

**MULTILATERAL TRADE  
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COMMUNICATION FROM SWEDEN ON BEHALF OF  
THE NORDIC COUNTRIES

General Objectives and Concepts of Relevance to a  
Framework Agreement on Trade in Services

The following communication has been received from the delegation of Sweden on behalf of the Nordic countries, with the request that it be circulated to the members of the Group of Negotiations on Services.

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According to the Punta del Este declaration the aim of negotiations on trade in services is to establish a multilateral framework of principles and rules with a view to expanding such trade under conditions of transparency and progressive liberalization and as a means of promoting economic growth for all trading partners and the development of developing countries.

The main objective of this submission is to focus on the inter-relationships of some key concepts which could underlie such a framework agreement. An attempt is made to relate traditional trade concepts to trade in services and to examine to what extent these concepts could be relevant to such trade.

The aim of progressive expansion and liberalization of trade in services is intimately linked to the issue of non-discriminatory access to service markets. The considerations and comments in this paper are based on the assumption that increased access to service markets on equal or equitable terms is a key objective of the negotiations on principles and rules for trade in services in order to promote growth and development.

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In this context it is of course recognized, as is stated in the Punta del Este declaration, that the policy objectives of national laws and regulations are to be respected. As negotiations are gradually getting more concrete and specific a closer look at those objectives will be required by all individual parties. However, at this stage it seems appropriate to focus on some concepts of central importance and relevance to the promotion of growth of trade in services. The need for safeguards, exceptions, dispute settlement etc. will be easier to deal with when the basic parameters in the agreement have become somewhat clearer.

Market access in the context of services can to some extent be measured against cross border barriers, which may be equivalent or comparable to barriers to trade in goods. This is most obvious in cases where services are directly connected to trade in goods, such as when a service is supplied together with (but not integrated in) a product and included in the value of that product, and thereby may be subject to e.g. a customs duty or a quantitative restriction. Other examples are fees or technical regulations affecting cross border flows of services, e.g. standards on telecommunications or various provisions for maintenance and repair procedures.

For most services, however, market access is more often a question of commercial presence in the market on terms which are non-discriminatory as compared to those applied to other competitors in the same market. Hence the relationship between market access, national treatment and non-discrimination.

This also leads to the presumption that the issue of market access must also be addressed in the context of various rules for establishment or commercial presence affecting market conditions for services.

There are signs that such conditions may account for the majority of impediments to trade in services. It would therefore not seem adequate to discuss prospects for growth of trade in services without also addressing these issues. Such unequal conditions are of a varying nature, e.g. discriminatory rules on foreign establishment, taxes, restricted or limited access to distribution channels and rules which affect the possibilities of supplying highly qualified key personnel for the fulfilment of service undertakings.

Other factors of relevance to the market access issue are the existence of private and public monopolies and market access restrictions on county and local government levels, e.g. in federal states, and on semi- and non governmental levels. Another factor that may distort competition is government supports of various kinds such as financial subsidies. Such factors do not seem to fall under the category of broad concepts, but are issues that will also have to be addressed. Regional agreements are another market feature of relevance to our negotiations.

Transparency is an end in itself according to our mandate and as such a central element of an agreement, but it is also a tool for monitoring the fulfilment of our general liberalization aims.

In the following some more specific comments are made on the concepts perceived to be those of main importance in the context of growth and liberalization of trade in services.

#### 1. The MFN Principle

As has already been mentioned there is in many cases a strong relationship between goods and services. When related goods and services meet with cross border barriers it is logical to assume that those barriers could be dealt with in a more or less analogous fashion as far as

non-discrimination between foreign suppliers is concerned. It also seems natural to assume as a working hypothesis that this principle could apply to other cross border barriers to service trade between parties to a framework agreement, unless otherwise proven. Even when it comes to establishment related barriers to the access to service markets the principle of non-discrimination between different foreign suppliers in countries which have acceded to the agreement on mutually accepted terms does not seem controversial as a general aim.

The framework will also have to include provisions enabling parties to enter into regional agreements regarding liberalization of trade in services.

## 2. National Treatment

The principle of national treatment is an important issue in the context of liberalization. The motives for differential treatment between domestic and foreign suppliers of services should therefore be analysed. Such differential treatment might occur in the context of e.g. internal taxation, buy domestic provisions for government procurement, special subsidies to domestic suppliers. It may also be questioned whether in principle there should be any difference of treatment between services supplied which are more or less conditional to establishment and other, cross border type services.

"National treatment" in the context of services might not necessarily mean identical treatment, but rather equal or equitable treatment taking into account legitimate

national policy objectives such as those of national security. The concept of legitimate national policy objectives as well as their sectorial applicability would have to be further explored.

### 3. Transparency

Transparency enables suppliers to learn the rules of the game and adjust to varying market conditions. Thus transparency alone is in principle neutral and without prejudice to the question whether it also may cast light on what might be labelled as impediments to trade.

Transparency is also a prerequisite for negotiations on the possible removal of barriers to trade in services.

It is important that transparency provisions both during negotiations, and later to monitor the implementation of an agreement, are administratively manageable.

In this context one could draw from solutions already in practice in the GATT and those which are to be established.