MULTILATERAL TRADE NEGOTIATIONS THE URUGUAY ROUND

RESTRICTED

MTN.GNS/13

17 February 1988

Special Distribution

Group of Negotiations on Services

NOTE ON THE MEETING OF 27-29 JANUARY 1988

1. The Group of Negotiations on Services (GNS) held its twelfth meeting on 27, 28 and 29 January 1988 under the Chairmanship of Ambassador F. Jaramillo (Colombia).

2. As indicated in airgram GATT/AIR/2529, the agenda of the meeting contained the five elements listed in the programme for the initial phase of negotiations. The Chairman suggested that, before the specific discussion on the five elements, an opportunity be provided to address the two communications which had been circulated in December 1987 in documents MTN.GNS/W/29 and MTN.GNS/W/30.

3. The member who had circulated the communication in document MTN.GNS/W/30 recalled that a multilateral framework of principles and rules should be established for trade in services with a view to expansion of such trade under conditions of transparency and progressive liberalization. This framework should respect national policy objectives. In his view, the underlying principles should be comparable to those of the General Agreement, in particular, freedom of trade and equal treatment of contracting parties. The framework would also have to be compatible with the GATT, so that trade in goods and services supported each other. The peculiarities of services trade (i.e. as compared to goods) made it, however, necessary to go beyond a mere transfer of GATT principles to services. Further, the multilateral framework should not confine itself to a statement of principles and generalities. While it should express very clear rights and obligations, it should not attempt to bring about standard behaviour or rigidly harmonized legislation as regards all services. In addition, in light of the similarity in the objectives of a framework for services and the GATT, it was useful to turn to the GATT for inspiration, particularly in those areas which had proved to be satisfactory. But one should not consider simply taking over GATT instruments; because of their very nature they would not be suitable for services. The proposal of his delegation sketched out an approach which if adopted would make it possible to attain the objectives of the Punta del Este Declaration. The proposal introduced the idea of an "optional most-favoured nation" (OMFN) clause. He added that the proposal was neither a complete nor a definitive text, but rather a text which endeavoured to emphasize an approach to a number of fundamental problems, the solution of which would be both important and very desirable.

4. One member stressed that while participants would strive to achieve GATT compatible principles, the intention was not merely to transfer GATT articles and rules to services. He noted the need to pursue further specific issues referred to in the proposal, such as surveillance, dispute settlement, exceptions, safeguards and transitional provisions. He

mentioned that these were all elements which could become part of a multilateral understanding. Clarification was necessary as to the measurement of equivalence of concessions. He expressed doubts as to the possibility of achieving a truly multilateral framework by the initiation of bilateral agreements; a difficulty might be that two countries negotiating a bilateral agreement would discuss their mutual bilateral interests and would fail to take into account the elements of a multilateral accord. Although, according to the proposal, third countries would have the right to negotiate their entry into the arrangement, the negotiating terms for entry might be tedious. Thus, clarification was requested on how the bilateral agreements would merge with a multilateral understanding, and how the proposed process could lead to liberalization. Another member asked for clarification as to how, and by whom, the adequacy of a counterpart offer would be judged, what would be the criteria and the time sequence for liberalization envisaged by the proposal.

5. One member found it difficult to agree with the OMFN concept. He said that this procedure might result in a multitude of unrelated agreements and might not lead to appreciable trade liberalization because too few countries would be able to reach an agreement on what constituted equivalence of concessions. The only way a framework agreement could work towards trade liberalization was through a firm commitment to liberalize, which was binding on all signatories and embodied in the agreement. He saw no difficulties with the inclusion of many of the accompanying provisions but specific language would be needed with respect, for example, to state monopolies and dispute settlement. Another point for consideration was the relationship of existing multilateral and bilateral agreements to the framework agreement. One way to go about this was to look at it in the context of the grandfathering of existing measures. His delegation would not suggest that the existing multilateral sectoral agreements should be considered in the context of the proposed multilateral framework agreement. However, where they set standards, any future agreement may have to take account of them.

6. One member said that while a straight transfer of the existing GATT rules would not necessarily be an appropriate way to approach the negotiations, they should not be rejected out of hand. While there was a heavy emphasis in MTN.GNS/W/30 on the OMFN concept, other matters such as surveillance, dispute settlement and safeguard provisions, had only been touched upon in the submission and needed to be further elaborated. Her delegation shared the difficulties expressed by other delegations about the appropriateness of the OMFN concept. It would leave the negotiations to be conducted on the basis of an exchange of formally identical concessions by means of requests and offers. This might lead to a number of disparate agreements with no coherence or relation to any specific principles to govern trade. Further clarification was needed about the meaning in practice of "formally identical", and about how the formal symmetry could be assessed. While her delegation would not reject the idea of starting with a range of bilateral agreements to be gradually multilateralized, she was doubtful whether an approach based entirely on an exchange of concessions would lead to liberalization and expansion of trade in services. An agreement without any generally applicable principles, such as national treatment and non-discrimination, was considered as a matter of some concern.

7. One member said that the countries she represented wished to emphasize the importance of the submissions, as they enabled the Group to focus on the conceptual structure of the framework agreement. Her delegation agreed with MTN.GNS/W/30 which said that the two régimes - for goods and for services - should not be incompatible as there was a necessity to take into account the significant relationship between goods and services. Her delegation asked whether agreements between two parties would a priori be considered as representing progress or whether certain requirements would have to be met. As other speakers, she thought this might lead to a very complex system of bilateral or plurilateral agreements whose general aims and principles might be overshadowed by more short-term interests. Regarding mutually balanced lists of sectors, one question was whether these lists would have to be balanced before the value of potential concessions could be estimated. Regarding existing agreements which would be considered as initial agreements in the context of the multilateral framework, another question was whether these other agreements should be regarded as a priori compatible with the framework agreement. Finally her delegation pointed to the issue of how to deal with the possibility of liberalization within free-trade areas or customs unions.

8. One member said that while there existed points of similarity between the two documents being addressed, he would focus on areas of difference. It was not apparent how the ideas in the document presently under review would serve to meet the objective of respecting national policy goals. Also, there was no indication of how the agreement would promote development. His delegation saw a multilateral framework agreement as providing a tool for countries to liberalize progressively. In this process, the principles and rules should be comparable to those of the General Agreement in the sense that the GATT itself provided a tool for progressive liberalization. It was not the belief of his delegation that the services framework agreement should provide for freedom of trade in services. The framework should provide for progressive liberalization within certain constraints, such as the respect of national policy objectives. His delegation subscribed to the idea that a multilateral framework for services should have adequate and original mechanisms which traditional trade policy might not offer. Regarding an m.f.n. clause, his delegation was of the view that some form of m.f.n. treatment was needed in the framework agreement to ensure that benefits were extended to all signatories. He expressed doubts as to whether the OMFN clause would necessarily lead to a multilateralization of benefits to all parties. Much more detailed explanation was needed before it could be assumed that this would be the case. On the other hand, the idea of using bilateral negotiations to find mutually acceptable concessions, and for those concessions to be extended to all parties to an agreement was well-known in GATT. This negotiating technique could well be examined in the context of a multilateral framework agreement.

