework could include matters outside the jurisdiction of the General Agreement, such as services or trade in services. This would constitute, in the view of his delegation, an attempt to change the GATT rules without observance of its proper amendment procedures and would be, by itself, a challenge to the integrity and unity of the basic contract. This would, furthermore, create opportunities for unacceptable trade-offs between the goods and services sectors.

12. In his delegation's perception, an attempt to force a consensus decision to include services in the new round would constitute a serious threat to his country's fundamental interests as a contracting party to the GATT and could not but be met by a straight objection. His country would moreover certainly refrain from considering participation in any such negotiations which might come to be decided by vote, if the rule of consensus did not prevail.

13. Notwithstanding the divergences of views expressed in the exchange which was about to close, on matters of substance and of procedures, his delegation shared the impression of the delegations of the European Community and of India that some convergences seemed to begin to emerge. Such convergences were important and deserved an exploration in which his country would envisage to participate if an appropriate institutional framework of a distinct legal nature can be found for the exercise.

14. In this connection, he recalled that the representative of the European Communities, in an intervention made before the Preparatory Committee of the new round of multilateral trade negotiations, at its last session, on 31 July 1986, had indicated his willingness not to exclude the possibility of dealing in Punta del Este with the issue of services through the convening of an inter-governmental Ministerial meeting.

15. His delegation had taken good note of that statement by the European Communities. He was, at this stage, in a position to say that his delegation would be prepared to consider with favour such a possibility as a means to examine under which conditions and for which purposes multilateral action on trade in services could be taken.

16. This was the Brazilian delegation's contribution to make possible a consensus solution on how to deal with the question of services. This much they would be ready to do in order to facilitate in Punta del Este the launching of a new GATT round, aimed at preserving and strengthening the multilateral trade system, an objective very dear to all contracting parties, particularly the less developed among them.

17. The representative of Canada regretted that it had been impossible to agree on recommendations to the CONTRACTING PARTIES and saw two main reasons for this, namely that at the meeting of 27 and 30 June the nature of the Ministerial meeting in September was still not known, and secondly that a number of delegations had emphasized their divergencies of views on the question of the appropriateness and desirability of multilateral action in services. He noted that some positive developments had taken place since then, i.e. a decision had been taken on the nature of the September meeting, and a number of delegations had expressed their willingness to work towards a

greater convergence of views and to try and identify grounds for a common understanding on the matter. He welcomed these developments and hoped that the meeting would now be in a position to fulfil its mandate. His delegation did not think it useful at this stage to reiterate its position concerning the competence of GATT to deal with services or the right of Ministers to address the issue. Nonetheless, he wished to stress that in Canada's view the exchange of information had led to the conclusion that multilateral action in services was not only desirable and appropriate but also necessary in order to further the objectives of GATT. He would therefore support a recommendation to this effect and that, to this end, negotiations on services should be launched as an important and integral part of the new round of Multilateral Trade Negotiations to be conducted in the framework of GATT.

18. The representative of Peru, referring to the Chairman's stock-taking at the meeting of 27 and 30 June said that his delegation agreed with the view that the exchange of information had not been exhaustive. Many difficult questions had been raised concerning, inter alia, the definition of services and their scope, and a number of divergencies of views had emerged on questions such as transnational corporations, the possibility to conduct trade transactions in services, etc. In view of the fact that national studies had only come from developed countries, it had not been possible to address some of the main issues of concern to developing countries, for example the comparison of trade in goods and trade in services, concepts of national treatment and most-favoured-nation and their application to services, problems of labour movements, access to capital, access to technology, the problem of federal States, the necessity to maintain public services in certain sectors, etc. He noted that the work undertaken under the Decision of November 1985 had now come to an end and it had not been possible to agree on recommendations to CONTRACTING PARTIES. The position of his delegation on the substance of the matter was well known and in this regard he recalled that in his view services were not in the jurisdiction of GATT and that the negotiation of codes or other forms of separate agreements would be unacceptable, as well as the establishment of any cross-linkage between negotiations on goods and on services. This being said, in order to facilitate the reaching of consensus for the launching of a new round of multilateral trade negotiations, his delegation supported the view expressed by the European Community at the meeting of the Preparatory Committee of 31 July, that the convening of an ad hoc Ministerial meeting could be considered as long as this was seen as a way of reinforcing the work of GATT and the political commitments to reverse protectionist trends in trade in goods. Therefore, his delegation would be prepared to envisage that possibility as a means to initiate a process of examination of the possibility of multilateral action in services, taking into account the motivations for national legislations in this area and the economic and political goals of individual contracting parties, in particular developing countries.

