

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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Group of Negotiations on Services

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ILLUSTRATIVE OUTLINE OF A FRAMEWORK AGREEMENT

FOR TRADE IN SERVICES

The Delegation of Australia submits the following as an outline illustrating how the rules and principles discussed so far in the Group of Negotiations on Services could be reflected in an agreement on Trade in Services.

## ILLUSTRATIVE OUTLINE OF A FRAMEWORK AGREEMENT

### FOR TRADE IN SERVICES

#### PART I: OBJECTIVES AND SCOPE

##### OBJECTIVES

Outline of underlying objectives of the agreement and the principles governing it, drawing for example on Punta del Este Declaration, Part II.

##### SCOPE AND DEFINITIONS

Article setting out the coverage of the framework agreement and referring to attached schedules which may contain exceptions. Definitions should include "territories", "measures", "provision and providers of a service", etc.

##### DEVELOPMENT

Provision consistent with the rules and principles of the Agreement, for the economic development needs of developing countries.

#### PART II: OBLIGATIONS AND BENEFITS

##### NON-DISCRIMINATION

An obligation in the form of an MFN provision to grant all signatories to the agreement any advantage granted to another signatory unilaterally or as the result of trade negotiations. This obligation may extend to arrangements made between signatories and non-signatories.

This obligation would have the effect of extending to all signatories the results of bilateral or plurilateral market access negotiations.

The agreement should specify non-discrimination as either prospective or retrospective from its entry into force, and the agreed option should apply to all signatories and all services covered by the agreement.

##### NATIONAL TREATMENT

An obligation to give foreign suppliers of services and/or their products treatment no less favourable than that granted to domestic suppliers and/or their products in like circumstances in terms of laws, regulations and administrative practices. National treatment would be applicable only once market access has been granted and taken up. (NOTE: both the non-discrimination rule and the national treatment rule will apply to investment regulations unless specific exceptions are sought.)

## MARKET ACCESS

A provision describing the types of market access (e.g. cross-border, agencies, establishment, non-establishment) that may be negotiated or available under the agreement. This provision might also contain a model mechanism (e.g. an "open season" provision) for the negotiation of market access agreements and include mechanisms to encourage progressive liberalisation. Additional access to markets would be an expectation of the Agreement rather than a right, and it may be subject to a degree of reciprocity.

## PRESERVATION OF MARKET ACCESS

A commitment to maintain a balance of rights, obligations and benefits, to offer equivalent alternative concessions if current market access rights in a given activity are made more restrictive and to consult with interested parties in advance of their introduction. This provision would stand in the place of a binding commitment under the GATT.

## TRANSPARENCY

A requirement to make available, upon request, in published form to signatories of the agreement all laws and regulations relevant to trade in a given services sector. Provision for public comment on proposed regulations before they are adopted may be required, as well as some course of redress or review if they are deemed to be misapplied.

## MONOPOLIES

Rules specifying the conditions applicable to the operation of state-owned or state-sanctioned monopolies, including the cases where they compete with other firms in the provision of some services. These rules could entail an obligation on them to treat foreign services and service suppliers no less favourably than local services and service suppliers.

Rules requiring government-owned and state trading enterprises engaged in services trade to act in a manner consistent with the principles of the agreement.

Rules limiting the use of monopoly revenues to subsidize activities in competition with non-monopoly service providers.

## SUBSIDIES

A commitment not to introduce or increase trade-distorting subsidies for services activities and an acknowledgement that this undertaking applies to both production and export subsidies affecting trade in services.

There should also be a provision to encourage rollback of subsidies.

#### ACCREDITATION AND LICENSING PROCEDURES

A commitment to apply accreditation and licensing procedures in an objective way that will not negate market access and national treatment undertakings.

#### GOVERNMENT PROCUREMENT

Rules setting out the extent to which and under what conditions the agreement is applicable to government procurement.

#### ECONOMIC INTEGRATION ARRANGEMENTS

Rules governing the ability of two or more signatories to liberalise trade in services more rapidly among themselves than with third countries in contravention of the non-discrimination rule. A set of objective criteria to be introduced to ensure that a substantial proportion of services trade among the parties concerned is covered in such arrangements before a waiver is granted.

#### CONSULTATION AND DISPUTE SETTLEMENT

A mechanism for the settlement of disputes between signatories over the interpretation or application of the agreement and for adjudicating the use of exceptions.

#### PERMANENT EXCEPTIONS

Description of conditions that would allow signatories to exempt certain regulations/policies governing services activities, otherwise covered, from the purview of the agreement. Such conditions might include national security considerations, prevention of disorder or crime, etc, and should be kept to a minimum.

#### EXISTING INTERNATIONAL AGREEMENTS

Description of the relationship of the agreement to existing international agreements and conventions covering individual services sectors.

#### SECTORAL AGREEMENTS

The agreement should specify its relationship to any sectoral agreements negotiated concurrently or later.

#### NON-APPLICATION

The agreement should set out the reasons justifying non-application and criteria under which non-application proceedings might be taken.

PART III : INSTITUTIONAL PROVISIONS

ADMINISTRATION OF THE AGREEMENT

A provision establishing a governing body of the representatives of member governments and a secretariat for the administration of the agreement.

ACCESSION OF NEW MEMBERS

The agreement must allow for the accession of new members once it has entered into force.

REVISION OF THE AGREEMENT

The agreement should contain a provision requiring it to be reviewed periodically to take into account changes in the international services economy.

This provision might specify that a qualified majority of signatories is sufficient to bring revisions into force.

ANNEX: ILLUSTRATIVE SCHEDULE OF EXCEPTIONS

COUNTRY X

<u>Retail Banking:</u>	Establishment of foreign-owned branch operations	Nature of Exception *
	Establishment of foreign-owned subsidiary operations	Nature of Exception
	Establishment of foreign-owned representative offices	Nature of Exception
<u>Wholesale Banking</u>	Establishment of foreign-owned operations	Nature of Exception
<u>Telecommunications</u>	Provision of basic services as defined in Telecommunications Act	Nature of Exception
<u>Tourism:</u>	Nationality requirement for operation of retail travel agencies	Nature of Exception

\*In the actual agreement a numerical reference to the article concerned would probably suffice.