

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED  
MTN.GNS/W/62  
13 July 1989  
Special Distribution

Group of Negotiations on Services

Original: Spanish

COMMUNICATION FROM MEXICO

Simulation of the Applicability of Concepts, Principles  
and Rules to Tourism Activities

The following communication is circulated at the request of the delegation of Mexico to the members of the Group of Negotiations on Services.

Main features of international trade in tourism

According to the figures of the World Tourism Organisation, worldwide receipts from tourism in 1987 amounted to some \$150,000 million, and it is estimated that they represented nearly 25 per cent of world exports of non-factor services.

The developing countries' share of total income from tourism is estimated at a little over 20 per cent in 1987. Only four of the twenty principal exporters of such services are developing countries.

Among the latter, Mexico is the main supplier of such services, but its share of the total world receipts is barely 1.5 per cent.

The twenty biggest "importers" include four developing countries, first among which is once again Mexico.

For developing countries, this activity has the following benefits:

- it is based on virtually unlimited renewable resources;
- it is the main or one of the main services exported by most of these countries;
- it requires a relatively small volume of imports;
- the investment required to generate employment is lower in tourism than in other economic activities;
- it fosters more balanced regional development;
- it generates some of the foreign exchange required to import goods and services necessary for its development.

As a group the developing countries recorded a surplus of about \$10,000 million in this branch in 1986. Common-sense tells us that surplus reflects the fact that tourism is labour-intensive, a production factor that is abundant in developing countries.

Nevertheless, common sense does not always reflect economic reality. Looking at the comparative advantage of various countries in this economic sector through the analysis of historical series, in other words, at "revealed" comparative advantage, one may see that it is not developing countries that have the comparative advantage, but rather developed countries. The methodology used and the results obtained are available for those who may be interested.

This somewhat surprising situation stems from the fact that there are factors other than labour which provide competitiveness in tourism.

Firstly, it is not holiday tourism but rather business tourism that is prevalent in this sector, in other words, businessmen going to other countries for non-recreational purposes. In this connection there is no need to recall that the bulk of world trade in goods and services is conducted among developed countries.

Secondly, generally speaking tariffs of airlines and other means of transport are proportionally lower between developed countries than between those countries and developing countries. The cost per km./passenger increases steadily as one travels further south.

Thirdly, airlines have increasingly large interests in other tourism activities, such as hotels, travel agencies and car-hire firms, and thus "channel" tourists towards the places where their interests may best be catered for, in other words, the developed countries. It should be stressed that developing countries have only a 15 per cent share in international air traffic.

Fourthly, it is the developed countries' airlines and hotel chains which have the worldwide information and reservation networks for these activities. It is even the case, for example, that if an airline of a developing country pays to be included in these information and reservation networks, its name usually appears at the bottom of the list.

Fifth, tourism installations have become so sophisticated that, for example, it costs hundreds of millions of dollars to build a hotel, and so this can only be done by those who have the necessary capital. Still more important, the worldwide competition in this sector calls for continual modernization of each country's infrastructure, with the ensuing need for increasing financial resources for the purpose.

Sixth, promotion of tourism increasingly requires the publicising of a country's attractions through the advertising media - also continually undergoing technological change - which involves a suitable array of

promotion instruments such as brochures, film and television material, organisation of events, fairs, exhibitions, festivals and so forth. This implies having available both efficient advertising services and also the necessary resources for obtaining them.

Finally, hotel management is increasingly complex, ranging from the need to have an international information and reservation network to the need to run a hotel in the more or less standard way to which tourists are accustomed in their country of origin. The same may be said for a car-hire firm or travel agency. Again, increasingly sophisticated technology is required to manage restaurants, above all those of a certain standard.

As a result, tourism has become an activity that is intensive in capital, organisation, information and know-how, and natural beauties and/or cheap labour are no longer enough. Efficient and productive support services (such as advertising) are also needed.

