MULTILATERAL TRADE NEGOTIATIONS THE URUGUAY ROUND

RESTRICTED

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NOTE ON THE MEETING OF 26 - 30 MARCH 1990

1. The Chairman welcomed delegations to the 29th meeting of the GNS and drew the attention of the Group to GATT/AIR/2947 circulated on 8 March 1990 which contained the proposed agenda for the meeting. He suggested that the discussions start with point 2.1 IV. Increasing participation of developing countries which referred to Part II(f) of MTN.GNS/28. Discussion on item 2.1 III. Definition which referred to Part I of MTN.GNS/28 should then follow. After that discussion on point 2.1 I. Structure - on which the Group had already had a first discussion at its last meeting in February - should continue along with the opening of the discussion on the closely related item 2.1 II. Mechanisms of liberalization undertakings, including nature of initial commitments. Thereafter, item 2.1 V. Institutional issues, mentioned under Part IV of MTN.GNS/28 would be taken up. It was also his intention to set aside sufficient time this week for informal bilateral and plurilateral consultations and informal meetings of the GNS.

2. Turning to item 2.1 IV. Increasing participation of developing countries, the Chairman said that the Montreal text, i.e. paragraph 7(f) of MTN.TNC/11, MTN.GNS/W/83 - a note by the secretariat of November last year - and Part II(f) of MTN.GNS/28 were all relevant to the discussion. Since a large part of the Latin American submission in MTN.GNS/W/95 had a direct bearing on this subject matter, he also noted the relevance of that proposal to the Group's discussion.

3. The representative of Mexico stated that according to the Punta del Este Declaration, the development of developing countries was one of the priority areas in the GNS negotiations. In this context, MTN.GNS/W/95 represented a positive step forward as it reflected development-related concerns in most of its provisions. Asymmetries which existed in the participation of developed and developing countries in world trade in services had to be addressed. One way to achieve progress would be the symmetrical treatment of production factors involved in the provision of services. Modalities and procedures were needed to increase the participation of developing countries in global services trade, which currently represented less than one-seventh of total cross-border trade in the sector. The process of progressive liberalization should be guided by the principle of relative reciprocity, whereby developing countries would not be expected to pay for concessions made to them by their developed counterparts on a strictly reciprocal basis. Rules regarding competition should also be a central element in the framework as a means to control practices by market operators which had adverse effects on trade in services. Liberalization undertaken unilaterally by developing countries should be recognized and given credit for. The respect of national policy objectives prescribed in the Punta del Este Declaration should imply, among other things, that countries would have the right to introduce regulations

whenever necessary to redress regulatory asymmetries. Finally, foreign suppliers should be required, under the framework, to conform with certain domestic regulations as a condition to achieving access to certain markets.

4. The representative of India said that the participation of developing countries in world trade in services was very small, accounting for only 5 per cent of the total. That derived from the nature of the domestic services capacity of developing countries and the factor endowment distribution in the world economy. Developing countries were mainly endowed with labour while developed countries were rich in capital, a fact which was reflected in the types of services these countries provided in world markets. Another important element was the critical role the services sector played in infrastructural development and industrial diversification. These considerations were relevant in the context of the coverage of a future framework on trade in services, especially in light of agreements reached in Montreal in that respect - namely, that the coverage of the framework should be as broad as possible with no a priori exclusions and reflecting a balance among participating countries. The Montreal text also prescribed that the liberalization process should respect the national policy objectives of laws and regulations and be progressive, calibrated according to the level of development of individual countries. On increasing participation of developing countries, the Montreal text was extensive containing important notions such as the need to strengthen developing countries domestic services capacity, efficiency and competitiveness.

5. The question before the Group was how to translate many of the important notions and concepts agreed upon in Montreal on development aspects into provisions of the framework. As had been attempted in some submissions to the Group, development-related concerns could be reflected in preambular language. Another possibility would be to provide for a specific chapter on such concerns, perhaps on the lines of S&D treatment and with no binding force. An approach which had also been attempted consisted of reflecting developmental concerns in several parts in the structure of the framework. The basic problem so far seemed to relate to conventional notions - based on the so-called GATT paradigm - of what constituted a legally-enforceable provision. The notions relating to balance of rights and obligations or interests, or even the intention of providing for a balance in the process of exchange of concessions were all anchored in GATT principles and practices and were not adequate for trade in services. The notion of reducing adverse effects on trade, for example, should be extended beyond laws and regulations to apply also to the anti-competitive practices of private operators which were more pronounced in the area of services than in the area of goods. Highlighting some of the points made in his country's submission (MTN.GNS/W/87), he said that future liberalization on the part of developing countries should depend on their ability to translate liberalization undertaken by other parties into improved export opportunities. In providing access to their markets, developing countries should be able to attach conditions of entry and operation in the form of limitations or requirements for training and employment, surcharges and differential tax rates, local content requirements, access to technology, information regarding global business

operations and provision of financial resources. As stated in MTN.GNS/W/87, the framework should provide for the relaxation of restrictions applying to the international flow of labour covering the entire spectrum of skills. Not only should developing country firms be able to recruit personnel from their own domestic sources, but also developed country firms should be permitted to draw from sources in the developing world. He emphasized his support for the notion of contact points providing information to developing country exporters on registration procedures and qualification requirements, preferential market access opportunities for developing countries, etc. Developing countries should also be permitted to grant incentives aimed at the improvement of their own services capacity.

6. The representative of Brazil said that in his view, not much progress had been made on the issue of increasing participation of developing countries since the Montreal meeting. It was imperative to consider to what extent the future framework would ultimately encourage developing countries to participate in a wider liberalization process. Several proposals had addressed development (e.g. MTN.GNS/W/86, MTN.GNS/W/87, MTN.GNS/W/95) providing sufficient material for more concrete discussions on the subject. The representative of Egypt agreed with the representative of Brazil.

7. The representative of Chile said that in order to achieve greater participation of developing countries in world services trade it was crucial that the coverage of the framework included sectors where developing countries had export potential. The framework should be based on the principle of non-discrimination, providing for as great a transparency in relevant laws and regulations as possible. A freeze should not be a part of the commitments entered into by developing countries.

8. The representative of Nigeria said that the gap existing between developed and developing countries with respect to the development of their services industries should be redressed through the framework. He agreed with others that development should not only be reflected in one specific provision but that it should permeate all parts of that framework.

9. The representative of Argentina warned against the tendency to propose certain concepts as potential obligations in the future framework while giving a different status to the concepts supported by other delegations. The notion, agreed upon in Montreal, that developing countries should have flexibility to open up fewer sectors or to liberalize fewer types of transactions should have a clear legal formulation in the framework and not simply be relegated to the mechanics of the liberalization process. Other notions of relevance which appeared in the Montreal text included the need to provide for an increasing participation of developing countries in world services trade through, among other things, the facilitation of effective market access in sectors of export interest to them and through preferential market access. It could be envisaged, for example, that the degree of liberalization emanating from the GNS negotiations be granted on a priority basis to developing countries before being extended to countries with a higher level of development.

10. Another important concern for developing countries was the automaticity advocated by some delegations with respect to the application of national treatment. National treatment should be applied in a gradual and negotiated manner and not immediately and automatically once access had been granted to a particular market. Joint-ventures should be especially relevant in the consideration of development even though its relationship to the principle of non-discrimination remained unclear. Countries should be permitted to require that foreign services firms produce for export markets. Incentives should be differentiated from subsidies as they were more specifically targeted to certain areas or industries requiring assistance in order to improve their domestic capacities. Such incentives could be linked to conditions of access which might be granted as a result of negotiation.

11. The representative of Tanzania said that the most important motivation underlying the participation of developing countries in the framework was that of achieving increased levels of net domestic capital formation. It was imperative for these countries to improve their domestic services capacities through education, training, management know-how, science and technology.

12. The representative of Yugoslavia agreed with others that development-related concerns should permeate the structure of the framework. The Group's discussions should be balanced in order to avoid a situation where progress in substance could only be detected in certain areas of the negotiations.

13. The representative of Pakistan said that the development of developing countries could not be relegated to a consideration of the mechanics and modalities of liberalization but had to permeate the whole structure of the framework. He supported the emphasis place by others on many aspects of relevance to development and developing countries and highlighted the importance of the concepts of unconditional m.f.n./non-discrimination and relative reciprocity.

14. The representative of the European Communities stressed that in drawing up the framework, the levels of development of individual countries should be taken into account. The degree of commitment to the provisions of the framework could depend on the countries' level of economic development. Developing countries should, however, comply with all obligations of the framework and not constitute a special group of countries in terms of the obligations they undertook. In the context, he warned against the approach in MTN.GNS/W/95 whereby obligations would differ depending on whether countries were developed or developing. He said that some notions would be best reflected in the preamble to the framework. Paragraph 7 of MTN.GNS/W/95 contained several important notions relating to the development of developing countries, even though it was still hard to discern what status such notions would have in the final framework. He could support the idea that developing countries should enjoy some form of credit for autonomous liberalization measures they had already undertaken. The notion of commercial information points put forth by the delegation of Sweden, on behalf of the Nordic countries, deserved

further examination. One should not, however, overestimate the effectiveness of having governments gather relevant information which was often not promptly available from private firms for a host of commercial and other reasons. The notion of liberalization among developing countries appearing in paragraph 2 of article 5 of MTN.GNS/W/95 was in principle acceptable but much would depend on the conditions under which such liberalization was to be undertaken, especially as it related to the principle of m.f.n. Regarding the extension of transparency provisions to cover the activities of private market operators, he said that clear limits should be sought so as to avoid placing unnecessary burdens on firms which had gained access to new markets through the framework. The issue of how to deal with competition law under the framework - if at all - required much more attention. The Group should not be overly ambitious in this area whether in the context of transparency or any other provisions of the framework.

15. He agreed that the framework should provide for balanced results but contended that such results should be achieved through a balance of rights and obligations, and based on each country's assessment of the costs and benefits involved in the liberalization process. Guidelines should be sought as to how to provide for a certain degree of flexibility for developing countries while engaging them in an increasingly higher level of commitment. Imposing too many conditions in the granting of increased market access or national treatment ran counter to certain commercial considerations of vital importance to the liberalization process. He fully supported the notion of universal coverage which implied the inclusion of sectors of interest to all participating countries. Finally, he perceived the formulation on safeguards in Part II(g) of MTN.GNS/W/95 as very positive in that it touched on concerns of relevance to both developed and developing countries.

