

**MULTILATERAL TRADE
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THE URUGUAY ROUND**

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The following communication, dated 13 October 1988, is circulated at the request of the delegation of Peru to the members of the Group of Negotiations on Services.

BASIC CONCEPT, OBJECTIVES AND RULES FOR PROMOTING
ECONOMIC DEVELOPMENT IN THE CONTEXT OF A
FRAMEWORK AGREEMENT ON TRADE IN SERVICES

Introduction

The participation of developing countries in a framework agreement on trade in services is essential if such an instrument is to be universal and meaningful.

The participation of developing countries will be directly linked to attainment of the objectives of the Declaration of Punta del Este in the sense that the negotiations aim to promote the development and respect the policy objectives of national laws and regulations applying to services.

Basic concept

The basic concept that the Agreement should contain, with a view to attaining the Declaration's objectives and achieving effective participation by developing countries, will be to recognize in all its relevant provisions the "asymmetry" inherent in trade in services because of the fact that developing countries are compulsive importers of services. In this order of ideas, this asymmetry should be taken into account through three objectives of a practical character, namely:

I. Protection of the effects of trade in services on the balance of payments of developing countries

The developing countries experience major imbalance in their payments by reason of the import of services. To date, this has taken the form of a surplus in favour of developed countries and a virtually structural deficit for developing countries.

The framework agreement should contain specific provisions to protect the balance of payments of developing countries.

II. Relative reciprocity for developing countries in respect of concessions

The application of relative reciprocity is the only way of recognizing asymmetry in implementing commitments. In this way a balance will be established in the framework agreement between the concessions made by developing countries and the benefits they obtain. Relative reciprocity implies that participants must not expect the developing countries to make contributions which are inconsistent with their individual development, financial and trade needs. In other words, the contribution of countries must be proportionate to their respective levels of development. In this way, a balance can be achieved in the framework agreement between the concessions made in the services sector by developing countries and the benefits they obtain in that same sector.

III. International co-operation in the services sector designed to improve the international competitiveness of developing countries

In the context of this objective, provisions should be included on fair and equitable access to new technologies in the sector of international trade in services, and likewise the growth of production and productivity of the services sector in developing countries, and the latter's participation in the world market for services.

On the basis of these practical objectives of a general character, the following specific rules could be included:

A. Exceptions and safeguards

The framework agreement should include certain exceptions for developing countries, which might be permanent or temporary.

The permanent ones would allow a country to exclude from agreements certain policies or rules that are vital for its development and national security.

The temporary ones would be waiver clauses that would have to be focused on preventing balance-of-payments disturbances and affording the initial and temporary protection needed by nascent services of developing countries.

B. Preferential opportunities

Developing countries should have preferential treatment for participating equitably in exploitation of services in sectors where they are at a disadvantage.

C. Optional most-favoured-nation treatment

In the context of the agreement, most-favoured-nation treatment should be optional and not automatic. It would only be applicable as between parties which negotiate a sectoral agreement and such treatment would only be extended to another country if the latter so requests, wishes to participate and offers a counterpart. In this way, any country, including developing countries, would have the right to accede to a sectoral agreement if it deemed useful and advantageous to do so, offering in exchange a counterpart that is consistent with its development needs and equivalent to what has been required of other member countries at a similar level of development; such counterpart would not be extended to other parties not members of the sectoral agreement.

Optional most-favoured-nation treatment affords greater flexibility to all parties and in the particular case of developing countries, allows them to calculate the derived benefits that would accrue to them by reason of their accession to a sectoral agreement with other contracting parties; any non-reciprocal concession would not be extended to all the industrialized countries but only to the country or countries which have granted it preferential concessions, transfer of technology, etc.

D. Equitable national treatment

National treatment within the global concept of asymmetry must not necessarily imply like treatment, but equitable treatment that takes account of differences between levels of development.

Thus interpreted, national treatment would not inevitably imply unconditional access to national markets, but equitable treatment in regard to national laws, regulations and practices.

E. Progressive liberalization

Progressive liberalization should not be interpreted as requiring the dismantlement of national regulations.

National policy objectives set forth in legislation and regulations must be respected, and liberalization must be seen as an instrument for development and not a measure per se. Accordingly, liberalization of trade in services will have to be consistent with the asymmetry and limitations of specific sectors in developing countries.

Progressive liberalization in the markets of developing countries should have as its consequence access for developing countries, as a

counterpart, to the international network of services; liberalization would be negotiated on that basis.

In developing countries, certain services would be liberalized as inputs for the subsequent export of like or different services through measures allowing their access to developed countries.

F. Restrictive trade practices

There should be concrete and specific provisions to prevent discriminatory practices on prices, monopolistic actions so as to achieve a dominant position in the market, the setting of conditions for granting services, cartel agreements for market-sharing, etc.

To be able to formulate such rules, it is necessary to have a broad definition of restrictive trade practices in the area of services.

G. Preferential arrangements on services among developing countries

The framework agreement should contain provisions permitting complementarity and integration agreements for developing countries in various sectors of services. Such a rule would be based on recognition that complementarity and economic integration constitute an instrument of development.

H. Transfer of technology

The framework agreement should envisage provisions for diversifying and expanding trade in services in developing countries through a process of transfer of technology. The principal concept of such provisions is that developing countries would benefit from progressive liberalization provided this is accompanied by a process of transfer of technology.

IV. Nature of the framework agreement

The framework agreement should constitute a set of generally applicable principles and rules that would serve as a model for sectoral agreements on specific obligations between various groups of countries.

The objective would be to preserve the right of the parties to select the sectors in which they wish to participate and to select the countries with which they wish to be associated.

In conclusion, developing countries that as yet have no well-developed services sector would have the possibility of selecting sectors and countries, taking into account the asymmetry inherent in trade in services.

In the formulation of such an agreement it is important to take full advantage of all relevant rules that have been negotiated and accepted internationally in the following instruments:

- Code of Conduct on Transnational Corporations;
- Code of Conduct on Transfer of Technology;
- Multilaterally agreed rules on restrictive trade practices;
- Code of Conduct for Liner Conferences.