

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

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COMMUNICATION FROM THE EUROPEAN COMMUNITIES

Proposal by the European Community

Draft

General Agreement on Trade in Services

The attached communication is circulated at the request of the Permanent Delegation of the Commission of the European Communities to the members of the Group of Negotiations on Services.

PROPOSAL BY THE EUROPEAN COMMUNITY**DRAFT****GENERAL AGREEMENT ON TRADE IN SERVICES**

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GENERAL AGREEMENT ON TRADE IN SERVICES

PREAMBLE

The parties to this Agreement (hereinafter referred to as "parties"),

Desiring to establish a multilateral discipline of rules and procedures for international trade in services with a view to the expansion of such trade as a means of promoting economic growth of all trading partners and the development of developing countries,

Recognising the need for immediate and progressive liberalisation by mutually advantageous arrangements with due respect for national policy objectives, leading to the provision of effective market access, so as to improve the efficiency and competitiveness of the service industry of parties,

Desiring to facilitate the increasing participation of developing countries in international trade and to secure additional benefits for their international trade by the application of differentiated measures according to their individual level of development and their competitiveness in specific sectors, and taking account of the serious difficulty of the least-developed countries in accepting negotiated commitments,

Hereby agree as follows:

ARTICLE I

SCOPE AND COVERAGE

1. This Agreement applies to any measure of a party which relates to or affects the provision of a service involving :
 - (a) the cross-border provision of the service,
 - (b) the cross-border movement of consumers,
 - (c) commercial or professional presence, whether temporary or permanent (including through the acquisition of existing enterprises or the creation of wholly- or partly-owned subsidiaries, joint ventures, partnerships, franchising operations, branches and representative offices), provided that activities are limited to the specific purpose for which access to the market was granted,
 - (d) the cross-border movement of factors of production and, as regards personnel, those essential to the provision of the service, i.e. key personnel and other skilled personnel, and provided that such movement of personnel is limited to the specific purpose for which the access to the market is granted, and is of limited duration or is a discrete transaction.

2. This Agreement covers all services. An illustrative list of sectors of services is provided in Annex (...) of this Agreement.
3. The provisions of this Agreement shall not apply to an activity whenever it consists of the exercise of official authority.
4. The provisions of this Agreement shall be applied by parties to measures of
 - (a) sub-national government entities and
 - (b) non-governmental bodiesof the parties.

ARTICLE II

GENERAL MOST FAVOURED NATION TREATMENT

With respect to all measures covered by this Agreement, each party shall provide immediately and unconditionally to any service or service provider of other parties treatment no less favourable than that accorded in like circumstances* to services or providers of services of any other country.

ARTICLE III

ECONOMIC INTEGRATION

1. Subject to the conditions that the resulting regime is on the whole no more restrictive than that resulting from previous commitments set out in its schedule, this Agreement shall not prevent any party from being a party to an agreement aiming at a higher degree of liberalisation of trade in services in the framework of a customs union or a free-trade area within the meaning of Article XXIV paragraph 8 of the GATT, or to adopt an interim agreement leading to the formation of a customs union or a free-trade area whose scope would include trade in services.
2. Any party deciding to enter into an agreement referred to in paragraph 1 shall promptly notify the PARTIES and shall make available to them such information regarding the proposed agreement as will enable them to make such reports and recommendations to parties as they may deem appropriate.
3. Any substantial change subsequently made in liberalisation commitments undertaken in relation to agreements referred to in paragraph 1 shall be communicated to the PARTIES.
4. If a party considers that as a result of an agreement under paragraph 1 its interests under this Agreement are substantially affected it may address the matter under the procedure set forth in Article XXIII.

* The term "in like circumstances" is intended to address differences between services and forms of market access. It may be necessary in certain cases, to make a further distinction between different kinds of commercial presence.

ARTICLE IV

NATIONAL TREATMENT

1. Each party, and each entity referred to in Article XXVIII 4, shall provide to the services and service providers of other parties a treatment in effect no less favourable than that accorded in like circumstances* to its own services or providers of services.
2. Each party shall take the necessary steps, including, where appropriate, the adoption of different legal provisions within the scope of Article V, to ensure that the treatment accorded to the services or service providers of another party is in conformity with the provisions of paragraph 1.

ARTICLE V

DOMESTIC REGULATION

1. (a) Subject to the provisions of this Agreement, parties shall have the right to regulate the provision of services in accordance with public policy considerations. Rules, standards and qualifications required for the provision of a service within a party's territory shall be based on objective requirements, such as competence or the ability to provide a service. Wherever appropriate, recourse should be made to internationally agreed requirements.