9. One member said he had some doubts about the m.f.n. treatment contained in the proposal, and how OMFN related to the more traditional concept of m.f.n. in the GATT. He was unclear as to the meaning of formally equivalent concessions, and he asked whether the proposal would use bilateral agreements as a starting point to reach agreement at the multilateral level.

10. One member said that it was important to remember that the negotiation of a framework agreement should not work to weaken the basic GATT rules and principles. His delegation shared the views expressed by previous delegations that to speak of an OMFN clause was a contradiction in terms since an m.f.n. clause was not optional. He compared these two submissions with some other documents (e.g. MTN.GNS/W/24) where there was much more discussion of what the principles of a framework might be and how they would apply.

11. One member, referred to the suggestion in MTN.GNS/W/30 that the multilateral framework should apply to all services sectors, and asked for some elaboration on the accompanying provisions envisaged. According to her delegation, the proposal had suffered from an over elaboration of the OMFN clause and from an under elaboration of some of the other provisions, such as, transparency. With respect to the OMFN clause, she said that her delegation failed to see how it would provide countries with a multilateral framework of rules and principles. Without general rules and principles, it was difficult to see how the benefits derived by two countries from the liberalization of bilateral services trade could be extended to develop a comprehensive régime for international trade in services. The proposal for optional MFN would in fact lead to a hotchpotch of bilateral agreements not easily generalized to benefit all countries under the agreement.

12. One member, later supported by another delegation, said that silence in the discussions should not be taken as agreement, and that he would like to go on the record as saying that his delegation did not agree with the objective of liberalization of trade in services, as set out in the proposal, as that was not an objective of the Punta del Este Declaration. In addition, he was not of the opinion that any agreement which emerged as a result of the negotiations should necessarily be compatible with the GATT. His delegation was of the opinion that some innovative thinking was necessary. Lastly, his delegation was interested to hear more on the objective of development. Referring to the notion of mutually balanced lists of sectors, which would take account of the interests of the less advanced countries, he asked whether the proposal visualized negotiations in regard to cross-border labour flows as part of the negotiations in trade in services.

13. Responding to various comments by delegations, the member who had circulated the communication in MTN.GNS/W/30 said that while general principles were important, sometimes they led to controversies without providing the means to settle divergencies. Principles needed to be supplemented by mechanisms and providing such mechanisms was an objective behind his delegations proposal. He said three types of questions had arisen with respect to the OMFN clause; namely the nature of the initial agreements, the accession of third parties to the initial agreements and the consequences of this régime. Regarding the initial agreements, he said that, although it was difficult to say a priori what general multilateral impact the bilateral agreements would have, they would represent the interests of the two or more parties involved. It would then be useful to take advantage of that meeting of interests, what ever it might be at the

outset, and use it as the motor force or the dynamic element for the general evolution of these régimes at the multilateral level. It was imperative that the relationship of bilateral or plurilateral agreements vis-à-vis the multilateral agreement be settled in order to ensure that another "grey area" did not develop. The real significance of the limited agreements would be apparent only when it was seen how many third parties were prepared to take part in them. The agreements which would attract third parties would obviously be those which were advantageous to the original parties. Because these agreements held advantages for the original participants (otherwise they would not be concluded) these advantages would lead to an m.f.n. treatment as they are generalized. Third countries would have an opportunity to assess the actual nature of such agreements and then decide whether or not they really provided advantages. Furthermore, one might also consider the possibility of establishing negotiating rules, which could exclude certain contents from the agreements which were considered a priori as restrictive. Such negotiating rules could be drawn up if they were deemed both desirable and practicable by all participants. An important consideration was that the parties to the initial agreements should be negotiating on an equal footing in order to ensure that the original agreements did not contain any unbalanced or restrictive elements. Some parties might, however, try to impose such elements that could lead to imbalance. In order to avoid this, one might consider the possibility of disqualifying any unbalanced agreements. One might also consider the possibility of authorizing third countries to have the right to participate in the negotiation of the initial agreements, the presumed effect of such a right being to balance the negotiating forces from the very outset.

14. As regards the second group of questions (i.e. the accession of third countries to the initial agreements), the member said that third parties would offer the same counterpart as the initial partners in terms of concessions. The idea was that it was indispensable that the price of the concession to be extended to a third-country not be renegotiated in each case. The initial parties could not change the price of the concessions which they had negotiated and which the third-country was paying. This mechanism protected the third party and ensured that the OMFN clause was very different from a conditional m.f.n. clause; a concept which his delegation rejected entirely. Another possibility was for third parties to suggest to the initial parties that a negotiation be entered into in order to establish a different counterpart to that established in the initial agreement. This included the case where the third party would not be in a position to provide a counterpart to that provided for in the initial agreement. The third party alone could make a request for renegotiating the counterpart. A further possibility was for the third party to request the negotiation of a new agreement, which would have nothing to do with the initial agreement. Regarding the measurement of the counterpart, rules would be established to assess the price of the counterpart in order to avoid imbalances between the positions of the different parties in the negotiations. These rules could be applied to any other negotiations, including negotiations of initial agreements. The question of what would have to be done when an initial agreement was not balanced would have to be settled through appropriate negotiating rules. As far as the consequences

of this mechanism were concerned, and whether there would be a proliferation of limited agreements, he noted that there already existed bilateral and plurilateral agreements which could be used as initial agreements open to requests from third countries wishing to accede to these agreement.

15. As far as the third group of question was concerned, he said that he did not see any serious obstacle to the conclusion of such agreements under the multilateral framework. The existence of such a multilateral chapeau would in fact exert a positive influence. It might very well make new agreements far more balanced and avoid excessive trade-offs. If there was a proliferation of initial agreements, in his view, the more the better, as these agreements would begin to look alike thereby constituting the truly multilateral network which participants were looking for.

16. Regarding special régimes and regional entities, they could provide focal points for liberalization and should not have a restrictive effect vis-à-vis the trade of third countries. Therefore, subject to certain well defined and clearly understood conditions, these régimes should also be open to third countries where possible. Regarding labour mobility, this would be covered only to the extent that it was necessary to make trade in services possible. In general, however, it would be going too far to expect labour flows to be dealt with. Regarding development, he said that the rules for negotiations could be such as to take into account the needs of developing countries. He concluded that this was a practical mechanism of considerable benefit to developing countries. Furthermore, the proposal, in providing a broad choice for all countries, respected the political objectives of each party concerned. He concluded by saying that the OMFN mechanism was only one of the means of overcoming the apparent contradiction between the need to promote an expansion of trade in services and the need to respect the objectives of national policy. This mechanism could make headway quickly and could constitute an important and useful building block in consolidating the results which this Group would like to see at the mid-term review at the end of this year.

