

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNS/29

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NOTE ON THE MEETING OF 18 DECEMBER 1989

1. The Chairman recalled that in paragraph 11 of Part II of the Montreal Declaration the GNS had received the mandate that it should endeavour, by the end of 1989, "to assemble the necessary elements for a draft which would permit negotiations to take place for the completion of all parts of the multilateral framework and its entry into force by the end of the Uruguay Round". He recalled that during two meetings this autumn, in October and November, the GNS has focused its attention specifically on this task. At the meeting in November, he had mentioned that he would carry out informal consultations in order to be able to present a draft text of these elements to the GNS for approval at the meeting of 18 December. The result of his informal consultations was now before the Group in the form of a draft document dated 18 December 1989. As indicated in the title of the document, he noted that it represented "elements for a draft which will permit negotiations to take place for the completion of all parts of the multilateral framework". He stressed that this was merely a draft document and that many square brackets were still in the text. This did not necessarily mean that there was disagreement on all that was contained in the square brackets. While this was true in some instances, many of the brackets simply pointed to issues that still needed to be negotiated further among delegations and the work that still remained to be done in the GNS next year. He asked whether any delegations wished to make any comments on the document before the Group.

2. The representative of the European Communities said that his delegation had hoped for a higher degree of consensus than that which emerged from the paper before the Group. He expressed disappointment over the lack of consensus and noted that the document underlined the magnitude of the task before the Group if it hoped to permit the entry into force of the multilateral framework by the end of the Uruguay Round. The document provided a full inventory of what had to be achieved in order to reach consensus on the features of the multilateral framework itself. He felt that the document did reveal some areas where real progress had been made, such as in the case of transparency, m.f.n./non-discrimination, national treatment, regional integration agreements as well as that of sectoral annotations. He noted that the apparent divergences in the document over the issues of definition and the increasing participation of developing countries concealed the beginnings of an underlying convergence. This convergence, he felt, needed to be nurtured so as to turn it into a consensus. As regarded Section III of the document, he noted that there was no clear presentation of his delegation's position, recalling that it foresaw an initial commitment based on the application to all sectors of the rules of the framework. Such rules, he noted, had to be applied to the fullest extent possible, consistent with existing legislation. In order to

achieve an adequate balance of rights and obligations, some additional liberalization commitments might be required. His delegation agreed to explore the need for flexibility in meeting particular situations in services trade. He felt that the alternative text which appeared on pages 12-13 of the document contained elements which were compatible with the Community position, although it was not a Community text as such. Addressing the Group's agenda for the following year, he said that, beyond reaching consensus on the contents of the multilateral framework itself, two other tasks awaited Group members. One was the need to negotiate any sectoral annotations which may be necessary; the other negotiating specific commitments in line with the emerging structure in Section III(b) of the document. He stressed that completing the latter tasks would depend on an adequate degree of preparation on the part of all delegations in regard to their national positions in particular sectors as well as an adequate degree of consensus on the multilateral framework. He felt that the document did not currently contain an adequate degree of consensus to accomplish the latter two tasks. He indicated that it was vital for the GNS to make rapid progress on the multilateral framework in order to permit its entry into force by the end of the Uruguay Round. For this it was essential to derive a consensus on all the elements of the framework. This consensus, he noted, would provide the basis for negotiating any sectoral annotations and/or specific liberalization commitments. Were the Group to be unable to make such progress, the point could arise where progress might only be possible on a basis which would not be fully consensual. This, he noted, would be a most regrettable outcome, one which he hoped - indeed felt quite sure - would not occur, thus enabling the GNS to complete its work in the coming year.

3. The representative of Canada said that as the GNS had come to the end of this phase of its work, it was normal to take stock - especially as Canada, no doubt like others, viewed with mixed feelings the document before the Group. He said that once again, as last year, delegations had waited until almost the last moment to accomplish the required work - in this case assembling the elements for a draft which would permit the negotiation of a framework agreement. As a result, the GNS had not advanced as far as his delegation believed could and should have been possible. This meant that some major issues had been left for next year, along with a great deal of more detailed and painstaking labour. Some important topics had barely been touched. This, the GNS would have to take fully into account in planning its programme for the remainder of the Uruguay Round. He said that important work to be done related to the four areas which had to be addressed together to ensure a successful outcome of the negotiations. The first related to the framework itself. His delegation was looking for a strong and binding agreement which embodied contractual commitments among signatories in the best tradition of the GATT, as opposed to a hortatory or "political" affirmation of principles and best endeavours, or to a residual undertaking after general derogations had been made. His delegation was aiming for a document to govern and gradually liberalize the commercial exchanges of services among countries around the world in a secure, equitable and accepted manner. Once negotiations were concluded among governments, operators in the market had to have the assurance they could get on with their part of the work - to