16. The representative of the United States noted that several interventions by developing country delegations pointed towards the lack of symmetry in the negotiations deriving from the predominant role transnational firms from developed countries played in the world's trade in services. He reiterated that the division persisting between developed and developing countries was philosophical in nature, the notions of competitiveness and efficiency implying different things for different groups of countries. On structure, it was imperative to be clear as to the nature of the provisions of the framework. In some cases, preambular language might best capture notions for which it was difficult to give operational meaning in the framework. The so-called development-related provisions were a case in point. To apply mandatory conditions to the granting of market access, for example, might create a restrictive environment for firms which had already gained access, thus obstructing practices such as local training or technology transfer which these firms would otherwise adopt out of strictly commercial considerations. The debate on rules of competition was useful but he questioned the extent to which related concerns could be effectively reflected in a multilateral framework. The sovereign right of countries to regulate the level of competition obtaining in their domestic markets should be respected but the value of giving that right binding content in a multilateral context was

questionable. It was the position of his delegation that the principle of relative reciprocity could very effectively address the concerns many developing countries had expressed, in particular, regarding the lack of competitiveness of their services firms and the need for the liberalization process to be progressive. Such principles, however, did not need to have any specific legal expression in the framework beyond that which was implied by dynamics of the negotiating process. Participating countries could, through the modalities of liberalization to be embodied in the framework (e.g. elimination of reservations), choose the pace at which they would liberalize their service sectors.

17. The representative of Morocco stressed the importance of providing for the increasing participation of developing countries in the framework. He highlighted the close link such a notion had to all of the other aspects of the negotiations including definition and coverage. Development-related considerations should be reflected not only in the preamble of the framework but also in obligations relating to specific principles or to the general objective of providing for the development of developing countries. The liberalization process should be conceived and conducted in line with the development objectives of developing countries.

18. The representative of Canada agreed that discussions on the main issues facing the GNS should not be relegated to a group of countries but should involve all participants. Development related issues were a case in point. It was imperative, however, to know the legal status delegations were intending for some of their specific proposals. For example, should development-related provisions have a contractual nature, implying in turn guidelines, rules, or merely procedures? As to structure, there seemed to be a considerable consensus centring on the idea that most but not all of the provisions of the framework should be binding on all participating countries from the outset. There was also agreement that some provisions, especially those relating to market access and national treatment, should be applied in a qualified fashion, according to priorities established by each individual country. Additionally, it had been contended that development concerns should be reflected in some fashion in specific provisions of the framework - e.g. those relating to rules of competition, definition, coverage.

19. Turning to MTN.GNS/W/95, he said that chapter I on principles and commitments embodied various notions which notwithstanding their importance should not be reflected in the framework through specific provisions of a binding nature. He questioned whether the notions of progressive liberalization and increasing participation should constitute principles of general application as prescribed in paragraph 3 of chapter I. Regarding paragraph 7 of the same chapter, the best way to reflect those concerns would be through multilateral negotiations deriving from the framework and not through related language appearing in the body of the framework. Credit for liberalization already undertaken, for example, could only be conceived in the context of a meaningful exchange of concessions and not through general language to that effect appearing within certain provisions of the framework. He found chapter II on definition and coverage to be very limited in scope since it linked the movement of factors of production

to very restrictive conditions, while in turn linking the coverage of the framework to the definition of trade in services. The formulation on m.f.n. seemed to be adequate as it implied a strong and binding principle. On transparency, he enquired whether it was envisaged that private firms could also request information from established national enquiry points. The requirement that firms provide information regarding their global activities as a condition for the achievement of increased market access could imply a discriminatory treatment of foreign providers since domestic companies were often exempt from such a requirement. Much would hinge also on the type of information being envisaged. As to the regulation of competition, article 7 seemed to imply that failure by a particular country to enforce a certain level of competition internally could constitute a sufficient reason for another country to invoke the dispute settlement provisions of the framework. That would be unacceptable for his delegation and further clarification was requested on that point. He objected to the approach adopted in article 9 whereby only developed countries would be expected to grant technical assistance to participating countries requesting such assistance. In that context, he stressed his opposition to what appeared to be a block approach as reflected in many provisions of MTN.GNS/W/95. He agreed that the ultimate outcome of the framework did not need to be identical across countries but emphasized that all participating countries should be committed to the basic notion of progressive liberalization through a wide compliance with the provisions of the framework.

20. Article 18 on export subsidies raised the question of how to distinguish a domestic from an export subsidy and the Group should not underestimate the difficulties involved in coming up with such a distinction. Article 13 on national treatment, provided for significant exceptions for developing countries and as such introduced a lack of contractual clarity in the framework. Article 14 on safeguards represented a worthy beginning but much remained to be considered before language could be agreed on. Finally, he asked for clarification relating to article 16 as to what the linkage was between the possibility of protocols being negotiated among signatories and the achievement of a balance of interests in specific sectors.

21. The representative of Korea said that the development dimension of the framework deserved the consideration of all and not only a group of participating countries. It was also important to keep in mind the many linkages the issue had with all other aspects of the negotiations such as definition, coverage, market access and national treatment. An increased participation of developing countries in world trade in services was very closely linked to the strengthening of these countries' domestic services capacity. In that context, both technology transfers from developed to developing countries and longer time-frames for developing countries to engage in the liberalization process were very relevant. It could be envisaged that effective transfers of technology would best occur in the context of joint-ventures and the training of local personnel. Longer time-frames should be applied for developing countries in the consolidation of their individual schedules. These and other development-related concerns should all appear as specific provisions in the framework.

22. The representative of Hungary reiterated the commitment of his delegation to a universal sectoral coverage which reflected in large measure the export interest of participating countries. He also stressed his support for the application of an unconditional m.f.n. clause to the universe of services sectors subject to liberalization commitments. As stated in paragraph 10 of article 1 of MTN.GNS/W/95, factors of production should be treated symmetrically in the framework and in market access negotiations. Market access in turn should not be viewed as an automatic obligation but should result from negotiations relating to specific sectors and commitments. Various aspects of MTN.GNS/W/95, such as technology transfer and safeguards relating to the balance of payments and injury caused by a surge of services imports deserved attention. He shared the opposition to the block approach adopted in the communication whereby the level of obligations deriving from the framework would vary in a very static and strict manner depending on whether a country was developing or developed. Such distinctions could harm the interests of countries such as Hungary which were neither developing nor developed.

23. The representative of Switzerland said that paragraph 5 (market access commitments) and 7(b) (flexibility for developing countries in liberalization) of article 1 of MTN.GNS/W/95 were good starting points for a framework agreement. Article 3 on coverage seemed to reflect the position of his delegation insofar as it implied a universal sectoral coverage. However, there seemed to be a close linkage being established between that provision and the preceding article on definition which was in turn very restrictive, in effect excluding permanent commercial presence from the scope of the framework. Though his delegation supported in principle the application of the m.f.n. clause in an unconditional fashion, practice seemed to dictate that such an application was infeasible due to the nature of services transactions and international regulatory regimes. Article 9 on technical co-operation contained useful ideas but could still be improved if the strict distinctions between developed and developing countries were eliminated and a more homogeneous approach applying to all countries was adopted. Similarly, article 10 on export subsidies would have better potential if it were drafted to apply equally to all countries. On national treatment, he felt that many of the ideas found in article 13 were relevant but expressed strong reservations about the wording of paragraph 4. He felt that the approach outlined earlier by the Argentinian delegate, with its central emphasis on progressivity, was a more constructive one. He said that the ideas contained in paragraph 14 were in line with those of his own delegation. He saw a link between article 14(b) and paragraph 2 of article 15 and wondered whether a three-year trial period should be the condition for furthering the process of progressive liberalization. He asked how paragraph 2 of article 18 could be applied should a formula approach be followed and wondered what criteria would be used in regard to the notion of "substantial supplying interest". He said that the participation of developing countries in a services agreement was important for his delegation.

24. The representative of Sweden, on behalf of the Nordic countries, said that there were constructive elements in MTN.GNS/W/95 which his delegation was sympathetic. He agreed that countries acceding later on in time would

have to negotiate their terms of accession, noting that the same held true for those wishing to join at the outset. MTN.GNS/W/95 acknowledged that certain obligations under the agreement would enter into force at the outset. His delegation supported the idea of a freeze that would cover all signatories so as to establish a base line for progressive liberalization. It was laudable that transparency was an obligation for all signatories. In respect to enquiry points, he could not accept that some countries could of their own volition opt out of such an obligation. The Nordic countries were prepared to consider an extra year or so for individual developing countries in setting up an enquiry point if there were special circumstances that warranted it. His delegation also agreed that schedules of concessions should form an integral part of the framework. In this regard, the idea of recognizing and giving credit for developing countries (1.7.d) as a result of autonomous liberalization that was consolidated in national schedules was something that his delegation was prepared to look upon favourably. The idea of universal coverage in article 3 was something he agreed with fully. However, as phrased, the coverage was very limited since it was based on a definition too narrow to be economically meaningful. The m.f.n. clause (article 4) was broadly in line with his delegation's thinking, as were the ideas on cooperation with international organizations. In respect of consultations and dispute settlement, he agreed that the final language would need to take account of the results in the relevant Uruguay Round negotiating groups. There were additional aspects of the institutional machinery that he agreed were necessary components of a framework and MTN.GNS/W/95 was in many instances a good effort at capturing them. The focus of the draft was on development and the GNS had seen many of the elements previously in various submissions although not in legal form. In the view of his delegation the services framework should create an efficient, rules-based system and be a treaty which established a balance of rights and obligations that were legally binding upon <u>all</u> signatories, although the extent of market access commitments would vary, not least according to the level of development of individual signatories. In this regard, the Nordic countries believed that the draft put forth by the Latin American countries fell far short of the mark. The important distinction agreed upon in Montreal that appropriate flexibility be provided for individual developing countries appeared to have been lost. MTN.GNS/W/95 created two categories of signatories with fundamentally different obligations. In MTN.GNS/W/95 the commitments of developing countries were very modest indeed and, on the market access side, for all practical purposes non-existent. In fact, the proposal amounted to a blank cheque. MTN.GNS/W/95 not only missed the important point that countries would assume market access commitments on an individual basis but additionally reintroduced an element which Ministers agreed should not be included in a framework, namely the enabling clause which could be found in article 1.7(a) of MTN.GNS/W/95. The Nordic countries were willing to subscribe to a fair ride but not a free ride. Predictability and stability had to be ensured, and to this end there were certain minimum requirements that all signatories had to live up to. There were additional elements in the text which contained provisions on commitments relating to the behaviour of private operators, technology transfers and financial aid which his delegation found difficult to implement. As pointed out by the representatives of the European

Communities and India, the Nordic countries had suggested that focal points could be established with a view to providing individual developing countries with market information so as to facilitate their exports. Internationally, such activities were already being undertaken in the context of the ITC. An area of concern raised in the context of increasing participation had been the behaviour of private operators. His delegation was not unsympathetic to the problem and that it should not be impossible to address the issue in a reasonable and balanced fashion. Finally, he joined those who had spoken of the need for special consideration to be given to the case of the least-developed countries.

