

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNS/31

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Group of Negotiations on Services

NOTE ON THE MEETING OF 26 FEBRUARY - 2 MARCH 1990

1. The Chairman welcomed delegations to the twenty-eighth meeting of the GNS and drew the attention of the Group to GATT/AIR/2925 circulated on 9 February 1990, which contained the proposed agenda for the meeting. He suggested that the discussions start with Item 2.1, point II.(A) Statistics, on which the secretariat had prepared a background note in MTN.GNS/W/94. After that he would take up point II.(B) "Role of other international arrangements and disciplines" for which the secretariat had also prepared a background note in MTN.GNS/W/93. Discussion on point I. Structure, which referred directly to Part III of MTN.GNS/28 concerning coverage and application of a future framework on trade in services, should then follow. It was also his intention to set aside time during the week for informal consultations.

2. Turning to statistics the Chairman said that it seemed to him that the information provided in MTN.GNS/W/94 presented the state of art in the area of services trade statistics and that it would seem unlikely that more detailed data would be available before the end of the Uruguay Round. It was now clear what the secretariat could provide in this area and on that basis, the secretariat had indicated its willingness to service particular requests for statistical information.

3. By way of introduction the representative of the secretariat said that MTN.GNS/W/94 was meant to illustrate what was currently available from the secretariat in machine-retrievable form and what could be expected to be available in the future. The note drew heavily on the IMF balance-of-payments statistics which constituted the only source of information on trade in services available on a global basis. Tables 1 through 10 in the Annex provided examples of the types of tables that could be prepared from the information presently contained in the data base. The selection of countries and country groupings in these tables was purely illustrative, as were the data reported. Other country groups, data for any year after 1970, average annual growth rates, aggregations of specific components of the current account, balances by series, country or country group, and other data could be produced. To the extent possible, other statistics from non-IMF sources could also be provided upon request. It should be emphasized that, as noted in earlier secretariat documents prepared for the GNS as well as in Volume One of International Trade 1988-89, the coverage, comparability and reliability of services trade data was limited at present. The countries included in the database were listed in Annex Table 11 while the country coverage for data available for different traded services was indicated in tables contained in the main body of the paper.

4. The representative of the United Nations Statistical Office (UNSO) reminded the Group that the secretariat he represented had overall responsibility for the collection and compilation of statistics on many of the major components of international trade in services, including international trade statistics, national accounts statistics, industrial statistics, as well as related methodological work. These responsibilities were carried out in close cooperation with, and in some cases, on behalf of a broad range of U.N. agencies and international organizations such as UNCTAD, the U.N. Regional Commissions, GATT and the IMF. The work followed the guidelines established by the United Nations Statistical Commission, which consisted of the chief statisticians from twenty-four member states. It had been widely recognized in the GNS negotiations that sound and comprehensive statistics played a critical role in reaching equitable solutions to the complex problems before the Group. The note by the GATT secretariat on the availability of statistics on services provided an excellent summary of statistics available at the international level along with some indications of the methodological work being undertaken in this field. As indicated in the document, there were shortcomings in terms of statistical methodology - i.e. internationally agreed definitions, classifications and reporting practices. There were also shortcomings in the application of existing methodology. Most importantly for the GNS, there was a marked unevenness in the availability and quality of data among different groups of countries.

5. Some three years ago, the United Nations Statistical Office, in cooperation with the U.N. Center on Transnational Corporations, UNCTAD, GATT and the IMF, developed a proposal for a concerted and integrated approach to the improvement of statistics involving conceptual development, technical co-operation and data collection. The approach consisted of a four-year programme addressed primarily, but not exclusively, at the needs of developing countries and included the preparation of appropriate technical manuals and training activities. Although some preliminary interest was expressed in this proposal by individual prospective donors, no tangible support had been received to date. Unfortunately, the description of the state of statistics contained in that proposal remained largely unchanged and the needs outlined in the proposal unaddressed. As the U.N. Statistical Commission noted at its 25th Session held last year, despite its valuable contributions, the Voorburg Group on services statistics had not been able to replace the traditional methods for developing statistical methodology. In addition, the Commission requested the Secretary-General, to seek extra budgetary financing for a comprehensive programme involving methodological developments, data compilation and technical cooperation in the field. He contented that unless concerted action was initiated soon, neither the Uruguay Round nor the next round of negotiations would have the data required to reach sound and equitable conclusions. The UNSO, in co-operation with the statistical services of the other concerned U.N. organs, stood ready to discuss with members of the GNS further modalities for co-operation.

6. The representative of Mexico said that statistics was one of the most important, but often neglected, issues in the GNS discussions was that of

statistics. He noted that the representatives of both the secretariat and the UNSO had pointed to the insufficiency and high level of aggregation of available statistics on services; the number of covered sectors and activities having been traditionally much larger for goods than for services in the national accounts of most countries. The situation for trade statistics was often even worse; the services items contained in the balance of payments accounts seldom numbering more than four or five - as opposed to around ten thousand in the case of harmonised tariffs relating to goods. Also much of the statistical information on services had a residual character, as best exemplified by the item "other services" in the balance of payments which included practically all new and "improved" services. Lack of information on the direction of trade was another significant problem. The services sector had been often neglected due to the perception that it did not contribute as much to growth and economic and social development as the primary and secondary sectors. As this perception began to change, governments embarked on programs for the improvement of services statistics but these efforts were hampered by considerable budgetary constraints.

