

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

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Group of Negotiations on Services

NOTE ON THE MEETING OF 17 - 20 MAY 1988

1. The Group of Negotiations on Services (GNS) held its fourteenth meeting from 17 to 20 May 1988 under the Chairmanship of Ambassador F. Jaramillo (Columbia).
2. As indicated in airgram GATT/AIR/2594, the agenda contained the five elements listed in the programme for the initial phase of the negotiations. Concerning the element "Existing International Disciplines and Arrangements", the Chairman proposed that the Group discuss the replies to the questionnaire as circulated in documents MTN.GNS/W/36, Add. 1 and Add. 2 by the three international organisations: the International Civil Aviation Organisation (ICAO), the International Telecommunication Union (ITU) and the United Nations Conference on Trade and Development (UNCTAD). The representatives of ICAO, ITU and UNCTAD introduced their respective responses to the questionnaire addressed to them and subsequently several questions were raised and clarifications sought by members of the Group regarding the presentations, as well as the replies to the questionnaire.
3. The representative of ICAO said that despite having been often described as a technical organisation, ICAO had continued to widen the scope of multilateral accord and involvement in the non-technical fields. It had the constitutional authority and flexibility as well as the machinery to deal with all air transport issues. The Chicago Convention concluded in 1944 was the basic charter of air transport and ICAO's constitution. It established the privileges, obligations and restrictions for all contracting states, provided for the adoption of international standards and recommended practices, regulated air navigation, recommended the installation of navigation facilities by contracting states and suggested the facilitation of air transport by the reduction of customs and immigration formalities. The Convention accepted the principle that every state had complete and exclusive sovereignty over the air space above its territory and provided that no scheduled international air services may operate over or into the territory of a contracting state without its authorisation. The representative of ICAO also pointed out that any discussion regarding the air transport system should not be confined to a discussion of ICAO's functions and activities. Since international law was codified in the Chicago Convention, international air transport was actually governed to a large extent by a comprehensive network of bilateral agreements between states".
4. As it related to trade, the representative of ICAO said that the ICAO system placed great emphasis on bilateral reciprocity and a balancing of market access and benefits. The bilateral system was the focus of a great deal of ICAO activity in the economic and regulatory field. In these fields ICAO sought consensus in its recommendatory material. However, there were some issues, such as liberalisation as an objective in international air transport, where consensus was relatively difficult to achieve. Another

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feature of ICAO's work was regional planning, mainly from the provision of adequate networks of air navigation facilities. These plans were designed so that when the states involved put them into action it would lead to an integrated efficient system for the entire region. Whenever needed, states could request assistance from any of ICAO's seven regional offices. The organisation could also assist states through its technical assistance activities. ICAO was furthermore one of UNDP's executing agencies in the technical assistance field, and in this respect aimed at ensuring that all states could participate and contribute to the world's need for trade and communications links. Because of its special role regarding international air transport, ICAO took a special interest in the role other organisations wished to play in this field. It did not take an insular view of its own role but the organisation's governing Council had expressed concern since before the Punta del Este Declaration that any discussions relating to air transport take into account both how this services sector was governed and ICAO's responsibilities.

5. The representative of the ITU pointed out that the Union's mandate and activities included the policy, regulatory, technical, operational and tariff aspects of international telecommunications. The mandate of the ITU was spelt out in the International Telecommunication Convention, which was the basic instrument of the Union, and had the status of an international treaty. This instrument provided for the various responsibilities of the organisation; they involved inter alia: the harmonisation of the development of telecommunication facilities, the fostering of collaboration towards the establishment of rates as low as possible, the making of regulations, the formulation of recommendations, and the collection and publication of information concerning telecommunications matters. The main concepts and principles of the ITU's mandate included the sovereign right of each country to regulate its telecommunication, and the right of the public to correspond by means of international telecommunications for which the services, the charges and the safeguards had to be the same for all users in each category of correspondence. As international telecommunications invariably involved an extension of the domestic services and facilities of one country for use by customers located in other countries, technical and regulatory provisions as well as related administrative arrangements were internationally agreed upon amongst service providers and operators under the aegis of the Union. As modern technology had enabled the growth of a wide range of new services necessitating long-distance information transfer, telecommunication transport had become a key ingredient in the development of many service industries. This underscored the significance of the ITU, as its responsibilities covered the telecommunication transport function. The Union's main activities were of a multilateral nature although some activities were plurilateral and bilateral in nature as well. The World Administrative Telegraph and Telephone Conference (WATTC) to be held at Melbourne in November/December 1988 was one example of ITU's multilateralism. The Union's legal instruments provided furthermore for the promotion of economic development of its Member countries in general and developing countries in particular. Expenditure on related advisory services as well as technical cooperation projects amounted to about US \$ 30 million annually.

6. The representative of UNCTAD said that the Liner Code addressed itself only to that part of the market that concerned liner shipping. Bulk shipping was something different by virtue of both the market structure and the transport process itself. The cargos were so called general cargos, and comprised a heterogeneous group of shipments. Since 1875, liner shipping had been organised in liner conferences which were cartel-type cooperative agreements among ship owners serving the same trade route. They had aimed at restricting price competition and allocating cargo shares, sailing quotas, and revenues shares among the members. He said that today there were some 350 conferences covering virtually all international trade routes with a sufficient cargo generation. This organisational form of international shipping and the distinct rate setting procedures inherent in it had been at the root of concern in the international trading community. Unilateral rate setting procedures had been adopted by liner conferences, setting rates at levels which permitted even high cost operators to make operating profits. These levels could even be retained at times of surplus shipping tonnage because of the absence of effective competition from operators within the conference, and owing to joint action of the conference against outsiders to prevent non-conference operators from intruding into conference controlled trade routes. Similarly, sailing frequencies and types of vessels employed had been decided unilaterally, often failing to meet the demands of the international trading community, particularly that of developing countries.

7. In recognition of the need for multilateral action to redress the short-comings of the international liner conference system, the international community in 1972 had decided to consider and adopt under the auspices of UNCTAD a Convention on the Code of Conduct for these liner conferences. This Convention had entered into force in October 1983 and provided an internationally accepted regulatory framework within which liner conferences operated. Moreover, the Code of Conduct was to be seen as an important instrument for the attainment of a more significant participation in shipping by developing countries as expressed in the international development strategy for the Third United Nations Development Decade in the field of Transport. In fact, the Code was one of the most crucial supporting measures for the realisation of the major targets of the eighties in shipping; that is, structural change in the shipping industry and of twenty percent of world tonnage for developing countries. As far as liner shipping was concerned, the Code made a dual contribution for the attainment of these goals because it reduced investment risk and helped developing countries shipping lines to secure cargo. Without such a support, any quantitative tonnage target would become meaningless. The importance of the Code for developing countries was not to be seen in isolation. It was part of a political package containing other important elements which aimed at the same target and which had been under consideration at UNCTAD. Among others, these related elements included ship financing, registration of ships, multimodal transport operations and model legislation. Despite these considerations, the Code was not confined in its application to developing countries but it was of universal character. The preamble of the Convention stressed its universality, although the specific needs of developing

countries were referred to. The objectives of the Code were to ensure rights of participation in the trade of national lines so that they were entitled to carry a substantial share of their own country's foreign trade. To balance the interests of shippers and ship owners, to facilitate the orderly expansion of liner trade, and in order to ensure the smooth functioning of a new system of international regulation of liner conferences, the Code established the machinery for the implementation of the system based on mandatory conciliation procedures.

8. Questions relating to the functioning of the ICAO were raised by many members of the GNS. In response to the question of one member relating to the extent to which the rights and obligations of ICAO's Charter were multilaterally codified, the representative of ICAO pointed out that this had been mainly the case in relation to technical matters where the need for regulation was "absolutely essential" (i.e., safety, language). Economic matters had been much more difficult to regulate multilaterally even though great importance had been attached at the Chicago Conference itself to seeking the exchange of commercial rights on a multilateral basis. Of the two other agreements negotiated in parallel with the Convention - the International Air Services Transit Agreement (IASTA) and the International Air Transport Agreement (IATA) - only the one which did not involve commercial rights enjoyed wide participation (the IASTA had 101 signatories whereas the IATA had only 11). As to the availability of the records of the 1944 Chicago Convention, the representative said that they could be found at the United Nations library.

9. Regarding the application of ICAO's model clauses by member states, the representative of ICAO indicated that these clauses had enjoyed wide acceptance and recognition even though they were not compulsory. The notification by member states of obligations they were not able to comply with did not entail sanctions on the part of ICAO. As concerns the absence of relevant provisions vis-à-vis the Convention in the drafting of a particular bilateral agreement, ICAO might offer recommendations to states but nothing obliged those states to accept and implement them. Other questions relating to the functioning of ICAO included the relationship of regional economic integration agreements to the Convention. Responding to a question by a member, the representative of ICAO said that the Convention did not restrict groups of states from negotiating liberal air transport frameworks among themselves. Regarding the widespread bilateral framework currently in place which upheld the concept of sovereignty of national airspace, he confirmed that the need for some sort of agreement in this area did not necessarily imply that these agreements could not be multilateral.

10. In response to a question relating to ICAO's working definition of "efficient and economic services", the representative of ICAO said that such a definition was expressed in the framework created by the organisation which set the guidelines for the achievement of increasingly improved results. He nevertheless confirmed that bilateral arrangements complement ICAO's recommendations on financial and economic matters. As regards statistics the representative of ICAO pointed out that the organisation had

complete sets of data on both scheduled and non-scheduled services. Also, statistics on member shares in the services transactions covered by the organisation were available and some had been submitted to GATT prior to the Punta del Este Declaration. Regarding ICAO's compilation and publication of operational costs as well as of details of subsidies (as set out in Article 54 of the Convention), he said that such data is collected by the organization but is not always complete. Thus, the question about a more precise "state of affairs" in this area could not be properly answered. Various questions were raised regarding the broad concepts and principles on which the mandate of the ICAO was based. The representative of ICAO said that the concept of most favoured nation treatment in effect had "died" at the Chicago Convention (where it was originally introduced in a draft relating to specific matters such as customs and airports) as more emphasis had since been placed on the concept of non-discrimination in both the ICAO as well as in bilateral agreements that had followed.

11. Responding to a question on how ICAO dealt with liberalisation, the representative of ICAO said that the organisation considered three elements to be relevant: market access, capacity, and air fares. For all three elements there existed in turn a wide spectrum of views. For market access, ticket sale policies varied widely as concerns the right of ticket sale, e.g. ticket sales may be restricted to national airlines or airlines which granted reciprocal rights to the national airline. Regarding capacity, the arrangements varied as to the number of airlines allowed into a country, as well as the number of seats per week, month or year which may be allotted to foreign and national carriers. As to fares, some countries might be able to accept any level of fares whereas others did not allow any deviation from official rates. He pointed out that these were some of the specific elements which could hardly be successfully regulated by any international organisation and which had to be considered in any negotiated process of liberalisation.