25. The representative of Japan said that development assistance and trade were two wheels of the vehicle of economic development in the developing world. The developmental aspects of the Group's work was a priority area for his delegation. He reiterated his delegation's belief that due consideration should be given to the levels of development of developing countries. Various instruments could be used in this regard, one being the unequivocal description of development needs as one of the fundamental feature of a services framework. Rules to enhance the flexibility and time frame of commitments to be made in regard to individual items could be another option. In order to maintain the quality of the framework, it would be necessary to avoid making two categories of signatories, namely those who took on a full set of obligations and commitments and those who were basically free from any obligations. His delegation was concerned by those paragraphs of MTN.GNS/W/95 which pointed in the direction of a highly segmented agreement, in particular article 10 and paragraph 4 of article 13. On technology transfers, he said that Japan could be counted on as one country which was already undertaking positive technological cooperation in the developing world. A framework on trade in services could be expected to play a positive role in this regard while placing reasonable burdens on technologically more advanced countries. At the same time, he emphasized that the voluntary nature of technology transfer by private market operators should be recognized.

26. The representative of Australia recalled that in light of his country's geographical situation and trade pattern, it favoured a framework that commanded the widest possible membership. In regard to MTN.GNS/W/95, his delegation found a number of very positive features with which it was in agreement but also a number of features which caused concern, leaving it somewhat frustrated overall. The emphasis on a strong m.f.n. provision (article 4) was one he shared and the comments in article 17 relating to sectoral annotations were ones he could firmly endorse. As well, he was pleased to see coverage being extended to all sectors. Yet, as the delegate of Sweden had noted, the exclusion of permanent establishment would severely limit the real scope of the framework. He wondered whether the exclusion of permanent establishment would limit, in practice, the ability to achieve a number of ambitious development objectives such as for training and technology transfers. In particular, would companies be willing to provide comprehensive training and continuing access to the best and most relevant technology in the absence of permanent establishment? In regard to the specific development provisions contained in chapter 1 of MTN.GNS/W/95 there were a number which his delegation could endorse, i.e.

1.7(b) and possibly (c), others it would seriously consider and some whose inclusion in a trade agreement it frankly questioned, i.e. 1.7(h) and (j). He shared the concerns of the Swedish delegation on the inclusion of an enabling clause (1.7(a)). However, his delegation's basic concern was one already expressed by a number of delegations (including Sweden, Canada and Hungary), namely the two-tiered approach to the disciplines contained in the framework. He felt that MTN.GNS/W/95 in effect divided the participating countries into two distinct blocs, with the developing country bloc taking on very few disciplines or obligations. Such an approach was simply unacceptable to Australia. His delegation's objection to the bloc approach was ultimately practical in nature. Indeed, as the representative of India had noted earlier aggregation could well conceal more than it revealed. He recalled that a number of developing countries were in fact leading participants in some sectors of world services trade. Of course many developing countries had only limited participation in services trade and measures to increase their participation were warranted. However, measures should be calibrated according to needs. Anyone who doubted the diversity of interests and degrees of participation of both developed and developing countries in regard to services trade should look at table 25 of the GATT's latest International Trade Report.

27. The representative of Czechoslovakia said that any issue before the Group had to be looked upon in terms of its relationship to all other elements contained in the Montreal text. The balance of interests for all participants related importantly to that of respect for national policy objectives but was also linked to the overall results of the Uruguay Round, particularly the new issues under negotiation. It was important that the negotiations fully reflected the current realities of the world, where more than two groups of countries could be found. Levels of economic development were highly varied across countries, so that it was perhaps not useful to characterize countries as either developed or developing, particularly in the case of services trade. There might thus be a need for a scale which would indicate the competitive position of each country in regard to services trade. He recalled that the Montreal text had addressed the need to take due account of the level of development of each country taking part in the negotiations, as opposed to any group of countries. The multicoloured reality of the world had to find its expression in the language to adopt on national treatment, the degree and form of initial liberalization commitments, the scope of reservations or exclusions, etc. It was wholly rational that lesser developed countries not be expected to assume the same level of commitments as more highly developed.

28. The representative of India felt particularly encouraged by the statements made earlier by the representatives of the European Communities, Canada and the United States, as these appeared to reflect a recognition of developing country concerns in the area of trade in services. On the appropriateness of addressing financial assistance issues within a framework on trade in services, he reiterated his belief that it was necessary to go beyond the GATT paradigm. Otherwise, the concerns of a large number of countries involved in the services negotiations could not be met. On the issue of how governments could secure greater access to- and transfers of- technology that was in private hands, he noted that

developing countries should have the right to make access to- or transfer of- technology a market access condition. He said that in the absence of such a right, there might be no assurances that private operators would continue in the future to transfer their technologies. Rather, private operators could argue that such conditions violated the terms of the framework and might bring their case to a dispute settlement procedure. The need to discipline the activities of private operators was a concern of his delegation and it would have to be addressed in one way or another. The conditions attached to market access, should be a function of the negotiating process because any assessment of the value of concessions would depend partly on the conditions attached to them. He felt that, in essence, there were two categories of countries within the GNS, even though wide spectrums could be found in both categories. This was a reality which would have to be considered when examining the scope of application of a framework.

29. The representative of Hong Kong said that his delegation attached great importance to the broadest participation of countries to a services framework and felt that this could perhaps best be achieved by assessing individual levels of development rather than splitting participating countries into two blocs. He was pleased to note the provisions of article 4 of MTN.GNS/W/95 dealing with m.f.n. He was, however, somewhat concerned by the implications of paragraph 4 of article 8, noting that any departures from m.f.n. would need to be carefully argued and tightly circumscribed. On coverage, he welcomed the approach found in the Latin American proposal, noting that no clear case had yet been presented in favour of the exclusion of any sector. Were this ever to be the case, he feared that many other sectors might then attempt to follow suit.

30. The representative of New Zealand added the voice of her delegation to those who hoped to draft a framework that was meaningful from the outset and applicable to all signatories. She felt that neither of these requirements appeared to be met by the liberalization process envisaged in MTN.GNS/W/95. Indeed, the document appeared to foresee few, if any, commitments applicable to developing countries at the time of entry into force of the framework. Rather, such commitments would only come into effect as a result of negotiations scheduled to commence after entry into force of the framework. She agreed that there were real dangers of establishing two classes of countries and expressed severe doubts about any attempts at codifying a series of double standards within the provisions of a framework. She said that a framework should rather provide the degree of flexibility required for countries to undertake commitments in accordance with their individual levels of development. This would have to be dealt with in the conduct of negotiations rather than through the application of rigid criteria intended to measure differing levels of development. She felt that only multilateral negotiations could secure this objective by taking into account levels of development both on an economy-wide basis and in regard to different sectors. She shared the concerns expressed over the wording found in MTN.GNS/W/95 on subsidies as well as on the notion of relative national treatment. She failed to see how developing countries could stand to profit from recourse to such derogations. She reiterated her delegation's conviction that a pre-requisite for a framework should be

that each signatory's obligations and commitments under it would be finalised and clear at the time of entry into force.

31. The representative of Peru expressed his gratitude on behalf of the co-sponsors of MTN.GNS/W/95 for the numerous comments which had been made on the document and said that they deserved an adequate response.

32. The Chairman said that the length of time devoted to the issue of increasing participation demonstrated its key importance to the GNS.

33. Under item 2.1 Definitions, the representative of Mexico presented a communication entitled Definition: Elements for the Inclusion of Services Provided by Labour in the Framework Agreement and in Further Negotiations contained in document MTN.GNS/W/96. He emphasised that there should be a symmetry in the trade effects of the different ways of delivering both capital and labour-intensive services in order to ensure the universal application of the framework. Temporary mobility of labour should be treated as an "organized import" which could only be achieved if such labour was part of an enterprise responsible for compliance with the policy objectives of immigration laws and regulations in the importing country.

34. The representative of India said a definition of trade in services was necessary to set the boundaries of the framework and referred to the consensus reflected in the Montreal text. It was recognised that in the case of the cross border movement of factors of production, capital and labour, a distinction had to made in terms of the criteria specified in the Montreal text so as to ensure that investment and immigration of labour were not included. Concerning symmetry in the treatment of capital and labour movement, he said that the effects should be similar in terms of the economic and trade consequences. He cited the European Community definition of trade in services contained in document MTN.GNS/W/76 as an example of the kind of definitional imbalance which his delegation was trying to avoid as this did not allow developing countries to exploit their potential in areas of comparative advantage.

35. The representative of the United States recalled that a definition was not included in the U.S. paper contained in MTN.GNS/W/75 because his delegation did not see that as part of a binding principle. A definition could be useful for purely illustrative purposes when countries, say, scheduled their commitments and needed to work from a common definition. However, it would be burdensome to come up with a legal definition given past discussions on this subject in the GNS. Regarding the distinction between permanent and temporary establishment, he noted that in the U.S. paper, national treatment was the guiding principle with respect to establishment. For example, if the host country limited domestic service providers by the granting of a licence for a specific time period, after which it would be subject to some renewal process, this meant that the temporary nature of presence for a domestic provider was built into law. Foreign providers of such services would be subject to the same conditions and would, in that case, be limited to temporary commercial presence. But in most instances, establishment was of a permanent nature for practical reasons. If there was a commitment by a foreign operator to become a

corporate citizen and make an investment in terms of renting or purchasing office space, using the appropriate equipment and software, and training locals to become the managers of the firm, then that firm would want some notion that it would be able to stay there for as long as it abided by local laws. He said it was not realistic to assume that there would be an automatic right of establishment. He was referring to situations where a service could not be provided other than by a form of commercial presence. He expected that during the Uruguay Round commitments would be taken by countries to loosen some of the restrictions they had regarding foreign investment. He was however aware that such measures, which were part of a country's sovereign right to regulate its economy, were not going to be removed overnight. Concerning the movement of persons, he noted that the regulations in all countries governing movement of labour, whether temporary or permanent, had a built-in bias towards discrimination. No country could remove those measures because they were not based on trade principles but on several other constraining factors. On the other hand, limitations with respect to the establishment of firms had a different basis, relating essentially to the management of the economy, and trying to make investment and labour movement symmetrical would make it impossible to have an agreement on services. This, however, did not mean that there should not be provisions relating to the movement of persons and he thought it appropriate to have a more detailed discussion bringing in experts in the area of laws relating to the movement of persons. He reiterated his view that to open up markets to unskilled workers was impossible for almost every country in the Group and if the success of the negotiations was dependent on removing that kind of discrimination he was pessimistic about the outcome.