17. The member who had circulated the communication in MTN.GNS/W/29 said that it had become evident that even harmless or familiar sounding concepts (e.g. most-favoured nation) could be subject to differing interpretations in the context of trade in services. Sometimes, it depended on how the concept (e.g. national treatment in GATT) related to other concepts and also on the overall structure of an agreement. Document MTN.GNS/W/29 presented one possible coherent structure for an agreement, within which a number of concepts were discussed, many of which had been introduced by other delegations. The aim of this discussion paper was to clarify ideas on concepts and to help in achieving a consensus. An example was what his delegation perceived to be the potential tensions between the liberalization of obstacles to trade and the pursuit of national policy objectives. The illustrative diagram showed that the central motivation of the agreement should be the desire to promote the growth of all trading partners and the development of developing countries, and that the chosen instrument to attain these goals was trade expansion. The motor for such an expansion of trade could be an increase in international competition through market

forces. Transparency was also a motor for trade expansion. Market forces could only operate if international competition in national services markets was increased, and this required the progressive liberalization of market access. Non-competitive markets were the antithesis of what his delegation was looking for. In addition to the three conditions already mentioned for the attainment of trade expansion, namely progressive liberalization of market access, transparency and preservation of international competition, there were two other necessary conditions, namely respect for policy objectives and development compatibility. Furthermore, a mechanism (i.e. a regulations committee) had been proposed to deal with the potential tension between the idea of progressive liberalization of market access and the respect for policy objectives. The mechanism would be used to identify those regulations which restricted trade, and which were to be regarded as negotiable. This accepted that there would be some regulations which restricted trade but were not negotiable as their removal would infringe the principle of respecting policy objectives. With this mechanism, a list of negotiable regulations would emerge and the process of liberalization could then commence. It is there that the element of progressivity in liberalization would be introduced. The authors of the submission considered it to be a discussion paper and not a comprehensive structure for an agreement; in particular, the parts on development compatibility and on coverage and definition needed to be elaborated. Furthermore, the concept of sectoral applicability meant that the policy objectives and the list of accepted and inappropriate regulations should be implemented on a sector-by-sector basis. Agreement would need to be reached on the most important of these issues before signature of the agreement. For example, it would be unacceptable to sign an agreement without having decided whether the use of national monopolies to provide basic telecommunication network services was appropriate or not. While this delegation was ready to listen to alternative proposals, provided that they represented a coherent and feasible solution for all participants, he was of the view that this discussion paper was one feasible structure for an agreement which could cover the interests of all delegations.

18. One member found it very difficult to agree that the major aim of an agreement would be trade expansion. The Punta del Este Declaration had stated that trade expansion would only be one of the ways to provide for economic growth and the development of developing countries. Referring to the concept of promotion of economic development, he asked how it would be implemented, recalling that due account had to be given to the special needs of the least developed countries among the developing countries. Regarding the concept of appropriateness of regulations, a question in his mind was whether in the case of developing countries one might refer to appropriate or inappropriate regulations for their development, and not necessarily for their expansion of trade. A related question was who would be in a position to determine whether a regulation would be appropriate for developing countries. His delegation could not accept that any national regulation should be construed as inappropriate. It would probably be more useful to use the terms "negotiable" and "non-negotiable" instead of "appropriate" and "inappropriate". Clarification was needed in order to establish whether the regulations committee would be operating as a supranational entity so that

uniform criteria would be applied vis-à-vis all countries, irrespective of, for example, cultural and historical considerations. His delegation had serious doubts about the operation of such a regulations committee. Regarding the negotiation of periodic packages, the application of some form of m.f.n. principle would introduce a concept of absolute reciprocity in the negotiations. He said his delegation attached a high degree of importance to equitable rather than equal treatment.

19. One member asked what were the operational implications of the notion that any regulation which did not have the minimum impact on trade (compatible with achieving its objectives) could be regarded a priori as inappropriate. Another question was how the development concept would be built in as an operational concept in terms of appropriate or inappropriate regulations with regard to sectors and whether it would be necessary to make use of exceptions or escape clauses for countries at different levels of economic development.

20. One member said that the discussion paper MTN.GNS/W/29 took the exploration of the contents of the framework agreement a step further than MTN.GNS/W/24 and suggested some of the mechanisms that would be necessary to give effect to the principles or concepts. According to his delegation, progressive liberalization of market access was the central aim of the services negotiations. The paper coupled progressive liberalization with respect for policy objectives and suggested a two-track mechanism to achieve liberalization. The first was reverse notification of obstacles, and the second track was self-notification of regulations perceived as appropriate. His delegation was in favour of notifying obstacles or barriers to trade in services, and like other participants in the services negotiations, it had started to compile an inventory of barriers to trade in services. Little attention had as yet been given in the GNS to the method to be adopted for the reduction of barriers to trade in services, i.e. on the basis of requests/offers or on some kind of linear reduction. What constituted inappropriate regulation would need to be examined further and would be helpful if some indication could be given on how non-discrimination could be achieved and how national treatment would operate in practice. Doubts were expressed regarding the desirability of an agreed list of policy objectives for each services sector. Policy objectives for services sectors changed over the years. His delegation noted, however, that while policy objectives could not include economic protection, the question of a definition of a regulation giving economic protection only was left open. Furthermore, the preservation of international competition merited further analysis simply because liberalization of services markets in many cases would occur in the form of deregulation, leading to increased merger and takeover activity. It was possible that after deregulation, the degree of competition in the deregulated market would be less than before. Hence deregulation would bring competition policy, which was a national policy, into much greater focus. He also considered that it would be inaccurate to include subsidies provided by governments under the item dealing with competition policy.

21. His delegation accepted the need for improved transparency to ensure that government measures affecting service industries were maintained in a clear and predictable manner, and that information on such measures was

readily accessible and made known to all interested parties on an equal basis. He said transparency was not in itself a trade liberalizing measure. His delegation remained of the view that the creation of a framework for the progressive liberalization and expansion of trade in services would in itself contribute to the development of developing countries but was ready to consider any proposal consistent with the other aims of these negotiations. Regarding coverage and definition, his delegation was inclined to agree that in order for the agreement to achieve its ultimate aims, it should cover in principle all tradeable services. The agreement should cover both cross-border trade and establishment in order to achieve effective market access. There was no need for an illustrative list of types of transactions for each sector since such a list would have the potential of restricting future trade not covered in it. Provisions might be needed in the agreement to allow for its evolutionary adaption to take account of technological changes. Regarding additional concepts, his delegation supported the inclusion of an effective consultation and dispute settlement mechanism. Work on this should draw on the existing GATT experience and any improvements that would come out of the deliberations of the Negotiating Group on Dispute Settlement. An exception clause was needed to cover general and security exceptions similar to GATT Articles XX and XXI. An escape clause for a services agreement would have a different content to the similar GATT provisions, but allowance would have to be made for the protection of intellectual property rights, as many services transactions represented a transfer of know-how. Comments on how an escape clause might operate would be welcome in the light of the conceptual difficulty of dealing with an assessment of import surges in services. Attention also had to be paid to how a clause allowing restrictions to safeguard the balance of payments could operate. More information was needed on the proposal for procedures to maintain the balance of rights, obligations and benefits, including the proposed mechanism for measuring the balance. His delegation noted that the paper proposed a permanent exception to allow regulations to be liberalized faster among member states than with respect to other signatories.