trade, to invest, to provide employment - in short to create wealth and contribute to development. The key decision before the Group at present related to the structure of the framework. Section III(b) of the document hinted at possible areas of progress to come, and much hinged on the Group's ability to overcome difficulties and make that prospect real at a very early date in 1990. The GATT had, from the outset been applicable, in principle, to trade in all goods. He felt that the GNS should do no less for trade in services. The third area related to development. All Group members had a responsibility to assure a satisfactory outcome in this area, in part, this would mean elucidating the distinction between what should go into a permanent document, and what was more appropriately cast as guidelines for the negotiating process. The fourth area related to liberalization. He recalled that there should be some liberalization from the outset. In short, there would have to be bindings and liberalization in this Round and all signatories should be prepared to contribute appropriately. At the same time, the approach adopted on structure and on the modalities for negotiation should be such as to facilitate wide participation of countries. Canada believed that the document did represent an advance over the Montreal text and contained a number of elements which could help in moving ahead. The GNS would, nonetheless, have to take some key decisions, organize itself efficiently and work very hard to realize that potential in the next eleven months.

4. The representative of India said that while the document before the Group contained many positive features which would help the Group carry its work forward next year, there remained many areas of disappointment. One such area concerned the increasing participation of developing countries in world services trade. He recalled that this issue was in the view of his delegation a central element of the Montreal Ministerial meeting. Due account needed to be taken in devising a balanced framework, keeping in mind the grossly unequal share of developing countries in world trade in services. Ninety per cent of such trade still found its origin in - and benefited - countries in the industrialized world. A framework agreement would need to contain provisions aimed at redressing the current imbalance, thereby infusing confidence in developing countries as to the benefits stemming from their participation in the framework. He was disappointed by the fact that the only unbracketed portions on "increasing participation" in the document consisted of excerpts from the Montreal text. He recalled that his delegation had put forward in previous submissions specific suggestions as to how the objective of increased participation by developing countries could be promoted. Such suggestions included, among others, the notion of preferences for domestic service providers, limitations placed on foreign service providers, etc. All of these had unfortunately been bracketed in the document before the Group. A second area of disappointment related to the modalities of progressive liberalization. The prospects for the progressive liberalization of services trade in developing countries hinged upon the benefits they would receive from the multilateral framework over the next five to seven year period. He stressed that several negotiating rounds would be required after the completion of the Uruguay Round in order to open up particular service sectors, sub-sectors and/or transactions to foreign competition. To engage in this process, it was essential for developing countries to

derive benefits from participating in the framework. The link between an adequate set of provisions aimed at securing an increasing participation of developing countries in world services trade and the modalities of progressive liberalization was thus a crucial one in the view of his delegation. He noted, finally, that the need for developing countries to increase their share of world trade in services depended critically on their ability to move internationally those factors of production in which they enjoyed a competitive advantage. His delegation therefore attached great importance to the need for the framework to treat factors of production in a symmetric fashion.

5. The representative of Brazil said that his delegation viewed MTN.GNS/W/90 as the document which reflected the conclusion of the mandate given to the GNS for 1989. For this reason, it considered the document, which contained the elements for a draft which could permit negotiations to take place in the coming year, as a positive contribution which already started to address some of the issues for consideration by the GNS in 1990. He felt that the document posed the risk of bringing the GNS to draw premature conclusions in regard to the evolution of its work. He sought confirmation from the Chairman that the whole of the document before the Group was bracketed. He felt that despite the brackets, the document offered proof of tangible progress in areas such as definition, structure and development. He felt, however, that the document ascribed an excessive weight to the notion of initial commitments. He emphasized that one of the central tasks facing negotiators was that of devising a framework which would ensure a fair distribution of benefits and promote the development of developing countries. He recalled that the document had not addressed the important issues relating to paragraph 10(d) of the Montreal text. He felt that the work of the GNS should proceed at the pace which the complexity of the negotiations imposed. He noted, finally, that developmental considerations should not be seen, in the negotiating context, as providing scope for trade-offs. Rather, these considerations should form the core element of a multilateral framework.

6. The Chairman recalled that the document currently under consideration was merely a draft.

7. The representative of Czechoslovakia said that the document before the Group represented a solid attempt at providing concrete answers - albeit often in brackets - to the questions raised in a previous secretariat paper. The challenge now facing Group members was to reach consensus on language which would rally the largest number of delegations. This could be done, in his view, only through the widest participation of delegations in all fora of discussions, whether formal or informal. He recalled that Czechoslovakia endorsed the objective of progressive liberalization of trade in services. Such a process was in line with the series of measures and laws currently geared towards restructuring his country's economy through the introduction of market forces in the whole of the domestic economy, including the services sector. He shared in the belief that multilateral rules should respect national interests and needs and be flexible enough to enable exceptions wherever justified.