19. The representative of the United States said that in order to complete its mandate this meeting should have been in a position to agree on recommendations to the CONTRACTING PARTIES, but he realized that it would not be realistic to expect agreement on a detailed text to this effect at this stage, though for its part the United States would have been prepared to recommend that multilateral action is appropriate and desirable. So, his delegation would be content with the collective record of work undertaken

under the Ministerial decision of 1982 being transmitted to Ministers to assist them in their deliberations on the issue. Regarding the suggestion that efforts be made to identify points of convergence or divergence, he felt that this might have been useful if it had been necessary to present a report to the CONTRACTING PARTIES, but that was not the case. Nonetheless, he felt that there was widespread agreement on a number of points, namely that services were an important and growing element in national economies, that they were more regulated than goods, that in some cases if regulations could be made more similar and their protective effects reduced, this would lead to an expansion of trade, and that some delegations which did not in the past agree to the inclusion of services in the new round, appeared now to accept this possibility. He noted some suggestions that a more complex approach might be followed for dealing with services in Punta del Este, but that these suggestions were heavy on procedures, light on substance and in the view of his delegation, totally unwarranted. The CONTRACTING PARTIES should be able to decide on the matter without resorting to procedural artefacts which would only serve to reinforce the inaccurate arguments about GATT competence in services. In the view of his delegation, the new round should be a single undertaking both politically and legally and, for the United States to participate in it, must include services as one of the subjects for negotiation, though this did not imply any prejudging of content and outcome of the latter. One major stumbling block in reaching agreement had been an erroneous assumption that GATT was not competent to deal with services. The United States held that, taken together, Article XXV:1 and the Preamble of the General Agreement permitted those contracting parties who wished to do so to negotiate on services, investment or intellectual property, as his delegation had explained at the 41st Session of the CONTRACTING PARTIES. Politically, no one contracting party would have anything to lose in such an exercise, as it was a long-standing legal principle that new international obligations could not be imposed on any country. Institutionally, the CONTRACTING PARTIES had the responsibility to address new challenges to world trade, and the GATT must adapt itself to changes in the world economic scene. The United States did not intend to debate further on this issue at this meeting, as it felt a debate on the competence of GATT was a mere smoke-screen to evade this reality.

20. The representative of Zimbabwe said that his delegation had followed the proceedings of this body with great interest. The exchange of views on the subject of services had heightened some of their sensitivities regarding this matter. It was clear that a lot remained to be done. The difficulties that had been encountered so far in bringing about a convergence or common perception of the elements did not suggest that this exercise of exchange of information had been entirely futile, but rather it signified a momentum of dialogue which should be sustained by the interested parties.

21. A review of accomplishments compelled his delegation to reiterate Zimbabwe's national position on services. This position was one which had been taken by a meeting of the Ministers of Foreign Affairs of the Non-Aligned Movement that had met in New Dehli recently, which he quoted: "The Ministers of Foreign Affairs recognized that GATT did not have the jurisdiction in the area of services, intellectual property and investment. They felt that services covered a range of economic activities, very heterogeneous in character. Some of them involved establishment or movement of people, or were closely interlinked with the socio-economic structure of a

country. Furthermore, international agencies already existed for dealing with certain specific services. In the light of this, the questions whether and what international action was necessary or feasible with regard to any service sectors, and their implications for developing countries, needed to be fully examined. The Ministers of Foreign affairs declared emphatically that no linkage should be established between access for goods of developing countries and concessions by them in the area of services, as this would, inter alia, accentuate the existing asymmetries in the international economic order." This position reflected the total position of his delegation on the issue of services. They were, however, sensitive to the fact that other contracting parties wished to discuss this matter in the context of the anticipated new round of multilateral trade negotiations. This sensitivity had been influenced by their desire to facilitate the launching of a new round that would save the GATT system from the current threat of disintegration. In the interest of that objective, they were prepared to continue the present dialogue on services in a framework that was parallel but legally separate from GATT. This was a price which they were willing to pay if the developed countries were ready to make credible commitments in the areas of rollback and standstill, during the anticipated new round of trade negotiations in internationally traded goods that were within the present competence of GATT.