In addition, it must be pointed out that the economic adjustment policies which developing countries have been forced to adopt in the 1980s have caused their payments for tourism services - in other words, their tourism "imports" - to drop by over \$2,000 million. Thus, their tourism surplus is the result of both higher revenues and lower payments.

The United Nations and the World Tourism Organisation define tourism as travel undertaken for business or medical reasons, pilgrimages or religious ceremonies of any kind, for research, cultural reasons, family visits, participation in international sporting events or conferences, or simply for pleasure.

In accordance with this definition, the Uruguay Round negotiations in this sector would be confined to negotiations on barriers that hinder the free movement of tourists among countries.

Some delegations, however, have pointed out that foreign investment should also be included in the negotiations. We shall analyse this proposal below.

It is common knowledge that there are various forms of foreign investment in tourism today. There is direct foreign investment in both the building and the management of hotels. It is increasingly common, however, for the building to be locally owned and the hotel management to be carried out by foreign investors. In fact, not infrequently the foreign investor only "leases" the emblem to a local firm on condition that the hotel be run in the same way as the other hotels of the chain elsewhere in the world. What is true for hotels also applies to restaurants and car-hire firms, among other tourist activities. The idea is that the emblem guarantees tourists, whether on vacation or on business, a similar quality service to that to which they are accustomed in their country of origin with hotels, restaurants or car-hire services with the same emblem.

Thus, foreign suppliers of tourism services do not necessarily require establishment of foreign investment or commercial presence but use arrangements such as franchising and licensing. Consequently, it is not clear in this sector what the proposal of the countries wishing to include international movement of foreign investment in the negotiations would amount to.

In any case, this situation must be defined in accordance with each country's foreign investment laws and regulations, which do not necessarily provide for identical treatment for travel agencies, tour operators, hotels and so forth.

Their proposal would also imply cross-border movement of two of the elements mentioned in the first part of paragraph 4 of the Montreal Document: cross-border movement of one of the factors of production, i.e. foreign investment in one of its forms. This implies the incongruous situation where the person to whom a service was sold would be a foreigner and the seller would be a foreign enterprise established in a foreign country. This creates problems, of course, not only of definition in the framework of the negotiations but also as regards the way in which transactions are conceptualized.

Mexico and other countries have for their part proposed that in the Uruguay Round the negotiations should include the cross-border movement of labour. In the tourism sector the idea is simple. What it would mean is that it should be possible to recruit labour of different levels of skill, semi-skilled or skilled, in the various tourism activities (hotels, restaurants, travel agencies, tour operators, transport etc.) in a foreign country. In this connection, for developing countries to be able to send labour to foreign countries to work in tourism-related activities would make up for their small share in the world tourism market.

In addition to the above, the current negotiations could also cover elements such as an increase in the duty-free allowance for travellers returning to their country of origin. There are also other elements which restrict the international movement of consumers, either of a macro-economic nature (exchange controls, for example) or specific measures (for example, specific exit restrictions on travellers).

In short, in this sector there may be considerable confusion as to what the negotiations are seeking to achieve: on the one hand, to increase the sale of services to foreign tourists in the country concerned, and on the other, to increase sales of services in a foreign country to foreign consumers.

Before carrying out the simulation of the application of the various concepts, principles and rules, some remarks are called for in connection with the activities included in tourism in the context of the Uruguay Round.

The following are included in the Gatt secretariat document:

- travel agencies;
- tour operators;
- accommodation;
- transport;
- others (for example, financial services, cultural and recreational services).

In this connection, the delegation of Mexico considers that simulations of applicability for transport and financial services are being examined in separate meetings of the GNS and that restaurant activity should also be included in the tourism sector. In addition, it should be considered that tour operators are in fact travel agencies. That being so, travel agencies should also be subdivided into wholesale and retail activities.

Taking the above into account, and without prejudice to Mexico's negotiating position, two possible hypotheses exist concerning the applicability of concepts, principles and rules:

1. international movement of consumers;
2. international movement of production factors:
  - (a) temporary;
  - (b) indefinite.