7. Available statistics were not adequate for the undertaking of trade negotiations on services. At their current state, they did not suffice for a reliable evaluation of concessions granted or received, particularly when one considered all the modes of delivery of services set out in MTN.GNS/28 - namely, cross-border movement of services, cross-border movement of information, cross-border movement of consumers, cross-border movement of manpower, cross-border movement of investment, cross-border movement of services embodied in goods. Members of the GNS should start as soon as possible to work on the nomenclature for traded services. In so doing, more precision could also be achieved by the Group with respect to the coverage of the agreement. Work on such a nomenclature could draw from the reference list presented by the secretariat in MTN.GNS/W/50 and the Central Product Classification (CPC) on which the secretariat's list was based. Alongside the work on nomenclature, improvements should be sought for each services item in national and international statistics. In the international context, efforts should complement the work already undertaken by the United Nations towards improved and detailed information on international services transactions. Eventually, such work could be revised by the entity administering the framework agreement. At the national level, governments could intensify their efforts in the same direction. There should be a commitment on the part of developed countries to provide technical assistance to developing countries, over and above that which was already provided by international organisations. The establishment of an international system for services statistics would be a relatively complex task considering all the possible modes of delivery of services. If the sales made by the affiliate of a transnational corporation in a particular host country were to be considered as the value of services trade realised through establishment, for example, it would be necessary to know the exact sales volume on a continuous basis and the country of origin of such an affiliate. That implied, on the one hand, that governments would require different types of information from national and foreign firms operating in their national markets. On the other hand,

that implied a clear need for countries to cooperate in order to collect relevant statistical information at the international level.

8. In order to deal with statistical issues, a Committee of Nomenclature and Statistics should be established and charged with the following activities: (a) elaboration of a nomenclature on services activities; (b) periodical up-dating of the agreed upon nomenclature; (c) determination of modalities and procedures for cooperation with the United Nations in the collection and processing of statistical information; (d) improvement of technical definitions; (e) establishment of modalities and procedures for the request of statistical information of member-countries; (f) instructions to the secretariat regarding the information to be compiled for the Committee and the entity administering the Framework Agreement as well as for the undertaking of multilateral trade negotiations; (g) establishment of technical assistance mechanisms for developing countries; (h) establishment of a database of trade in services statistics for the benefit of all countries, and in particular the developing countries.

9. The representative of India said that statistics on services production and trade suffered from very serious limitations. As demonstrated in the IMF Balance of Payments statistics, services statistics were too aggregated to be of any use for the Group. Out of total commercial services, nearly 60 per cent was accounted for by transport and travel while the remaining forty per cent related to the so-called "other services and income". In addition, such data was provided in a very uneven manner, leaving much to be desired as to its coverage, comparability and reliability. He agreed with the representative of the UNSO that serious shortcomings remained with respect to the methodologies and the conceptual basis for the collection of data on services. Those shortcomings, alongside the fact that developed countries accounted for over 80 per cent of total world trade in commercial services, had significant implications for the structure of the future framework agreement. It was difficult to envisage a meaningful and balanced exchange of concessions among countries without reliable information on which decisions could be based. Serious thought should be given as to how to improve statistical information, particularly as any effort in that direction would require quite some time. It would not be possible to progress in other areas without taking a decision on the improvement of services statistics.

10. The representative of Brazil said that it was revealing that the figure of \$600 billion represented an underestimate of total world trade in services. He noted also that developed countries were responsible for over 80 per cent of the world's services exports and imports. The participation of developing countries in world trade in services was therefore very small and, according to the mandate of the GNS, should be increased through the framework agreement on trade in services. He said that MTN.GNS/W/95 in its article 11 proposed a means to tackle statistical issues in the GNS negotiations, including the setting up of a database and nomenclature for services within three years of the entry into force of the agreement. He agreed strongly with the view that due to the complexity of services trade it would be unreasonable to expect to achieve a complete structure of rules

and principles governing such trade during this round of negotiations. He also agreed that subscribing to the rules and principles of a framework agreement without having available reliable statistics on the various sectors involved was tantamount to the writing of a blank cheque. For that reason, it would be very difficult to formalise the structure of an agreement on trade in services in the absence of considerable improvement in statistics.

11. The representative of Morocco agreed that a reliable statistical base represented an essential requirement in order to permit countries to negotiate from a well-informed position and with sufficient knowledge of the consequences deriving from the process of liberalization.

12. The representative of Yugoslavia stressed that improvements in the area of classification and collection of services statistics were of great importance to the work of the GNS. The Group should also consider ways and means to develop a methodology for the collection and compilation of relevant sectoral statistics provided by private sources (e.g. associations). The focus of such efforts should be on statistical information which was directly relevant to the implementation of framework provisions, especially those relating to the development dimension. As to the Voorburg Group, a higher degree of transparency and a wider participation was required in order to ensure that the development of methodologies reflected the interests of as large a number of countries as possible.

13. The representative of Pakistan agreed that it was difficult to envisage how a balance of interests could be achieved in the negotiations in the absence of reliable statistics on services. Only when disaggregated statistics on sectors covered by the framework agreement were available could countries in effect assess the level of commitment to which they might be able to subscribe.

14. The representative of Peru stressed the need for cooperation among participants towards the establishment of a reliable statistical base for services, including a comprehensive nomenclature covering sub-sectoral activities and transactions. Technical assistance from developed to developing countries could be instrumental in that respect.

15. The representative of Colombia, highlighting some of the points made in MTN.GNS/W/94, suggested that efforts be undertaken in order to improve services statistics at the national and international levels. In that context, a real commitment should be required on the part of participants in the GNS.