22. The emergence of services as an issue requiring detailed examination indicated massive structural changes that were taking place in international trade. His delegation shared the observation that legal instruments should guide this evolution rather than be reactive to a movement that would be propelled by forces that are likely to be at variance with GATT. This foresight was welcome, more so because it was surfacing at a time when in GATT and other forums the issue of development is not the essential agenda item. A discussion on services therefore should be enriched by this heightened thrust towards the development of the developing countries. It followed that a conceptual basis for a discussion on services should avoid a reproduction of the asymmetrical trade relations and inequities that were prevalent in many contemporary trade areas. If it was important that all contracting parties should be enthusiastic about the issue of services, particularly within the GATT framework, it was essential that these concerns be taken into account in any decision on the disposal of this issue. His delegation's fundamental assertion was that a legal regime that would incorporate trade in services should evolve in a context that respected national sovereignty and its objective should be to make a positive contribution to the construction of a New International Economic Order that would be grounded on justice and equity.

23. The representative of Switzerland said his delegation would have very much preferred to conclude this exchange of information with a recommendation that multilateral action in services was appropriate and desirable and that services should be included in the new round, but he realized the difficulties in this regard. In the last few weeks events had introduced a certain mobility in the situation. Thus, his delegation had noted with satisfaction that there had been agreement to hold a CONTRACTING PARTIES meeting in September, and that some delegations had expressed the view that there were points of convergence with regard to the substance of the matter. For his part, he felt that elements of convergence could be found in the following areas: (a) if negotiations on services were to take place it would

not be possible to exclude liberalization and, also, transparency from their objectives; (b) it may be necessary to first elaborate rules which govern trade in services and as a subsequent step to exchange concrete concessions; (c) it may be necessary to make clear that if concessions were made on services these should not have as their counterpart concessions in the field of goods; (d) the work so far had shown that services need to be addressed both in general and horizontal terms and on a sectoral basis, and that these complementary approaches could constitute an element of convergence in themselves; (e) the special position of developing countries needed to be taken into account in drafting any rules; (f) account should also be taken of the goals of national legislations and of the activities of other international organizations; and (g) the results of the negotiations would be subject to a decision by CONTRACTING PARTIES before they could be applied within the framework of GATT.

24. The representative of the European Community said he was encouraged by the course of the discussion at this meeting but felt one should be careful not to endanger the positive developments reflected in the statements made. He agreed with the United States delegation that it would not be fruitful to try and reach consensus on elements of convergence; the European Community for its part would want to reflect carefully on what was said before taking things one step further. Having made this point, he recognized that the statements heard so far had been helpful and constructive and had made his delegation conscious of a willingness of all delegations concerned to work towards a consensus. Regarding the statements made by some less-developed contracting parties that they recognized multilateral action as being a priority for other countries, he said that the European Community had always insisted that negotiations on services must be part of the new round launched by Ministers in Punta del Este. But within the context of that single undertaking, it was willing to explore any solution, including the possibility of an ad hoc ministerial meeting to which his delegation had referred in the Preparatory Committee on 31 July 1986, which could take account of the genuine concerns of all sides, in order to reach a consensus understanding from which no country was excluded. In this connection, he noted that the European Community had not proposed to hold an ad hoc ministerial meeting to deal with services at the Preparatory Committee meeting of 31 July, but had merely said that it would not exclude that such a meeting could be held if it would lead to a solution of all the contentious issues left in the Punta del Este meeting. Finally, on the question of the competence of GATT, his delegation's position was similar to that of the United States. While willing to explore all possible avenues for consensus, the Community could not agree to any solution which would prejudice the question of GATT competence.