36. The representative of Czechoslovakia did not consider it essential to define trade in services as such, but it was necessary to determine the future scope of the framework and define the criteria contained in paragraph 4 of the Montreal text. He was of the view that the framework should not contain the right of establishment as an obligation but a commitment that was negotiated.

37. The representative of Canada considered it difficult to have a legal definition of either services or trade in services but it was possible to delineate the scope of the universe of transactions that would be covered by the framework. Regarding modes of delivery and sectoral coverage, nothing should be excluded from the ambit of the framework. Following this approach, a country was not obliged to allow from the outset all modes of delivery across the board, unless it had engaged in specific negotiations and the results were inscribed in its schedules; he therefore did not see establishment as an automatic binding obligation. Regarding the movement of labour and of capital, he noted that countries had to be prepared to envisage the possibility of changes in regulations, but he did not expect a fundamental attack on either national immigration or investment policies. This suggested that there was the possibility of engaging in negotiations across the whole range of modes of delivery of a service.

38. Regarding establishment, the representative of Brazil said that in the Montreal text, commercial presence was acknowledged. He suggested that the

question of what the nature of that commercial presence was going to be, either permanent or limited, should be left to the exercise of progressive liberalization.

39. The representative of Poland welcomed the Mexican submission and said that the organised provision of labour services could be a solution to the problems raised by the labour movement issue and should be discussed further. Regarding the movement of capital, he suggested that investment unrelated to the provision of services should be excluded, but that anything else was open for negotiation.

40. The representative of Japan said that labour and capital movement were different in nature and had to be treated differently and, in this regard, he found the American and Canadian interventions useful. In attempting to define trade in services, he distinguished two approaches: one was a general definition and the other was a definition covering every necessary element including establishment.

41. The representative of the European Communities considered that permanent commercial presence should be covered, because some of the financial problems of developing countries might best be solved in certain service sectors by liberalization in this field. Moreover, in most countries' legislations there was not room for the temporary existence of companies in legal terms as company law was generally based on the concept that the presence of companies was continuous. It would be therefore erroneous to reject the possibility of liberalizing permanent commercial presence. Regarding the movement of personnel, he said that reality dictated that the Group should talk about temporary movement. This was not an imbalance or asymmetry of substance but perhaps one of form which reflected the realities of trade in services. In his view the movement of unskilled labour was not meaningful in most instances in the transborder provision of services, due to the costs of moving such labour. Referring to the Mexican idea that the temporary movement of labour should be treated as an organised import, he was unsure that there was a substantial difference between a situation where a company recruited labour from another country and one where individual services providers searched for employment in the importing country. This was particularly so as the hiring company, in the Mexican example, seemed to have very limited responsibility for, and control of, the personnel involved. Furthermore, in professional services which concerned skilled people, it was necessary to reflect on how the necessary movement of service providers would take place under a paradigm of organised imports of personnel.

42. The representative of Korea supported the Mexican view that the concept of the temporary movement of labour should be included in the eventual framework. He invited the Mexican delegation to explain in more detail the distinction it had made between skilled, semi-skilled and low-skilled labour. Regarding definition, as it was generally recognised that at least two production factors moved together in the trade of most services, the GNS should concentrate on determining the extent of production factor movement by examining the ratio, duration and status of production factors involved in services transactions. It was clear that

foreign direct investment unrelated to services and immigration was not to be covered by the framework. He was of the view that proper restrictions on the cross border movement of factors should be applied and it was therefore necessary to define the extent of the movement of production factors necessary for services exportation. Relevant questions included: how political, cultural and social problems caused by factor movement could be prevented; the extent to which the duration, type and ratio of cross border factor movement should be restricted; and what scope of movement of each production factor would bring balanced benefits to the participating countries.

43. The representative of Austria said that the inclusion of establishment would be one way to import new technologies and to create employment in the host country. The movement of labour posed more problems and he suggested that it should be considered in connection with progressive liberalization. In the initial stages, he could envisage the movement of key, and perhaps qualified, personnel for a limited duration and a specific purpose. It was necessary to define other criteria such as "essential"; an example of this might be the argument that it was not possible to supply the service other than with foreign labour on the condition that national regulations concerning the stay of foreigners should be respected.

44. The representative of Hungary said that establishment or commercial presence tended to be permanent. If this possibility was to be excluded, advantages deriving from joint ventures and other forms of investment would not accrue. Discriminatory regulations concerning labour movement were regulations with adverse trade effects and had to be dealt with accordingly. It was not realistic to speak of their complete removal and so the Group had to treat the issue progressively and on a negotiated basis. He asked how a situation of economic or trade symmetry could be achieved considering that establishment tended to be permanent while the Group was talking about the temporary movement of individual persons. In trade terms, one way to achieve this symmetry was to give and exchange concessions which had an equivalent economic or trade value. This meant that concessions provided with respect to establishment on the one hand, and the movement of labour on the other, should be both of a permanent character. The individual person covered by the concession stayed in the foreign country on a temporary basis but the concession relating to the movement would have to be permanent.

45. The representative of Yugoslavia pointed out that sectoral annotations could be relevant for the definitional issue. Regarding the factors of production she acknowledged that capital and labour were different and would be treated differently but there should be no discrimination in the way they were dealt with. Furthermore, no discrimination should be made between various categories of labour, namely skilled, semi-skilled and low-skilled.

46. The representative of Sri Lanka was concerned that several delegations wanted to exclude the movement of low-skilled labour from the negotiations. He did not agree with the European Community view that it was in most cases economically uninteresting to export low-skilled labour if a pool of

low-skilled labour existed in the importing country. The representative of Chile underlined the need to give priority in the negotiations to the sectors and modes of delivery of interest to developing countries. The representative of Nigeria said that the notion of organised imports of labour would be useful and deserved further discussion. The representative of Peru also welcomed the notion of organised imports and said that it was necessary to have guarantees that persons going to another country would fulfil the local legislation of the importing country. The representative of Pakistan agreed with the Mexican view that there was no justification for giving preference in a possible framework agreement to one way of delivering a service over another. He considered that different ways of delivering labour intensive services should not be the basis of any distinction regarding treatment, i.e. he did not believe that a distinction in terms of degrees of skill was valid.

47. Responding to the various comment made on the Mexican submission, the representative of Mexico emphasised that a situation of asymmetry existed between the movement of capital and of labour. The document submitted by his delegation had attempted to identify the main trade issues involved in those services provided by labour. He stressed that the distinction made between different skill levels was of a preliminary nature and had to be studied in greater depth to see how it could be used and for which sectors or sub-sectors. Regarding the case of professional services he said that further study was required but nevertheless made the point that professional services generally were linked in some way to firms in the importing country and were subject in his view to fewer import restrictions.

48. The Chairman opened the discussion on item 2.1.I. Structure and 2.1.II. Mechanisms of liberalization undertakings including nature of initial commitments. He invited the secretariat to present their paper dated 19 March 1990 entitled Informal Checklist of Points Relating to the Application of a Future Framework on Trade in Services (Section III of MTN.GNS/28). This referred to issues that had been addressed so far within the context of the GNS discussions on the structure and application of a future framework. He considered that this paper, together with MTN.GNS/W/95 which had been introduced at the previous meeting, could serve as a basis for discussion.

49. Following the introduction of the informal paper by the secretariat, the representative of Mexico responded to various comments that had been made concerning MTN.GNS/W/95. Concerning the view that the proposal amounted to a blank cheque for developing countries, he noted that paragraph 2 of article 12 (Schedules of Concessions) meant that once a concession had been granted no backtracking was possible unless there was a renegotiation of concessions. In his view, the principle of relative reciprocity contained in article 1, paragraph 7(a) was not tantamount to the enabling clause, as some had suggested, but referred to a balance of benefits while taking into consideration the development situation of countries. Concerning paragraph 2 of article 10 (Export subsidies), he stated that subsidization of developing country exports would be carried out in a manner consistent with the principles of the framework. Citing

article 13 (national treatment) he reiterated the view that market access was not an automatic right but a right to be negotiated, and therefore the conditions of access would be also be negotiated. He further pointed out that preferential trading arrangements among developing countries would be subject to multilateral discipline and surveillance. He said that article 16 (Standards for Licensing and Certification) drew its inspiration from the GATT standards code which recognised the need to take countries' development situation into account. There were a number of proposals suggesting a freeze on the restrictive levels of legislation, but developing countries should not be subject to such a freeze. Initial commitments would depend on the individual development situation, on the final version of the framework to be adopted, on the specific concessions received by countries in terms of sectors and modes of delivery, and on the application of the principle of relative reciprocity. He favoured the binding of concessions in positive national schedules which would be annexed to the framework. The concessions would gradually be broadened as countries included a greater number of services in their national schedules and increased market access.

50. Referring to section II of the secretariat paper concerning initial commitments, the representative of Egypt emphasized that such commitments should depend on the level of economic development of participating countries. He underlined the importance of translating the objective of increasing participation of developing countries into framework provisions.

51. The representative of Brazil supported the views expressed by the Mexican delegate. The idea of general commitments would have to be complemented by the negotiation of specific commitments. The notion of a freeze in his view would not help to achieve the goals of growth and development. First, it was important to find out what adverse effects a certain legislation might have. To this end, he proposed that the framework should establish rules, modalities and procedures for the negotiation of specific commitments to provide effective access to markets. The representative of Peru supported the statements made by the delegates of Mexico and Brazil, and noted that the proposal was not advocating a free ride, but a balanced agreement in which developing countries would assume their obligations.

52. Regarding the secretariat informal paper, the representative of Canada considered that there was broad agreement that obligations of general application existed, and would apply to all parties from the outset, with the possible exception of m.f.n. in the case of bilateral air agreements. Regarding coverage and scope, his delegation considered that nothing in principle was excluded. More specificity was needed in discussing the conditions and qualifications to be attached to market access and national treatment. It would be useful to spell out the different ways to negotiate commitments that had been discussed: one was through the framework itself, another through sectoral annotations, a third technique was request and offer; other methods were the across the board approach, the bottom-up positive list approach, the selective formula approach and the notion of a protocol which involved, in addition to harmonisation or mutual recognition of regulations, also the possibility of liberalization as such. On

reservations, his delegation did not agree that there should be reservations to the application of general obligations (with the possible exception referred to above). Under national schedules, the extent of detail and completeness of schedules was not yet agreed; some delegations wanted to leave some points unbound and it also depended on whether a negative or a positive list was adopted. Regarding the section on initial commitments, he said that what was missing was a reference to unbound sectors and to the positive list approach to liberalization. Furthermore, he suggested that the section on development considerations could be complemented by reference to sectors of interest, modes of delivery, the size or volume of individual liberalization commitments, the issue of phasing or timing, credit, and the question of how the least developed countries should be treated in this part of the negotiation.