16. The representative of Australia said that there had been a great demand for improvements in the collection of services statistics in her country. The Australian Bureau of Statistics had also been very active internationally, having participated in international efforts devoted to the improvement of services statistics. Services statistics appearing in the balance of payments had been considerably improved, including areas of special interest to Australia such as student expenditure and financial

services. She said that a recent development which was not reflected in the note by the secretariat was the fact that Australia could now provide information on all components of "other services", including for the years of 1987 and 1988. Improving services statistics was a long-term process which depended primarily on efforts by national statistical agencies to employ the appropriate methodologies and a willingness on the part of governments to undertake these efforts. The fact that this was a long-term process did not, in her view, hinder countries from preparing for an exchange of concessions in these negotiations. She disputed the assertion that detailed statistics were necessary to determine, for instance, the effect of a national treatment obligation. Many of the problems of assessing such effects were comparable to evaluating the type of effect in the negotiation of a non-tariff measure. Even though readily quantifiable means of assessing the impact of the removal or otherwise of a non-tariff measure were also not available, countries had been able to undertake negotiations in the GATT on such measures. She urged participants not to use the lack of detailed data as an excuse for delaying progress in the negotiations.

17. The representative of the United States suggested that technical assistance efforts be increased in the statistics area. He expressed concern, however, about the earlier observation that without the more complete availability of statistics the process of negotiation was going to be a very difficult one. He was particularly concerned by the suggestion that India was not going to exchange concessions until statistics were available. The kinds of rules and principles which were being negotiated in the GNS did not necessarily require the precise data of a classic request/offer negotiation about tariffs. He stressed that every delegation during and after the Uruguay Round should work toward the continuing improvement in the gathering of statistics and the provision of a basis for a common nomenclature among all countries. He did not regard the absence of data as grounds for not exchanging concessions and nor for not working towards a transparent and more open trading system.

18. The representative of the European Communities noted that trade figures were mainly based on balance of payments statistics and therefore did not include sales through a longer-term local presence which was an aspect that needed to be addressed. Regarding longer-term needs, she noted that the Community had undertaken a major programme to develop improved statistical collection systems. She expressed her delegation's support for increased efforts in the area of technical assistance, but agreed with the United States delegate and others in sharing concern about the view that no exchange of concessions could take place before more adequate statistical information was available.

19. The representative of Tanzania said that he hoped there would be a common format for technical assistance in this area, and that it would interface properly with developed country efforts. He asked what the distinction was between investment and property income. The secretariat representative replied that investment income referred to foreign direct investment and portfolio investment, whereas property income was derived

from other sources, such as royalties, fees for intellectual property, franchises and similar sorts of returns.

20. The representative of Nigeria said his delegation saw adequate statistics as the basis for any commitment by participants. He joined those delegations that had called for ways and means of improving the statistical base of the Group's work, in particular, with a view to providing more disaggregated statistics.

21. In addition to the areas for improvement identified by other delegations, the representative of Korea considered that statistics on the activities of exporters taking place in importing countries were also important for making decisions on the liberalization of services. Such statistics would in the first instance be made available by the importing countries, but in order to obtain more accurate information, an appropriate modality should also be developed to ensure provision of such data by exporting countries.

22. The representative of Japan underlined the importance of being able to use a common nomenclature. Data improvements were a long term task and he agreed with previous speakers that lack of completeness in the available data should never be used as an excuse for delaying the negotiations or not starting them.

23. The representative of Switzerland said that it had only been six years since his country had started to publish services statistics as contained in the current account of the balance of payments, and efforts towards improved services statistics were under way. He strongly disagreed with the notion that the current lack and inadequacy of services statistics constituted a major stumbling block in the process of concession exchanges during the Uruguay Round.

24. The representative of Sweden, on behalf of the Nordic countries, said that radical improvements in the statistical base were unlikely in the near future. The note by the secretariat gave a good and comprehensive overview of the state of affairs. However, although some slight improvements had occurred, and some computer data runs were possible, the available statistical base was still very limited. The ongoing work performed by the secretariat was useful and he was pleased to see that data on the geographical distribution of services trade was now being collected. Improving statistics on trade in services constituted a long term exercise which would necessarily have to continue beyond the end of the Round.

25. It was the view of his delegation that it was quite possible to proceed with negotiations on liberalization even in the absence of detailed statistics. Barriers to trade in services - by and large of a non-tariff nature - were identifiable and readily recognized by economic operators. The absence of precise statistics raised the question of the so-called "negotiating rights" and the associate concepts of principal and substantial supplier; due to statistical weaknesses, principal and substantial suppliers were not easily identifiable. For that reason it might be well worth exploring the idea put forth by the representative of

Switzerland of a right to negotiate for all signatories regardless of their supplier status. This might, in fact, add an element of dynamism to the agreement since any signatory perceiving a trade barrier to be in place would be able to request negotiations to reduce it.

26. The representative of Egypt stressed the fact that balance of payments statistics, though containing some information on services transactions, were collected for a different purpose than that which suited the GNS. As such, they provided some general guidance, but lacked the degree of sectoral detail necessary to conduct a meaningful exchange of concessions relating to trade in services. He cited his own country as a case in point since over 50 per cent of all Egyptian services imports were covered under the item "other services and income" of annex table 10 of MTN.GNS/W/94.