25. The representative of Sweden, speaking for the Nordic countries, recalled that at the last meeting on services the Nordic delegations had expressed regret that it was not possible for the Chairman to formulate a clear-cut recommendation calling for multilateral action. He noted that the situation had not changed substantially since then. There was maybe some common ground, but fundamental differences remained. The Nordic countries found it essential that the Ministers take a positive decision in Punta del Este as regards negotiations on services. They believed that the process should take place under the GATT umbrella and that from a procedural point of view the subject of services treated as all other subjects to be

negotiated. What this implied was one single undertaking, where services would have their proper place. They saw negotiations on services as a gradual process open to all countries during the course of the negotiations. The incorporation into the GATT system of the results of negotiations in all areas, including services, would be decided by the CONTRACTING PARTIES. With regard to the question of competence, he noted that the Nordic position was well recorded.

26. The representative of Egypt said that his delegation's views on the subject were well reflected in the minutes of the previous meetings, including the meeting of 27 and 30 June 1986. He had listened very carefully to the previous speakers and found that the points mentioned by the representative of the European Community could help efforts to find common ground. His delegation was ready to co-operate in such efforts. In order to facilitate the launching of the new round of multilateral trade negotiations on trade in goods, and taking into account the priority attached by certain developed countries to the subject of trade in services, his delegation would be prepared to consider initiation of a process for the examination of possibilities for general and sector-specific multilateral action on trade in services, provided that such a process would be conducted in an appropriate framework. He stressed, however, that the full dichotomy between trade in goods and trade in services should be preserved, and emphasized the points already made by the European Community, that the structure of any agreement on services would be different from that of the General Agreement, that services had their own specificity, and that domestic regulations aimed at furthering economic development and political goals should be respected.

27. The representative of Argentina, referring to the work carried out during the exchange of information, said that this had permitted a better understanding of the importance of services, and specifically trade in services, for the development prospects of various countries and a balanced distribution of benefits from international economic transactions. All delegations were conscious of the difficulties which developing countries encountered to improve their exports in order to improve their balance-of-payments and generate the surpluses necessary for investment and for meeting their international obligations. Nonetheless, for most export items such as agricultural products, steel, textiles and shoes, developing countries faced a large number of restrictions in industrialized countries and in addition, they had to contend with dumping by these countries on the international markets through the use of subsidies to dispose of the production surpluses caused by these restrictions. At the same time, for productions in which developing countries only participate to a minimum degree there were few or no restrictions. This situation gave rise to an important asymmetry in the benefits from international trade accruing to different contracting parties. The examination of the issue of services and the proposal to pursue work in this area in GATT seemed to reflect the same attitude on the part of major trading partners as in the field of goods. It was true that trade in services represented one quarter of world trade and was expanding rapidly and that it deserved close consideration, especially in view of the importance of the development of this sector for the production of goods and for the general efficiency of economic systems. Considerable progress had been made towards a better understanding of the general and specific characteristics of services, but there was still a long way to go

before one could reach an appropriate definition of the concept, of transactions in this area and of their implication for the process of economic growth and world trade. He concluded that sufficient progress had not yet been made to take a decision on multilateral action in services.

28. Nonetheless, his delegation felt that the exchange of information and the consultations which had taken place, notably among Latin-American countries, had permitted the emergence of some points of convergence on how to deal with the issue. The first was that the tendencies noted in the field of trade in goods must be corrected in the field of services, through the elimination of distortions and of the negative effects of protectionist policies, which negated the principle of efficient allocation of resources among contracting parties. The experience in the field of goods showed that if an action were undertaken at any time in the field of services, this should be based on the respect of the interests of all participating countries, and it should avoid the distortions and the imbalances which characterize trade in goods as well as any linkage whatsoever between those sectors, as this could only contribute to aggravate the situation to which he had referred. Further, if multilateral action were to be decided upon, it would need to have a universal character, that is, it must not exclude the participation of any developing or developed country, be based on consensus as regards the definition of rules and of a framework to govern services transactions, and provide for special and differential treatment for developing countries. Any decision on the eventual integration of this multilateral framework into the General Agreement would necessarily imply the amendment of the Agreement through the appropriate procedures provided for therein. In the view of his delegation, these points coincided with those mentioned by other delegations in this meeting, and this was an element which the Chairman could take into account when preparing his report to the CONTRACTING PARTIES in Punta del Este. Thus, although no agreed recommendations could be reached in this meeting, there were points of convergence which could assist the CONTRACTING PARTIES in deciding on any further efforts to be undertaken in this area.