12. With respect to the question of competition laws, the representative of ICAO said that ICAO's governing bodies were presently examining the application of national and regional economic associations' competition laws to international air transport. The Council should study the matter in the next few months and guidance material and a model clause may be developed on conflict avoidance and management. Responding to a member's question relating to the evolution and practice of the objective of "Prevention of Economic Waste" as stated in Article 44 of the Convention, the representative of ICAO explained that such objectives were fulfilled through the organisation's advisory function as well as through its forecasting, economic studies, joint-financing programs, airport management and other activities. An example of ICAO's coordination efforts included the agreement for combined use of air navigation facilities in Denmark and Iceland. Finally, it had been the practice of the ICAO to convene air transport conferences and three major ones had taken place - in 1977, 1980, and 1985. The agendas of these conferences had covered such items as commercial rights for services, role of government in tariff establishment, and tariff enforcement. Whereas tariff enforcement had been on the top of

the agenda in 1977, it had since decreased in importance because of the trend towards liberalisation in air transport in a number of States. Regarding development and the interests of developing countries, the representative of ICAO said that developing countries were very well represented in the ICAO as these countries comprised more than half of ICAO's Council membership. There was also wide participation of developing nations in the organisation's working bodies as well as in panels which deal with specific problems. Furthermore, as with developed countries, developing countries are fully involved in the decision-making process of the organisation.

13. In response to an enquiry about the International Air Transport Agreement (IATA), the representative of ICAO said that only eleven signatories presently exist and this agreement is of no practical effect. As to the basic content of the agreement, it established essentially a structure for the exchange of market access concessions and was based on the "five freedoms": overflight, non-technical stop, right to pick up your own traffic and take it to another state, right to pick up other traffic and bring it into your state, right to pick up traffic between two other states. Also, there had been no efforts on the part of the original signatories to bring the matters up at the last Air Transport Conference which took place in 1985.

14. Responding to questions raised by some members of the GNS regarding the availability of statistical material, the representative of the ITU said that certain information was indeed available on telecommunication matters such as number of telephone and telex lines, and the related traffic. This information was collected, compiled and published annually by the organisation in its "Yearbook of Common Carrier Telecommunication Statistics". Specific studies on growth trends and their relation to the issues of regulation or deregulation had not been undertaken by the ITU. As to Member country shares of services transactions covered by the ITU, some information could be found in the same publication; further analysis was needed, however, if one wished to establish the relevant levels of inward and outward financial flows. In reply to a request for clarification of the concept of transparency, the representative of the ITU said that he was not in a position to point to obligations which were relevant in the context of transparency other than those examples already indicated in the reply to the questionnaire. As to the exchange of information among Member countries, he indicated that this was in accordance with the relevant ITU Regulations and that it was undertaken through the Secretariat of the ITU. Examples of "service documents" included: list of ship stations, with information on types of radio equipment carried, frequency bands used, call-signs, etc. and other lists such as those on telegraph offices, telephone routes, etc.

15. Concerns regarding coverage were also raised by the Group. The representative of the ITU replying to a question on the increasing difficulty to draw a boundary between the transport and processing of information functions and its implications for the ITU's work, explained that the origin of this "blurring" was to be traced back to the considerable

evolution that had taken place in the network nodes which connected telecommunication links and served to provide the infrastructure for the transport function. There had been an evolution in the "intelligence" of nodes in as much as they had changed from manual operation to automatic switching which in turn had evolved from electro-mechanical, to electronic, including computer controlled switching. Admittedly, once the computer capabilities available were utilised to perform functions which went beyond the establishment of connections or the transmission of messages, more than just the traditional telecommunication transport function was involved. As to the new regulatory framework that could eventually emanate from the World Administrative Telegraph and Telephone Conference (WATTC) referred to earlier, the representative of the ITU said that the service areas which might be covered would be decided by the WATTC itself, as such decisions were within the competence of this Conference.

16. One member indicated that in the GNS, liberalisation could be understood to be greater market access and asked what liberalisation meant in the context of telecommunication services. The representative of the ITU said that in this respect the provisions of the ITU Convention could be interpreted as neutral as they were not intended to either promote or inhibit liberalisation. In the context of an observation by another member he also stated that no views had so far been expressed by ITU Member countries as to whether Numbers 15 and 22 of the ITU Convention did indeed represent "seeds of encouragement to liberalisation" to the extent that they related, respectively, to "improving the efficiency of telecommunication services" and the "establishment of rates at levels as low as possible". Also, no agreement had yet been reached by ITU Member countries on any modalities of such a nature through which improved efficiency and lower rates might be achieved. Regarding an allusion by the same member on the pooling of resources of the GATT and ITU on matters relating to liberalisation, the representative of the ITU said that normally it would be for the Plenipotentiary Conference of the Union to decide on such matters. One member quoted a statement by the Secretary-General of the ITU at a symposium in December 1987 where the latter had spoken of the importance of avoiding any overlapping or potential conflicts between the international legislation envisaged by the GATT and the ITU. This concern for an eventual new regulatory framework and its relation to liberalisation of telecommunication services was also brought out by the same member in the context of licensing. He said that the potential requirement of licensing that might emanate from the new legislation would in effect give national authorities the possibility of denying parties the ability to operate.

17. Questions were posed relating to the autonomy of national regulations, as well as to ITU Recommendations and standardisation efforts. In regard to the point made by one member that, at times, national autonomy was subject to restrictions and conditions when the collective interest or the interest of other nations was involved, the representative of the ITU pointed out that such restrictions and conditions were spelt out in the ITU Convention. In this respect, he drew attention to Articles 35 ("harmful interference to the radio services or communications of other members"), 38 ("installations

for national defence services") and 44 (Execution of the Convention and Regulations"). He did not, however, go along with the idea expressed by another member that such ITU restrictions and conditions were necessarily meant to inhibit the economic power of any country or to modify, in any specific manner, the way in which the utilisation of limited natural resources (such as radio spectrum and orbit) was currently regulated. On the question as to whether the standardisation and harmonisation activities of the ITU necessarily favoured public monopolies, the representative of the ITU said that the technical and functional standards developed by the Union took into account a wide spectrum of interests, including private operating agencies, manufacturers, and users, so that the mitigation of the adverse effects of restrictive business practices referred to in the reply to the questionnaire should be accomplished through the promotion of multiple sources of supply. As to the Recommendations issued by the Union, he said that unlike the Union's Administrative Regulations, Recommendations were not as such legally binding. They did, however, have the persuasive force of authority as they were adopted by consensus in the plenary assemblies of the Union's International Consultative Committees and were almost invariably followed by Member countries and others concerned. Also, the application of some Recommendations was explicitly stipulated in the Regulations themselves e.g. in the Radio Regulations in which case they were, as part of the Regulations, legally binding. Finally, as regards favourable treatment of developing countries, the representative of the ITU said that the Union had no system whereby developing countries reported specific instances. He mentioned, however, that the continuation, albeit on a limited scale, of the public telegram service could be viewed as an example of favourable treatment on the part of developed countries towards developing countries.

18. Responding to enquiries raised by some members of the GNS regarding the overall functioning of Liner Conferences, the representative of UNCTAD said that liner shipping was a segment of the total shipping market, accounting for only 15% of total world trade. Liner shipping was distinct from bulk shipping in that its cargos were heterogeneous and did not fill a whole ship. Unlike bulk shipping, liner shipping contracts did not involve the renting of a ship but instead the renting of the services required for the transportation of a specific item from one place to another. Furthermore, liner shipping was conducted according to pre-established schedules. As to the decline in importance of liner conferences, the representative said that liner shipping's share of world trade had diminished from eighty to eighty-five percent at the time of the adoption of the Code in 1974 to fifty to sixty percent today. He mentioned technological changes as the reason for such decline, namely, the advent of containerisation services. However, as the conferences increasingly adapted to containerisation, container carrier members which had left previously might join again. As concerns the reasons for the establishment of liner conferences, he said that three elements should serve to explain why conferences had been established: (a) regularity of services; (b) price stability; (c) capacity regulation. In relation to the adequacy of services, he pointed out that the Convention defined adequacy in terms of quality and the pricing of services. In this context, standardisation of certain minimum performance requirements at the



level of the conference system as a whole should be viewed as undesirable as the requirements of each type of trade varied considerably and could only be effectively dealt with individually. As concerns the distinction between open and closed conferences, he pointed out that membership in an open conference was always possible as long as the relevant carrier adhered to the Convention; in a closed conference, admission depended on the decision of the members of that conference. The representative of UNCTAD mentioned also a further related distinction which involved open and closed trades. Here, "open" referred to the possibility on the part of a shipping company of participating in any trade without having to be a part of any specific conference as long as it adhered to "fair competition on a commercial basis".

19. Regarding statistical matters, the representative of UNCTAD said that extensive data was available on the size of merchant marines of developing countries. He furthermore pointed out that the level of developing country ownership of the world's fleet amounted to twenty-one percent today, which represented one percent above the original target set by the Third United Nations Development Decade programme for achievement by 1990. This ownership, however, was concentrated in only about a dozen countries. Regarding figures on the participation of developing countries in liner trades, he said that there were only "second-best" statistics available which dealt with specific trades, some of which were very well covered as a result of bilateral efforts - for example, the Cameroon/European trade. With respect to statistics on "cross-traders", the situation was even more difficult. As concerns the number of bilateral agreements reached since the adoption of the Code in 1974, the representative of UNCTAD explained that no specific information was available since countries had no obligation to inform the UNCTAD Secretariat of agreements they entered into.

20. In response to a question regarding price stability, the representative of UNCTAD said that the contribution of the Code had been to provide a consultative mechanism which forced liner conferences to consult with shippers and shipping organisations before establishing prices. This should be seen in light of the previous practice of unilateral price setting on the part of liner conferences which, due to their relative power, obliged non-conference operators to accept conference prices. Through greater transparency and wider user participation in price determination, the Code had had a positive impact on liner conference pricing practices.