27. The representative of Hungary agreed that the lack of services statistics did not constitute an obstacle to the achievement of progress in the GNS negotiations. There were, however, some significant implications deriving from the absence of precise statistics as had been pointed out by the representative of the Nordic countries with respect to the question of negotiating rights and the concepts of principal and substantial supplier. His delegation would also subscribe to the idea put forth by the representative of Switzerland that all signatories should have the right to negotiate regardless of their supplier status. Availability of statistics would also have an important bearing on the issue of a freeze since the trade-value of a standstill on regulatory regimes could not be properly estimated in the absence of reliable data.

28. The representative of Turkey said that the improvement of services statistics constituted a long-term objective but should not as such represent an obstacle to the liberalization of trade in services within the framework of the Uruguay Round. He informed the Group that recent improvements in the national statistics of Turkey relating to the insurance, communication and construction sectors would soon be reflected in the statistics provided by the OECD.

29. The representative of India said that despite certain differences of opinion there seemed to be a wide recognition of the need for technical cooperation and assistance to developing countries in order to improve international services statistics. In replying to the charge that developing countries used the statistical issue - admittedly an issue which could only be adequately addressed in the long-term - as an excuse to delay the negotiations, he said that the lack of statistics had a much more important bearing on practical considerations than on negotiating tactics. The approach advocated by some of including a freeze, or the binding of existing legislation, as a mandatory initial commitment, for example, ran into some very tangible limitations in the absence of reliable statistics.

30. Under agenda item 2.1 - II.(B), the Chairman referred to the secretariat background note in MTN.GNS/W/93 on the role of international arrangements and disciplines, and said it brought together the information that had been made available on the subject to the GNS. He felt that the

note revealed that a considerable amount of information had been discussed in the Group so far and that the GNS should perhaps now decide how to proceed on this matter. A significant question in this respect seemed to be whether there could be a general provision in the framework agreement dealing with existing international arrangements and disciplines or whether this would need to be carried out in the context of sectoral negotiations and addressed, if necessary, through sectoral annotations.

31. The representative of the European Communities said that the GNS should endeavour to avoid creating conflicts between the obligations and disciplines of the framework agreement and those of existing international arrangements. Rather, the aim should be one of encouraging as much complementarity as possible. She said that three issues were of importance under this item: firstly, the relationship between a future GATS and the GATT; secondly, its relation with the IMF and, thirdly, with other international arrangements. She felt that the institutional relationship between a services framework and GATT should be more appropriately determined in the context of decisions on the implementation of the overall outcome of the Uruguay Round. There was thus some linkage between this issue and the range of issues currently being addressed in the FOGS discussions. As to the IMF, her delegation felt that a services agreement would require a relationship analogous to that applying in GATT. Provisions similar to those contained in the General Agreement's Article XV (currently being updated in the Uruguay Round GATT Articles Group) should be a starting point in this regard. She alluded to potential grey areas in regard to the jurisdiction of the IMF in the services area, among which the distinction between payments and trade in services. In particular, she wondered on what basis payments made in connection with normal short-term banking and credit facilities would have to be considered as including the provision of such services themselves. She sought clarifications from the IMF on the latter question. She also sought clarifications on the implications of the last sentence of Article XXX(d) of paragraph 2.1 in MTN.GNS/W/93. Another question that would have to be resolved concerned the relationship between a future services framework and the OECD Codes, the main point once more being to avoid conflicting obligations. The role of the IMF in regard to balance of payments developments in the area of trade in services would also require further consideration in the context of a services framework. Finally, as regarded other existing international arrangements and disciplines such as the ITU, ICAO, IMO, UNCTAD, etc., she underlined the need for complementary relationships, adding that the role of the framework was not to deal with the technical aspects of sectoral disciplines. Sectoral annotations appended to a framework agreement could spell out the technical aspects which relevant international organizations should continue to be responsible for. There was, in addition, a need to promote cooperation between these organizations and a future services framework to enhance the scope for complementarity.

32. The representative of Japan said that some degree of coordination between relevant organizations was both desirable and necessary and agreed that the main focus of Group endeavours should concern the pragmatic need for complementarity between existing arrangements and disciplines.

33. The representative of Switzerland said that one way of dealing with existing international arrangements and disciplines would be to leave discussions of various service sectors and/or issues to the relevant international organizations. This approach, he noted, was not politically feasible in the view of his delegation, as it would likely result in the exclusion of some sectors from the scope of application of a future framework on trade in services. A second option would be for a services framework to deal with services-related aspects not currently dealt with by the relevant international organizations and/or agreements, particularly as regards the multilateralization of market access commitments. He noted that the chief objective of existing arrangements did not typically relate to multilateral trade liberalization and recalled that his delegation had argued that a services framework should have a somewhat constitutional aspect insofar as market access commitments were concerned. He noted that such an approach would not, for example, affect the International Monetary Fund, which dealt with issues other than those of improving market access in services trade. This, he added, was not the case as regarded ICAO, which had not until now been able to achieve multilateral liberalization in the civil aviation sector. He felt that the GNS should aim to develop the necessary tools with which signatories of a trade in services framework might some day liberalize the provision of air transport services on a multilateral basis. This, he noted, was a position taken by his country both at the recent ICAO General Assembly and in the GNS during the sectoral testing exercise.