22. One member said that, although the discussion paper entailed a number of features he would agree to, several issues needed to be discussed further. He said he agreed very much with the member who in presenting MTN.GNS/W/29 stated that the idea was to create an environment where competition through market forces could exist. Regarding transparency, he asked whether the term "enquiry points" be meant something more than notification and if this was what he would call "due process". With respect to competition policy and the goal of increased competition, he agreed with an earlier speaker about the difficulties of an international accord promoting competition at the national level. Regarding the promotion of international competition, he asked for clarification about the meaning of fair competition and competitive distortions, with perhaps illustrative examples of what the authors had in mind. Regarding coverage and definition, he asked what would be covered by internationally tradeable services, whether a positive list would be drawn up identifying a definite area of activity, and whether the expression "effective market access" included investment and if so, on what criteria. In this respect, he

recalled that, in his view, the multilateral framework should deal with disciplines covering cross-border flows of services and establishment for services produced within a border. Regarding escape clauses, he asked whether these exception measures would be measures of a temporary nature in the GATT tradition, and whether national security considerations would be dealt with in this manner. He also wondered about the implication of a national definition of development and whether each country would decide for itself what its definition would be or whether the participants would attempt to agree upon a general definition in this area. Regarding the notion of appropriate regulation, he expressed some doubts about the possibility for an international body, such as a regulations committee, to reach any consensus.

23. One member said that the discussions in the Group of Negotiations on Goods concerning trade-related investment measures and trade-related intellectual property were not entirely unrelated to some of the concepts which were emerging with respect to the multilateral framework in trade in services. Work being done in some international organizations would also have to be kept in mind. Although provision for manual labour services had been mentioned, this had not yet been highlighted in most of the papers. It would be important to know whether there was an acceptance of improved labour mobility or not. Trade in services statistics revealed an adverse balance for developing countries, and for the development objectives to be met in these negotiations, there would have to be a very clear identification of how the negotiations could lead to a contribution to national capital formation in developing countries.

24. One member, noting that the discussion paper had emphasized procedural aspects rather than substantive provisions, wondered whether the conclusion to be drawn from the diagram was in fact that priority should be given first to obtaining precise agreement on definition and coverage of internationally tradeable services. If so, he thought this could be an obstacle to achieving good overall progress in the negotiations. He said that the notion of a regulations committee and the appropriate criteria (including principles) should be clarified and elaborated. Regarding the concept of similar levels of market opportunity, he noted that it might raise problems as some countries were far more open than others. Concerning respect for policy objectives, he said that in order to avoid too much emphasis on sectoral policy objectives, his authorities preferred that the policy objectives should be formulated in a general way with a wide application to various types of sectoral services transactions. Concerning transparency and the prior publication of regulations, he wondered how realistic this was in practice. Regarding development aspects, he wondered whether the national formulation of definitions of development might confuse the process of negotiations. His authorities were of the opinion that there was a need for an examination of the way in which developed countries could cooperate, in an effective way, to provide technical assistance to developing countries (e.g. for the improvement of statistics or for problems occurring as a result of the interaction between liberalization and development).

25. One member noted that the discussion paper made the very important statement that the multilateral agreement should be based on the assumption that the smooth operation of international markets would be the driving force for trade expansion. Regarding definition and coverage, one approach might be to negotiate the definition in detail but to assume the broadest possible coverage at the outset, and then clarify definition and coverage as the negotiations proceeded. A definition may also emerge through analysing perceived impediments to trade in services. An important question was why and when definitions were needed. Her authorities were of the view that they were not a prerequisite for embarking on negotiations. She wondered why the two concepts of growth and development were separated by two diverging arrows on the diagram in the discussion paper, since it would mean that these two aims were to be pursued on quite separate tracks. Since the concept of respect for national policy objectives was directly linked to the issue of appropriate legislation, her preliminary feeling was that it might be very difficult to agree on a list of policy objectives for each services sector. Similarly, it might be difficult to state a priori what types of regulation should be accepted. The key to liberalization and other aims under the mandate might lie in the analysis of types and instruments of regulations and their trade effects. She supported the suggestion that a starting point could be the notification of perceived obstacles. She was, however, hesitant as regards the benefits of notifying on a voluntary basis regulations perceived as appropriate. The idea of a permanent regulations committee would have to be further elaborated. Questions arose about its composition, its relationship to the dispute settlement mechanism and if decisions should be taken unanimously. The proposal that until agreement had been reached on a regulation it would be subject to no further action under the agreement, might lead to a total blocking of the negotiations unless procedures and time limits were very carefully set. She agreed with the treatment of the concepts of non-discrimination and national treatment as described in the discussion paper. On transparency, the interesting suggestions regarding enquiry points and statistical monitoring should be elaborated further.

26. One member said that the discussion paper did not succeed in presenting a balanced treatment of all elements included in the Punta del Este Declaration. The main feature of the proposal was its search for liberalization of the market access for services on the basis of a review in the regulations committee of the appropriateness of existing regulations. These concepts were more suitable to strong negotiating partners than to developing countries with under-developed services sectors. Her delegation was also concerned with the lack of development aspects in the proposal. In her view, the authors of the discussion paper had come to the conclusion that it was difficult to negotiate a multilateral framework which would be suitable to all national policies; she was concerned that the framework might not be adjusted to different national policies. The main problem for her, however, was that in the discussion paper, by giving authority to the regulations committee to review whether the national policy objectives were appropriate, it introduced elements which had not been agreed upon in the Punta del Este Declaration. A standstill agreement was not in the interest of developing countries as regulations in the future that would promote the development of their services sectors could be deemed inappropriate.

Clarification was asked about the interpretation of competition and specifically how a set of principles of behaviour for groups of firms would work and how restrictive business practices of transnational corporations would be restrained. She was also interested to know whether the paper was referring to the possibility of having a conditional MFN clause requesting reciprocity. Finally, she said that since there were now so many submissions it would be helpful if the secretariat prepared a synopsis of those elements of the negotiating programme elaborated in the written submissions and oral statements by delegations.

27. One member said the approach in the discussion paper was compatible with, and in some ways complemented, the approach adopted by the proposal which his authorities had submitted in MTN.GNS/W/30. He wondered, however, whether it would be sound to set up general or harmonized disciplines, such as balanced benefits, for national régimes. General principles were unsuitable when they left the door open to differing interpretations. The regulations committee would give rise to a process of ongoing negotiation and would introduce an element of continuing uncertainty. In short, the proposed mechanism would open the door to a number of controversial discussions without at the same time providing the tools for their resolution or elimination. In his view, if this Group started from the premise that it was necessary to agree on a number of principles, it would be useful to compare why governments chose to regulate services sectors and then to decide whether certain motivations were more acceptable than others. It would also be useful to see how a given motivation could be translated into a regulation and to ascertain whether certain intentions always gave rise to the same sort of regulation. This Group would then perhaps be better placed to formulate which principles would correspond to reality. In the broader context, he said one should avoid adopting an approach to the negotiations that would merely result in a codification of what were considered to be inappropriate restrictions.