The simulation of the applicability of concepts, principles and rules will be carried out according to these two basic hypotheses.

Simulation of the applicability of concepts, principles and rules.

#### Transparency

In the first hypothesis, in other words, that of the international movement of consumers, transparency in the case of travel agencies, including tour operators, would refer solely to information about the laws and regulations of the country receiving the tourism concerning travellers (for example, visa requirements) or which in one way or another affect the movement of tourists in that country. The existence of exchange controls and the corresponding arrangements, among other things, will also be important.

In the second hypothesis, that of the cross-border movement of factors of production, a travel agency would hardly wish to establish itself temporarily in a foreign country, save in the case of the co-ordination of a very specific type of tour, such as the organization of a world football championship or the Olympic Games. In general, a travel agency will seek to install itself in a foreign country for an indefinite period.

Likewise, a travel agency might establish itself in a foreign country with personnel from its country of origin. But a local travel agency might also bring in staff from other countries to improve its efficiency and productivity. For example, if a travel agency from a developed country specializes in bringing tourists to Mexico, it might also wish to have Mexican staff in order to conduct its operations better.

In this case, transparency would refer both to what was said in the case of hypothesis I, as regards laws and regulations concerning travellers, and to laws and regulations on direct foreign investment, as well as any regulations relating to the actual operation of travel agencies in the host country.

In this connection, no country in the world would be prepared for its changes in its laws and regulations on foreign-exchange policy, immigration or foreign investment to be subject to prior consultations with any interested countries that were signatories to the framework agreement.

In the case of hotels, under the first hypothesis, transparency would imply that they should be able, in all countries and especially in developing countries, to be acquainted with government and private regulations concerning access to and operation of information and reservation networks.

Under the second hypothesis, and this applies also to restaurants, transparency implies knowledge of the laws and regulations affecting everything from construction to immigration and foreign investment, as well as the actual operation of hotels (for example, price controls, licences for the sale of beverages, and so forth).

In this case, for the reasons given above in the case of travel agencies and tour operators, prior consultation for the implementation of new laws and regulations is unfeasible in practice.

Cultural and recreational services have similarities with hotels and restaurants, depending on the specific service, and therefore we shall not dwell on them.

Given the large number of specific activities which the tourism sector comprises, it would be hard to establish a "reference point", particularly in developing countries, in which to concentrate all the laws and regulations affecting these activities. Simply the cost of concentration and computerization for this purpose is very high, at least in the short- and medium-term.

Progressive liberalization

The specific form progressive liberalization could take depends fundamentally on the hypothesis adopted concerning the definition of "trade" in tourism.

If it is hypothesis I, progressive liberalization would refer to improvement of international conditions for increasing value added in a tourism "exporting" country. For example, we mentioned earlier the beneficial effect of an increase in the duty-free allowance for goods a tourist can take back home. We also referred to the great importance of access to hotel and airline information reservation networks. Another element might be greater flexibility of exchange controls and other macro-economic policy elements. Nevertheless, while the first two elements do appear to be negotiable in the Uruguay Round and subsequent rounds, the latter do not seem to be subjects for negotiations in the rounds.

In the case of the second hypothesis, concerning the cross-border movement of factors of production, in addition to the above-mentioned elements it would also be necessary gradually to allow access for such factors to the countries providing the service. Thus, foreign investment in hotels, restaurants, tour operating companies, travel agencies etc. would gradually be allowed. Similarly, foreign labour would be increasingly accepted in such activities.

Under the second hypothesis, the temporary establishment of a travel agency in the country providing the service would imply the temporary presence of foreign labour hired by a travel agency in the country in which the service originates. However, as mentioned earlier, it is highly unlikely that a travel agency would wish to establish itself only temporarily. Hence, the indefinite presence of a travel agency in a foreign country would imply the likewise indefinite presence of labour in a foreign country.

The above also applies to tour operators, hotels, restaurants and so forth.