21. Regarding "non-discrimination", the representative of UNCTAD explained that the Code had ended the discriminatory practice which did not allow non-conference countries to have their national lines become members in conferences covering their own trade. This in effect meant that those conferences discriminated against developing countries. As concerns the Code's practice with regard to "cross-traders", he indicated that the provisions of the Code referred to all cross-traders, that the provisions were nationality-blind and applied to "pure", "incidental" cross-traders, as well as non-recognised national lines. In relation to participation in

trade, the Code referred to groups of and not to individual cross-traders. The question of the admission of individual cross-traders was formally left for each conference to decide and was not regulated by the Code. Conversely, a conference could refuse admission of a cross-trader but could not exclude all cross-traders belonging to a group at once since the right of participation of cross-traders as a group was clearly established. The representative of UNCTAD pointed out that overcapacity had been evident for the last fifteen years or so and mainly affected bulk markets in general and container markets in the case of liner conferences. The situation had been improving in the last few years as there had been a recovery of freight rates. As to the proposition that the Code contributed to overcapacity, he said: (a) the Code had not invented trade participation guidelines or allocation principles; it simply had established generally accepted criteria for allocation of cargos; (b) the Code did not foster a sub-optimal allocation of resources because it was not strictly based on a bilateral cargo allocation scheme and it even provided for the possibility of sub-regional cooperation to ensure economic viability. In this context, the representative of UNCTAD also pointed out that the 40-40-20 scheme (a central feature of the Code of Conduct for Liner Conferences (1983) which allows exporters' governments to split cargos into three groups: 40% for their own ships, 40% for those of the cargos' destination and 20% for the free market) had not in practice been adopted as a general rule. Most conferences were multilateral and as such did not determine their cargo shares on the basis of bilateral trades between conference members.

22. In response to a question relating to the "Common Measures of Understanding" reached in 1984, the representative of UNCTAD said that standardised favourable terms for developing countries had constituted a major topic within UNCTAD since its inception. The measures originally intended encompassing favourable treatment towards the creation and expansion of developing countries' fleets. This, however, had not come into effect but some aspects had been relatively successful - namely, favourable financing terms. Even though developing countries were not formally exempt from OECD credit terms, there had been some understanding that these terms did not apply to developing countries in the area of shipping. With respect to the "Common Measures" that OECD countries were free to apply these terms on their own. Developing countries had thus consistently received better financial terms than OECD countries for about twenty years now and had also profited from a host of national measures on the part of the major ship-building nations resulting in favourable treatment.

23. Some issues were also raised concerning the United Nations Convention on International Multimodal Transport of Goods (MT Convention). As to why the Convention only had five signatories so far, the representative of UNCTAD cited three major reasons: (a) the liability system that was established by the Convention was too sophisticated for some countries to implement within a short time horizon as it affected these countries' traditional liability régimes governing inland transport modes;

(b) Article 4 of the Convention which determined the right of every country to regulate multimodal transport operations within its territory had led many countries to adopt comprehensive legislation regulating not only the liability aspects of such operations but also many other aspects, in effect delaying the coming into force of the Convention itself; (c) countries had also been contemplating becoming parties to the Hamburg Rules which constituted an alternative liability régime to the one provided for in the Convention (the Hague Rules) governing sea transport; this had further complicated and delayed entry into force of the Convention.

24. Finally, one member said that there was a dilemma for developing countries emanating from technological changes that were now taking place and the evolving transport régime that should follow. This dilemma could be reduced to the question of how to use containers for both exit and entry cargo in such a way that it would best serve the interests of development and of developing societies. So far no solution had been found and the costs had not yet been worked out so that not only investment and technology but also organisation and harmonisation with existing external systems should prove to be relevant elements in further deliberations. In concluding, the member pointed out that the premises on which the Liner Code had been established was the bilateral relation between one shipper and a shipping line, a fact which had implications for multilateral deliberations.

25. The Chairman concluded the discussion on the international organisations and suggested that the Group address the two communications which had been circulated in documents MTN.GNS/W/37 and MTN.GNS/W/39.

26. The member who had circulated MTN.GNS/W/37 said that this submission was a follow-on from the one provided in October outlining the elements for a framework for trade in services. The new document was designed to address the important issue of procedures and how to go about the negotiations. His delegation proposed bringing some degree of order to the negotiating process by thinking in terms of three phases to move the GNS from the stage of negotiating the elements of a framework to the stage of negotiating barriers to trade in services.

27. The establishment of the framework of principles would be the first priority for negotiation. In order to consider the important issue of sectoral coverage, it would be necessary to first decide on what disciplines would be involved. At the outset, the framework agreement would not be a final legally binding document; its final provisions would only be incorporated at the completion of the negotiations when there had been agreement on sectoral coverage. The second phase would deal with the treatment of sectors and their incorporation in the framework. So far, understandably, delegations had been reticent to suggest sectors for coverage. To facilitate this process, he therefore suggested that delegations notify anonymously those sectors they would wish to have in the understanding. Suggestions could be submitted to the secretariat which would produce a consolidated list. On that basis, perhaps a more constructive

negotiation could be undertaken as to the eventual coverage of sectors in the understanding. The member stated further that sectoral discussions could include the following: provisions for "interpretive notes" to the framework that would clarify its application (for example in the case of national treatment) to individual service sectors; separate sectoral understandings which could be reached in rare instances by interested parties either outside of or subsidiary to, the framework; the reservation of measures (in the form of schedules) which signatories were unable to bring in conformity with the framework agreement. To discourage excessive reservations, signatories could invoke the right of non-application to another signatory. The third phase would be analogous to request/offer negotiations in tariffs and would be designed as a meaningful first step to reduce measures not in conformity with the framework. Regarding timing, the member urged the members of the GNS to move diligently with all three phases and expressed the hope that Ministers at the mid-term review conference in Montreal could reach political agreement on the elements of the framework. The sectoral notification process should be completed before to allow the sectoral coverage process to start early in 1989. In conclusion, the member said that the phases were not designed as an arbitrary process and that the GNS would be returning to various aspects of different phases at different times.

28. The member who had circulated MTN.GNS/W/39 said that delegations were beginning to address the question of how to make the negotiations work within the timeframe of the round and produce credible results. In this respect, he said the submission was not meant to be the text of an agreement but a two-part outline of a possible structure for an agreement which was neither comprehensive nor exhaustive. It would consist of four elements. The first would be a framework of principles within which market access undertakings and liberalisation of trade could take place. The main principle would be national treatment which, according to his delegation, was at the heart of the services negotiations. The second element referred to rules which were crucial to a services agreement covering, in particular, transparency and non-discrimination (or m.f.n.). Third, there were institutional provisions covering dispute settlement, nullification and impairment, surveillance and the question of the appropriate mechanism for continuing the negotiations after 1990. Fourth, market access undertakings would be set out in the form of schedules to the agreement which would lay down commitments in a number of areas. They would be negotiated bilaterally or plurilaterally and then extended on an m.f.n. basis to all signatories to the agreement. The method of negotiation envisaged work in all four areas in parallel, which should move forward quickly to set out in national schedules the commitments all participants would be making. Another element in the process concerned notifications and cross-notifications to ensure transparency in the process.

29. One member made supplementary comments about proposals previously submitted in documents MTN.GNS/W/32 and MTN.GNS/W/33. He said his delegation agreed more with the latter submission which stressed the need to include the concept of development in the main body of any agreement. As

regards the first mentioned communication, he said his delegation would like to see a section in the framework agreement referring exclusively to the development concept, which implied the achievement of several secondary objectives in the services sector of developing countries including: sustained growth of production and productivity and employment, improvement of international competitiveness, sustained export growth including the "new" producer services, and access to new technologies and information networks. To translate these objectives into reality, the member suggested a number of necessary measures: (1) establishment of the principle of "relative reciprocity" recognising the fact that there could not be equal treatment among unequal parties; (2) inclusion in the framework and sectoral negotiations of labour-intensive services where developing countries were competitive; (3) commitment by the developed countries to implementing rollback and standstill of their service regulations going far beyond "best endeavours"; (4) commitment to preferential liberalisation for exports from developing countries; (5) speeding up the transfer of technology; (6) the right of developing countries to subsidise their service industries; (7) avoidance of restrictive business practices of transnational corporations; (8) recognition of economic development as one of the main policy objectives of developing country regulations; (9) that the umbrella and sectoral agreements should be considered as independent of each other; (10) the necessity of reaching agreement on certain key concepts including transparency, national treatment and most favoured nation.

30. The same member raised preliminary questions regarding document MTN.GNS/W/37: first, how developing countries would be treated, especially in relation to the principle of non-application, and who would decide how this principle would be applied. Second, he asked whether paragraphs 12 and 13 referred to the US/Canada Free Trade Agreement or economic integration areas like the EC, or whether they were a conditional application of the m.f.n. clause. Concerning anonymous presentation of sectors, the member asked about withdrawals and additions to the list, their level of detail, and the timing of such notifications. Regarding MTN.GNS/W/39, he said his delegation disagreed with major parts of the proposal, e.g., on how national treatment should be applied to foreign suppliers. The member asked what the term "business personnel" in paragraph 21(c) of the document actually covered.

31. Another member stated that for his delegation, the main objective of the Punta del Este Declaration was not only promoting the development of developing countries but promoting the growth of all countries. According to some delegations, a balanced agreement should cover labour intensive services where some countries had a comparative advantage, but he stressed that an agreement that did not cover commercial presence would be unacceptable. Regarding national policy objectives, while his delegation accepted that each developing country decided on its own aims, he believed that there would have to be some mutually agreed multilateral discipline about how to best implement those aims, given the need to reduce the negative impact of national policies on the expansion of trade.

32. One member said that growth and development represented the objectives of the negotiations for his country. The Punta del Este Declaration dealt only with trade in services and not in transactions in services. Eighty five percent of trade in services was presently carried out by the developed countries but if labour-intensive services were included, the trade picture, might be more balanced. But he agreed that the best way to deal with the problem was by negotiating a multilateral agreement.

33. Another member reacted to comments made on her submission MTN.GNS/W/32 by stating that the discussion paper laid out one of several possible approaches and did not give a final solution. According to her, it was important to incorporate as much substance as possible into the framework agreement within the given timeframe. To help organise the group's work it could be useful to distinguish between immediately binding and more principle-type commitments. Under her proposal, a priori no principle or concept was being excluded from the scope of the framework. She said that a strong agreement was of particular importance to smaller trading nations. There were several ways of achieving this goal, but both large and small countries would find it difficult to sign far-reaching commitments in complex areas without having understood their implications. She viewed the group's role as providing opportunities for service industries through the smooth functioning of the markets, a process that was just being started and which was not a one-time exercise. She realised that even if the analysis proceeded largely on a sectoral or vertical basis, solutions might well be horizontal which could be one of the ways of obtaining cross-sector trade-offs. Turning to specific comments, she said that the framework could allow for different levels of m.f.n. to avoid different commitments being undertaken in a non-transparent fashion. Regarding the "best endeavours" suggestion on standstill she agreed with the comment made that past GATT experience had illustrated the difficulties of such a commitment but an agreement with no standstill would not be desirable. She noted that others had pointed out that the issues of definitions and coverage had been dealt with scantily in her submission. The reason was, however, the desire to start off as flexibly as possible and allow for the negotiating process itself to clarify those matters. The issue of definitions she considered relevant only in the context of commitments. She said that development aspects were also scantily treated, and rollback not mentioned, because these considerations had to be judged against the level of commitments in the agreement.