34. The representative of India said that the issue of existing international arrangements and disciplines required an in-depth examination by the GNS, noting that many existing arrangements contained elements of a multilateral framework within their ambit. He felt that the range and complexity of disciplines applying in various sectors suggested potential difficulties were the Group to opt for a single approach on the issue. He felt that as the GNS carried negotiations forward, it should examine how the disciplines being developed would interface with the arrangements contained within existing international agreements. Alternatively, once the multilateral framework was in place, the GNS might consider provisions for the participation of relevant organizations in the framework, either by giving them the opportunity to participate both in formal and informal consultations or by a contract between these organizations and signatories collectively for a mutual exchange of information and consultation in the future. He also proposed that when sectoral annotations were taken up in the GNS, relevant international organizations should be fully involved, both formally and informally.

35. The representative of the United States felt that the issue of existing arrangements and disciplines could be addressed more explicitly once the sectoral coverage of the framework agreement was known. Given the current state of play in the GNS, it was difficult to go much beyond what had already been said on this issue, a fact which the secretariat note fully reflected. On the relationship between a future services agreement and the GATT, he noted that while it was still somewhat premature to take up this issue, the Punta del Este Declaration required contracting parties to resolve it by the end of the Uruguay Round. In the view of his

delegation, the possible linkage between the services framework and GATT could very well be relevant in ensuring that a services framework led to meaningful trade liberalization, particularly in areas where the provision of goods and services were closely related or where services were embodied in goods.

36. The representative of Poland agreed that there was scope for complementarity with existing arrangements and disciplines, noting that this issue needed to be seen more as an opportunity than a problem. He felt that it was very difficult to prejudge at this point in time what the relationship between a future services framework and other international agreements would consist of, adding that further study was required on such a complex question. He wondered whether a single, standardized, approach to the issue could be applied given the diversity of sectoral specificities. He agreed with the Swiss proposal that a services framework should be seen as an instrument for the multilateral liberalization of services trade in certain - and perhaps not all - sectors.

37. The representative of Brazil felt that the GNS should exercise prudence in addressing the issue of existing arrangements and disciplines. It was essential as a point of departure that appropriate cooperation mechanisms be developed vis-à-vis existing arrangements. He felt that because of the novelty of the area covered, a trade in services framework should be distinct from the GATT and occupy its own place in the broad range of international arrangements.

38. The representative of Yugoslavia agreed both on the scope of complementarity and on the need for prudence in addressing the complex issue of existing arrangements and disciplines. He added that a future services framework should not result in a conflict of institutional responsibilities with other arrangements and organizations. He agreed in addition that it was not yet possible to judge what the relationship between a future services framework and the GATT would be. He felt that an important issue to be resolved concerned existing bilateral and plurilateral agreements and wondered whether the application of a grandfathering clause should be envisaged.

39. The representative of Sweden, on behalf of the Nordic countries, said that his delegation also viewed the services framework as largely complementary to existing international arrangements and disciplines. He noted that the framework would address questions of liberalization of trade in services, an area largely left out in existing arrangements. In some cases, trade was dealt with in existing arrangements and provisions of the framework could be at variance with such arrangements. He felt that the way of dealing with such situations remained for now an open question, noting that recourse to sectoral annotations represented one avenue worthy of pursuit. He recalled that existing arrangements had done very detailed and useful work in areas such as standardization. He said that he largely shared the views of the EC delegation as regarded the relationship of a future services framework with both the GATT and the IMF. As concerned

other existing arrangements, his delegation felt that the technical work being done was important in its own right and should continue.

40. The representative of the IMF said that his organization would seek to answer, whether bilaterally or within the GNS, the questions that had been raised in regard to MTN.GNS/W/93 and other issues involving the Fund in the area of trade in services.

41. The Chairman recalled that the issue of existing international arrangements and disciplines would be taken up once more in the May meeting of the GNS as it was highly relevant to the consideration of sectoral specificities. He turned to agenda item 2.1.1 on Structure (Part III of MTN.GNS/28) and gave the floor to the representative of Uruguay to introduce on behalf of eleven delegations a proposal in MTN.GNS/W/95 on the structure of a multilateral framework on trade in services.

42. The representative of Uruguay said that he was taking the floor because his delegation had recently chaired a consultation and advisory meeting of the Latin American Economic System (SELA) at which the drafting of MTN.GNS/W/95 was agreed. He said that the background to the document stemmed from Decision 296 on the Uruguay Round taken at the fifteenth regular meeting of the Latin American Council. The thrust of the decision was to endeavour to bring about a concerted position of the countries of the region with regard to trade in services. The decision contained ten points which he briefly recalled: (i) the multilateral framework and all related agreements on trade in services must be constitutionally and legally separate from the GATT; (ii) the participation of developing countries in the negotiations should be based on the concept of relative reciprocity; (iii) the growth and development of developing countries are the paramount objectives of the multilateral framework on trade in services and any sectoral agreements; (iv) the legitimacy of the objectives of national policies should not in anyway be questioned in the course of the negotiations; (v) the negotiating mandate on services does not give powers to negotiate towards the international standardization of domestic regulatory regimes; (vi) exceptions from the m.f.n./non-discrimination principle should be allowed for regional agreements and instances were developmental considerations require special provisions or measures; conditional m.f.n. treatment should not be applied in any circumstances and the benefits of any agreements must be extended unconditionally to all signatories; (vii) there should be nothing in the framework or in sectoral agreements which runs counter to the interests of developing countries; (viii) in selecting the sectors for negotiation, particular and priority attention shall be given to the interests of developing countries; (ix) the commitments on transparency must contain provisions equivalent to those found in Article X of the GATT; and (x) the framework agreement shall contain provisions relating to the transfer of technology. He indicated that eleven countries had joined forces in presenting the document. These were: Brazil, Chile, Colombia, Cuba, Honduras, Jamaica, Nicaragua, Mexico, Peru, Trinidad and Tobago and Uruguay. Finally, he drew attention to the three points which appeared on the first page of MTN.GNS/W/95. He requested delegations to delete the words "endeavour to

agree upon" in paragraph 3 on page 9 in the English version of MTN.GNS/W/95.