In addition to the increasing amount of capital which the various tourism activities require to start up their activities, it must be stressed that the sector is intensive in "soft" technology, i.e. information, organization and know-how. The delegation of Mexico considers that any framework agreement should contain specific provisions on transfer of technology to developing countries. In the case of tourism, among other things, this transfer could rapidly be stepped up by provisions in the framework agreement allowing labour from developing countries to be hired at all levels in developed countries in the various tourism activities. This is the best means of ensuring that the new technologies are acquired. In this sector there is a clear link between transfer of technology and progressive liberalization. Admittedly, direct foreign investment also transfers "soft" technology to the host country, but the above-mentioned

formula would increase the multiplier effects of the technology transferred. For example, whenever a new hotel is opened in tourist developments in Mexico, manpower needs are filled by pirating staff from existing hotels. Local personnel trained abroad could partly meet the new employment needs created by the opening of new tourist installations.

Finally, in accordance with the final paragraph of indent 7(b) of the Montreal document, developing countries should have appropriate flexibility for opening fewer sectors or liberalizing fewer types of transactions or in progressively extending market access in line with their development situation. Their laws and regulations on foreign investment must also be respected in so far as they have non-economic policy objectives.

#### National treatment

In the case of hypothesis I, i.e. cross-border movement of services, national treatment may be imagined in situations such as licensing or franchising, in other words, granting the same treatment to foreign licences or franchises as to domestic licences or franchises. Thus, if a foreign enterprise licenses its trademark to, for example, a local hotel, the licence would be given the same treatment as that which might be granted by a local enterprise. The same goes for the trademark of a car-hire firm, travel agency, restaurant, etc.

In the case of hypothesis II, i.e. involving the cross-border movement of factors of production, national treatment would imply granting foreign travel agencies, hotels, car-hire firms etc. the same rights and obligations as similar local firms. This would mean, for example, that foreign enterprises should be able to establish themselves with financing obtained in the host country, that local companies would be expected to meet the same requirements as foreign companies with respect to foreign-exchange earnings, job creation, technology to be used and so forth, a condition which many developing countries, and indeed developed countries, would not be able to satisfy.

In addition, with regard to cross-border labour movements, national treatment would imply that foreign labour hired in tourism-related activities should receive the same treatment as local labour in terms of social security, unemployment insurance, education (for family members as well), training and re-training.

In the case of developing countries, in accordance with the final paragraph of indent 7(b) of the Montreal document, they would be given appropriate flexibility in the granting of such treatment, both as regards its gradual implementation and as regards the elements on which they might wish to withhold its application.

Finally, it should be recalled that there are two possible interpretations in the Montreal document. One is that national treatment is a long-term objective of the framework agreement (second paragraph of

indent 7(b)). The other is that national treatment should be applied when market access is granted. The delegation of Mexico favours the first interpretation, at least for developing countries.

#### Most-favoured-nation/non-discrimination

The economic effects for different countries will depend to a great extent both on the definition that is agreed on the most-favoured-nation clause in the framework agreement and in the sectoral agreements, and also and above all on the hypothesis that is adopted on trade in tourism.

In the case of hypothesis I, concerning cross-border trade in tourism services, the m.f.n. would refer to elements such as the following, inter alia:

- Non-discrimination among countries of destination in the application of exchange controls for travellers;
- non-discrimination among countries in the application of exit restrictions for nationals of a country;
- non-discrimination among countries with respect to the value of the duty-free allowance for goods imported by tourists returning to their country of origin;
- non-discrimination among countries or enterprises in access to the information and reservation networks of airlines, hotels and car-hire firms, among others;
- non-discrimination among countries in the transfer of tourism technology;
- non-discrimination among countries of origin concerning licences and franchises in the field of tourism activities;
- non-discrimination among countries of origin destination for charter transport, provided regulations are complied with, as regards security, for example.