29. The representative of Chile stated that his delegation was in favour of negotiations on services either in the GATT framework or outside it. However, on the question of GATT competence he did not think that this could be questioned. Of course, it did not seem possible to apply existing GATT rules to services and a new Part V of the GATT containing specific rules for this purpose might be needed. His delegation's main concern was that the negotiations should be multilateral in character, that they should provide for special and differential treatment for developing countries both in the negotiating process itself and in the content of any rules agreed to, that they should not be used as a pretext to postpone or evade solutions of other major trade issues in the field of goods, particularly in agriculture, and that there should be no cross-linkages between concessions on goods and concessions on services. In his view, the process of exchange of information on services was now concluded and there was no room for renewing it or prolonging it further. The time had come for a decision on the issue of multilateral action to be taken by the CONTRACTING PARTIES.

30. The view that the problem of services should not jeopardize the launching of a new round of multilateral trade negotiations was also shared by the representative of Australia. While noting that it would not be

possible at this stage to agree on recommendations to the CONTRACTING PARTIES, he said that the time had come to realize that there were limits to the efforts that could be undertaken to reach consensus, in the face of substantially unchanged divergencies of views on the appropriateness and desirability of multilateral action in services.

31. The representative of Tanzania said he wished to make a contribution towards formulating a constructive conclusion of the process which had been under way. When, in the course of the 1982 Ministerial Meeting of the CONTRACTING PARTIES of the GATT, the subject of services had come up, the Minister for Trade of Tanzania had made a statement to the effect that: "The difficulties of the Ministerial meeting were a reflection of the difficult world trade situation. Tanzania supported the Ministerial Declaration but had very strong reservations on the paragraph regarding trade in services. His country had consistently argued during the Ministerial meeting that this issue was outside the competence of GATT and that its inclusion in the Declaration in the present form was not to the advantage of developing countries or, at least, of Tanzania. The question of trade in services could be much better tackled by other bodies and organs of the United Nations system with the required competence. Despite Tanzania's reservation in respect of the part of the Declaration concerning services, he wished to reaffirm his Government's commitment to the multilateral trading system of which the GATT was the legal foundation."

32. The decision in November last year to continue the "ad hoc" exercise with a view to exchanging further information and submitting its conclusions on the subject of services to the next meeting of the CONTRACTING PARTIES, coincided with the decision of his Government to make a change in the leadership of its Permanent Mission here in Geneva. Concurrently, changes took place at the professional level in the Trade Department of his Mission and it had taken several months before the Mission was able to give full attention to the areas of priority within its overall responsibility. At the same time, they had taken full note, with a sense of relief, that the process of a separate exercise was a clear recognition that a full understanding of the subject was a prerequisite to taking a decision as to whether it called for being enshrined in a suitable multilateral framework.

33. It was the considered view of his Mission that the exchange of perceptions and preoccupations which had been expressed by many participants in the course of the deliberations, by way of various national studies and other statements, as well as what has been said and written outside the meeting, left many questions still to be resolved, not the least of which related to an adequate and meaningful definition of services, bearing in mind that all traded goods include cost of various services in the price. Indeed, it would be difficult to argue in favour of a specific multilateral regime, even outside the GATT, embodying services on the basis of the information available. It was pertinent, furthermore, to express concern at the implication of creating a precedent by way of a proposal to give a contractual framework to a matter which was still to be defined, if only to be able to be enforceable or justiciable. Once such precedent was created, there was no knowing what else, perhaps meaning different things to different interests, might be devised in order to bestow multilateral sanctity on it.

34. At the same time, there were real, concrete issues well within the GATT framework calling for urgent attention. Standstill and rollback were two requirements which if allowed to recede into oblivion, could put the entire multilateral approach for managing interdependence in great jeopardy, seriously raising the question whether it would be at all worthwhile considering new issues for multilateral treatment. Also, any attempt to trade "new issues" for the mitigation or removal of damage being inflicted on developing economies because of restrictive policies within the GATT framework, would place an additional question mark on the value of any deliberately devised multilateral arrangement for developing societies.