43. The representative of Colombia said that his delegation felt that the proposal before the GNS was a significant contribution made by an important group of countries from the Latin American and Caribbean regions. The document contained a detailed proposal on the approach and structure of a framework agreement, bearing in mind the interests and objectives of developing countries. The document included provisions which were essential in promoting development, including cooperation as well as access to technology, information and financial resources. He briefly summarized the main points contained within the five chapters of MTN.GNS/W/95.

44. The representative of Peru said that the document indicated both the intention and willingness of its co-signatories to negotiate with a view to obtaining a balanced result, i.e. one which reflected the negotiating mandate agreed upon at Punta del Este. He reaffirmed his delegation's belief that the participation of developing countries in the negotiations was of central importance. Participation, he added, not in terms of derogations to a framework but rather in the fullest sense compatible with the level of development of signatory countries. Developing countries could not, under any circumstances, become junior partners under a framework agreement on trade in services.

45. The representative of Jamaica said that as one of the co-sponsors of MTN.GNS/W/95, he found much to agree with in the previous statements. He felt that the proposal being discussed provided an excellent basis for addressing the issue of the increasing participation of developing countries in both negotiations on - and international trade in - services. He recalled a few points which his delegation felt were of particular importance. For one, he felt it important that emphasis had been laid in MTN.GNS/W/95 on the need for priority attention to be given to the liberalization of sectors and modes of delivery of interest to developing countries and to measures aimed at facilitating the effective access of developing country exports to services markets. Also important was the fact that account should be taken of autonomous liberalization measures adopted by developing countries as a contribution worthy of credit in the negotiations. It was important to recall that services markets in many developing countries were relatively open, a reality which the negotiations had to reflect and take account of in determining initial levels of commitments. It was also crucial that developed countries be made to provide, either on a bilateral or multilateral basis, financial resources to facilitate the development of services infrastructures in developing countries. He felt that the key contribution of MTN.GNS/W/95 was to integrate the development dimension fully within the structure of a framework agreement on trade in services.

46. The representative of Chile said that her delegation felt that it was essential to promote a wider discussion of the desirable features of a multilateral framework, one which took into consideration the realities of developing countries such as Chile which intended to develop outward-looking services capacities, bearing in mind, of course, the

current level of development of the country's service sector. Her delegation felt it particularly important that a multilateral framework should cover the entire universe of service sectors, be based on the application of an unconditional m.f.n. clause as well as on transparency provisions such as those envisaged in MTN.GNS/W/95. Mindful of making a contribution to the process of progressive liberalization, Chile felt that it was important that priority attention be given to sectors in which it had an export potential and to improving market access conditions for the services exports of developing countries. She said that the document currently before the Group was not exhaustive, but constructive in that it represented a realistic attempt at balancing the positions of various countries within a coherent framework aimed at the progressive liberalization of trade in services and the economic development of participating countries.

47. The representative of Brazil said that MTN.GNS/W/95 represented an attempt at transcending the positions of those countries which had co-sponsored it. It contained a number of viewpoints which differed from those taken by his own delegation in a recent submission to the GNS. He felt that the document bore witness to the fact that these countries were negotiating in good faith. He invited other participants to support MTN.GNS/W/95, expressing the hope that the document itself might be representative of the concerns of a wider group of developing countries. He drew attention to Article 15 of MTN.GNS/W/95, noting that a sensible balance had been struck in regard to initial commitments. The proposal allowed for a freeze while giving developing countries the necessary flexibilities with which to contribute to the liberalization process. This proposal, he felt, could not be likened to a blank cheque. He noted that the proposal stressed the need for cooperation - it could indeed be read as a plea for cooperation in the area of trade in services. Such a plea could be found in paragraphs 9 and 12 of Article 1, paragraph 3 of Article 6, paragraph 3 of Article 7, paragraph 4 of Article 8, as well as in all of Article 9, particularly sub-paragraphs (c), (d) and (e). He said that in order to broaden the scope of a trade in services agreement it was essential to promote exchanges of information regarding research on the service economy. The need for cooperation was emphasized in addition in Article 11 of MTN.GNS/W/95. He concluded by expressing the hope that the seriousness with which this proposal had been made would be recognized in the GNS and receive broad support from participating countries.

48. The representative of Mexico stressed that the delegations involved in drafting MTN.GNS/W/95 aimed at the greatest degree of balance possible. This, he noted, aimed at making the proposal acceptable to as wide a group of GNS participants as possible. He emphasized two elements of particular importance to his delegation. For one, MTN.GNS/W/95 treated the development dimension as an issue standing at the very core of the framework agreement and not merely as an appendix. Developmental considerations could indeed be seen as permeating many of the provisions contained in MTN.GNS/W/95. Secondly, he noted that the proposal represented a sincere attempt on the part its co-signatories to cooperate with all GNS members to further the negotiating process.

49. The representative of Cuba emphasized that MTN.GNS/W/95 was a clear-cut document which addressed all the important issues to be considered for inclusion in a framework agreement on trade in services. The complete nature of the proposal under discussion indicated the readiness of its co-signatories to participate fully in the negotiations, all the more so as development considerations were treated in a comprehensive manner throughout the document.