Obviously the foregoing will have a different effect according to whether m.f.n. treatment is optional, conditional or unconditional. The delegation of Mexico has already repeatedly stated its preference for the last option, particularly for developing countries, because it believes that the first two options would do nothing to foster the expansion of international trade in services but on the contrary would obstruct it. The marginal cost for developed countries to grant m.f.n. treatment to developing countries would be frankly small, bearing in mind that the latter account for only a fifth of world tourism and that the main "exporter" of this activity, Mexico, has a share of a mere 1.5 per cent.

With regard to hypothesis II, in addition to what has been said for hypothesis I, m.f.n. treatment would imply non-discrimination among countries of origin of labour and of capital for tourism activities. With regard to labour, non-discrimination implies elimination of quotas based on country of origin. Under hypothesis II, as well, the effects would vary according to whether m.f.n. treatment is optional, conditional or unconditional.

#### Market access

In the case of hypothesis I, market access may take various forms, including the following:

- Access to information and reservation networks of airlines, hotels, etc.;
- Access in respect of licensing and franchising for hotels, restaurants, tour operators, etc.;
- Increase in the value of duty-free allowances for goods which travellers can take back to their country of origin;
- Access for charters under certain conditions and regulations;
- Easing of travel restrictions on nationals of countries of origin;
- Access to "soft" technology in the field of tourism activities.

Under hypothesis II, market access means the possibility for labour and capital to provide their services in tourism activities in a foreign country.

As mentioned above, access may be temporary, i.e. temporary presence of foreign investment and/or labour. It may also be indefinite, both for capital and for labour. The effects will be different according to whether it is temporary or indefinite.

#### Increasing participation of developing countries

As the tourism sector includes a very large number of activities, developing countries can develop important competitive positions in some or many of them. As mentioned above, international competitiveness in this sector calls for continual modernization of each country's infrastructure and steady improvement in the quality of the various services provided. Thus, requirements range from the development and adaptation of appropriate technology to the financing of infrastructure and equipment.

The Mexican delegation recognizes, with regard to the latter, the importance for its country of foreign investment, including direct foreign investment, but within the framework of its laws and regulations in this area, and, as the Montreal document puts it, in such a way as to strengthen its "domestic services capacity and its efficiency and competitiveness", and by helping to meet the sector's needs in terms of infrastructure, tourism facilities and installations, communications and transport.

However, in negotiations such as the Uruguay Round, what seems important is the way in which the framework agreement and possible sectoral agreement could help developing countries to increase their national capacity to provide tourism services.

In this connection, as mentioned earlier, the tourism sector is an excellent example of where better access to distribution channels and information networks would significantly improve those countries' national capacity to provide many of these services competitively.

It was also mentioned above that technology in this sector has developed very rapidly. It is not a question of technology built into equipment, because basically there has not been much progress in that sphere for some years. Where progress has been very rapid is in technologies that are intensive in information, know-how and organization, i.e. "soft" technology. The framework agreement and possible sectoral agreement should contain suitable provisions to speed up the transfer of such technology to developing countries, and it was mentioned above that one means of doing so would be the recruitment of different types of labour from developing countries for tourism activities in developed countries.

In addition, the increasing participation of developing countries in the world tourism market also means that they must be granted the various forms of market access to which we referred above (and therefore need not go into in any detail here): in accordance with the Montreal document these measures should be applied to developing countries on a priority basis.

In this connection, indents 7(f) and 7(b) of the Montreal document should be considered components of the concept of relative reciprocity proposed by Mexico some time ago. Relative reciprocity would apply in two ways to developing countries in the tourism sector:

1. By allowing flexibility over the time-frame and the activities for achieving progressive liberalization and granting national treatment; and
2. By the developed countries' facilitating access to their services markets of export interest for developing countries, without expecting concessions on a similar scale in return. This includes concessions with respect to labour, without developed countries expecting similar concessions as regards movement of factors of production.