28. One member said that the core concepts in the discussion paper - respect for national policy objectives, liberalization and development compatibility - could be instrumental in reflecting the interests of developing countries. Concerning coverage, definition, and the idea that all internationally tradeable services be included, he believed that trade in services should strike a balance so as to cover sectors of interest to all countries, particularly developing countries. He asked for clarification about a national definition of development, and how this differed from the treatment of development in the current GATT Articles, and also about the procedures that would be adopted to maintain the balance of rights, obligations and benefits as stipulated in the discussion paper.

29. One member said that the discussion paper raised some crucial issues and problems. By concentrating on a possible mechanism to achieve ongoing liberalization and trade expansion, the other key issues, notably the concepts for an agreement as well as the relationship with sectoral annotations, had been largely subsumed. What remained unclear was what status the framework agreement would have, when it would be implemented, and what its relationship to the sectoral packages would be. The question was whether the framework would be a maximum attainable or whether sectoral

arrangements could go beyond the framework. Regarding coverage, the question was whether it would be restricted only to sectors subject to negotiated packages or whether more general principles would be applicable to a wider range of sectors. Like previous speakers, she expressed concern about the idea that separate lists of policy objectives would have to be negotiated independently for each sector. She did not agree with the assertion that clearly defined principles could not deal with the potential tension between liberalization and respect for national sovereignty. Acceptance of an international agreement involved some constraints on national sovereignty, but an approach based on agreed general principles would put parameters in place within which signatories would be free to implement national policies. There was no suggestion therefore of a strict harmonization of regulations. She expressed also concern over the idea of dealing with inappropriate regulations purely on a request and offer basis. Again, attention to principles seemed to be lacking and some small countries could be placed at a disadvantage in negotiations. She wondered whether it would be possible to elaborate on the extent and nature of the concepts, such as non-discrimination and national treatment, and how they could be generally implemented. She agreed with other speakers who said that the idea of a regulations committee could lead to a number of problems. In particular, considering a raft of national legislation would be a tortuous and possibly time consuming process. Restricting the committee's mandate to surveillance and dispute settlement would seem to be a more promising approach.

30. She also said that a standstill commitment should be generally applicable, covered by the framework and not left to cover only specific types of legislation. Since the discussion paper did not mention any precise process of implementation, difficulties could arise if the standstill only came into effect when certain regulations were deemed inappropriate. She noted also that subsidies were not covered by the paper, and wondered how measures to deal with subsidization of services activities might fit in with the approach on appropriate regulations. While her delegation agreed that the question of appropriate regulation should be addressed - as the Punta del Este mandate enshrined the policy objectives of national legislation while calling for liberalization and trade expansion - she had grave doubts about the concept of appropriate regulation being the central mechanism. She felt it might be preferable to have a general principle according to which governments should ensure that regulations implemented to achieve policy objectives should have a minimal impact on trade. A system of notification and dispute settlement procedures would be important to assist the smooth and equitable operation of these principles once the agreement was in place. Her delegation saw some form of rollback, progressive liberalization and gradual movement to conformity with general principles as being vital to ensure a more open multilateral trading system for trade in services.

31. One member said that the proposals under discussion seemed to proceed on the basis that the part of the Punta del Este Declaration dealing with promoting the development of developing countries could be effectively addressed only after other aspects of the multilateral framework had been adumbrated. Such an approach made it difficult to assess the potential

usefulness of the modalities being suggested, especially in meeting the concerns of developing countries and in providing a mutually balanced and equitable framework. For example, the discussion paper suggested that one starting point could be the notification of perceived obstacles to market access and another could be the notification of regulations perceived as appropriate. In assessing the value of this, developing countries needed to know the sectors to be covered by the agreement since this would determine the nature of the perceived obstacles. He considered the idea of a regulations committee interesting, although its establishment might raise problems relating to the need to respect the policy objectives of national laws and regulations applying to services. Those countries already having complex regulations in their well developed services sectors could find themselves in an advantageous position. Since those existing regulations would have to be respected, greater obligations would be placed on developing countries with fledgling services sectors and fewer existing laws and regulations. Further, regulations which had existed for many years and had contributed to the development and growth of those national services sectors in developed countries could now be considered inappropriate and could therefore not be applied anymore by the developing countries in order to develop their services sectors. The same regulation could thus be both appropriate and inappropriate depending on the stage of development of the countries involved. This Group should seek to elaborate more fully how the development element of any arrangement might be treated in these proposals, i.e. how proposed concepts might apply to developing countries.

32. One member, making a preliminary comment, said that it was difficult to make a complete assessment of the discussion paper as it provided only a working basis for the further development of ideas in the GNS. Although the mechanism aspect had been stressed somewhat more than in any previous papers, the same principles and concepts were mentioned in this discussion paper. Therefore, he could not subscribe to the comment made earlier that this paper was heavy on procedures and not as heavy on principles and concepts as previous papers. Regarding core concepts, he said that the Punta del Este mandate left no option but to treat growth and development as the basic goals in the negotiation of a multilateral framework. He had some difficulty with the concept of development compatibility which had been cited as one of the conditions or constraints in terms of any model. In fact, development should be considered as the optimization function rather than a constraint. Similarly, although the policy objectives of national regulations were also a given constraint, they did not appear as such in the approach suggested in the discussion paper, as they were to be subject matter for negotiation. Apart from the practical problems involved in visualizing a procedure to deal with the question of appropriateness of regulations in an undefined group of services sectors, the approach outlined in the discussion paper could not be considered as being consistent with the Punta del Este Declaration. The Ministers did not ask delegations to question the appropriateness of national regulations. They merely gave a clear indication that the policy objectives of national laws and regulations were to be respected. This was quite different from a process in which national regulations were examined with respect to their legitimacy or appropriateness. He was also of the view that it might be useful to think in terms of principles and rules which would be necessary

for the expansion of trade to promote development in the context of specific sectors, rather than to start on a wide ranging exercise of preparing a list of policy objectives which would be admissible or not. He was also of the view that the illustration of criteria for the examination of policy objectives by the regulations committee was contradictory. For example, it was indicated in the discussion paper that the agreed list of policy objectives would not include economic protection. Protection for infant industries, however, was a recognized means of promoting development. Was such protection inadmissible in terms of the policy objectives considered by this paper? Regarding the criteria of national treatment for suppliers, clarification was requested as to whether such a test was considered to be consistent with the development objective by the authors.

33. Furthermore, he agreed with others in noting that development, and the concepts of definition and coverage, had been dealt with very sketchily in the discussion paper. In his view, most of the discussion in regard to mechanisms and principles was not meaningful unless it was related to the definition and coverage of the agreement. A key question was what internationally tradeable services, as mentioned in the paper, would cover. A related question regarding non-discrimination was whether this concept would be equally applicable with respect to labour services. Regarding development compatibility, he found that the discussion paper had made a very significant point in proposing the approach of a national definition of development. While some previous speakers had questioned the validity of a national definition of development, his delegation found it difficult to envisage any other approach to such a complex phenomenon. An important question was how this national definition of development would be combined with the process of liberalization of market access and the respect for policy objectives. Regarding standstill, it was important to remember the regulations in the industrialized countries were not comparable with regulations in the developing countries. In his view, an obligation of standstill which would be equal on all would be basically unequal; the Group would have to examine the concept of standstill while relating it to the concept of development. Nothing should be agreed to in this Group which would go against the basic concept of development.