34. The member who had circulated MTN.GNS/W/37, responding to questions concerning the use of the non-application principle, said that the extent to which this principle was used depended whether a development concept was part of the framework. There would be guidelines laid down by the understanding but, in the final analysis, a non-application provision would be rather subjective depending on the "quality" as well as the "quantity" of notifications made. Concerning paragraphs 12 and 13 of his submission, he stressed that such separate sector undertakings could be rare cases which, should the need arise, would have to involve more than two countries. He

said his delegation wanted to see obligations in the framework that would bind the signatories. On the subject of anonymous notifications, he said sectors could be added or withdrawn from the universe of sectors as the notification process represented only a first step in the negotiating process. In terms of how specific notifications should be, he suggested that countries could do as they wished either notifying for example "insurance" or the sub-categories of "insurance". Regarding a timetable, he considered that the submissions to form the anonymous list could be completed by the end of the year. Referring to the document's final paragraph on the fulfilment of all three phases, he said that the third phase would be the first step towards the mutual reduction of measures, and it would take a number of rounds of negotiations thereafter to achieve significant liberalisation.

35. One member requested clarification of the anonymous notification procedure outlined in MTN.GNS/W/37 and asked what its motivations were. He said that to know a country's area of interest might be helpful for other countries to formulate their policies. Another member noted that the mode of anonymous notification was innovative. He said that the reasoning given in its support was the one of not compromising any strategic concerns on the part of participants, making them reluctant to notify sectors. He asked why such a procedure was being suggested in a transparent negotiation, given that the participants would like to know what their partners were interested in rather than having to guess. He also said that the question of definitions had not been dealt with in this or the earlier paper by the member in question: the proposal moved directly into the phases and negotiations for an agreed list of sectors which could become a "horse-trading" exercise. If this were the case, he foresaw considerable difficulty in adopting proper negotiating procedures.

36. The member who had circulated MTN.GNS/W/37 responded that the idea behind the anonymous notification was based on a clear reluctance on the part of countries to present their own list of sectors they were interested in. He saw this as the inevitable consequence of countries needing time to establish their position on the sectoral coverage of the understanding. His delegation was concerned that it would take too long for all the national considerations to be put together, and felt that the anonymous procedure would at least start the process of identifying what the universe of sectors would be. Concerning definitions, he said his delegation saw two aspects: one related to the nature of activities (e.g., commercial presence, factor mobility, etc) and the other to the coverage of sectors that would be part of the understanding. The first aspect would be dealt with in the framework. An indication of the nature of the activities covered by the framework would not be a legally binding commitment but a political commitment to a set of principles to be applied to an agreed sectoral coverage. In the final analysis those principles might be altered or dropped and others added depending on thoughts generated in discussing sectors.

37. One member said that his delegation had not decided which sectors should be covered by this agreement but had adopted as a general principle that all tradeable service sectors should be covered. His delegation was not prepared to specify sectors at this stage until there was a much clearer agreement of the structure and shape of the main lines of the agreement.

38. The member who had posed the question relating to anonymous notification welcomed the response and noted that those delegations with the most prominent interests in the negotiations were not yet prepared to indicate the sectors they were interested in. Regarding the question of having the principles and elements of the framework in place before thinking in terms of the sectors, the argument could equally be put the other way round: many delegations would find it impossible to agree, even in a political and not a legally binding sense, to any elements to be included in the framework unless one would know to what sectors and what types of activities they would apply.

39. The member who had presented MTN.GNS/W/39 said that while he did not expect everyone to agree with all elements in the proposal, he considered that its structure permitted a useful discussion of the different principles and practices outlined. Concerning the issue of movement of personnel, he stated that the proposal emphasised that the scope of the negotiations should not be constrained regarding coverage and types of factor flows.

40. One member, referring MTN.GNS/W/39, said his delegation agreed that the principle of national treatment lay at the heart of the services negotiations, and that the negotiations should seek to define national treatment as precisely as possible. The paper spelled out the connection between national treatment and market access and the distinction between prudential and economic regulation. He considered the prominence given to national treatment in the GNS was entirely justified and the Group ought to examine how it could be included in the framework agreement as a firm horizontal principle. He said that an earlier paper tabled last October in MTN.GNS/W/24 noted that the primary objective of national treatment was to prevent discrimination against foreign service providers as compared with their domestic counterparts. In his delegation's view, national treatment did not imply an obligation to grant unconditional access to the domestic market but it meant that once access was granted, treatment in terms of laws, regulations and administrative practices should be no less favourable for the foreign service provider than it was for a domestic provider offering a like service. The member then asked whether national treatment thus defined was a sufficient guarantee of market access. He said the answer had to be "no" as the granting of national treatment without the granting of market access would be quite meaningless. He noted that MTN.GNS/W/39 rightly drew attention to the need to ensure flexibility and respect for differences in national policy, consistent with the desire for an open and stable trading environment. In commenting on the principles/rules distinction made in the paper, he said his delegation considered national treatment a rule; an obligation to behave in a certain



way. Principles were more in the nature of best endeavours or intentions and he asked for the reasoning behind distinguishing rules and principles. Regarding the remainder of the document, he said that his delegation had supported the idea of compiling an inventory of barriers to trade. Although this was clearly a national decision, the existence of such an inventory could be a powerful tool in the formulation of a national position on the framework agreement. He pointed out that once the framework agreement was completed, it was likely that many perceived barriers would remain in place. In this context, he said, the suggestion contained in MTN.GNS/W/39 of reciprocal market access negotiations was helpful and could lead to liberalisation.

41. Turning to MTN.GNS/W/37, he said that when his delegation welcomed the earlier paper by the same member last October (MTN.GNS/W/24), he had stressed that it had been strong on principles but weak on showing how these principles might be put into practice. This deficiency, he said, had been remedied with the tabling of the latest paper. The idea of three phases was appealing since it presented a possible "déroulement" of the negotiations. However, negotiations seldom went according to plan, and he assumed that it was not the intention to adhere uncompromisingly to the outline. In the view of his delegation, it should be possible by the end of this year to arrive at a very good understanding of the operative content of the rules and principles to be included in the framework agreement. He said, however, that the Group also had to make a start on the sectoral coverage phase in order to be able to refine the operational rules. Thus he saw the phases proceeding concurrently rather than sequentially. As it might not be possible to complete the sectoral coverage phase in all respects before the completion of the Uruguay Round, participants would have to ensure that the infrastructure to allow completion of this phase be in place. He noted that the objective for the end of the round had not only to be a completed framework agreement based on clearly defined principles and workable rules, but also the setting-up of an institutionalised process to enable the Group to complete the sectoral coverage phase and to enter the phase leading to further liberalisation. He stressed that the Group had the twin tasks of negotiating an agreement and laying the basis for the implementation of the agreement.

42. Another member said his delegation judged the utility of the two proposals in terms of how comprehensive they were and whether they would assure the necessary dynamism to advance the negotiations. Although it was difficult to provide an ideal paper, the two proposals were good indications of what the Group should concentrate on. Turning to MTN.GNS/W/39, he said the four structural elements were basically acceptable to his delegation which also shared the authors' scepticism as to the necessity of setting up elaborate machinery to examine all regulations. On market access undertakings, the member welcomed the approach which seemed to by-pass the difficult task of defining the sectors to be covered but asked whether negotiations could be undertaken confidently, particularly in the concessions-exchange phase, without a clear definitional base. On the

question of the negotiating process, his delegation preferred a flexible stage-by-stage approach given the pressure of the 1990 deadline. Commenting on MTN.GNS/W/37, he agreed with the three-phase sequence, although with possible modifications, and asked whether, before negotiating on reservations, the entering into force of the framework would be mandatory or not. How was the wording in paragraph 14 to be understood in that regard? If the reference was to a mandatory procedure, the member warned of possible procedural burdens in each country's ratification process. His delegation also thought that it was necessary to reach agreement on a common list of sectors and in view of the hesitation of delegations to offer sectoral proposals, he suggested there might be a neutral or third party working on a possible list of services sectors which could be used as reference material. As far as Japan was concerned, the Group should not foresee at this stage the possibilities of extra-GNS arrangements as outlined in paragraphs 12 and 13. The Group should attempt to reach an agreement in the GNS that was as complete as possible.

43. Another member said that MTN.GNS/W/37 was a useful elaboration of the submission in MTN.GNS/W/24. Turning to phase 1, the general rules drafting stage, he said that his delegation favoured a strong framework agreement with a clear statement of the m.f.n. and national treatment aspects to ensure equitable treatment for all parties. He noted that phase 2 seemed to involve three segments: First, on the sectors to be covered by the framework and, second, on reservations and the right of non-application (i.e. a negative list dealing with the coverage of the sectors agreed under the first segment). The member noted in this respect that any escape clauses should be used sparingly otherwise a framework agreement could become unwieldy and ineffective. The third segment was a provision for supplementary sectoral agreements either for sectors not covered by the framework or further liberalisation measures for sectors already covered. The member said it was reasonable in the first instance to concentrate on phase 1 and the first segment of phase 2, but the process would inevitably be iterative. With respect to phase 2, he said that the "black box" approach of anonymous sector notification could help the Group to arrive at an initial view of negotiating offers and, as a refinement, it might be useful to know how many participants offered which sectors. Given the problems in notifying sectors, a non-attributable indication of interest would provide flexibility and allow work to continue on establishing the agreement's sectoral coverage. Also, it would be useful to know at the outset if any service industries were clearly "non-starters". He added that the proposed reservation of "consistent" measures in order to achieve a proper balance of rights and obligations (paragraph 10 of MTN.GNS/W/37) was an interesting alternative to a rollback provision and would be the subject of further reflection.