8. The representative of Sweden, on behalf of the Nordic countries, noted that much progress had been made in the GNS this year. However, the document before the Group fell far short of his delegations expectations and the target set by ministers in Montreal. He said that the sectoral testing had given Group members a good feel for how the abstract concepts agreed in Montreal applied in concrete terms. Many good submissions had been made to the Group. A large number of countries had participated actively in the negotiations and there was clearly a recognition that it was in the interest of the trading system as well as in the national interest of participants to establish multilateral rules for trade in services. In the light of the mandate and the progress that he perceived to have been made, the intermediate paper produced at the end of this year was disappointing. In some respects parts of it could be cleaned up and made operationally meaningful without too much difficulty. In other parts, fundamental questions remained unanswered before a workable paper could be said to exist. He felt that many factors had contributed to the document's shortcomings. Some of the gaps displayed in the section on the increasing participation of developing countries could perhaps have been avoided. More work clearly needed to be done on this issue for the Group to be able to translate the concept into something meaningful. Many of the suggestions contained in the document on development gave rise to concern, and his delegation felt it had some credibility when speaking of its commitment to development cooperation. He recalled that his delegation was willing to look at ways and means to accommodate the concerns of developing countries. However, in the rules-based system which the GNS was elaborating, the fundamental question consisted of determining what should form part of contractual obligations. He recalled that his delegation saw a General Agreement on Trade in Services taking the form of a treaty. This implied that both obligations and exceptions to them would need to be clear and operational from a legal point of view. His delegation felt that there should not be permanent exceptions nor open-ended escape clauses. Obligations might well differ, but there should be multilateral disciplines for all participants. A distinction could be drawn between the obligations contained in the legal treaty itself and guidelines for negotiations on progressive liberalization. He emphasized that his delegation was willing to subscribe to a fair ride but not to a free ride and hoped that an underlying convergence of views was taking shape on this issue. In conclusion, he said that the document before the Group was an unwieldy tool and that the absence of an agreement on rules, modalities and procedures for the negotiation of liberalization commitments might frustrate the start-up of negotiations on liberalization commitments. It was thus of crucial importance for the negotiations in 1990 that a meeting of the minds occurred quickly on this central aspect of the agreement. Without a clear understanding of this issue it was difficult to foresee a launching of negotiations on the initial commitments that signatories would undertake at the end of the Uruguay Round. He noted that the GNS would have to expedite its work in this and other respects next year if it hoped to achieve the results that his delegation both needed and wanted.

9. The representative of the United States recommended that the document under discussion be submitted by the Chairman to the TNC as a useful step toward fulfilling the requirement set forth in paragraph 11 of the Montreal

Declaration. While the document fell short of her delegation's original goal of convergence on many of the elements, it clearly set forth options for negotiation of a final text by the conclusion of the Uruguay Round. The United States was concerned that the GNS had been unable to reach some convergence on structure. This was a matter that required some urgency in the new year because delegations had to have a common understanding on how the agreement would operate before they could properly formulate market access commitments for scheduling at the conclusion of the Uruguay Round. Her delegation's proposal made the structure of the agreement clear and in her view the automaticity of assuming of obligations to the principles, allowing for reservations, was the most dynamic of all the current proposals. She noted the recent paper by the European Community which represented a move towards the general position her delegation supported. She looked forward to working with other countries in an effort to develop a consensus on a structure for the services framework that reflected the basic objectives set forth in the U.S. paper. In regard to coverage, her delegation reiterated its support for the formula set forth in MTN.GNS/W/75 for coverage of services sectors, which allowed countries, in limited circumstances, to exclude specific sectors or sub-sectors from the agreed universe of traded services or to provide for special agreements among signatories who had excluded a particular sector or sectors. Her delegation further reiterated that it had made no decisions about the question of sector coverage at this time. Her delegation was determined to seek a legally binding framework, the results of which would achieve bindings reflecting a significant degree of trade liberalization by all signatories by the conclusion of the Uruguay Round. The American proposal assured such an outcome. The United States also sought the participation of developing countries in the framework and was prepared to take their economic circumstances into account in the commitments they made pursuant to a framework. Nonetheless, the proposals made in the document under discussion by a number of developing countries amounted to a blank cheque that failed to enhance either their export opportunities or the promotion of efficient and competitive domestic services sectors. Her delegation felt that the equivalent of a GATT enabling clause in services was totally inappropriate. In addition to a strong framework, her delegation was of the view that a successful services negotiation rested primarily on the willingness of signatories to achieve a substantial, initial level of trade liberalization in services at the conclusion of the Uruguay Round. Early at its meetings next year, the GNS should give priority to the agreement on a structure for trade negotiations in services in order to assure that countries could prepare their requests and offers for binding commitments to trade liberalization at the conclusion of the Round.