34. One member said that the apparently diverging tracks of growth and development in the diagram in the discussion paper had their roots in the Punta del Este mandate. The growth referred to all trading partners and development to that of developing countries. However, it was odd that growth and development came out of trade expansion instead of out of the framework of rules and principles. It was clear from the Declaration that three elements should follow from the establishment of the multilateral framework: the expansion of trade, the promotion of growth and the development of developing countries. The mandate did not say that these three elements were interrelated or that two of them should come out of the third. The question was why the discussion paper was putting so much emphasis on trade expansion and why the formulation of the framework was to some extent a by-product which might evolve from the liberalization process.

A question was whether this would not create an unnecessary degree of uncertainty, and whether there was not a danger of ending up with a list of exceptions rather than a framework of objective rules for behaviour. These questions were also related to the question of sequence. From the negotiating objectives, it seemed clear that the first task was to set up a multilateral framework of principles and rules from which should flow expansion of trade, promotion of growth and development of developing countries. It had been made very clear in MTN.GNS/W/30 that the legal framework should be a counterpart to the General Agreement which did not require immediate liberalization by the contracting parties but sought to open the way for them to negotiate by establishing the modalities and legal conditions. Another related point was the timing. The proposal circulated in MTN.GNS/W/24 made a very strong point on early agreement on the possible contents of the framework. The discussion paper under review was silent on timing and indeed the proposed procedure was not one which would lend itself to early progress by putting trade expansion and progressive liberalization up front. The identification of obstacles and inappropriate regulations was a highly contentious and controversial process which was unlikely to produce any rapid results in the short-term. A question was whether the proposal was designed to help globality in the negotiations, i.e. services should proceed at no slower pace than other subjects in the multilateral trade negotiations. Lastly, clarification was needed about the basis for international competition in services and the meaning of the concept of preservation of international competition in trade in services and whether there existed any objective criteria for this.

35. One member drew attention, as had other speakers, to the potential tensions between national policies on the one hand, and the desire for trade expansion on the other. In the view of her delegation, an approach centred on a regulations committee might lead to a heavy bureaucratic machinery which would be burdensome, slow and perhaps not even productive. Concern was also raised with respect to the question of developing criteria and leaving the interpretation of such criteria to a committee. A more transparent procedure was preferred, where criteria were negotiated in advance and would become part of the obligations. She said that her preference was to determine rules and obligations in a more upfront manner and to embody them in a framework agreement rather than to delegate this to a regulations committee. A threefold approach was acceptable to her delegation. First, obligations should be transparent for all members before they undertook any commitments. Second, a mechanism was needed whereby participants could engage in a fruitful exchange of concessions and encourage as many countries as possible to join in the agreement. Third, more thought should be given to the institutional arrangements to be put in place to manage any eventual agreement.

36. One member raised the question of what was meant by the term existing obligations as mentioned with regard to dispute settlement procedures. Further elaboration on an escape clause was needed, in particular, on its relationship with the main principles. Regarding exceptions of a permanent nature, he asked whether it was the intention to develop a provision similar to GATT Article XXIV. He noted that it would be important that no exceptions be provided with respect to regulations promulgated by sub-national authorities.

37. One member, in a preliminary comment, said that the discussion paper had organized the contents of the Punta del Este Declaration in the form of a model which would enable the Group to establish parameters for the negotiation of a multilateral framework agreement on services. Bearing in mind that the core concepts would be based on a definition of trade in services, a balance should be reached between the five following key elements: development compatibility, transparency, respect for national policy objectives, progressive liberalization of market access and supplementary concepts (e.g. dispute settlement, balance of rights and obligations, national responsibility bearing in mind domestic regulations, derogations, exceptions etc.). Her delegation hoped to be in a position at the next meeting of the Group to present views on each of these elements as to how they could be included in an agreement. She said that once the concepts were clearly established, it might be possible to reach an agreement on the procedures to achieve a progressive liberalization of market access, bearing in mind transparency and an unconditional m.f.n. clause. She agreed with the discussion paper that not only state monopolies, but also private firms with dominant positions might constitute an obstacle to the expansion of trade. Clarification was needed about the adequacy of setting up a multilateral discretionary body for the examination of national regulations.

38. One delegation stated that GATT did not fairly represent the interests of developing countries. In the services negotiations, no developed country paper had seriously addressed the problems of developing countries. He said it was not good enough to expect developing countries - without the necessary expertize, technology nor statistics - to meet on an equal basis in the negotiations on services. The Punta del Este Declaration specifically provided the mandate for all governments to address the development of developing countries. Therefore, there was a responsibility for developed countries to respect the mandate.

39. One member agreed with an earlier comment that it was not clear whether the regulations committee would be a negotiating body for bilateral bargaining purposes, an independent judicial body or the first stage of a disputes settlement mechanism. His delegation was not clear on the meaning of economic protection. He said that if policy objectives were to be listed, economic protection should be included in this list. Doubts were expressed as regards the suitability of the concept of appropriateness, although it was evident that some standards had to be agreed upon. For his delegation the idea of preservation of international competition was considered as being acceptable to the extent that it would also cover firms with a dominant position. He had doubts about the definition in the discussion paper and thought it may be insufficiently precise.

40. One member, referring to the idea that regulations incompatible with some of the concepts - such as non-discrimination and national treatment - would not necessarily be negotiable, questioned the adequacy of a procedure where countries would effectively condemn a particular law or regulation as inconsistent with the agreement. Concerning development, he invited developing countries to submit written proposals with their ideas how this concept could be integrated into the negotiations of the framework agreement.

41. The member who had circulated the discussion in MTN.GNS/W/29 responded first to general remarks made on objectives, priorities and chronological issues. With respect to objectives, he stated that it was not the intention of his authorities to change the balance of interests established in the Punta del Este Declaration. On the other hand, however, participants might add to the Declaration what they considered necessary to realize the objectives. This, he said, would not be regarded as contradictory to the Declaration if it contributed to meeting the mandate. For example, he considered that his delegation had contributed to fulfilling the Punta del Este mandate by suggesting that the most efficient way of realizing the objectives would be to use the motor of market forces to promote growth and development. Concerning priorities, the discussion paper had made it clear that there was no question of defining some things as being more important than others. For example, not only the core concepts were very important, but also additional concepts. The fact that matters relating to coverage and definition had not been clearly spelt out obviously did not mean that they were regarded as less important. It was simply a reflection of the fact that the thinking of his delegation was less advanced in this area. As far as chronology was concerned, he said that the diagram was certainly not meant to represent a chronology but was rather an attempt to provide a logical structure. Although it was evident that growth and development were interlinked, as Ministers in their wisdom had mentioned both, each term had been presented separately in the diagram. Since considerable time had already been devoted to problems relating to concepts, his delegation had devoted more time and effort to mechanisms. In response to a request to provide examples of acceptable policy objectives, he said that one such policy objective was the preservation or the creation of cultural identity. Meeting such objectives could lead to regulations which did not provide for national treatment and which could discriminate against foreign providers of cultural services. He cited television programmes as a specific example. This was a case where national treatment could be in conflict with national policy objectives. Further examples of acceptable policy objectives were the maintenance of safety standards and consumer protection.