44. Turning to MTN.GNS/W/39, the same member noted that the outlined structure for a services agreement referred to principles and rules, but the emphasis seemed to be on the exchange of specific market access undertakings and trade liberalisation measures. A concern he had was that the proposal

encouraged a request-and-offer approach instead of a multilateral approach, and it was not clear how the development aspect in the GNS negotiating objective would be accommodated. The request-and-offer approach tended to favour the interests of the bigger trading entities rather than those of the smaller, including the less developed participants. The member acknowledged the argument that the benefits and concessions would be extended to all partners on an m.f.n. basis, but the assumption that all shared a common trading interest was not necessarily the case. Another point was that the market access approach did not distinguish between consistent and inconsistent measures and that although paragraph 9 of MTN.GNS/W/39 might be an expedient way out, his delegation was not sure that this was the proper solution. Finally, referring to paragraph 4 of MTN.GNS/W/39, he requested clarification on how the progressive approach to the removal of trade distorting or restrictive barriers might be realised in the framework proposed.

45. Another member said that MTN.GNS/W/39 represented a careful and broad approach and her delegation agreed that there were arguments in favour of the cross-sectoral approach. The approach to market access undertakings was very interesting and should be studied further. She requested clarification on several points: first, she asked what was the real difference between rules and principles if the practical scope was determined in fact by the concessions offered. Second, would the transparency rule not become meaningless if it covered only commitments that were already known, as seemed to be suggested by the paper, and how could transparency be made more comprehensive? Third, how could the unconditional m.f.n. principle be applied to free trade agreements? Could, for instance, the existing and future benefits of the United States/Canada agreement be extended to all parties? Fourth, the member asked for an explanation of the term "freeze" as mentioned in paragraph 28 and its relation to "grandfathering" and standstill. Turning to MTN.GNS/W/37, she said the sequence suggested in the proposal seemed logical and linkages existed between all the phases and in particular between the first and second phases. The authors had recognised the risk of achieving a fairly narrow sectoral coverage and had proposed a system of reservations and also a non-application clause in the case of very extensive reservations. The member asked, however, whether the risk of narrow coverage was thereby eliminated and how it could be avoided that the most interesting sectors were subject to reservations and thus negotiated by like-minded countries outside the scope of the framework. Would these agreements be without disciplines or rules or transparency provisions? She said her delegation was unclear as to the implications of different kinds of reservations: some barriers could not be removed immediately thus necessitating a transition period; other reservations were very sensitive regulations and how to deal with those was unclear from reading MTN.GNS/W/37. Furthermore, the member asked for clarification of the issue of reciprocity (paragraph 10) and wanted to know whether this meant direct reciprocity.

46. Another member welcomed documents MTN.GNS/W/37 and MTN.GNS/W/39 for expressing the will to start negotiations and liberalisation, to achieve concrete results and to structure the Group's work. He recalled a few fundamental points contained in the Punta del Este Declaration: first, the multilateral agreement should be judged in the light of the number of participating countries and whether it would be applied to and by everyone or at least the largest possible number. Second, concerning the expansion of trade through progressive liberalisation, 1990 should not be the achievement but the beginning of liberalisation. Third, the difficulties of harmonising national legislations would mean that other methods would have to be sought to achieve respect for national policy objectives. Fourth, his delegation recognised the problem of dealing with development and was looking for appropriate solutions. He stressed that the framework being sought in the GNS should incorporate development from the outset and not be merely an addendum. Referring to the work of the Group, he stated that for the framework to be efficient and durable, two problems should be dealt with: first, how to avoid formulating an ideal agreement and then accumulating reservations and exceptions. Second, how to ensure that the framework would be compatible with the new GATT that emerged from the Uruguay Round. M.f.n. and non-discrimination, for instance, should be taken up in the framework whereas other expressions such as nullification and impairment should be used very prudently. Turning to communication MTN.GNS/W/39, the same member said his delegation was encouraged by a number of working hypotheses such as the progressive and flexible approach to liberalisation to be achieved through an exchange of concessions, a large coverage without exclusions and a large multilateral participation in the framework, the m.f.n. rule which should represent a right for all participants, and the process of negotiation where it was important to differentiate between the framework itself and the negotiations resulting from its implementation. Referring to points where his delegation needed further clarification, the member mentioned the ways and means to help the Group multilateralise the results of future negotiations, and the unclear difference between principles and rules in submission MTN.GNS/W/39. Regarding document MTN.GNS/W/37, he welcomed the positive effort to structure the negotiations but said the Group should not expect a clear-cut separation between the various phases of the negotiations. He asked whether the content of the proposed phases would not lead to a limitation of the scope of possible results, which were presented in a rather negative light in the document. He said his delegation would like to know how the authors of MTN.GNS/W/37 envisaged avoiding a limited result. According to submission MTN.GNS/W/37, the GNS should rapidly begin with phase 1 and his delegation believed it necessary to arrive at an understanding before the end of the year on fundamental approaches and a general outline of a framework agreement.

47. Regarding MTN.GNS/W/37 another member said that the broadest coverage and broadest participation should be the Group's objective, and that any attempt at this stage to work on a limited code with tools such as non-application was rather premature. As another member had pointed out

regarding the phase 2 establishment of a sectoral list, many participants had not yet completed their national studies. Promptly setting up an agreed sectoral list and also a list of reservations would therefore not be easy and his delegation was of the view that many countries needed more time to study their own service sectors and possible negotiating approaches. Turning to submission MTN.GNS/W/39, and in particular to the question of whether monopolies should be included in the principles or the rules, the member considered that it should be included as a principle. The central question was not whether monopolies should be dismantled, but how in certain appropriate cases to open monopolies to fair competition and thus help to fulfil the GNS negotiating mandate. Regarding paragraph 15 of document MTN.GNS/W/39 dealing with bilateral concessions, the member asked whether the concessions in the bilateral United States/Canada agreement would be extended on an m.f.n. basis and requested elaboration whether the reference in paragraph 21 to international agreements meant only trade agreements or others as well. On the question of exceptions referred to in paragraph 16, he suggested that the GNS think about other kinds of exceptions such as international security concerns and balance of payments problems.

48. One member also welcomed both submissions under discussion and said that although there were basic differences between the papers, her delegation noted encouraging elements of similarity on how the Group might begin to make progress on a possible framework structure and on negotiating mechanisms. For example, both papers envisaged a first cut of liberalisation within the Uruguay Round timeframe to be followed by on-going rounds, and both proposed that bound schedules would be drawn up to establish the balance of concessions made. Both submissions recognised the need for flexibility although MTN.GNS/W/39 suggested a parallel and MTN.GNS/W/37 a sequential approach. Commenting on MTN.GNS/W/37, she noted several positive elements in the paper: first, the emphasis on the need for a solid rule-based foundation to provide for progressive liberalisation. Second, her delegation agreed with the comment that procedures for the subsequent removal of inconsistent obstacles had to be established. Third, the obligation to negotiate the elimination of reserve measures was considered favourable but there was a lack of clarity about the precise meaning of the obligations as set out in MTN.GNS/W/37. Fourth, the aim of reaching a uniform coverage for the agreement was important for signatories to know the rights and obligations involved. Finally, her delegation welcomed the emphasis on annotations to clarify the general principles incorporated in the framework and would ensure its coherence and comprehensiveness. She then raised a concern that the approach in MTN.GNS/W/37 would result in the establishment of both a positive and a negative list. In this process the coverage of the agreement risked being narrowed down. Related to this, she commented on the proposal of procedures to be developed to add new sectors (paragraph 8) and asked what such procedures might be. Further, she asked how the authors of MTN.GNS/W/37 envisaged dealing with existing arrangements. Regarding notification of reservations, her delegation shared the concerns about the risk of a proliferation of reservations, particularly if there was any suggestion of

grandfathering. She had doubts about the measures of a unilateral character which were proposed to deal with a potential flood of reservations. On this point, she asked if the authors had any other suggestions on how lengthy lists of reservations might be discouraged.

49. The same member welcomed the flexibility of the approach contained in document MTN.GNS/W/39 and agreed that m.f.n., national treatment and market access undertakings had to be at the core of the agreement. Her delegation endorsed the comment that coverage and factor flows should not be restricted at the outset to ensure that the interests of all signatories were reflected. Many of the problems perceived by her delegation stemmed from the parallel negotiating approach proposed in MTN.GNS/W/39 which emphasised the role of exchanging concessions. This could lead to minimalist results and might not be in the best interests of smaller partners. Furthermore, in her view the exchange of concessions outlined in the proposal would determine the practical scope of the agreement, meaning that the coverage of the framework agreement would be different for each signatory. This raised questions about how the agreement could be put into practice and what the effect would be of the principles and rules discussed. She asked whether the proposal envisaged eventual uniform coverage and full conformity with all the principles and rules set out in the framework, and if the risk of "free-riders" would be overcome. She emphasised that for her delegation the negotiating priority was to ensure a sound base for further liberalisation which could be only achieved through a framework of rules and principles with broad, uniform application to a range of service sectors.

50. Another member said that with respect to MTN.GNS/W/37, he had doubts that the negotiating mechanism outlined would result in a sufficient degree of transparency to make it work. He asked whether the drawing up of a list of specific service industries would be possible without some kind of flexible definition of particular services. On the question of notifications, anonymous or otherwise, the essential point was that they should not commit countries to sectors. It was not clear whether the uniform list should be developed on the basis of a least-common-denominator or on the principle of the widest possible choice. In the latter case, reservations should be possible with respect to the sectors as such and not just to measures. His delegation felt that such an approach would greatly facilitate the drawing up of such a list. Commenting on paragraphs 12, 13 and 14 of the document, he said that some kind of criteria should be established if the proposal was referring to a free trade agreement approach (e.g. in Articles XXIV of the GATT it was not sufficient for just a sector to be covered by such an agreement but, in effect all trade between the interested parties had to be covered). Turning to MTN.GNS/W/39, he commented on the distinction between principles and rules which reflected that national treatment and m.f.n. could not be put on the same footing. The m.f.n. was a binding general rule whereas national treatment could be considered as a long-term objective but neither a legally binding rule nor a generally applicable principle.

51. One member noted that the negotiations would not be successful unless they dealt with three major issues: how to define trade in services and the sectoral coverage of the agreement; how to ensure the progressive liberalisation of market access and how to reconcile that with respect for national policy objectives; and how to ensure that the trade expansion rules also promoted the development of developing countries. Both papers MTN.GNS/W/37 and MTN.GNS/W/39, he said, concentrated on progressive liberalisation which could only be considered "half an issue", while less attention was given to the respect of national policy objectives. He welcomed MTN.GNS/W/37 which addressed the important questions of procedures for progressive liberalisation and sectoral annotations and identified a number of issues which would all have to be pursued in parallel rather than in a strict sequence. The member raised doubts about the notification of reservations on the grounds that, due to the very large number of likely reservations, the process of notification would probably not work. Concerning the idea of non-application as a sanction against countries notifying too many reservations, he said his delegation believed a multilateral agreement was needed which narrowed down as far as possible the ability of any countries to act unilaterally. His delegation was there to negotiate a fully multilateral agreement and any supplementary agreements that were negotiated would have to respect a set of multilaterally determined disciplines. The issue would then be how tightly should the sectoral agreements be multilaterally circumscribed. He assumed, further, that paragraph 13 of the document was not referring to regional integration which, taking the example of the European Community, would be excluded from the agreement.