53. The representative of the European Communities said that if a balance of interests was to be achieved, then the framework had to be broad in scope, covering all modes of market access including movement of service providers and establishment of commercial presence. The approach needed to be symmetrical not in legal form but in economic substance. Coverage of sectors should aim at universality to cater for the interests of all. The balance of interests had to be achieved not only in terms of potential coverage but in terms of actual commitments by the different parties. Turning to the application of rules, there was a large measure of agreement that all provisions, except a limited number, should be implemented from the start by all parties in all sectors covered by the framework. Full m.f.n. treatment was a problem in some sectors, and would have to be dealt with preferably by sectoral annotations. Market access and provisions on national treatment, subsidies and possibly some others would have to be progressively implemented on a negotiated basis, according to relevant schedules and/or annexes setting out parties' liberalization commitments. The negotiation of the liberalization commitments would aim at establishing a balanced, mutually acceptable outcome in successive rounds. This should take place either by the negotiation of multilateral commitments applicable by all parties or individual commitments of individual parties negotiated bilaterally or plurilaterally. In either case, commitments had to be consolidated and applied on an m.f.n. basis; these commitments related to the elimination of the adverse effects of regulation which restricted market access or placed conditions on the application of national treatment, subsidies provisions, etc. Commitments might also relate to the partial or total elimination of those adverse effects and would include a time element in many instances. They might also relate to the achievement of effective market access where there were non-discriminatory measures which inhibited such access. Individual commitments would have to be set out in schedules, so that there was clarity as to which sectors and sub-sectors were liberalized and to what extent. It was necessary to determine which commitments would result from the negotiating process, and which would appear in the schedules. There was a need to ensure in the negotiating process that adequate account was taken of individual levels of development. There should be provision for ensuring flexibility so that countries would be able to open fewer sectors, liberalize fewer types of transaction, or implement commitments at a slower pace; in some cases, countries should also be able to attach certain conditions regarding the

access to, and operation in, their markets of foreign service providers. The general approach would need to be qualified by the level of development and the level of competitiveness of the sector concerned in that country, as well as by the general level of liberalization prevailing internationally in that sector. The value of a liberalization commitment by any party would depend on the potential market access which effectively resulted from that commitment for other interested parties. Turning to initial commitments, his delegation sought meaningful liberalization commitments by all parties at the entry into force of the framework. The approach was based on two concerns: first, the need for a standstill and, second, the need to ensure that there were no de facto sectoral exclusions which would undermine the balance of the framework. Given the need for flexibility, it was recognized that not every party could take on identical commitments, although he stressed that his delegation would seek meaningful commitments in relevant sectors by individual parties which would be part of the negotiating process. There was a need to move in the GNS into the process of negotiation of specific commitments.

54. The representative of Poland said that his delegation saw two main issues under the heading of structure. The first related to the general provisions of the framework itself while the second related to sectoral annotations. General provisions or obligations were those which applied to all sectors covered by the framework and to all signatories. Sectoral annotations for their part should aim to interpret or clarify framework provisions and add specificity wherever required. He felt that financial services, telecommunications and perhaps transportation were likely to require sectoral annotations. In regard to specific commitments, he noted that these could relate to sectors, transactions and modes of delivery and that they should be negotiated within national schedules. He recalled that due account would need to be given in such negotiations to the level of development of individual countries. He felt that initial commitments could comprise general obligations undertaken by all signatories, as well as commitments appearing in national schedules which would be negotiated before the entry into force of the framework. His delegation considered the issue of mechanics of liberalization as relating to the process of further negotiations which took as its starting point national schedules as they appeared upon entry into force of the framework. Future negotiations should also take due account of development levels, and be governed by an unconditional m.f.n. clause aimed at spreading the benefits of a more open international regime for trade in services.

55. The representative of New Zealand felt that there remained some confusion in regard to the terminology used in discussions on structure. The notion of general provisions could be seen as having different meanings in the Group. Her delegation fully agreed that a number of rules in the framework should apply from the outset, but did not draw a distinction between such obligations and others - specifically national treatment and subsidies - which should be progressively implemented on a negotiated basis. There should be a limit to the number of framework provisions against which reservations could be lodged. It should be possible, however, to lodge reservations where existing laws and regulations were inconsistent with framework obligations. She offered three comments on the

secretariat's informal paper. Firstly, under the heading on reservations, rather than talking of sector-specific reservations, the emphasis should be placed on reservations made in respect to existing legislation or regulations and their potential inconsistency with framework provisions. Secondly, her delegation remained somewhat concerned by suggestions for addressing current difficulties - e.g. the application of m.f.n. to air transport services - through sectoral annotations. Such annotations should, in the view of her delegation, be kept to a bare minimum and aim at clarifying framework provisions. While it might seem convenient to deal with the difficulty of applying m.f.n. in some sectors through recourse to sectoral annotations, there was a risk of creating so-called "special" services sectors in a manner analogous to the treatment accorded to textiles or agriculture in GATT. She noted that the prospects for ending the current network of bilateral air transport agreements could in fact be made more difficult by confining the sector to a separate annotation. Current inconsistencies with regard to the services framework should thus be dealt with through reservations. Thirdly, on the issue of commitments taken upon entry into force of the framework, any binding of existing regimes should be expressed in terms of consistency with the obligations of the framework. She felt that such an undertaking would be sufficient to guard against the possibility for backsliding.

56. The representative of Japan agreed on the need for provisions of general application, noting that those listed in the secretariat's informal paper corresponded broadly to what his delegation had in mind. He recognized, however, the practical problems which might emerge in regard to m.f.n. treatment. On specific commitments, he felt that signatories should aim at ensuring, upon entry into force of the framework, that the level of restrictions not be higher than currently existed. He understood the concern of delegations seeking greater flexibility, but noted that any such flexibility would have to be governed by a clear set of multilaterally-agreed rules. He felt that the specificity and clarity of commitments written into national schedules was essential to the smooth functioning of the framework. He noted that the use of ambiguous concepts such as effective market access would have to be avoided as they would likely generate friction and require heavy recourse to dispute settlement procedures. He agreed on the need for a flexible approach in regard to the objective of increased participation on the part of developing countries. Developing countries should be expected to make fewer commitments in fewer sectors, and enjoy longer phase-in periods for implementing framework provisions. The need for technical assistance in service sectors of importance to developing countries was also recognized, although it was still unclear whether the framework could meaningfully address this issue. On coverage, he noted that his delegation had not yet taken a final position on whether or not the scope of coverage of a services framework should be universal. He hoped that the language on structure could be made as simple and clear as possible so as to minimize the scope for misinterpretation.

57. The representative of the United States noted that some of the general obligations being considered had not been discussed in detail in the GNS. It was perhaps premature therefore to draw any conclusions on what the list

of provisions of general applicability should consist of. He recalled that the Group had not yet discussed two provisions - namely, those dealing with monopolies and payments as contained in MTN.GNS/W/75 - which his delegation felt might be considered as general provisions under a framework. On sectoral coverage, he recalled that his delegation favoured the possibility of providing for exclusions, and noted that an illustrative list of all internationally tradable services should be developed. To this end, use should be made as a starting point of the secretariat's reference list of sectors in MTN.GNS/W/50. The list would circumscribe those activities that could be considered as services under the framework, and in regard to which countries would be assuming obligations. On sector-specific commitments, he emphasized the need for countries to be precise in drawing up national schedules. There were two possibilities in his view: on the one hand, countries could simply decide not to bind themselves to one of the principles of the framework while; on the other hand, countries could state with specificity the laws, regulations and administrative practices which did not conform to framework principles. Transparency on this issue was of great importance not only to enhance the predictability of how measures applied, but also to know precisely where the limitations of individual countries were. He recalled that a reservations approach was the surest means of determining in a transparent manner what the obligations of countries were under a framework, and noted that reservations could take on different forms. For instance, countries could use reservations to indicate which laws and regulations could not conform with framework obligations. He noted that recourse to sectoral annotations should be fairly limited, particularly during the Uruguay Round given the lack of time. There were nonetheless two areas - telecommunications and financial services - which his delegation felt required sectoral annotations in order to address services issues in a meaningful manner. Both sectors were extremely complex and heavily regulated in most countries. For this reason, there was probably a need for greater precision in the framework than would otherwise be the case. He said that his delegation's current thinking was that annotations should be relatively brief and somewhat less comprehensive than might be required for the two sectors he had previously mentioned. He recalled that his delegation had characterized protocols as both dealing with harmonization efforts among parties to a framework and possibly entailing additional liberalization undertakings where this could be achieved only among a very limited number of countries. To the extent that such liberalization did not result in discrimination nor distort trade patterns, he felt that it should be allowed. Protocols which resulted in discrimination would have to be discourage under any circumstances. He said that the secretariat in introducing the informal paper had highlighted three possible means of dealing with the increasing participation of developing countries. Some of the ideas relating to development discussed earlier were quite useful and might perhaps be dealt in one way or another under a framework, while others were in his view fundamentally unsound. While his delegation remained concerned over the idea of incorporating developmental principles into a legal framework, it was nonetheless interested in pursuing discussions on this issue. It went without saying that whether or not developmental provisions appeared in the framework, they would be factored into his delegation's decisions in regard to partner countries' schedules

and bindings. Beyond reflecting the various viewpoints obtaining in the GNS, he suggested that the secretariat in its informal paper should attempt to raise specific questions which it felt were of relevance to furthering the degree of convergence on central issues before the Group. He indicated that questions similar to those which the secretariat had implicitly posed on developmental matters should be raised in regard to structure.

