

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNS/25/Corr.1*

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Group of Negotiations on Services

NOTE ON THE MEETING OF 18-22 SEPTEMBER 1989

Corrigendum

Replace pages 9 to 12 of document MTN.GNS/25 by the attached.

*English only.

GATT SECRETARIAT
UR-89-0327

maximum possible liberalization of financial services, which was an objective of his government.

16. The representative of Sweden, on behalf of the Nordic countries, believed that extensive multilateral transparency provisions would be needed in an agreement to liberalize trade in services. This view also held for liberalization in the financial sector, including insurance. He noted that an efficient and well functioning national financial sector was crucial to the conduct of government fiscal and monetary policies. Transparency was essential in a process of multilateral liberalization as well as later on in a more liberalized financial environment. He said that a multilateral prior notification requirement would have to be circumscribed by a number of delineating factors. Among these were the obvious limitations posed by new monetary or fiscal measures which by their very nature sometimes had to be kept secret until the moment of implementation so as not to upset markets or give rise to speculation. Another limitation was the scope of commitments under the agreement. It should also be borne in mind that the financial sector, as some others, frequently had several layers of regulation. A first layer related to national legislatures, which laid down laws and where constitutional concerns might arise. A second layer was the supervisory organs which ensured that laws were respected; while a third related to the self-regulatory functions in the sector such as those performed by industry associations. He noted that a system for prior consultation to accompany prior notification would be subject to the same kind of limitations that would be necessary for prior notification.

17. The representative of India said that MTN.GNS/W/68 highlighted the vital role played by the financial sector in all national economies and brought out some of the prudential considerations and other concerns which underlaid the extensive degree of regulation found in the sector. In addition to the contribution of banks and other financial intermediaries to the formation and execution of national monetary and fiscal policies, such institutions played an important role in the implementation of balance of payments policy and assumed important fiduciary responsibilities. Government policies reflected an awareness of the inherent risks involved in the sector and the need to avoid the negative consequences for the economy as a whole of banking and financial crises. For these reasons, countries built elaborate safety nets through their regulatory regimes with a view to providing liquidity to financial institutions and ensuring the safety and stability of national financial systems. He felt that MTN.GNS/W/71 usefully brought out the developmental dimension of financial service activities. He noted that recent history had provided lessons for caution in approaching the sequence of liberalization in the sector, adding that there were strong reasons to believe that financial market liberalization should follow and accompany liberalization in trade in goods rather than precede it. He noted that in MTN.GNS/W/68 an attempt had been made to define trade in banking and securities-related services. He felt that this was a weakness in the document and wondered why the document ventured into an area where there had not yet been a satisfactory degree of multilateral understanding. The issue of tradeability remained in his view firmly before the Group. He said that international transactions in

services did not in themselves constitute trade, noting that he disagreed with the definition of establishment-related trade which was contained in paragraph 14 of MTN.GNS/W/68. He felt that ownership criteria, when applied to trade in services, could be misleading for they were neither necessary nor sufficient to determine what constituted trade. He indicated that by using the term "establishment-related trade", the secretariat did a dis-service to those delegations, including his own, which had made efforts to distinguish between establishment and investment in the context of services discussions. On the issue of transparency, he shared the views of other developing country delegations that transparency provisions should apply to the activities of market operators. He said that whereas central banks or national supervisory authorities could scrutinize national banking activities and transactions, their ability to oversee the international operations of banks and other financial intermediaries was lacking. There was, therefore, a need for a framework agreement covering financial services to extend transparency provisions to the international activities of financial institutions.

18. The representative of Nigeria said that his delegation considered transparency as an essential ingredient in the operation of financial services. Transparency involved making available to interested parties information on all regulations pertaining to financial services as well as changes to these regulations. He said that such information was published regularly in the governments' official gazette and was easily accessible for anyone wishing to avail himself of such information. In addition, the Central Bank regularly published administrative guidelines for the operation of the financial sector. He said that his delegation supported the idea of establishing enquiry points so as to facilitate the availability of information for those seeking it. His delegation did not, however, see the need for - nor the applicability of - prior notification procedures in view of the legislative difficulties which such procedures would involve.

19. The representative of the European Communities said that it was always tempting to view particular sectors as being so inherently special as to require special treatment. He said that the GATT's latest Annual Report estimated that world trade in services had amounted to some US\$560 billion in 1988, a figure he could not reconcile with those provided earlier by the representative of the United States. He noted that actual trade in financial services was obviously not as important as the actual financial transactions taking place on a daily basis in world financial markets. It was doubtful nonetheless whether one could single out the special character of a particular sector by invoking numbers which in any event could not be compared. He underlined that his delegation saw no reason for excluding any of the activities which had been set out in MTN.GNS/W/50 under the headings of financial and insurance services. He felt that it was important to talk about activities and not banks or firms as such, noting that differences in regulatory regimes across countries assigned different activities to companies filling the same description. It was also important in discussing the possible elements of a framework that all activities taking place in the financial services area be discussed in the GNS. He confessed to not reading paragraph 14 of MTN.GNS/W/68 as