52. In commenting on MTN.GNS/W/39, the same member said that the paper tended to put too little emphasis on the rules to which the Group should subscribe. His delegation was interested in a rule-based system which did not allow decisions to be taken on the basis of "power politics". In highlighting the distinction in the document between rules and principles, he took the example of national treatment. He agreed that a concept of national treatment was needed but the principles had not yet been identified. His delegation shared the scepticism of others that elaborate machinery was required to examine all regulations and stressed the need to concentrate on those regulations which impacted on the objectives of the agreement, in particular trade expansion. Regarding the notion of a "freeze", he said his delegation did not want restrictions on trade to be frozen and asked whether the term "freeze" in document MTN.GNS/W/39 referred to a standstill commitment with respect to introducing new restrictions. In his view, the core of the paper was that the basic negotiating mechanism for the removal of restrictions was a request/offer system which might not be the best way to achieve comparable levels of market access in different sectors. It could lead too much to the idea of equal concessions by all partners but the GNS should not go into mechanisms requiring equal concessions from unequal partners or from countries which had regulatory systems with very different degrees of restrictiveness. He did not believe in equal concessions between liberal and illiberal countries. In this regard his delegation's concept of development compatibility could be looked at more closely.

53. Another member said in regard to submission MTN.GNS/W/39 that nuances should be borne in mind concerning national treatment but his delegation believed that a clear-cut discussion had to be initiated for the Group to understand the intention of those who had proposed the concept.

54. One member referred to document MTN.GNS/W/37 and said that the anonymous notifications of sectors was an important element in the negotiations but could result in a situation where there would be no effective negotiations on sectors. Participants should know each other's interests and not guess them. He asked for clarification about transforming the consolidated sectoral list into a uniform list (one subscribed to by all countries). His delegation considered that this procedure had practical problems as all countries would depend on the sectoral choice of countries with the least interest in broad coverage of the future agreement. Regarding notification of reservations (of existing measures not in conformity with the agreement), he asked whether that procedure was designed to replace country notifications of inventories of barriers to trade in services.

55. Another member, in a preliminary comment on MTN.GNS/W/37, said that the three-phase approach was a positive contribution to the work of the GNS but expressed doubts on how to negotiate rules and disciplines for the framework without knowing its sectoral scope. In this sense Phase 2 of the submission should come first. His delegation considered that the anonymous notification suggestion which entailed no responsibilities needed more careful study before being introduced into the GNS. The member also expressed concern that the separate sectoral agreement proposal could lead countries to a "request and offer" negotiation instead of a rule-based multilateral negotiation. Turning to MTN.GNS/W/39, his delegation questioned how the exchange of concessions mentioned in the document could be realised between countries with different stages of development. He welcomed the view presented in the submission that no attempt be made at the outset to constrain the scope with respect to coverage and types of factor flows.

56. One member noted parallel ideas in submissions MTN.GNS/W/37 and MTN.GNS/W/39 regarding the structure of, and procedures for reaching, a multilateral framework. For his delegation, a very significant issue was the relationship between the framework contents and the character of the sectoral agreements. Should there be an enforceable general set of rules applicable to all sectors, or was the general framework intended to serve only as a model for sectoral agreements and be enforceable only through these sectoral agreements? Closely related was the issue of the scope of service categories to be covered by the framework. The Group had no agreed definition of services or services industries. Was the GNS going to include in the framework so called non-factor or tradeable services or services in the broadest sense, i.e. including factor services or economic activities provided via establishment in the country concerned? Finally, his delegation endorsed the idea of a sequential negotiating process, starting with general rules and then moving to sectoral agreements.



57. Another member said her delegation had analysed submissions MTN.GNS/W/37 and MTN.GNS/W/39 and found that the links between them and the five elements of the negotiating programme were not evident. In giving her preliminary view of document MTN.GNS/W/37, she noted that her delegation could not see the links to the ministerial mandate of most aspects of which had not been considered. Only one part had been taken up: "the framework of principles and rules for trade in services" and this had been replaced by "framework agreement and other steps towards a progressive liberalisation of services trade" which seemed to have a much broader meaning than just trade in services. She said the proposal in MTN.GNS/W/37 mentioned the mandate, but she wondered what was the meaning of the mandate if only one of its objectives had been considered? Furthermore, the agreed negotiating programme had been replaced by three phases, and the only elements her delegation could identify were coverage and measures limiting trade expansion which referred only to government measures and not to the restrictive practices of TNCs. She said it would not be possible to consider a framework before there was a consensus in the GNS on definitions, coverage and concepts to be covered by, or included in, such a framework. She said she shared the doubts expressed by other delegations concerning coverage established as a result of anonymous notification of sectors and was surprised that those who spoke about reluctance to notify sectors had not yet indicated their own sectoral interests. She also asked who would judge what "excessive reservations" were in order to have recourse to the non-application concept. The same member, in commenting on MTN.GNS/W/39, said that the document was an attempt to move the negotiations forward but services was a new issue for many developing countries. These countries could not be pushed forward without having a clear idea of what the positive results of the whole process could be for them. Only if there could be consensus and a real exchange of ideas between all participants taking into account the agreed agenda elements, there could be some progress. She asked what were the differences between rules and principles in the proposal? Would transparency, non-discrimination and national treatment be concepts and would monopolies be included among practices limiting the expansion of trade in services? She said that the question of how to deal with GATT notions such as non-discrimination and national treatment for trade in services was not settled, and the whole issue of coverage had not yet been sufficiently discussed in the Group. Other points requiring discussion were the meaning of the terms "commercial presence", "establishment", "national treatment for enterprises", and "temporal movement of business personnel". Furthermore, she pointed out that it would be difficult to indicate barriers to trade in services (referring to paragraph 26 of MTN.GNS/W/37) as long as there was no agreement on the meaning of trade in services itself.

58. Another member supported the view of the previous speaker regarding the GNS agenda. He said MTN.GNS/W/37 did not refer to the development of developing countries. He asked to what extent the authors of MTN.GNS/W/37 had considered the views of other delegations' proposals, in particular that in MTN.GNS/W/33 where it was argued that a developing country would ordinarily prefer growth and development to trade liberalisation. In

referring to the point in paragraph 10 in the paper, (i.e. discouraging excessive reservations), he said that reservations would have to be made and requested further clarification.

59. The member who had circulated MTN.GNS/W/37, responding to the comments made on his delegation's submission, made a number of points: (1) The three phases would not be strictly sequential and in practical terms phases one and two would be in parallel; (2) The anonymous notification procedure, which seemed to be a secretive process to some delegations, was simply an idea to get the process going: a universe of sectors would be produced as a result of the notifications, but sectors would inevitably be removed from, or added to, that list as a consequence of multilateral negotiation; (3) On reservations, his delegation thought that the tedious process of determining non-conforming regulations was attainable and preferable as it committed the maximum number of measures applying to the service sectors. The alternative procedure of notifying measures that would be convened by the understanding was less comprehensive and therefore less desirable. Further, his delegation's proposal was that there would be no "sacred cows" or "grandfathers"; (4) It was also conceivable to lodge reservations with respect to sub-sectors; (5) Separate sectoral understandings would be undertaken only in rare instances and his delegation had no specific sectors in mind. His delegation would discourage such understandings which would undermine the strength of the framework. Separate arrangements were proposed, however, in the case of a broad consensus emerging that a sector could not be covered by the framework provisions. The understanding in paragraph 12 would be unrelated legally to the principles of the framework; whereas in paragraph 13 a sector would be covered by the principles in cases where countries would see benefits in further liberalisation; (6) The term "reciprocal" referred to the traditional term in the GATT sense of an overall set of benefits that achieved a degree of reciprocity among countries: his delegation noted with some concern that what was being considered by the European Community and its single market of 1992 was a notion of reciprocity which included the test of whether foreign participation would be provided; (7) It would be conceptually difficult to enter into a standstill prior to knowing the principles of the understanding. The result of the framework with its bindings and its reservations would effectively impose a standstill for future measures once the agreement would go into effect; (8) Regarding comments on the absence of the treatment of development, he stressed that MTN.GNS/W/37 was a procedural paper and that his delegation did not at this stage have specific developments proposals but did not exclude such proposals in the future; (9) Respect for regulation was not treated directly but was taken account of in the reservations proposal which recognised the inevitability that countries would not be able to bring all measures into conformity with the understanding; (10) While accepting the criticism that the non-application proposal lacked safeguards as to how a country might exercise its right of non-application, his delegation was concerned that wholesale reservations could make a country's commitment to the framework meaningless. He expressed confidence that constructive procedures could be established to provide a certain degree of discipline to this principle.

60. The member who had circulated MTN.GNS/W/39 responded to the various comments and questions made on his delegation's submission. Regarding the purpose of the paper, he said his delegation wanted a framework with principles and rules to help eliminate trade barriers and bring about increased flows for the economic benefit of all participants. His delegation wanted to succeed in all the elements outlined in paragraph 6 of MTN.GNS/W/39. His delegation was convinced that their approach, which was not meant to spell out answers to all the issues, offered the possibility of overcoming many of the initial hurdles and moving on to solid negotiations. Turning to specific comments, the member said: (1) On principles versus rules, principles dealt with issues involving considerable negotiation whereas rules were much more clear-cut provisions which would be applied in a more categorical and automatic way. The detailed commitments would be spelled out in the national schedules and participants could proceed to discuss the national schedules or concessions before having spelled out the framework of principles in final form. A good deal of work, for example, could be done on the lists of barriers in parallel to the work in other areas; (2) The scope and coverage should be kept broad and no exclusions should be established from the outset; (3) Concerning access negotiations, he said that the national schedules would provide a flexible and practical technique, and by generalising through the m.f.n. principle, these "concessions" would hopefully take into account many of the export interests of smaller countries; (4) With respect to transparency, once the agreement was adopted, national laws and regulations affecting the agreement's operation would be published; (5) Regarding arrangements between a party and a non-party to the agreement, his delegation's proposal (in paragraph 15) was seeking to ensure that the parties to the GNS agreement would have m.f.n. status vis-à-vis any other agreement that a country might enter into. The proposal did not deal with regional integration which was covered by paragraph 17 of the document; (6) On the issue of "free-riders" he said that all parties to the agreement would have to contribute appropriately to the exchange of concessions; (7) The use of the term "freeze" was similar to that of standstill but his delegation did not have in mind perpetually "freezing" regulations that would prevent service trade flows; (8) Development was a very important part of the negotiations and his delegation welcomed the contributions made by others and urged more delegations to present their ideas in this area; (9) On the question of a negotiating timetable, there was no possibility of forcing countries to move faster than they were able to move. His delegation wanted to use the mid-term review conference to set the Group a realistic but ambitious schedule for the round's remaining two years. His delegation would be delighted to get agreement on phase one and perhaps phase two as outlined in MTN.GNS/W/37.