58. The representative of Argentina noted that there were noticeable differences in the ambitions of various delegations in regard to the degree of liberalization which could be achieved as a result of a framework on trade in services. These differences related in turn to differences over the mechanisms with which to pursue liberalization, whereby the widely different viewpoints on the issue of a freeze were one notable example. A freeze would affect a great number of services and/or sectors for which many developing countries had little or no regulations. It was extremely difficult for developing countries to determine precisely what economic benefits they would derive from a multilateral liberalization process in the area of services. The GATT's latest Annual Report depicted a reality which was far from being advantageous for developing countries, and there were little prospects for a reversal of the situation in the short to medium term. The wide differences of views which emerged from the discussion of definitional matters also revealed that the major substantive difference among participants related to the degree of liberalization to be achieved through a framework. He stressed the fact that the degree of liberalization achieved in the Uruguay Round would be a function of the benefits which individual countries felt they could derive from a services framework, as well as the political will they would put behind it. His delegation felt, nonetheless, that the current discussions had begun to close some gaps. This was evidenced, for instance, by the fact that the issue of structure was no longer debated on its own, but alongside issues relating to progressive liberalization and definition.

59. The representative of India, in welcoming the secretariat paper, considered that definition while not included in the paper was also a part of the structure of the framework. He noted some convergence on the view that the framework would have two levels of obligations, although it was not yet decided as to what would go into each level. Regarding market access and national treatment, there were two views in the Group: one was the majority view, and also that of his own delegation, that these were specific obligations to be negotiated including conditions on entry and operation and inscribed in individual country schedules; the other view was that they were of a general nature from which reservations might be taken in specific cases. Regarding the question of access and conditions of operation, he said that these had been illustrated previously by his delegation in MTN.GNS/W/87 as well as in MTN.GNS/W/95. Turning to sectoral annotations, he said that if any sectoral annotations were decided upon, they would become a part of the structure of the framework. Concerning initial commitments he said that some countries believed that initial commitments for developing countries should consist of subscribing to the framework and the general obligations contained therein, because these would provide in themselves a measure of liberalization. He questioned notions about a freeze or binding existing market access. Given that there

was an overwhelming imbalance in trade in services, any freeze of the existing level of market access would imply introducing a large imbalance in terms of benefits. His delegation had suggested that it was necessary to write into the framework itself provisions which would enable developing countries to secure benefits and thereby bring about a balance of benefits. The alternative suggestion - that this should be done through the process of negotiation - required further discussion. His delegation could not subscribe to the view that it was not possible to write those provisions into legal obligations. He did not agree on the necessity for initial liberalization commitments during the Uruguay Round; the framework itself would lead to some liberalization, at least in terms of greater transparency. More importantly, he did not think there was enough time or data to enter into specific negotiations for market access commitments. It was necessary to concentrate on formulating the framework and writing into that framework the concerns of all participants and in particular those of developing countries.

60. Referring to the section in the secretariat paper on obligations of general application, the representative of Yugoslavia considered that the increasing participation of developing countries and subsidy rules were such obligations. Her delegation considered that developed countries were in a position to undertake a freeze, but developing countries were not in a position to accept the binding of their existing regimes. Finally, she expressed support for the views of the Indian delegate regarding initial commitments during the Uruguay Round.

61. The representative of Switzerland stressed that a universal sectoral coverage of the framework was critical to ensure the achievement of an overall mutually acceptable balance of rights and obligations. On this issue the representative of Korea said a system of reservations to the general framework obligations was preferable to excluding individual sectors from the coverage of the framework.

62. The Chairman opened the floor to a discussion of agenda item 2.1 dealing with institutional matters. He said that while issues relating to the institutional aspects of a services framework had been indicated in Part IV of MTN.GNS/28, there was no text attached to these issues. This meant that much work still had to go into these matters, even if they were generally considered to be less complicated than other issues which should form part of the framework. The headings set out in Part IV of MTN.GNS/28 were as follows: dispute settlement; monitoring of commitments; institutional machinery; enforcement; acceptance; entry into force; withdrawal; non-application; relationship to other international arrangements and disciplines. He recalled that the latter heading had already been discussed at the Group's February meeting and that it would again be on the agenda of the May meeting. He recalled that institutional matters were also dealt with in the Latin American submission in MTN.GNS/W/95.

63. The representative of the European Communities said that his comments were preliminary in nature as institutional issues were being discussed formally for the first time. With regard to dispute settlement, he felt

that the starting point should be to look at the existing GATT system as it was well tried and being improved within the context of the Uruguay Round. While he felt that improved GATT dispute settlement procedures should be applicable to trade in services, there were, nonetheless, specificities of services trade which needed to be addressed. Concerning the basis for recourse to dispute settlement, it was necessary to reflect on the extent to which violations of obligations under a services framework should be dealt with. For example, although fully compatible with commitments already taken, new regulatory measures might still result in an undermining of services commitments. Such situations, should be addressed under dispute settlement in the area of trade in services and might result in provisions analogous to Article XXIII.1 in GATT. In regard to procedural matters relating to a dispute settlement mechanism, there were three issues to address. Firstly, the extent to which individual regulatory decisions should be subject to dispute settlement. While there were instances where individual regulatory decisions had general implications which might warrant recourse to dispute settlement, a services framework should not address regulatory decisions which may be taken for prudential or other reasons, provided they were compatible with the obligations of the signatories concerned. A second issue related to the possibility of a conflict of competence vis-à-vis GATT obligations (e.g. the case of services embodied in goods). It would be highly undesirable if parties to the two agreements would be given incentives to "choose" their preferred forum for dispute settlement. A third issue related to the notion of cross-sectoral retaliation. This was to some extent not an issue, given the virtual absence of retaliation cases in forty years of GATT practice. He noted that private operators were worried at the prospect of retaliation within services sectors, let alone between goods and services. He recalled that there was no limit in GATT on the possible scope for retaliation so long as retaliatory measures, where authorized, were appropriate. On the monitoring of commitments, institutional machinery and enforcement, his delegation broadly supported the ideas in MTN.GNS/W/75 and MTN.GNS/W/95. There would be a need for a single standing body to deal with a framework agreement along the lines of what was found in GATT. There might in addition be a need for establishing standing bodies in some of the complex areas covered by the framework. As far as servicing the framework was concerned, depending on the relationship between future GATS and GATT, there would be a need to ensure that the expertise developed within the GATT was adequately transferred to the new standing bodies that might emerge from a services framework. Issues of acceptance, entry into force, withdrawal and non-application were highly complex and required much further reflection. A framework could not be expected to enter into force in January 1991 as it would take some time to ratify the results of the Uruguay Round. There was, nonetheless, value in setting a target date as proposed in MTN.GNS/W/75. He wondered whether it was appropriate to make accession to a services framework contingent upon GATT membership, noting that there might be value in the idea given the reality of a globally integrated market for goods and services. He recalled that his delegation had made a substantial proposal on non-application in MTN.GNS/W/77. The proposal did not amount to a unilateral approach in his view as it safeguarded the rights of contracting parties. If a waiver mechanism was to be envisaged, it was important to ensure that it was not open-ended.

The relationship of a services framework with GATT remained a central issue to be addressed in the GNS. With the exception of services embodied in goods, he felt that there was little likelihood of a direct conflict of obligations between the two agreements. There was merit, however, in reflecting on the scope for a common approach to issues such as balance-of-payments measures. The relationship of a services framework with the IMF would also be important and should be treated in a analogous manner as in GATT Article XV. Such a relationship would have to be based on the broad assumption that the IMF dealt with payments, while the services framework dealt with trade. There would be obvious difficulties of distinguishing the two in some instances. There would in addition be a need both to recognize that a services framework should not allow signatories to deviate from IMF obligations. In regard to other international organizations, he felt that there might perhaps not be a need to spell out the nature of relationships with the same degree of detail as with the IMF as none of the existing arrangements had provisions which would prevent multilateral liberalization. There could, however, be some problems in selected areas which might warrant closer examination in the context of sectoral discussions. Emphasis had to be placed on the need for complementarity between a services framework and existing arrangements. There could also be references to particular arrangements in the context of sectoral annotations, particularly where standard-setting and other technical matters were concerned. Where appropriate, it might also be necessary for relevant international organizations to enjoy observer status under a services framework.

64. The representative of the United States felt that dispute settlement was the central issue for consideration under institutional matters, as its functioning would determine both the effectiveness and enforceability of a services framework. He considered it useful to follow the GATT negotiating group on dispute settlement for guidance. His delegation was of the view that a dispute settlement mechanism common to both the GATT and a services framework should be envisaged. With respect to monitoring and institutional machinery, Group members would have to reflect on the extent to which measures (be they regulations or legislation) should be notified to the institutional body responsible for a services framework. While it might be overly burdensome to notify all laws which affected services sectors, it might be worthwhile to seek to notify measures which affected foreign service providers so as to secure greater transparency. There might also be a need for a surveillance mechanism. He agreed that a secretariat would have to be adequately staffed in order to fully implement a framework agreement, noting that the GATT was the proper body to carry out such a task. On enforcement, he felt that the Group had to reflect on the means to expeditiously resolve disputes. There was a clear need to guarantee the resolution of disputes within reasonable time limits, something which the GATT had not proved able to do so far. The United States had alternatives built into its own statutes to guard against the perceived shortcomings of the multilateral dispute settlement mechanism. The issue of withdrawal of concessions was an important one; his delegation's inclination was to rely on procedures analogous to those found in the GATT whereby the withdrawal of concessions related to concessions which were bound by contracting parties. He noted that such an

approach naturally involved the possibility for cross-sectoral retaliation, both within the services area and between services and goods. In regard to the composition of panels for dispute settlement, he stressed the need for the appropriate expertise in the resolution of trade conflicts in particular sectors. An agreement should contain provisions dealing with the acceptance, entry into force (for which a specified date was required), withdrawal of concessions as well as non-application of the framework. The relationship of a GATS with other arrangements and organizations was also of key importance. In particular, clarifications would be required as to the ways of dealing with services embodied in goods. He shared the views of the EC representative on the relationship between a GATS and the IMF, particularly in regard to payments and transfers. As to other international bodies which had a specific competence in the area of services, particularly in regards to standards, there would be a need for careful scrutiny so as to address possible instances of conflicting rules. He felt that the GATT Code on Technical Barriers to Trade was a useful precedent to examine in the latter regard.