10. The representative of Peru said the document reflected that progress had been made in certain areas but also highlighted all of the obstacles that had to be overcome collectively in the course of 1990. Development was a pivotal issue which required more specific discussion. The concept of development in the framework agreement was not based only on greater flexibility or time limits but was rather a question of acknowledging the fact that many developing countries were lesser partners in services trade.

11. The representative of Nigeria voiced the concern of many delegations, including his own, that the GNS had not been able to reach a consensus in assembling the elements that would permit negotiations to continue. The document being discussed was the responsibility of all delegations and should be accepted as such. The removal of the brackets would need more than good will on the part of all the participants.

12. The representative of India noted that when specific ideas were put forward on development issues, the standard reply from developed countries was that obviously there could be no writing of blank cheques nor open-ended commitments on development. His delegation was not favouring broad exceptions and in the document under discussion certain proposals had been made regarding, for example, specific incentives or support for developing countries, or specific obligations for transnational enterprises to transfer technology or contribute to the export performance of developing countries. He was concerned that such proposals should be regarded as amounting to a free ride or a blank cheque and asked what was expected from developing countries which had come forward with specific suggestions. In order to make progress there had to be a more positive accommodation of the interests of developing countries. The gap between the industrialized and developing countries was much wider in services trade than in goods trade and was reflected in the structure of international trade in services today. For any negotiation to be fair, the fact of inequality had to be recognized and this was what developing countries were addressing in tackling the developmental dimension. The degree of responsiveness that needed to be shown by the industrialized countries was much greater than what had so far been revealed.

13. The representative of Mexico said that there were parts of the document with which his delegation was not satisfied. He underlined that the interests of developing countries had not been fully integrated and that his delegation was ready to participate in the negotiations as constructively as possible in order to arrive at a framework agreement which represented a real balance of interests and benefits for all participants.

14. The representative of Morocco welcomed the document under discussion and stated that the GNS had made real progress in certain areas although important work still had to be carried out.

15. The representative of Indonesia said that his delegation preferred a dynamic framework that allowed for change and appealed to those countries which worried about blank cheques. Development constituted the basis for working toward a greater specification of what was meant by progressive liberalization and market access.

16. In closing the discussion on this item, the Chairman declared the draft document adopted by the GNS and announced his intention to present it to the TNC, together with an oral report presented under his own responsibility, in fulfilment of the mandate laid down in Montreal. Regarding the continuation of the Group's work the following year, he considered that it should be carried out on the basis of the elements

assembled in the document with a view to completing all parts of the multilateral framework by the end of the Uruguay Round. Attention would also have to be paid to matters mentioned in paragraph 10(d) of the Montreal Declaration, i.e. international disciplines and arrangements, statistics - as well as definition, an issue which was covered in the document - and on which discussion would continue. Concerning the question of the calendar of meetings, his consultations indicated that there was agreement that the GNS should restart work during the week of 16-19 January 1990. He further suggested that the Group should meet during the week of 26 February 1990 and that dates for other meetings be left open for a future decision if possible during the January meeting. It was important however for the secretariat to reserve on a preliminary basis alternative dates for the third meeting, i.e. either during the week of 26 March or of 16 April 1990.

17. Under item 2.2 of the agenda, Other Business, the representative of Australia proposed that the secretariat prepare a background note on subsidies and services trade. Subsidies had been mentioned many times in GNS discussions but in her view some further work could usefully be done. She recalled that the secretariat paper on safeguards had provided useful research which provoked discussion in the Group and which gave further material for thought. Her delegation would like to see a similar document produced on subsidies and formally requested that the secretariat be able to commence work on the document with a view to having it available to the GNS at one of the meetings in the new year.

18. The representative of India suggested that the issue be taken up in the January meeting and asked what other matters the secretariat was attending to and whether the request for a background note on subsidies would have any priority in its work schedule for next year.

19. The representative of Switzerland supported the Australian proposal and said that a factual background document on the question of subsidies would be of great help to the Group's future deliberations. On the other hand, he could also see that there might be a need for other factual background notes. This might require further discussion.

20. The representative of the secretariat said that at the next meeting the secretariat would be better able to indicate the time frame within which such a document could be prepared and the kind of effort that would be involved. It would be a more complicated exercise than the one on safeguards and the secretariat would have to consider carefully what the scope and the coverage of the paper might be.

21. Before closing the meeting, the Chairman said that the Group would return to the matter at its next meeting in January.