50. The representative of India expressed his delegation's thanks to the eleven delegations which had submitted MTN.GNS/W/95. The document appeared to translate both the Punta del Este and Mid-Term Review negotiating mandates into concrete proposals, thereby largely addressing the doubts that had been expressed as to the difficulties of translating such mandates into operational obligations. He said that his delegation had taken note of the principles and elements which the representative of Uruguay had listed in his introductory remarks, most of which were derived from the Mid-Term negotiating mandate. His delegation shared the views expressed in the preamble to MTN.GNS/W/95, particularly as regarded the development objective as well as the issue of access to technology, information and financial resources. His delegation also fully subscribed to the principles and commitments featured in chapter 1 of the proposal, particularly as regarded the issues of non-discrimination and coverage. He agreed that the basic principles of the framework were transparency, unconditional m.f.n. treatment, progressive liberalization and the increasing participation of developing countries in international trade in services, and provided broad support to the ideas put forward in paragraphs 3 to 12 in chapter 1. He agreed with the definition appearing in chapter II of the proposal, noting that it left out the issues of permanent establishment and international immigration. Under Article 4, which dealt with the m.f.n. principle, he wondered whether legal drafting adopted from the GATT as applied to trade in goods could be made to apply both to services and service suppliers. He sought clarification on the meaning of Article 5.1. On transparency (Article 6), he was unclear on the distinction between publishing information and making such information publicly available. He felt that Article 7, which dealt with regulation and competition, represented a novel idea, one which his delegation approved of at first sight and which appeared to provide an operational answer to the expressed need for disciplines to apply to private market operators. He subscribed to the idea of developing within an agreed time-frame a nomenclature on trade in services. As regarded chapter IV, he said that his delegation endorsed the general approach put forward in the document, particularly as far as specific negotiated commitments of market access subject to agreed conditions of entry and operation were concerned. He felt that the views on national treatment contained in Article 13 were in accordance with those of his delegation on the subject. On the issue of initial commitments and future negotiations, he sought clarifications on the meaning of Article 15.1, particularly as concerned the moment at which negotiations for entering into initial market access commitments would begin.

51. The representative of Morocco welcomed the text put forward in MTN.GNS/W/95, particularly as it was drafted in legal language and set out

in a clear and unambiguous way the position of its co-signatories. He noted, firstly, that the proposal was very comprehensive, thereby meeting the objectives which the Group had set itself. Secondly, the proposal revealed the willingness of those countries submitting it to participate in an effective manner and in a constructive fashion in the negotiations. Thirdly, he noted that the development considerations which permeated MTN.GNS/W/95 were of considerable interest to his delegation. Finally, he took note of the fact that the proposal under review was not exhaustive but remained open to amendments and improvements. It was, therefore, a negotiable text which should be welcomed as a positive step forward in the GNS.

52. The representative of Pakistan said that the proposal submitted in MTN.GNS/W/95 was remarkable both in terms of its comprehensiveness and because it managed to weave into its provisions the essential development dimension of the current negotiations. His delegation found itself in almost full agreement with the principles and commitments appearing in Article 5 of MTN.GNS/W/95, particularly in regard to the four basic principles of a framework agreement - i.e. transparency, unconditional m.f.n., progressive liberalization and the increasing participation of developing countries in world services trade. He agreed in addition with the central emphasis put on the concept of relative reciprocity, as developing countries should not be expected to make contributions which were inconsistent with their individual development, trade and/or financial needs. He lent full support to many of the points made in paragraphs 7 to 12 of Article 1 of MTN.GNS/W/95, as well as to the document's treatment of the issues of definition and coverage. He agreed that the m.f.n. principle should be applied unconditionally and that the issue of free trade areas was worthy of further study in the area of trade in services. He welcomed the fact that the transparency provisions foreseen in Article 6 of MTN.GNS/W/95 did not apply to judicial decisions. He sought clarifications as to the possible links between Article 7, which dealt with the regulation of competition, and Article 1.6, which spoke of the need to respect the objectives of national policy objectives. In regard to schedules of concessions (Article 12), he sought clarifications on the relationship between such schedules and the initial commitments envisaged in Article 15 of the proposal. He felt that a number of procedural matters needed to be addressed in regard to the functioning of a future Council foreseen under the framework. Finally, he noted that the question of non-application would also have to be discussed in greater depth in the GNS.

53. The representative of the United States expressed his delegation's appreciation to those countries which submitted MTN.GNS/W/95. He felt that the proposal represented one of the most serious and comprehensive documents to be put before the GNS and reflected a business-like approach to negotiating an understanding on trade in services that would deal with all the aspects of an admittedly complex area. He agreed with the representative of India that MTN.GNS/W/95 faithfully addressed all of the principles that were agreed to at the Montreal Mid-Term Review, thereby aiming at an agreement that was dynamic in nature and led to progressive liberalization in trade in services, respected the situation of developing

countries and encouraged the development of their service sectors. The proposal went even further in taking up the issue of the kinds of negotiations that would take place with respect to initial market access commitments. MTN.GNS/W/95 contained numerous features that were similar to those contained in the submission made by his own delegation during the fall of 1989. His delegation would look critically at the various proposals contained in MTN.GNS/W/95 dealing with development matters.