42. He went on to say that it might be useful at a later date to put together and review what had been said so far on development matters. In this respect, one delegation had suggested that development objectives could be supported at the operational level by provisions relating to national capital formation. In his view, this was a helpful remark that should be explored further. Regarding economic protection for developing countries, it was important to consider whether economic protection was always compatible with development since, in the view of his delegation, economic protection - if it was defined as stopping international competition - may not be helpful for development. He repeated the view that competition should be the motor of the multilateral framework. In response to the comment that there should not be any examination of the appropriateness of regulations taken for development purposes, he said it was not possible to sign an agreement which provided for no discipline whatsoever on what governments wished to do for policy purposes. While Ministers had agreed that the objectives of national regulations should be respected, there was no question of them having agreed that no existing regulations should be

looked at. His authorities were ready to have their own regulations examined if other countries considered them to be detrimental to the realization of the aims of the agreement. Refusing to look at existing regulations meant refusing to look at the possibility that policy objectives might be realized with alternative regulations with less impact on trade. Regarding the regulations committee, he said that the criteria for the work of such a committee needed to be clear, and to the extent possible, negotiated in advance. Concerning the question of whether it would be a supranational body, he said that the GATT Council was a supranational body which took decisions and that, similarly, the regulations committee would also take decisions. He did not necessarily see a distinction between the two. As far as he was concerned, it was not important if the committee was called a dispute settlement committee rather than a regulations committee. The idea behind such a committee would also be to develop procedures to meet the needs of all and to protect the interests of smaller countries. Careful thought was required under the heading of development compatibility, in particular, whether some regulations might be inappropriate for developed countries and appropriate for developing countries. Furthermore, the suggestion that it might be easier to remove a subjective element of the process if it was made clear that all distortive regulations were made negotiable. According to his delegation, it was unacceptable to say that everything which distorted trade was negotiable. He referred to his earlier examples of acceptable policy objectives. His delegation agreed that it would be a correct interpretation to refer to negotiable and non-negotiable regulations instead of appropriate and inappropriate regulations. Regarding the comment that comparable levels of market access meant absolute reciprocity, his authorities were ready to examine situations where there was apparent incompatibility between this concept and development objectives, and if total reciprocity was incompatible with development, his authorities would not ask for it and the question of how rapidly countries were expected to arrive at comparable levels of market access could be discussed. The question of how to implement rules of behaviour for dealing with non-competitive situations had been left open.

43. Regarding an earlier question as to whether enquiry points represented a notion similar to due process, he said that this was not the case. Regarding the inclusion of investment in definition and coverage, he said that in some sectors effective market access would need to include investment. Regarding the lack of attention to subsidies, he asked whether the countries which raised the question regarded subsidies as competitive distortions; his paper had indicated that competitive distortions should be dealt with and if subsidies were considered to distort competition, they would fall under this heading. Concerning standstill, he noted comments along the lines that careful consideration should be given to the fact that developed countries would have had more time to introduce restrictive regulations and that it would be unfair to those countries which had not yet introduced such regulations to call for a standstill. This merited careful thought. Regarding the comment that maintaining a balance of benefits would be difficult, he said that an agreement should be negotiated which would benefit all signatories. One would have to ensure that this situation would continue throughout the life-time of the agreement. With respect to the question of whether the liberalization process would be separate from the

working of the agreement as a whole, the answer was that the process of progressive liberalization should start at the moment the agreement was signed. This would mean that participants would have agreed, prior to signing the agreement, on some measures of liberalization. He drew a parallel with GATT in 1947 and the progressive liberalization in the seven successive rounds. Regarding the definition of trade in services, although it was essential that all internationally tradeable services be included in the agreement, there was a need for a balance of sectoral coverage to respond to the interests of all participants, including developing countries. Concerning the status of the framework agreement and its relation to sectoral packages, and whether the coverage of the agreement would be restricted to sectors which were in negotiated packages, he said that the basic idea was that there would be one agreement which would include certain sector specific provisions. Although all sectors would be covered, this did not necessarily mean that there would be liberalization in every sector from the outset. The question of whether liberalization would be faster in some sectors than in others was also left open. Regarding the question as to whether the concept of non-discrimination would be applicable to labour flows, the answer was that it would be applicable to the extent that participants would agree that labour movement be included in the definition of trade in services. A preliminary answer to whether it would be included would be given as soon as some negotiating partners were ready to give a preliminary indication whether establishment of companies could be part of the definition. With respect to whether the preservation of international competition meant preservation of the current situation, the answer was no, since the basic idea was that the agreement would lead to increased competition. Concerning exceptions for regional economic entities, he said that this provision could be analogous to GATT Article XXIV. Lastly, in answer to a question on the nature of the m.f.n. treatment, he said that the move towards comparable levels of market access would involve a movement towards something that looked like total reciprocity. But this would not mean total reciprocity in each individual package. The discussion of the document MTN.GNS/W/12 had shown that implementing the m.f.n. principle with progressive liberalization was actually quite complicated. For example, in the case of restricted access to a particular market where the number of foreign companies was permitted to increase, a problem was how this could be done on an m.f.n. basis.

44. The member who had circulated the submission in MTN.GNS/W/30 said that the two proposals contained in MTN.GNS/W/29 and 30 could be merged. It seemed to him that the proposal contained in MTN.GNS/W/29 required the establishment of a régime for trade in services at the national level with a change in the national legislation. He felt that this would be difficult and take a long time. Such an approach would not settle all problems and another approach would be required. This other approach would put an emphasis on the conversion of bilateral and plurilateral agreements into a multilateral system.

45. On Definitional and Statistical Issues, one member said that her delegation would like to hear reactions to the specific proposals put forward during the stocktaking meeting as to what other organizations could

do to move the negotiations forward. She said that while she found interesting the proposal in document MTN.GNS/W/29 to distinguish between tradeable and non-tradeable services, it was necessary to study the way in which the notion of tradeable services related to definition and the coverage. Another member said that it might have been more useful if the discussion of the two submissions had been structured around the five elements of the agreed agenda. He went on to say that the definitional issues had not been dealt with satisfactorily in any of the thirty submissions so far. In the two submissions under review, they amounted to a residual definition and included either all services sectors (and not trade in services) or were general and covered all internationally tradeable services (without any specific detail about sectors). He added that previous communications had referred to the idea of "right" of establishment which was, as far as he knew, a right which had not been recognized by any international arrangement or agreement. If such a concept was to be introduced in the multilateral framework, its inevitable counterpart, the "right" of residence for providers of labour services, would also have to be examined.