65. The representative of Mexico recalled that his delegation had, both in earlier submissions and in MTN.GNS/W/95, made some proposals on institutional matters. In regard to the yet to be defined institutional body to be responsible for administrating a services framework, he said that its members should consist of those countries having fulfilled the requirements of the framework. Such a body would perform such functions as may be necessary to facilitate the operation and further the objectives of the framework. The body would be responsible for reviewing the application of the framework and the instruments adopted therein, monitoring the implementation of the results of the negotiations, carrying out consultations, making recommendations and taking decisions as required, and, in general, undertaking whatever measures might be required to ensure the adequate implementation of the objectives and the provisions of the framework. The body would have a council, consisting of all the parties of the framework, each of whom would have one vote. Among its responsibilities, the council would review disputes and make recommendations thereon in accordance with the provisions of the framework. It could also adopt appropriate regulations and rules as may be necessary for the implementation of the framework, including those of a financial nature. He noted that the council would endeavour to ensure that all its decisions were taken by consensus. However, decisions on matters of substance would be taken by two-thirds majority while those on procedural issues would require a simple majority. In regard to issues of ratification, acceptance, entry into force, etc., he recalled that MTN.GNS/W/95 had proposed that the framework be open to all signatories, with definitive acceptance being subject to the satisfaction of requirements set forth as well as the deposit of the instrument within a stipulated period of time in the form of accepting the obligations laid down in the framework. He noted that accession for countries requesting entry subsequent to the period open for initial signature could come after notification to the council. A requesting country would open negotiations with interested parties on the basis of an offer list submitted beforehand with a view to reaching agreement on a mutual exchange of concessions. In the case of requests for accession by developing countries, their

particular developmental needs would be taken into account as envisaged in paragraph 7 of article 1 of MTN.GNS/W/95. As regarded the withdrawal of concessions , he noted that the conditions governing such a possibility would have to follow the rules laid down in article 18 of MTN.GNS/W/95, adding that similar considerations applied to non-application. He said that any party to the framework should be empowered to propose modifications thereto by submitting a request to the council. Proposed amendments would be adopted after their acceptance by a two-thirds majority. He stressed that modifications to the article on amendments would require unanimous agreement on the part of council members. Finally, he indicated that his delegation did not consider it appropriate to engage in cross-retaliation in the area of trade in services.

66. The representative of India agreed that dispute settlement was perhaps the most important institutional issue before the Group, noting that issues relating to enforcement were closely related. He argued that there were two aspects to dispute settlement; one related to procedural issues while the other concerned the more substantive issues of enforcement, retaliation and compensation. The issue of the linkage between GATT and GATS dispute settlement mechanisms was important. He recalled that the genesis of the GNS provided for services to be treated on a separate negotiating track from trade in goods. Accordingly, his delegation felt that the services negotiations had to result in a separate, free standing dispute settlement mechanism which would be confined to the services sector alone. This issue had been raised in other negotiating groups in the Uruguay Round where linkages were being sought between trade in goods, in services as well as in intellectual property matters. The development of common dispute settlement mechanisms would make rules governing trade in goods the international arbiter of all international economic relations. He expressed surprise that the dangers inherent in cross-linkages, both between goods and services but also within the services sector, had not been duly recognized. His delegation was greatly concerned by suggestions for a common dispute settlement process; much greater clarity was required on this issue in order to continue work on the framework itself. Turning to the institutional machinery of a framework, his delegation favoured a separate and independent administrative entity which would nonetheless have some links with other international organizations such as GATT, ITU, ICAO, UNCTAD and other specialized agencies of the United Nations. It would be necessary in addition to spell out the nature of the relationship between a future GATS and the IMF, whereby the experience gained in the GATT should be useful in this regard.

67. The representative of Brazil drew attention to the institutional provisions contained in MTN.GNS/W/95, which his delegation fully supported. He recalled that article 24 of the Latin American proposal spoke of cooperation with international organizations, including the GATT. He was somewhat dismayed by suggestions which appeared to be throwbacks to the situation prevailing before Punta del Este. He recalled that one natural outcome of treating services on a separate track from goods should be the adoption of an independent institutional entity for trade in services. His delegation would go so far as to suggest the creation of a new international organization to govern a trade in services. Institutional

matters stood at the very core of the current negotiations and should not be seen as an appendix to be discussed once substantive issues had been satisfactorily resolved. He stressed that there would be less recourse to dispute settlement if negotiators agreed to the most precise and far-reaching services framework possible. His delegation attached the utmost importance to the issues of multilateral surveillance and monitoring of a services framework. He shared the fears expressed by some delegations over the dangers of cross-sectoral linkages.

68. The representative of Japan said an effective dispute settlement mechanism was necessary for a credible services framework. At the same time, his delegation recognized the problems entailed by unqualified cross-sectoral linkages. He also emphasized the crucial need for the proper sectoral expertise in dispute settlement panels. As regarded the relationship of a future GATS with other international arrangements and organizations, he noted that care would need to be exercised where the coverage of a services framework might overlap with that of existing disciplines.

69. The representative of Canada said that his delegation had few rigid views on any of the items under discussion but felt that the Group should attempt, whenever possible, to draw on the institutional experiences gained so far in GATT. On dispute settlement, he pointed out that the process of dispute resolution entailed considerably more than the issue of retaliation, be it cross-sectoral or otherwise. It was important to provide for as much consultation as possible and look into procedures aimed at preventing disputes. In regard to panels, he agreed that the selection of panellists was of central importance to the overall credibility of the dispute settlement process. Another issue that would need to be addressed concerned the determination of what would be dealt with in the dispute settlement process. For example, could prudential considerations in the financial sector be subject to dispute settlement or would the focus rather be on the trade-related elements of laws, rules and administrative practices? He recalled that the aim of the dispute settlement process was to remove measures found to be inconsistent with the rules of the framework. As such, issues of retaliation and compensation only arose in cases of non-compliance with the findings of a panel. This suggested in his view that the question of cross-sectoral retaliation should perhaps not be blown out of proportion. On monitoring and surveillance, he suggested the need for a GATS-equivalent of the Trade Policy Review Mechanism found in GATT. He foresaw the need for some form of committee structure both to ensure the functioning of the framework and to service future negotiations. He felt that the relationship of a future GATS with other international arrangements and disciplines would depend to a very large extent on the precise disciplines emerging from the services framework itself. Arrangements with a number of other bodies would no doubt be necessary and the scope for complementarity should be explored. He noted that the World Bank could be an organization which might have some link to a trade in services framework.

70. The representative of Chile agreed that due account had to be taken of the GATT's experience in regard to institutional matters, noting that the

main objective should be to retain the positive elements of this experience and consider them for inclusion in a services agreement. She drew attention to article 28 of MTN.GNS/W/95, noting that her delegation attached great importance to avoiding, under a services framework, situations in which legal obligations were mandatory only for some - as opposed to all - signatories. Her delegation was open to suggestions as concerned the design of the dispute settlement mechanism contained in MTN.GNS/W/95 but felt that the issue of cross-sectoral retaliation was not appropriate.

71. The representative of Yugoslavia said that his delegation shared the views contained in MTN.GNS/W/95 on institutional issues. He drew attention to article 22 which spoke of a separate administrative entity which would be responsible, inter alia, for monitoring the implementation of obligations resulting from the negotiating process. This monitoring mechanism would need to be developed in further negotiations. While he agreed with those in favour of a separate, effective and efficient dispute settlement mechanism for GATS, he considered it useful to take into account the results of the Uruguay Round Negotiating Group on Dispute Settlement as well as the experiences gained in other international organizations dealing with services. The issue of cross-sectoral linkages would have to be looked upon with great caution in regard to retaliation and compensation within the area of services. In the view of his delegation, linkages between goods and services were out of the question. He suggested that the International Monetary Fund, the World Tourism Organization as well as the International Labour Office could be added to the list of international organizations mentioned in article 24 of MTN.GNS/W/95.

72. The Chairman noted that the GNS would revert to institutional matters at its next meeting with a view to furthering the current discussion and possibly making specific proposals on these issues. Under Agenda item 2.2 - Other business - he asked the delegation from the United States to introduce their submission on telecommunications in MTN.GNS/W/97.

73. The representative of the United States said that his delegation's draft telecommunications annex represented a first effort at elaborating the issue of access to- and use of- services of public telecommunication transport networks as mentioned in article 17.11 of MTN.GNS/W/75. The annex took document MTN.GNS/W/75 as its point of departure, so that reference to it might be necessary in order to understand how the proposed annex would operate in practice. The annex addressed some of the special aspects of telecommunications that required clarification and elaboration in the framework; it reflected the critical importance of telecommunications services for the conduct of business today, these being the primary vehicle for cross-border services trade. Telecommunications services were the lifeline of foreign established firms with their parent companies and were a key factor permitting such firms to compete effectively in host country markets. The purpose of the annex was to impose disciplines on providers of public telecommunication transport services (i.e. basic services) regarding access to and use of such services for all service providers covered by his delegation's proposed framework. This included banks, insurance companies, travel agencies and other

so-called enhanced or value-added service providers. The annex was also designed to include benefits for any firms using telecommunications networks for intra-corporate communications. It would, as such, benefit manufacturing as well as service-producing firms. The draft annex did not determine the obligations of parties concerning the opening of any telecommunication transport service to competition, as the latter would be determined by the coverage mechanism agreed to by signatories under the framework. The annex was not intended to prevent countries from regulating telecommunications services so long as such regulation was consistent with the services framework and the right to regulate as in article 11 of MTN.GNS/W/75. It was not intended moreover to restrict the ability of countries to provide universal telephone services. He felt that telecommunications was a topic that required more discussion by bringing together, under the aegis of the GNS, trade and telecommunications experts with a view to examining what provisions might be necessary to clarify and interpret how the framework would be applied in the sector.

74. The representative of Japan welcomed the US submission and pointed out that it was quite an ambitious document because the proposal appeared to aim for deregulating many of the domestic regulations maintained by most countries in the telecommunications sector. Enhanced services were a key area in telecommunications. If these had to be opened up to foreign competition without any scope for reservations, the scope of negotiations in the sector might be prejudged.

75. The representative of India said that it would take time to fully digest the contents of MTN.GNS/W/97. The document appeared to deny the need to negotiate commitments in regard to enhanced telecommunications services. The annex would have to be scrutinised thoroughly, all the more so as its content could be seen as having more to do with the definition of trade in services than with the provision of telecommunications services. He recalled that whether and how the sector might be a candidate for sectoral discussions had to be decided on by the GNS.

76. The representative of the United States said that his delegation had not yet decided whether there should be provision for reservations or flexibility in regard to the sectoral annex. He recalled that the chief aim of annexes was to clarify and elaborate framework provisions, including definitional aspects. It was thus appropriate in his view that greater definitional specificity be provided in an annex.

77. Under the agenda item "Other Business", the representative of Australia said he wished to reiterate his delegation's request for a secretariat background paper on subsidies in the context of trade in services.

78. The representative of India recalled that his delegation, along with others, had earlier requested the secretariat to prepare a background study on the restrictive business practices of private operators in the services sector as well as a study of national competition policies. On the basis of informal consultations, it appeared as though the secretariat might be able to respond to this request along the lines suggested by the Deputy

Director-General at the last meeting of the GNS. He therefore renewed his request.