prejudging the issue of trade in financial services, noting that it seemed perfectly normal for the secretariat to draw attention to the fact that, in line with paragraph 4 of the Montreal text, discussions in the GNS should go beyond cross-border transactions and address transactions involving factor movement. He said that the European Communities were certainly interested in addressing financial transactions which involved establishment, noting that because of the existence of prudential regulations, cross-frontier trade on its own was not adequate. He emphasized the importance of the financial service sector for other service sectors as well as for the efficiency of trade in both goods and services. He felt that an agreement on trade in services which did not deal with financial services would be significantly lacking. He agreed that the process of gradually opening up the provision of financial services to foreign competition might involve as much re-regulation as deregulation. Group discussions were not about deregulation per se but rather about commitments to regulate in ways which did not impose undue burdens on foreign service providers while preserving within the context of a framework agreement an appropriate prudential environment in which financial services could perform their essential functions. On the notion of special treatment for financial services, suggested by the representative of Japan, he recalled that no sector was absolutely identical. This did not necessarily mean, however, that different sectors had to be treated in altogether different manners. In this regard, he drew attention to Part B of MTN.GNS/W/66, where reference had been made to the possibility of drawing up sectoral annotations to clarify or modify general provisions of a framework in relation to a particular sector, to contain additional provisions applicable only to that sector or to specify the total or partial non-application of a provision to the sector. He felt that no compelling evidence had been put before the Group suggesting the need for financial services to be treated differently than the manner envisaged in his delegation's document. He said that he was struck by the fact that in Tables 2 and 3 of MTN.GNS/W/68 some of the EC Member States were grouped along with developing countries. On the issue of transparency, he referred to MTN.GNS/W/65 and noted that transparency provisions were clearly applicable and perhaps even more important in the financial services sector than in other service areas. He felt that both the legislative and supervisory process in the financial area should be as transparent as possible, adding that publication was the basis upon which this should happen. Publication should be made in such a way as to not discriminate between foreign and domestic suppliers. He said that his delegation recognized the need for information from enterprises, noting that this was in fact critical for adequate national supervision. He referred to Part D of MTN.GNS/W/65 in saying that enterprises should not be required to supply information which went beyond that required under national legislation from domestic enterprises operating in the same sector. Whereas it might be difficult in some instances to require identical information to be provided by domestic and foreign firms, there should be a broad equivalence of regulations in this regard. He noted in addition, that while the discretionary powers of supervisory authorities had to be duly recognized, such powers had to be applied in a manner that was consistent with the objectives, principles and rules of the framework.

20. The representative of New Zealand said that his delegation would like to see the agreement on services having as wide a coverage as possible. His delegation considered that no sector should be excluded from the agreement on an a priori basis and would see the application of the agreement to financial services. He noted that financial services had been traded internationally longer than most other services. The financial sector was a dynamic and innovative one, with new services constantly being developed. This made it all the more desirable that the sector be covered by the agreement from the beginning. Referring to the sectoral testing which the Group undertook in its June 1989 meeting, he said that international trade in financial services was heavily dependent on the presence of a strong telecommunications system. It was worth noting that the world's leading financial centres were in countries which also had liberal telecommunications policies. On the issue of transparency, he said that the financial services sector was quite transparent relative to other service sectors. Because of the importance of this sector governments frequently ensured that the sector was regulated by legislation at the national (or federal) level. He said that in New Zealand, as in many countries, laws were printed and readily available to the public. He noted that the purpose of legislation related to the provision of financial services was most often to maintain public confidence in the operation and stability of the financial system in its widest sense and to avoid significant damage deriving from the failure of an institution. As a general principle, he said that New Zealand had a preference for laws of general applicability across sectors rather than sector-specific statutes and regulations. Such an approach provided business with a clear and consistent operating environment. In addition, the public availability of laws and regulations was another element of transparency as was the requirement for institutions, including banks, stock brokers, insurance providers and companies generally to provide certain information on their operations. This included financial statements of profit and loss, the identity of major shareholders, the holdings of directors, etc. He said that in New Zealand, company annual reports and the like were publicly available and that other information on companies was kept at their offices and was available for public search. He concluded by saying that because of the importance of trade in financial services to national economies, New Zealand considered transparency to be a basic obligation. The agreement should ensure the publication of relevant laws, regulations and administrative practices, the availability of information through national enquiry points and the notification, in summary form, of relevant laws and regulations. He felt that this could be in a manner analogous to the arrangements under the Technical Barriers to Trade Code.

21. The representative of Pakistan said that the financial sector was a most important and sensitive sector in all national economies; it was a sector which stood at the very basis of national sovereignty. This explained why countries built regulatory safety nets to protect this sovereignty, to ensure national security and to maintain public confidence in national financial systems. He said that the extensive degree of financial market regulation meant that the sector was one in which a relatively high level of transparency existed. He contrasted the issue of making relevant information available to that of making such availability