With regard to the possibility of autonomous liberalization in favour of developing countries, to which the Montreal document refers in the third paragraph of indent 7(f), in tourism this could take the form, for example, of a bigger duty-free allowance for goods which returning residents take back from developing countries. While Mexico is not requesting preferences from developed countries, this example shows that possibilities do exist in this field.

The fact that airlines, hotels, travel agencies, car hire firms, etc., have increasingly large common interests in the world tourism market is a good illustration of the fact that it would be desirable for the framework agreement to include appropriate provisions to forestall the possibility of dominant market operators being able to use their monopolistic or oligopolistic power in such a way as to jeopardize the policy objectives of countries, and not only developing countries, in the field of services.

#### Safeguards and exceptions

As mentioned earlier, the tourism sector includes a large number of activities, many of which are not specifically directed towards the sector, such as the building of roads, bridges, ports and tourist marinas, financial activities, transport and so forth. Naturally, for these activities, as the delegation of Mexico mentions in document MTN.GNS/W/57 concerning construction, the framework agreement can and should include various types of safeguards for dealing with different situations.

The same applies with regard to the tourism activities mentioned in this document, both under hypothesis I and under hypothesis II.

These safeguards may concern:

1. balance-of-payments problems;
2. growing and unforeseen imports of a service;
3. development of an infant industry.

In the case of hypothesis I, safeguards may arise, for example, when licence or franchise payments begin to grow rapidly (safeguards for balance-of-payments reasons or unforeseen growth in imports) or if there is a desire to develop a national charter industry.

With regard to hypothesis II, the main safeguard would concern the development of an infant industry, such as travel agencies.

With regard to exceptions, the most likely activities that can be imagined concern cultural and recreational services, in terms of safeguarding morals, customs and cultural values.

### Regulatory situation

The tourism sector is one of the best examples of a large imbalance between developed countries and developing countries as regards regulations, particularly under hypothesis II. Whereas in most developing countries regulations on foreign investment in tourism are generally not very constraining, in developed countries laws and regulations concerning foreign labour are usually highly restrictive.

### CONCLUSIONS

The activities which make up the tourism sector are increasingly intensive in high technology - which is not necessarily connected with microelectronics or genetic engineering. Tourism activities are becoming increasingly intensive in information, organization and know-how. This explains why developed countries have a comparative advantage over developing countries. Hence a first conclusion: it is industrialized countries which will derive the greatest benefit from international negotiations in this sector.

A second conclusion from the above analysis of the applicability of concepts, principles and rules, is that in the tourism sector major multilateral trade negotiations can be conducted without having to involve the cross-border movement of primary factors of production.

However, in light of the developing countries' very small share of world tourism trade, a third conclusion is that in order to increase their share and their foreign-exchange earnings, the framework agreement must allow developing countries to send labour to developed countries to work in activities connected with tourism in the latter.

Furthermore, there are many activities connected with the tourism sector, whence a further conclusion that it is necessary to determine which of them would be included in a possible sectoral agreement for tourism. As mentioned above, the delegation of Mexico does not consider that activities such as transport or financial services should be included in this sector, except for a very small number of exceptions to be determined.

Again because of the large number of activities in the sector, it is hard to imagine the possibility of establishing a reference centre for the laws and regulations concerning them all, regardless of whether trade is defined under hypothesis I or hypothesis II. The analysis also highlights the impracticability of providing in the framework agreement and possible sectoral agreement for consultations prior to the implementation of new measures affecting this sector.

For the remaining concepts, principles and rules, their applicability clearly depends basically on the nature of the hypothesis adopted as regards "trade" in tourism. What is more, the analysis shows that, regardless of the definition adopted, the effects of each concept,

principle or rule will vary according to the specific activity concerned. National treatment or progressive liberalization is not the same for franchising or licensing as for access to information or distribution networks or new technology in the field of tourism.

As a final conclusion, it must be pointed out that the tourism sector is highly important for developing countries and that even though at present they do not have a comparative advantage their development possibilities are large. Consequently, the framework agreement and possible sectoral agreement should contain specific provisions for their increasing participation in world trade in this sector.