61. At the close of the discussion of these two proposals, one member made a number of procedural suggestions for the organisation of work in the GNS: first, the proceedings should follow the agenda adopted; second, it would be useful if the proposals and views submitted at the previous meetings were tabulated and analysed in accordance with the agenda format; third, the incomplete items of work from this meeting could be taken up at the next meeting.

62. Before opening the discussion on the five elements as set out in the agenda, the Chairman invited the member who had circulated the document and presented in MTN.GNS/W/40 to introduce its contents noting that consideration of the paper could take place at a later meeting. This member said that regarding the scope for negotiations, the document attempted to cover four areas: rules and principles, sectoral coverage, negotiation of potential reservations, and future arrangements. In terms of negotiating dynamics, the paper did not take a stance on whether negotiations should be parallel or sequential but area three could only come after areas one and two. In outlining the document's main features, he admitted that the level of detail for each element was still insufficient and the paper was characterised by an evolutionary, progressive approach and was neither too ambitious nor too timid. Regarding transparency, for example, there was no attempt at an encyclopaedic approach which could cause undue administrative burdens. For any framework negotiated in this round there should be a review mechanism and the suggested period was every three years. Regarding procedures, the paper suggested that participants offer requests for possible reservations and through negotiations the extent of reservations could be reduced. Therefore, unless countries requested areas for reservation status, the non-requested areas would be deemed to be liberalised by that country which had not requested. Finally, development provisions would be an integral part of the framework agreement and would have to be examined closely.

63. On Definitional and Statistical Issues, the Chairman made reference to the note prepared by the secretariat (MTN.GNS/W/38) in accordance with the request made by the Group at its previous meeting on 22-25 March 1988. The Chairman said that the secretariat was also preparing a note on statistics which would provide information on work being carried out on services statistics by other organisations, as well as related activities undertaken by the GATT secretariat.

64. One member found that the secretariat note on definitions had missed to draw a distinction between "right of establishment" and "commercial presence". She pointed out that this distinction had significant implications. It was not clear in the note if "residence" was implied or if "temporary presence" was the more relevant term. She acknowledged that some mention of local presence had been made but without reference to the specific duration of this presence. This duration furthermore might be an important point of distinction between domestic and international transactions.

65. One member said that he found the secretariat's note to be a good starting point for the discussions on definitions. His delegation had expected, however, that the presentation would bring forward not only the factual recitation of views but also the questions which remained unanswered and the gaps which previous deliberations had pointed to. His specific concerns about the note centred on five elements. First, he pointed out that the important aspect of the temporary character of a trade transaction

had not appeared in the note. This aspect had been referred to by numerous delegations, including his own, and was crucial to the extent that it brought out the distinct character of a trade in services transaction. Secondly, he agreed with the statement by the previous member where mention had been made of the lack of reference in the note to the need to distinguish between the "right to establishment" and "commercial presence". He said that another member had already drawn a distinction between the two concepts which had not been brought out in the document. Thirdly, no mention had been made regarding the "logical analogue" put forward by his own delegation to the concept of "right of establishment" - namely, the "right of residence". Fourthly, no mention had been made of the specific concept advanced by his delegation as early as February 1987 in regard to labour and labour intensive services. Lastly, the member felt that the note had failed to reflect the concern that the process of defining trade in services should not be based on power politics or economic power as a means to first arriving at some transactions and some sectors of interest to some members and then defining trade in services accordingly. He pointed out that the Ministers had spoken of "trade in services" and not in terms of any service or any kind of service transaction. He suggested that his concerns be taken account into account in an eventual revised version of the note by the secretariat.

66. Regarding statistical issues, the member acknowledged all the difficulties involved in dealing with the question of disaggregation of data, both at the national and international level, as well as the efforts which were currently being undertaken. He made reference to his previous intervention on the presentations by the international organisations where he intended to suggest a practical way to have more facts and said that it would be useful for the secretariat to compile a kind of a table containing statistics which were already available in the international organisations dealing with different services sectors. He pointed out that despite the potential lack of "first-order" statistics referred to by the representative of UNCTAD, it should be very useful to have prompt access to information, which could be in the form of some kind of synoptic table, regarding particularly the magnitudes and trends of shares of different participants in different service transactions. The trends could include the last five or ten years. He further pointed out that since this is not a question of coverage, a number of international organisations could be consulted from a list without involving any prejudice as to the members' respective positions on which services or sectors to be included or excluded from an eventual agreement. He finally suggested that perhaps this process could be initiated very quickly by already placing the request to the three international organisations at this meeting.

67. One member made reference to the secretariat's note on definitions (MTN.GNS/W/38) and said that she found it to be good and in line with what her delegation had expected. Otherwise, she expressed full support for the views expressed previously by other members on both the subject of definitions as well as the subject of statistics.

68. One member said that his delegation found the secretariat's note to be balanced and very good, but he agreed with the point made by another member that the note did not fully reflect previous discussions on the subject. He also suggested that a revised version be presented by the secretariat taking that and two further points into consideration: first, more emphasis should have been placed on the reasons why certain delegations, including his own, believed that the issues of definition and coverage were inextricably linked, and derived from the fact that different types of transactions, which were potentially relevant in the definition of trade in services, appeared to vary from one sector to another. This meant that if only some of the eleven types of transactions put forward previously by his delegation were accepted, this might imply a lesser number of sectors for inclusion in an eventual agreement than if all eleven types of transactions were found to fit the definition of trade in services. The second point was the classification of the positions held so far in the GNS into only two types: where trade in services should include only services transactions involving cross-border sales; and, where trade in services should include everything else. He said that this was oversimplifying to the extent that a whole spectrum of alternatives could be included into the second type.

69. One member said that the secretariat could conceivably provide the GNS with more of the analytical support needed to conduct the negotiations. Regarding the specific note on definitions, he said that it did reflect the basic views expressed in the GNS with respect to cross-border trade and establishment trade. Its basic shortcoming, however, was in that it did not examine some of the implications of either type of trade - i.e., what types of international transactions would be excluded if the agreement were to confine itself to cross-border trade. The member contested the idea explored in paragraphs 7 and 8 of the document where it had been said that most service transactions needed some degree of presence in the country of the consumer and gave the examples of tourism, insurance and telecommunications where trade was done on a purely cross-border basis. He said in such cases establishment was an option and not a condition for market access. He further mentioned that the need for establishment sometimes was a result of the demands of the market for diversified and more complex services. He said the question of establishment was also linked to the role and cost of services to other economic activities. Here, there was some similarity between services and goods and trade as customers themselves might favour local establishment of offices as a way to secure access to needed advice. Developing countries might also serve many of their trade expansion interests through establishment of providers of services. In concluding, the member said that he supported the proposal for a revised version of the note on definitions.

70. One member made the point that only his delegation, with the possible exception of one other, had proposed an explicit definition of international trade in services. In quoting his delegation's definition from its submission to the GNS, he placed emphasis on international trade in services including "any service or labour activity across national borders" and said

that this was reflected only partly in paragraph 11 of the note on definitions where it was stated that any sectoral coverage should include transactions which involved "temporary relocation of labour". His proposal, however, had not used the term "temporary".

71. One member said that his delegation had been among those who strongly supported the idea of having the secretariat produce a paper on definitions and found it to be a faithful reflection of what had been said so far. It was a balanced paper, concisely setting up the positions put forth by the different members. He said that to the extent that some delegations had less information than others, the secretariat could play a role in providing the information necessary to make this situation more balanced. As to the remarks on the part of some delegations that certain aspects of their previous interventions had been neglected in the note on definitions, the member said that the secretariat should be trusted to use some discretion when producing such papers and that his delegation did not perceive it as a very enlightening affair for everyone to spend time determining whether his intervention had been sufficiently summarised or not in a secretariat paper. The minutes of the meeting should serve to summarise all that had been said or not such papers. Conversely, the member said that despite some clear limitations imposed on the secretariat by the GNS as to the extent of analytical work and hypotheses it could engage in, he could envisage that the secretariat could pose some questions which could in turn provide for a more pointed and constructive debate on the very important issue of definitions.

72. In reacting to the previous member's intervention, one member said that his own remarks as to what lacked in the secretariat's note on definitions were substantive and did not merely reflect a desire to see in print what he had stated in the meetings. He furthermore contested the approach suggested by that member where one would be selective because certain points may not appear very agreeable to some and in turn leave for the secretariat to raise questions on the thinking that it might find relevant. He felt that the secretariat did have a role in preparing the analysis that members had to undertake but that should not be construed to mean that the secretariat would provide members with a hypothesis for negotiations.

73. In replying to the issues raised by the different members, the representative of the secretariat said that the secretariat would attempt to revise the note on the basis of the guidance that had been given to it by members. Some doubt remained, however, as to how far the secretariat should attempt to cover in detail all the points made or to what extent it should try to focus on the implications that could be drawn from the issues raised.

74. The Chairman said that it was agreed that a revised version of the note on definitions be undertaken. As regards statistics, he said that an informative note by the secretariat would be distributed covering the work undertaken by other international organisations.

75. On broad concepts on which principles and rules for trade in services, including possible disciplines for individual sectors, might be based, one member said that in addressing each of the five elements at the GNS meetings, relatively little was said regarding each element. He said that this derived from the fact that the elements had often already been discussed when members reacted to written submissions. He added that to the extent that many members had shown concern that "development" aspects were not sufficiently touched upon in the discussions, his delegation would welcome the inclusion of such aspects under "concepts" if the members concerned so wished.

76. One member raised the question of whether the glossary of terms mentioned at the last meeting of the Group was still on the work programme and when the members could expect to receive it. He said, drawing from his own delegation's experience which had done some work on a glossary, that there was a great deal of work involved in a literature search to find the definitions of terms used in various arrangements and disciplines. He stressed the point that it was unreasonable to expect the members of the Group to be doing this work individually and the Group should count on the secretariat to undertake such a task for all participants. In reply to one member's request that his own glossary be made available to other members, the member said that his delegation would be reluctant to do so as much more work clearly was still needed. He said that concepts constituted a fundamental part of the GNS work and referred to his previous comments on "national treatment" to exemplify the complexities involved. He felt that no delegation would really be ready to concede to the assumption that "national treatment" meant "market access" and, if they did, the result would be an agreement composed of an article on "national treatment", an article on "dispute settlement" and many pages of exemptions.