54. The representative of Egypt said that his delegation strongly endorsed the views presented in MTN.GNS/W/95, as they reflected a credible interpretation of the results of the Mid-Term Review. His delegation fully agreed with the principles and commitments appearing in Article 1 of MTN.GNS/W/95, particularly those found in paragraph 7, sub-paragraph (i) as well as in paragraph 10. The latter point, which dealt with the treatment of factors of production in a services framework, was strongly correlated to the treatment of definitional matters found in Article 2 of the proposal. He expressed his delegation's strong support for the language found in Article 5.2, which dealt with preferential trading agreements among developing countries in the services area, as well as for Article 8.1, which dealt with general exceptions to a framework. As well, he fully endorsed the ideas put forward in MTN.GNS/W/95 on technical cooperation. Such cooperation would be required, inter alia, in the area of statistics and nomenclatures on trade in services, issues which were raised in Article 11 of the proposal. He sought clarifications in regard to Article 15.1, as well as in regard to Articles 18 and 19, which dealt with the issues of modification, withdrawal and withholding of concessions.

55. The representative of Yugoslavia said that the document before the Group was to be commended for its comprehensiveness and contained numerous points which his delegation could endorse, particularly in regard to developmental considerations. He expressed the hope that the tabling of such a substantive document would contribute significantly to improving negotiations in the GNS.

56. The representatives of Canada, Turkey, EC, Israel, Japan, Korea, Switzerland and Sweden, on behalf of the Nordic countries, welcomed MTN.GNS/W/95 as a significant contribution to the negotiating process.

57. The Chairman noted that the Group had had worthwhile discussions on the basis of the proposal submitted by eleven Latin American countries and Part III of document MTN.GNS/28 which remained one of the basic documents for the purpose of the Group's discussion. Similarities as well as differences of approach had emerged, and from the discussion, as well as from consultations, it appeared that further consideration of the issue would be necessary at the next meeting of the GNS. In order to facilitate subsequent consideration of the issues, the Group might like to ask the secretariat to produce an informal paper which would be a checklist of the points covered in the course of discussion on structure. Such points could include the following: what had to be achieved between now and December; what commitments would apply at the entry into force of the framework; the question of a freeze; modalities of liberalization; the issue of rule-making, i.e. the degree to which uniform rules could be set down

versus how much could be left to negotiations; and how the development aspects could be appropriately covered in the framework. Before turning to item 2.2. of the agenda, Other Business, he noted that concerning the issues of statistics and international agreements, the Group would discuss these matters at the May meeting in the light of what had been said at this meeting.

58. The representative of the European Communities noted that other issues for the May meeting related to sectoral annotations and to possible commitments, both of which had sectoral implications. He perceived a need for some preparation if the GNS was to have a meaningful debate and therefore suggested promoting exchanges of view within an informal flexible process in the GATT tradition. In order to ensure full transparency of such a process, it would be helpful to establish basic guidelines.

59. While being supported by some participants, a number of other participants were of the view that the suggestion by the EC representative would put too much emphasis on one particular agenda item. Informal consultations of a bilateral or plurilateral nature were going on all the time on most negotiating issues, and there was no need to formalise these proceedings as regards this particular subject matter.

60. The Chairman noted the absence of consensus on this issue and agreed with the view that participants in the GNS should reflect informally before the next meeting on the best way of dealing with the subject of sectoral annotations at the May meeting.

61. The representative of Australia recalled her delegation's earlier request for preparation by the secretariat of a background paper on subsidies and trade in services and wanted to know whether all delegations were now in a position to let this request go forward. The representatives of Hong Kong, New Zealand, the United States, the EC, and Canada expressed support for the Australian request.

62. The representatives of Brazil, India, Egypt, Nigeria, Peru, Yugoslavia and Hungary were of the view that if the secretariat was to engage in a study on subsidies in trade in services, such a study should also include an analysis of trade distortions resulting from the restrictive business practices of private operators.

63. The representative of the secretariat said such a paper could try to describe existing provisions on subsidies and take up any outstanding points of interpretation or issues that were currently under examination in the negotiating group on Subsidies. Regarding restrictive business practices (RBPs) and competition laws, he noted that as there was very little in the GATT itself, the secretariat could try to cover multilateral conventions or codes in the OECD, UNCTAD and elsewhere. He warned that it would be exceedingly difficult for the secretariat to go into the question of national competition laws. The treatment of RBPs gave an additional dimension to this exercise and he was therefore extremely reluctant to commit himself to any kind of a timetable for the preparation of such a paper but he could undertake, if the Group so desired, to report at the

March meeting on the progress made in the secretariat's internal work on the subject.

64. The representative of Australia, referring to section II(j) entitled "Other Provisions" in document MTN.GNS/28, said there had been agreement that there would be provisions in the framework covering subsidies and considered that, on that basis, a background paper prepared by the secretariat would have been a straightforward matter. Regarding the need to cover also restrictive business practices, she was puzzled by the linkage that had been made and noted that even in document MTN.GNS/W/95 the issues had been treated separately. The representative of the United States and the EC agreed with the views expressed by the Australian delegate.

65. The Chairman noted that there was no consensus in the Group to produce either one study, a joint study or two different studies but said he would continue consulting on the matter. The representative of Australia said that her delegation found it very unfortunate that such a long-standing request for factual background material on an agreed subject should be blocked in view of the fact that many other studies had been produced by the secretariat which were not high-priority items to her delegation but which her delegation had allowed to go ahead as they assisted all delegations in the negotiating process.

66. The Chairman recalled that the next meeting of the GNS would begin on 26 March and adjourned the proceedings.