35. Having said this his Mission was aware that a number of industrialized countries believed that their stake in what they called services made it important for them to seek a multilateral framework for regulated exchange. It must also be admitted that governments at the level of Ministers did not, indeed could not, meet except infrequently. He believed it was the duty of delegations here in Geneva to provide them with the necessary flexibility with a view to enabling them to move forward in a manner which did not foreclose the interests of various contracting parties as well as others who may become contracting parties.

36. In view of this, his Mission was prepared to make appropriate recommendation to his government for a positive response to any proposal that may be made for the Ministers who would meet at Punta del Este to take the opportunity of meeting outside the framework of the GATT, with a view to giving an early start to a process which would be concerned with the question of trade in services. Such a process would include the identification of services which were already being traded and were within the competence of one or the other multilateral arrangement, such as for example the ICAO, ITU, UPU, IMO, etc. At the same time it could make a case for including other clearly identified and adequately defined services in an existing or a new multilateral regulatory framework. His Mission would expect such a process to take fully into account the ground already covered by the exercise now coming to an end as well as the socio-economic realities and aspirations of developing countries. He would like to believe that no responsible political leadership desired or wanted to aggravate the precarious state of global disequilibrium of which all were aware.

37. The representative of Nigeria said as the meeting was coming to the end of its work the Nigerian delegation would also like to add its own modest contribution in the hope that such a contribution would help strengthen the initiative for a consensus solution on the subject of services.

38. The exchange of information which had been conducted pursuant to Decision of the CONTRACTING PARTIES at their 41st Session, in November 1985, had been useful and his delegation's perspectives on this important subject had in consequence been both broadened and enriched. But, it was also recognized that large gaps even in the area of exchange of information still existed, as evident in the paucity of information on national studies which, it was generally agreed, was crucial in any decision-making process to determine if a multilateral framework was feasible.

39. Furthermore, it was now generally recognized that the subject of services was horrendously complex; definition of basic elements in the

subject were still lacking or even blurred; sectoral analysis - another important step or hurdle that must be crossed in a number of areas of services, was yet to be contemplated. Finally and this was just as important, statistical data were either inadequate or non-existent in some important sectors.

40. In the circumstances, his delegation found it impossible to resist the conclusion that the structure of the General Agreement as presently drafted cannot provide a basis for a multilateral discipline to deal with services or even trade in services. They believed it was still premature, given the adverse overwhelming evidence before the meeting, to contemplate the institutionalization of a multilateral framework in services nor could it be said that such a framework was feasible or even desirable in GATT for purposes of the new round. Therefore, his delegation was not prepared to allow the imposition of unacceptable trade-offs between trade in goods and trade in services which would be inevitable were negotiations to be launched under the same umbrella and on the same track. The present trading system was already tottering under the long-standing asymmetry which existed between developing and developed countries, and he could see the danger of a further aggravation of the situation, were a new asymmetry in the form of codes or collateral agreements in services to be super-imposed on the General Agreement.

41. However, he observed that some convergence of views has at least emerged in a number of areas, namely: recognition of the rôle of national regulations; of the rôle of transnational corporations; of the fact that contracting parties - particularly developing contracting parties - were bound to give priority in their trade and development policies to national political and economic goals and that this was inextricably linked with what may or may not emerge in the area of services; that due account should be given to those preoccupations. There was also the all-important question of national security.

42. His delegation felt that these vital issues deserved further exploration without prejudging the end-result, and this was the main reason why they would be willing to join in such an exercise, provided it was undertaken in a legal and distinct framework separate from and totally independent of the General Agreement. In doing so, he wished to underline the fact that the subject of services was not for now a priority issue for his delegation but that they felt they needed to accommodate the feelings of those strong proponents of negotiations in services. It was their hope that this proposal would help build the requisite consensus to facilitate the launching of the new round for trade liberalization in order to trigger a new and refreshing global prosperity from which all countries, big or small, developed and developing, could benefit.