77. In reacting to the previous member's intervention, one member said that the secretariat's task should not be construed to involve a literature search on concepts. The secretariat should instead bring some order into concepts that the members themselves had brought out in the meetings, as relevant to the Group's objectives. This of course would involve a continuous up-dating of the glossary after each new meeting. Also, it should be interesting to have the first version of this glossary well in advance of the next meeting.

78. The representative of the secretariat said that the secretariat had been working on a more limited version of the glossary than that referred to by some members and that this should be available in time for the next meeting. As to the kind of glossary which would involve a literature search, it should be necessary to determine whether the members found such work to be essential before the secretariat would engage the resources it did not presently command on that activity.

79. On Coverage of the multilateral framework for trade in services, one member said that many developing countries wanted to know more clearly the specific interests of the so-called "demandeurs". The proposal contained in



MTN.GNS/W/37 suggested the best approach in this regard was anonymous notification. The intention of the negotiations should be to have from the participants specific indications of the coverage of the multilateral framework and the kind of transactions it was intended to cover. In the absence of this, other participants would not be able to assess the impact of the multilateral framework on their specific interests. The indication of coverage, therefore, had to come specifically from the participants with a full sense of responsibility for the proposal made and leaving it to a "non-paper" treatment would impair the negotiating process. It would not be possible to reach even a political understanding concerning the framework's elements unless participants knew what was to be covered.

80. Another member encouraged structuring the discussions under the five agenda items because in an all-encompassing presentation it was possible to have valid yet contradictory objectives. She said that one delegation had stated its preference for a strong agreement with maximum commitments while also favouring the broadest possible coverage. Another delegation had said that it hoped to see most participants sign the agreement but then focused exclusively on liberalisation with no indication of what benefits developing countries would have. The approach of submissions MTN.GNS/W/37 and MTN.GNS/W/39 shared an exclusive concern with liberalisation, understood as improved market access, but had no evident link to the objective of development. There were lessons to be learnt from recent bilateral trade negotiations on services where over-ambitious rules had led to an agreement with an extraordinary number of exceptions.

81. One member was astonished to hear that only some of the participants were "demandeurs". This had been the situation before Punta del Este. Subsequently, the Ministers of all participating countries committed themselves to these negotiations. He added that developing countries were presumably "demandeurs" with respect to the promotion of development. Regarding the sectors of interest to his delegation he referred to all those sectors which would provide the GNS with a functioning, useful and balanced agreement and not simply to those sectors in which his delegation might have a "mercantilist" interest. He said his delegation had its own special interests, but accepted that the agreement needed to cover sectors of interest to other countries. Referring to a previous comment, he noted that there was no contradiction between a strong agreement and the inclusion of a maximum number of sectors because a maximum number would ensure that benefits could be maximised.

82. One member replied that he had spoken of so-called "demandeurs" to avoid making it a definitive characterisation. In so doing, he had in mind the whole history of the negotiations as well as the current state of services flows where developing countries were the marginal operators. In other areas of the Uruguay Round such as tropical products and textiles, developing countries could be considered the "demandeurs".

83. Another member said her country was both a supplier and a consumer of internationally traded services and was taking account of both aspects in the negotiations. It was important that proposals were made openly with a clear explanation to the GNS of the framework's coverage and possible sectoral disciplines. She said it was still unclear whether the Group would first negotiate a framework or sectoral agreements, and noted that her delegation had not yet decided which approach to support. She said that countries which were interested in reaching a multilateral discipline as soon as possible should indicate not only their interests but also relevant experiences that may have been gained in sectoral or bilateral negotiations. She was therefore disappointed by the proposal for anonymous submissions and said she could not persuade her government to notify sectors anonymously. She urged the delegation which had made the proposal to come forward with its sectoral list.

84. One member agreed with the remarks of the previous delegate as his country also had interests both as an importer and exporter and wished to ensure it had access to world-class, competitive inputs which could be domestic or foreign produced. This kind of agreement could enhance his country's growth, development and welfare and therefore his delegation wanted the rules to apply to importers and exporters, and the coverage to be as broad as possible.

85. Another member commented that his country was not the only one engaged in bilateral arrangements. He said that anonymity had been suggested to avoid the narrow universe of sectors that may be put forward if countries were identified. He assured the other members that his delegation would make it clear which sectors it wished to see in the understanding.

86. One member said that the question of coverage was not receiving the appropriate degree of attention due to the tendency for some participants to push for a framework. His authorities felt that negotiations would be facilitated if from the outset the GNS had a good idea of what specific service sectors would be covered by the framework.

87. Another member said that coverage was closely related to the issue of definition which itself required clarification. Discussion would be facilitated if the Group knew what kinds of transactions it was considering. One member noted that his government would have difficulty in giving political commitment at the mid-term review to a framework of concepts without knowing to which sectors the concepts would apply. Some kind of non-committal indication of sectoral coverage by participants would facilitate the discussion.

88. Another member concluded that the broadest possible coverage would be in the best interests of all participants. She said that potential problems could arise in particular for developing and smaller countries if a range of exceptions were to be decided as a result of these negotiations. Confining coverage to current trading interests took no account of shifts in

comparative advantage as a result of economic growth and development. The Group needed to have an idea of the structure and coverage of the agreement and then to refine both as the Group looked at how the agreement would be implemented.

89. Another member said that if the kinds of services that were traded could be classified, the examination of the issues could be facilitated. Concerning coverage, he suggested that the best approach was to examine it in economic terms, namely the question of transfers. Goods were traded to increase welfare and if services were defined as a good, though intangible, then the service would have to cross a border. If the balance of payments were used as a framework to examine the balance of benefits of the expansion of trade in services, then one had to be satisfied that the balance of trade in services could be sustainable. At the end of the day, the objective of the exercise was economic growth and the development of developing countries. Emphasising the liberalisation aspect only, would not, in the view of his delegation, help the Group go very far in establishing a framework that provided the impetus for development including promoting employment and the full utilisation of resources.

90. One member said that coverage was an important issue and that some of the proposals received so far seemed abstract as it was unclear to which sectors they related. He noted that a framework agreement would not be able to cover all sectors and he requested clarification from those delegations really interested in these negotiations as to what they wanted to be covered in the agreement. Knowing the coverage would help in defining other issues and thus help the whole negotiating process fall into place.

91. On existing international disciplines and arrangements, one member said that her delegation was satisfied with the way the Group was dealing with the question of other organisations' involvement in services regulation. She felt that now her delegation knew more about "market access", technical standards, technical barriers, monopolies, subsidies, competition and deregulation. She pointed out that this kind of exercise was most useful to the extent that one of the major tasks implied by the mandate was that of finding an "empty space" for additional multilateral disciplines which could provide for growth and development of all members. Another member said that she considered the results of the exercise to be very good and that at first sight, these arrangements seemed to be successful and that even though they were not always formally development-oriented, they did provide for some participation of developing countries. She said that a relevant related aspect was that perhaps the sectors covered by these organisations should be outside the scope of the agreement achieved by the GNS. Also, these arrangements should serve as good indication of the types of commitments a multi-sectoral agreement should contain. ICAO, for example, had several years of multilateral and bilateral commitments to which countries adhered whenever they felt prepared to do so. As for principles, she found it interesting that some of those talked about in the GNS were conspicuously absent in these arrangements. The reasons for such an absence should not be

overlooked. One member said that the exercise constituted a great help in terms of bringing out potentially relevant elements for future discussions and suggested that the Group should consider inviting other international organisations.

92. Another member remarked that further examination of the issues raised by the visiting organisations would be undertaken from the point of view of trade policy so that the main concern would be whether the achievements of these arrangements should represent "role models" to copy or "cautionary tales" to avoid.

93. One member said that all three organisation which participated in the exercise dealt with some aspects of communications, whether in the sense of transport of people, goods, or information. He said that these communications sectors were infrastructural services and had "locational specificity" since they were localised between two points. He concluded that whatever lessons members should draw from the services covered by these organisations, they were likely to be of less relevance for services which did not have such specificity.

94. One member said that the exercise had been very useful as for the first time various aspects of relevance were examined such as competence of other international organisations, the nature of certain service markets and the specific nature of certain disciplines. He said that this exercise could have been very useful from early on in the negotiating process, but that it was better late than never. He also supported the suggestion made by another member regarding the participation of additional relevant international organisations. He agreed with the previous member that there would be interesting implications emanating from distinguishing between services which did and did not have "locational specificity". He felt that such a distinction served to emphasise the relevance of inviting additional international organisations.

95. One member said that taking into account the complex nature of the Uruguay Round, what became evident from the different presentations by the organisations was the need to improve some of the existing arrangements with a view to development aspects. He felt that the three visiting organisations should further try to extend their level of assistance - technical and otherwise - to developing countries since at the heart of the development issue was the question of technology transfer. By doing so, these organisations could conceivably increase their developing country participation. As to the participation of other international organisations in the GNS, the member suggested that a way of speeding up the process could be to address letters to relevant institutions to request their submission of documents which they might find useful for the deliberations in the GNS, without necessarily requesting their presence as well.

96. One member said that his delegation had always emphasised the relevance not only of inter-governmental international organisations but also of other international organisations. He said the real operators in the markets for

service transactions were the trade associations. The practices of such associations should be most relevant in the context of the GNS.

97. One member said that without getting into the question of sectoral coverage, discussion of the role of other organisations could be very limited. Also, he pointed out that his delegation found that careful consideration needed to be given to the question of further invitations in view of the schedule the GNS had to accomplish. Relating to the "locational specificity" of the services covered by the three organisations, he said that this brought out the fact that such services inevitably called forth disciplines of both a multilateral as well as a bilateral character. This kind of consideration could have an impact on the overall agreement the GNS might reach. These views were fully endorsed by another member.

98. No specific views were expressed on the items Measures and practices and other business. The Chairman said that in accordance with consultations and with what had been said in the meeting, the discussion with the same three international organisations (ICAO, ITU, UNCTAD) would continue in the next meeting of the Group. As to inviting other organisations, consultations should continue regarding how and when to invite them. In concluding, the Chairman said that the next meeting of the GNS would be held on 18, 19, 21 and 22 July 1988, with the same agenda as for the last three meetings.