

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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Group of Negotiations on Services

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COMMUNICATION FROM BRAZIL

Brazilian Views on Some of the Basic Elements  
that are Discussed in the GNS

The attached communication has been received from the delegation of Brazil, with the request that it be circulated to the members of the Group of Negotiations on Services.

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A - DEFINITIONAL AND STATISTICAL ISSUES

Negotiations on the establishment of a multilateral framework for trade in services should have as their principal parameter crossborder trade in services. Only those activities which are associated with the direct sale of services by enterprises or individuals residing in a country to enterprises or individuals abroad are included. Services transactions between enterprises or individuals established in the same country are considered domestic transactions

This is not the same definition of trade in services presented in several of the documents circulated in the GNS, which included services sales by affiliates or subsidiaries of transnational companies to enterprises or individuals residing in the same country, that is domestic transactions. These should not be included in the framework agreement.

The absence of broad and sufficiently detailed statistical information on trade in services is generally recognized as an obstacle to its economic analysis, to the identification of factors acting as barriers to its expansion, and to the quantification of the negotiating interests at stake. The improvement of statistical information is a preliminary and essential step.

B - BROAD CONCEPTS ON WHICH PRINCIPLES AND RULES MIGHT BE BASED

Following the mandate established in the Punta del Este Declaration, negotiations on trade in services must be carried out under the aegis of development. The framework agreement of principles and rules that may be established by the negotiating group must have as its objective to expand such trade as a means of promoting economic growth of all participant States and principally of promoting the economic development of developing countries.

Thus, it cannot be accepted that the liberalization of trade in services per se might be considered as the objective of the negotiations. The progressive liberalization of trade in services may occur if and when it is not conflicting with the objective of growth and development.

The negotiating process should therefore include rules to assure basic conditions for development, rules which should not be understood as temporary exceptions nor as case-to-case solutions for unchangeable situations but as general principles of permanent character.

The specificity of services transactions requires an adequate treatment with which there is no parallel in trade in goods. Concepts like national treatment, as applied to trade in goods, cannot be applied to cross-border trade in services, as there does not at any moment exist a barrier at the border of the same kind as customs tariff, which could be imposed on all services. The extension of concepts brought about from the experience of trade in goods to the legal framework for trade in services must be looked at with caution. One has to keep in mind that for trade in goods the object of international rules is the product and not the producer. And also those rules did not abolish the jurisdiction of States on their national markets, since the products are supposed to cross the border and pay the duties there imposed on them.

The framework agreement on trade in services, which has the objective of growth and development of the participant countries through the expansion of such trade, through its progressive liberalization, should contain concepts adapted to the specific nature of services transactions, which would permit the entry of new countries into the international services market.

To make the expansion of trade in services compatible with the promotion of economic growth and development it will be necessary for the multilateral framework on trade in services

to assure developing countries of the maintenance of the compatibility of progressive liberalization with their development objectives, besides the preservation and development of their domestic services industries.

The multilateral framework shall also guarantee the access of developing countries to the international high-technology services and high-technology markets, on an equitable basis. The notion of liberalization should not be confounded with that of deregulation. The political objective which inspired national laws and regulations on services shall be respected. Among these objectives one must include that of disciplining national services markets, which implies maintaining the instruments to control foreign trade in the hands of national authorities.

Due to the difficulty of imposing tariffs when dealing with trade in services, it is necessary to adopt provisions to reduce the risk of market disorganization. The most appropriate form for this escape clause will be determined by the obligations established in the multilateral agreement on services and by the type of concessions negotiated under its auspices.

It is not clear yet how concessions in the services sector will be measured and negotiated. There are insurmountable obstacles to compatibilize offers and requests from areas ruled by completely distinct parameters, which renders the concept of cross-concessions non-operational.

#### C - MEASURES AND PRACTICES CONTRIBUTING TO OR LIMITING THE EXPANSION OF TRADE IN SERVICES

The abuse of dominant market positions is one of the principal obstacles to the expansion of trade in services, particularly due to the distortions it causes to price structuring and to the restrictions it imposes on the access of new participants

to the market. The negotiation of a multilateral framework agreement shall aim at correcting this situation through the establishment of principles and rules to inhibit, inter alia, predatory behaviour towards competitors, abusive use of intellectual property rights, discriminatory price practices, mergers, associations or other forms of acquiring control with a view to reaching a dominant market position, the imposition of conditions to supply services, market sharing agreements, and other measures that desvirtue international competition and could have negative consequences for international trade in services and for participation of developing countries in that trade.