43. The representative of New Zealand was encouraged by references made in several statements to the existence of points of convergence, but he did not see that it was possible at this time to work out what they were in any detail. On the substance of the matter, he agreed that GATT Articles might not be fully applicable to services, but this also seemed to be the case for agriculture. Basically his delegation felt that the new round should be considered as one undertaking. As far as services were concerned, only

Ministers could now resolve the issue in the context of the Punta del Este meeting of CONTRACTING PARTIES.

44. For the representative of Japan, it was clear that multilateral disciplines on services were necessary and negotiations on this should start in Punta del Este. Perhaps the content of any rules agreed might not be the same as for goods, but this was basically a matter for negotiation. For his delegation, multilateral action on services should be included in the new round in order for the latter to be launched in September. He agreed that the exchange of information had been useful, though it would not be realistic at this stage to produce any definitive recommendations, given the divergences of views that subsisted. On the other hand, he did not see much use in going too deeply at this stage into an effort to identify elements of convergence among delegations. Japan considered that the conclusions which had been suggested of the issue by the Chairman at the close of the 27 and 30 June meeting would be a sufficient basis for further consideration of the issue by the CONTRACTING PARTIES.

45. The representative of Yugoslavia, referring to the views expressed by his delegation at the meeting of 27 and 30 June 1986, noted that although the process of exchange of information was still incomplete, it was necessary to consider the future course of action in view of the fact that a report had to be presented to the meeting of CONTRACTING PARTIES at Punta del Este. His delegation also had noted some points of convergence on substantive issues, in particular that there should be no cross-linkages between trade in goods and trade in services, that the Articles of the General Agreement were not applicable to services, and that one could not by-pass the need to amend the GATT to deal with services through procedural artefacts. However, in order to facilitate the launching of a new round, and taking into account the high priority attached by developed countries to the issue, his delegation could agree to initiate a process of examination of possibilities for multilateral action on trade in services, in a forum to be agreed upon. In this connection, he supported the views expressed by the representative of the European Community and echoed by Brazil and India, concerning the existence of some points of convergence which, if strengthened and developed, could facilitate the reaching of a consensus in Punta del Este which would preserve the interests of, and be acceptable to, all contracting parties.

46. The representative of Israel agreed with those speakers who had said that Ministers in Punta del Este would have to address the issue of how to handle services in a new round. He sensed that there was already a consensus in favour of multilateral action in this area, and pointed to various existing provisions in GATT which already provided a basis for such action to be undertaken in the framework of GATT.

47. As he had done at previous meetings held in the GATT, the representative of Nicaragua stressed that in the view of his delegation, the process of exchange of information on services, though useful, was still a long way from permitting definitive conclusions on the appropriateness and desirability of multilateral action in services, inasmuch as many of the issues of interest to developing countries had not been fully discussed or even broached, and no conclusions had been reached on such questions as the definition and coverage of services, the existence of common characteristics among them, not to speak of the question of tradeability. In any event, his delegation could not

agree to any consideration of the issue of services within the legal framework of the General Agreement and, least of all, to any suggestion of cross-linkages between negotiations on goods and any form of multilateral action on services. He welcomed indications that there might be points of convergence on substantive elements of the matter, but reiterated the view that there was no scope for handling it under the umbrella of GATT, for applying existing principles and rules of GATT to services, or for agreeing to any form of action which would not meet the interests of all contracting parties.

48. Referring to some of the statements made by other delegations, the representative of Mexico said that, while not opposing the idea of holding an ad hoc Ministerial meeting to deal with services, his delegation needed a number of precisions concerning this proposal before it could go along with it. In particular he would have liked to hear from delegations which had put the idea forward, who would convene such a meeting, who would participate in it, what would be on its agenda, etc. In any case, for his delegation, any results which might emerge from such a meeting would need to be reported to the meeting of the CONTRACTING PARTIES at Ministerial level, for inclusion as an integral part of the Ministerial Declaration to be adopted in Punta del Este.

49. While noting with interest the pertinent questions of the representative of Mexico, the representative of the European Community said that the answers to these questions could only really be given by Ministers in the context of the meeting of Punta del Este.