46. Responding to these comments, one member agreed that more attention should be given to definitions. The proposal in document MTN.GNS/W/29 did not refer to the concept of "right" of establishment, but his authorities believed that, in order for effective market access to be achieved in some services sectors, an element of establishment would need to be covered by the agreement. He said that if one argued that the counterpart of the notion would be that an element of labour mobility would have to be covered by the agreement, then he would have to regard this as intellectually sound. Reacting to these remarks, the earlier speaker said that he had appreciated the nuance and helpful clarification introduced by the previous speaker who had referred to commercial presence and was prepared to consider a degree of labour mobility across border as a counterpart to the commercial presence argument.

47. The Chairman said the depth with which the elements were discussed was closely related to whether proposals had been made or not. Regarding statistics, the Chairman said that a project for technical assistance particularly for developing countries in statistics concerning trade in services had been promoted by UNCTC and UNCTAD. The GATT secretariat was in contact with the UNCTAD Secretariat with respect to this matter. The Chairman said that for his part, he had been in contact with various Secretariats and he would give more information about this project at the next meeting after having had further consultations.

48. On Broad Concepts on which Principles and Rules for Trade in Services, including Possible Disciplines for Individual Sectors, might be based, one member, referring to the United States-Canada Free Trade Agreement, asked the parties to explain the main elements of this agreement relating to services trade, and the extent to which it would have an impact on the negotiation of the multilateral framework when it came into operation. He enquired whether there were any elements in this agreement that led to benefits for third countries, bearing in mind that Articles 1406 and 1705 stipulated that the two parties could deny the extension of benefits to third parties. He also asked whether the agreement was flexible enough to

ensure consistency with the multilateral framework. One of the parties to the agreement said that the relevance of the agreement to the present exercise was largely academic. It was conceivable, however, that some of the language and some of the provisions might be useful for the work in this Group. Both parties said that ratification had not yet been implemented by the governments of either country. The other party to the agreement said that it might have the opportunity to present some details at a later stage. The document was available, however, as a public document and copies of it could be shared with interested delegations.

49. One member said that new concepts could be introduced into the framework only as a result of negotiated consensus. Nevertheless, some, such as "the assumption that the smooth operation of international markets would be the driving force creating such trade expansions" figured in document MTN.GNS/W/29. This had not been agreed to as part of the negotiations, and it yet had to be seen how this assumption had been substantiated by the history of industrialized countries. While the forces impeding competition should not be ignored, there should be a historical perspective to these negotiations to see how open the services markets of developed countries have been and what the contribution of this has been to their development. There existed a structural inequality in these negotiations and no régime would be able to really take care of this problem. The initial assumption should be a starting point of inequality, and that intervention by the state was necessary in order to bring about more equality in international economic relations. There should be a recognition at the outset of the rôle that the state should play in regard to the development of the services sectors. Therefore, any prescription which arose from principles of competition and smooth operation of international markets should be kept at arm's length. A second new concept was that regarding the appropriateness of national regulations. He said that any regulations had to be viewed in the context of development. In addition, he noted that the concept of international transactions in services, as mentioned in the discussion paper, was an unwarranted expansion of the terminology of trade in services contained in the Punta del Este Declaration. Regarding the idea of alternative ways for achieving national goals in development, he was of the view that the Group should not engage in discussions about the prescription of different internationally acceptable principles and criteria for national development. He said that an examination of all types of transactions in all sectors to find alternative ways of developing more than 60 developing countries would be a broad open-ended approach that would not be fruitful. Lastly, regarding standstill, he said that this concept, which had not been a part of the Punta del Este Declaration, had no agreed basis and benchmark, and therefore should not be introduced in the discussions.

50. Responding to these comments, the member who had circulated the discussion paper in MTN.GNS/W/29 said that the concept of national definition of development meant that the regulations committee would not say what development should be; it was the rôle of this Group, however, to concentrate its efforts on defining instruments which would promote the development of developing countries. Regarding the question of whether the

experience of developed countries in building up services sectors was of relevance to this Group, he pointed out that the mandate of this Group concerned the expansion of trade in services and not national services policies. Therefore, he had some doubt whether the examination of national services policies in developed countries would be of relevance to this work. Regarding standstill, he said that, although this had not been part of the Punta del Este Declaration, this Group needed new concepts in order to implement the Declaration.

51. One member replied that if the discussion paper considered that the opening up of services sectors would be the basic force of development for developing countries today, a related question was whether the same force had developed services sectors in various industrialized countries in the past.

52. On the Coverage of the Multilateral Framework for Trade in Services, one member invited those countries which had submitted proposals to indicate which sectors they had in mind in order to better appreciate how some of the proposed concepts would operate in practice.

53. On Existing International Disciplines and Arrangements, one member said that this Group should devote more time to the examination of the secretariat document, circulated in MTN.GNS/W/16. He said that it might be useful to consider how to involve the respective international organizations in the discussions. While this had been done in the past, he said that now, their involvement should be more with reference to the details of the specific arrangements. It was time now to find out what was the potential for a wider application of the existing disciplines and arrangements, what was the current state of activity in the organizations and what further possibilities could be visualized. He said also that the time had come to handle the question of technical support. He requested the Chairman to suggest ways of dealing with this question.

54. One member said that much of the work of other organizations was quite unrelated to the mandate of the Group.

55. On member, supported by some delegations, referred to that part of the Punta del Este Declaration which indicated that the Group should take into account the work of relevant international organizations. He also said that when the Group came to meet with these organizations, it should have a clear idea of what it was seeking. In this respect, it might be useful to prepare for those discussions in a systematic way by having some kind of checklist of points or questionnaire in order to proceed with the work.

56. One member said that he would like to think further about the modalities of the participation of international organizations. Another member said that the key issue was the relationship of the framework to other existing international disciplines and arrangements. In the absence of agreement on a framework, it would be of little value to have a series of lectures from international organizations. In order to have a clear idea of the needs in this Group, the Chairman could consult with delegations on how best to proceed on this specific element.

57. On Measures and Practices Contributing to or Limiting the Expansion of Trade in Services, Including Specifically any Barriers Perceived by Individual Participants, to which the Conditions of Transparency and Progressive Liberalization Might be Applicable, one member said that various studies had pointed out that there was a greater degree of concentration of restrictive business practices in the area of services than in goods and that this presented problems for the expansion of trade, particularly for developing countries. His delegation would soon circulate a paper on restrictive business practices for discussion in the Group. This issue was one example where it would be very useful to know what had been the work of other fora in this regard, what they had been able to achieve with respect to the control of restrictive business practices and, if they had not been successful, how this Group could take this task further in the area of trade in services.

58. Under the agenda item of Other Business, one member said that he requested the Chairman to initiate consultations with delegations on the item of technical support so that, between this meeting and the next, a common understanding could be reached on how to proceed.

59. In concluding, the Chairman said that the next meeting would be held on 22-25 March 1988. He suggested the Group stay with the same agenda as for this meeting and that he would hold informal consultations with delegations on the best way to elaborate on the agenda at the next meeting, as well as on the other topics raised during this meeting, for example, technical support.