79. The Chairman suggested that the GNS take a decision on the various requests before the Group. It was agreed that the secretariat would draw up a background study on subsidies along the lines of its earlier note on safeguards and trade in services (MTN.GNS/W/70). The secretariat would in addition work on a study on restrictive practices and report at the May meeting on whether it could proceed with a background note on national competition policies.

80. The representative of Hungary sought to correct a statement attributed to his delegation in paragraph 62 of MTN.GNS/31, noting that his delegation had supported the idea of separate background studies on subsidies and competition laws.

81. The representative of Morocco, on behalf of the representative of Pakistan, requested that the secretariat prepare a background note on labour services. He noted that such a request was prompted by the interest shown by a number of countries in this issue. Such a note should provide group members with a clearer picture of the prevailing international situation in regard to labour services. The note could address a number of elements, among which visa requirements, work permits, data issues, the comparability of qualification standards, etc. His delegation strongly endorsed such a request.

82. The representative of the secretariat said that the secretariat in drawing up such a background study on labour services could seek to investigate, in broad terms, the nature, forms and rationales of regulations governing the movement of workers across frontiers. As well, the note could attempt to, to the extent possible, examine how existing regulations related to the concepts, principles and rules under discussion in the GNS. Finally, the secretariat would attempt to provide to the extent available statistics on the international flows of labour income and workers' remittances. It was so agreed.

83. The representative of Canada said that he would be making available through the secretariat an informal note describing what his delegation's views were in regard to a formula approach to the liberalization of trade in services.

84. The Chairman reported on the informal consultations he had held since the Group's last meeting on the issue of sectoral annotations which would be discussed under agenda item 4 in the May GNS meeting. He said that the issue had been brought before the Group as it was felt that sector-specific consultations could prove useful, provided this was done in a flexible, transparent manner and under the aegis of the GNS. Although there seemed to be some agreement that such consultations needed to be organized, a decision on the nature and arrangements of such meetings would have to be taken by the GNS at its May meeting.

85. The representative of the United States agreed on the importance of linking sectoral consultations with the GNS process not only for the sake of transparency but also for the Group's ability to deal meaningfully in its framework with those sectors which may become candidates for sectoral annotations or annexes. It was essential to avoid creating procedural difficulties in the GNS in regard to such consultations, and the Group should not be required to reach consensus on either the timing or date of sectoral discussions or the selection of sectors themselves. His delegation was of the view that any service sector that was of interest to a country could be discussed among interested delegations, so long as delegations were appropriately informed on both the timing and contents of sectoral meetings so as to allow the proper expertise to come into play. He did not feel that it was necessary to decide at the May GNS meeting what specific sectors should be selected nor agree on the scheduling of meetings. The Group already had quite enough work before it, and there was a need to avoid protracted discussions on the issue of sectoral consultations.

86. The representative of India said that the GNS should decide at its May meeting what the nature of sectoral discussions under the aegis of the GNS should be. It was also his understanding that it was to GNS which would decide which areas - sectors, sub-sectors, transactions - might be taken up for this purpose. He felt that issues relating to the selection of individual sectors could not be left to be decided by individual delegations as this might run the risk of fragmenting the services negotiations. He agreed that there were important issues involved in sectoral discussions which could bear on the final outcome of the framework, noting that these had to be securely anchored the GNS process.

87. The representative of Brazil said that his delegation fully shared the views of the Indian delegation on the treatment of sectoral discussions within the GNS. He said that sectoral deliberations, if any, had to reflect the overall logic of the negotiating process. He noted that it was clearly the Group's prerogative to decide which sectors should be subject to specific annotations and determine how such annotations should be arrived at.

88. The representative of Japan said that his delegation was of the view that work on specific sectors had become necessary in view of the limited time left for negotiations. It would thus be useful to try to bring sectoral work into closer coordination with work in the GNS. He said that interested parties should be able to come together for the sake of sectoral consultations and that an arrangement should be agreed to in a flexible manner in the May meeting.

89. The representative of Sweden, on behalf of the Nordic countries, said that it was his understanding that there was agreement that sectoral discussions would take place under the aegis of the GNS but that the question of modalities was left open.

90. The representative of Canada said that there was already an agreed time element on the issue of sectoral discussions as it appeared on the

Group's work agenda up to the July meeting. His delegation had not yet decided how to treat particular sectors, although it was aware of various ideas and specificities. It would be useful in his view if there could be arrangements of the kinds discussed so far to allow delegations to focus better on some of the sectoral issues involved and take more informed decisions on how to handle different sectors, among which labour services. Finally, he noted that decisions on sectors and liberalization would have to be taken by the GNS in an appropriate way.

91. The representative of the European Communities said that she shared the Nordic countries' understanding of the conclusions of the Chairman's informal consultations on sectoral issues. Her delegation regretted that no decisions could be taken during the current meeting on this matter but was hopeful that arrangements could be made in a flexible manner at the Group's May meeting.

92. The representative of Australia endorsed the views put forward by the representatives of the Nordic countries and the European Communities on sectoral consultations. While initially reluctant, his delegation had taken part in the recent informal gathering on trade in financial services and felt that the meeting had proved extremely useful. The meeting had reinforced his delegation's belief that there needed to be a close link between sectoral discussions and the GNS. There was as well some urgency in engaging a process of detailed sectoral discussions given the shortness of time and the complexity of issues.

93. The representative of Switzerland reported to the Group on an informal and open-ended meeting devoted to specific issues relating to the liberalization of trade in financial services including insurance. He said that the meeting had taken place in the European Free Trade Association building in Geneva on 21-23 March 1990. The meeting's agenda addressed the following: (i) definition and coverage; (ii) prudential regulation; (iii) national treatment and market access; (iv) non-discrimination/m.f.n.; (v) cross-border services; (vi) payments and transfers; and (vii) increasing participation of developing countries. The topics had been chosen according to their technical relevance; there was no discussion on institutional matters. Some forty delegations had taken part in the meeting which had proved its usefulness as a transparent platform for engaging in highly unstructured consultations. The meeting had also performed the function of a clearing house, allowing for consideration of work being conducted in other fora. This latter dimension was of key relevance given the complex nature of the financial sector.

94. The representative of India thanked the Swiss representative for informing his delegation of the contents of the sectoral discussion on financial services. It was his understanding that the financial services meeting had been convened at the initiative of an individual delegation and that the GNS would take cognizance of meetings organized under its aegis.

95. The Chairman noted that the GNS had in his view had fulfilled its task this week in accordance with the agenda. In regard to the items of structure, definition and increasing participation of developing countries,

he felt that the discussion had reached a stage where all major questions were on the table and had been discussed. This did not mean that work on these items was completed nor that any definitive conclusions could be drawn at this stage. While these items were not specifically on the agenda for the forthcoming meetings, it was clear that because of the existing interlinkages with most other areas of the framework, they would, in practice, remain on the negotiating agenda. Besides that, they could, if necessary, be addressed under item 1 of the May and June meetings, when "all aspects" of Part I and II of MTN.GNS/28 would be under consideration. He felt that the stage currently reached provided enough guidance on these matters in relation to the negotiations in general. Progress had also been achieved during the week as regarded the clarification of some of the main questions that would have to be resolved. With respect to structure of the framework, it appeared that there was a measure of convergence on what could constitute a number of aspects of "structure". The main headings for the purposes of the framework could include: obligations of general application (such as transparency, progressive liberalization, m.f.n., non-discrimination, institutional provisions, safeguards); specific liberalization commitments; national schedules; and sectoral annotations. While there was a measure of convergence on the main headings, their content would still have to be agreed. As far as initial commitments were concerned, while there seemed to be a measure of convergence on the notion of initial commitments, it was not clear at this stage what the nature and extent of these commitments should be. With respect to the treatment of national regulations, he said that there seemed to be a measure of convergence that in principle, national regulations relating to areas covered by the provisions of the framework should conform to various levels of obligations and commitments under the framework. With respect to the mechanics of liberalization, while there seemed to be some measure of convergence that the process of liberalization would be a function of the headings mentioned above, it was unclear what the content of those headings would be, and how they would practically relate to each other. The way in which market access and national treatment would be treated was of a particular importance in this respect; in particular, whether they should be considered general obligations or specific negotiated commitments. He said that for some, market access should be a general obligation, linked to the provisions dealing with definition/scope, from which reservations could be scheduled. For others, market access commitments should be specifically negotiated and consolidated in national schedules. There seemed to exist a measure of convergence that in the context of a framework of trade in services, this so called "structure" could become operational by a combination of undertakings deriving from the substantive provisions to be agreed upon under the various headings mentioned above. With respect to definition, in his view, the main question to be solved concerned the role of definition in the future framework. Would definition be a provision that would establish obligations, or would it simply identify the modes of delivery according to which specific liberalization commitments would be negotiated? As far as development considerations were concerned, there seemed to be convergence that certain useful proposals had come forward in this respect. At the same time it was not yet clear how the objective of increasing participation of developing countries could be translated into framework provisions. It seemed, however, that there had emerged a useful

narrowing of the focus, and there would appear to be at least two important issues which needed resolving: first, as regarded the proposals which could basically be found in MTN.GNS/W/95 and MTN.GNS/28, it would be important to determine which of these could be potentially acceptable to all Group members; second, how could these concerns be practically translated into framework provisions. In the course of this week's discussion, three possibilities were identified as to the form in which such concerns might appear in the framework: preambular language; legal provisions in the agreement; and negotiating guidelines. As a final observation relating to the balance of interests of participating countries, he said that one of the important questions to be resolved was how a balance of interests could most appropriately be achieved among participants to the framework. It had become even clearer from the discussions at this meeting that for some, the "structure" should define the mechanical framework within which negotiations should take place, and through this process of negotiations the levels of obligations and commitments among signatories could be determined. For others, the balance of interests should be emerging from the substantive provisions of the agreement itself. They could be reflected in the mechanics of liberalization under the framework and therefore written into the agreement. With respect to institutional issues, there had been a very useful first discussion. The item would again be on the agenda of the group's next two meetings and Group members would need to elaborate the various matters raised and which had to be settled under this general heading. Finally, the Chairman felt that the secretariat paper dated 19.3.90 had provided the GNS with a useful basis for its discussion on structure. He said that in accordance with the suggestions made in the Group it would seem useful to ask the secretariat to revise this informal paper, taking into account the comments made, raising the questions that needed to be resolved, as appropriate, and by including any other major issues that had been addressed so far in the discussions, such as definitions, institutional issues, etc. He recalled that the GNS would next meet during the week of 7-11 May 1990.