50. The delegation of Ghana felt that joint action by CONTRACTING PARTIES any new subject would be possible if there was a common will to undertake it. While many developing countries did not have specific export interests in the area of services and this was the case of his country, he appreciated the concerns of many industrialized countries to include services in a new round and therefore, would agree to the idea of holding an ad hoc ministerial meeting since, in any case, there was no consensus to deal with the matter within the framework of GATT.

51. The representative of Sweden, speaking on behalf of the Nordic countries, noted that the idea of an ad hoc meeting of Ministers in Punta del Este had been brought forward. This idea was obviously linked to the legal question of competence. On this matter the views of the Nordic countries were clear. GATT had the necessary competence to deal with services. They did not reject the idea of an ad hoc meeting, but they did not know enough yet about it. They would of course be interested in knowing the results of the consultations that presently were taking place. The idea raised, however, a number of questions about participation, organization and procedures and one would need to know how to deal with them at the Ministerial meeting proper and in the negotiations due to take place afterwards. He recalled that the Nordic countries had argued in favour of an ad hoc Ministerial meeting in Punta del Este. This was based on the assumption that an ad hoc meeting would offer the best flexible environment to reach a positive decision on launching the new round including services. It was certainly not based on the assumption that different negotiating parameters should apply to different subjects in the round. A separate or open-ended set of rules for services would lay ground for uncertainties or

misunderstandings later on, which could imperil a successful conclusion of the round as a whole and consequently endanger the multilateral trading system which was to be both preserved and strengthened to meet new challenges in world trade. In conclusion, the idea of two distinct but not separate processes could be considered on the condition that all participants were given the assurance that everything indeed would be identical in the two processes, including the pace of progress.

52. The representative of the Republic of Korea said that his Government was in favour of negotiations on a multilateral framework for services as an alternative to the kind of bilateral treatment of the matter, sometimes involving trade-offs between goods and services, to which his Government had been subjected. His approach was a pragmatic one and from this standpoint, the arguments concerning the competence of the GATT carried relatively little weight. One thing which was of primary importance for his Government was to avoid trade-offs between goods and services, and he noted that this worked both ways. In addition, services negotiations would need to take into account the concerns of developing countries, though it was also clear to him that the kind of special and differential treatment needed in the field of services might be different from the one provided for in GATT in the field of goods. In the view of his delegation, the debate had shown that there was a consensus on the possibility of multilateral action on the tradeable aspects of services, that negotiations on services should be part of the new round, whether or not under the legal umbrella of GATT, and that such negotiations should take place at a forum agreed upon by Ministers at Punta del Este.

53. The representative of Chile reiterated some of the points made by his delegation earlier and stressed that the new round should be a single undertaking. However, one should be prepared to admit that this cannot be achieved if all the problems are not solved, not only as regards services, but also agriculture and subsidies.

54. In summing up the discussion, the Chairman said that in his view the debates under the Decision of CONTRACTING PARTIES of November 1985 had come to an end. In that Decision, the CONTRACTING PARTIES had invited these meetings to prepare recommendations for their next Session. It had not been possible up to now to agree on a text of recommendations to be forwarded to Ministers in Punta del Este. In a certain sense therefore, he recognized that it might be argued that that mandate had not been fulfilled. On the other hand, there had been statements by some delegations in which they had expressed their views on the state of the deliberations and had indicated that some elements of convergence between previously opposed views were emerging that seemed to show that a solution in the field of services might be possible. Other delegations had expressed scepticism about some aspects of the statements heard. In this situation, it seemed clear that it would be for Ministers in Punta del Este to tackle the issue in an effort to reach a solution satisfactory to all contracting parties. In order to assist them in this task, he would suggest that the meeting recommend that they take fully into account all statements made today, those made in what he had called a stock-taking exercise at the meeting of 27 and 30 June, as well as all the work undertaken under the Agreed Conclusions of 1984 and the November 1985 Decision of the CONTRACTING PARTIES. It was his intention to present a report on the proceedings to Ministers on his own responsibility. In that report, he would describe the work that had been carried out, give an account of the stock-taking, and refer to the minutes of this meeting with the recommendation that the points made by various delegations might be used as a basis on which to work towards consensus. It was so agreed.