(b) Rules, standards and qualifications required shall not be more burdensome than necessary for the attainment of the public policy consideration envisaged, and shall not in any case render inoperative, in any part of the territory and for the entire range of activities concerned, a commitment to grant market access.
2. (a) A party may exempt on a general basis the providers of a given service of another party from requirements referred to in paragraph 1 of this Article when the rules, standards or qualifications applied or required in the party of the providers guarantee regulatory conditions equivalent to those it applies or requires.

(b) In cases other than those provided for in Article III parties may negotiate and conclude among themselves or with other countries agreements providing for the harmonisation or mutual recognition of rules, standards and qualifications. Other parties shall be given the opportunity to negotiate accession to such agreements.
3. (a) Measures under paragraph 1 and 2 of this Article shall be formulated in a transparent, reasonable and non-arbitrary manner. Each party shall ensure their transparent, uniform, impartial and reasonable administration.

(b) Neither formulation nor administration of such measures may in effect constitute either an arbitrary or unjustifiable discrimination between parties or a disguised restriction on international trade in services.

* See Article II.

4. Each party shall maintain or institute judicial, arbitral or administrative tribunals or procedures which guarantee, at the request of an affected provider or consumer of services, the prompt review and, where justified, correction of administrative decisions relating to the provision of services.

ARTICLE VI

TRANSPARENCY

1. (a) Parties shall publish all laws, regulations, judicial decisions, administrative guidelines, rules and rulings of general application which pertain to or affect the provision of services in their markets, as well as any international agreements relating to trade in services to which they are parties. Publication will be made in such a way as not to discriminate between foreign and domestic providers.

(b) Such publication shall take place not later than the date of entry into force of the measure concerned, and, to the extent possible prior to that date.

(c) Each party shall transmit to the Secretariat, for circulation to all Parties, a list of the publications with at least regional distribution in which measures referred to in paragraph 1 of this Article are published.
2. Parties shall notify to the Secretariat, at least in summary form, all international agreements relating to trade in services, as soon as possible after the conclusion of negotiations and in any case before their effective implementation.
3. (a) Parties shall establish an enquiry point or points to respond to requests from other parties for information on measures covered by the obligations in paragraph 1 and 2 of this Article. These enquiry points need not be depositories of laws and regulations. However, at the request of any party, full information shall be made available within four weeks of receipt of the request.

(b) Developed parties and, to the extent possible, other parties shall also establish enquiry points to allow service providers from developing countries to be provided with commercial information and information relating to registration, recognition and the obtaining of professional qualifications.
4. A party shall be ready to consult bilaterally on request with another party regarding information supplied through its enquiry point under paragraph 3. (a) or concerning measures which the requesting party considers to have a significant impact on the provision of services. A party may, following bilateral consultation, bring the matter before the PARTIES.

ARTICLE VII**SUBSIDIES***

1. A party shall not cause or threaten to cause serious prejudice to the trade interests of another party, through the granting, either directly or indirectly, of any form of subsidy for the provision of services within its territory, or within or into the territory of another party. If such serious prejudice or threat thereof has been demonstrated, the party granting the subsidy shall take appropriate steps to eliminate it or compensate for its effects.
2. Parties recognise that certain categories of subsidies do not affect international trade in services, and thus should not be subject to the same disciplines as other subsidies. Such categories of subsidies would include generally available subsidies and subsidies made available to certain beneficiaries on the basis of objective and neutral criteria.
3. Each party shall notify to the PARTIES all subsidies which may, directly or indirectly, affect trade in services, both between the territory of the Party granting the subsidy and other countries and within its territory, so as to allow the understanding of the working of the notified subsidy regime as well as an assessment of its effects on trade in services.
4. Any party may make a written request for information on the nature and extent of any subsidy granted or maintained by another party which is considered to operate directly or indirectly to increase exports of services from or reduce imports of services into its territory. Parties so requested shall provide such information within four weeks and in the manner laid down in paragraph 3 of this Article. The provisions of Article VI, paragraph 4 apply.
5. Article IV of this agreement shall not prevent the allocation of subsidies exclusively to service providers of the party concerned.
6. The PARTIES shall review the operation of the provisions of this Article from time to time with a view to examining its effectiveness in promoting the objectives of this Agreement.

ARTICLE VIII**ANTIDUMPING AND COUNTERVAILING ACTION***

1. The parties recognise that dumping, by which services of one party are introduced into the commerce of another party at less than the normal value, is to be condemned if it causes or threatens to cause serious injury to a service industry in the territory of a party.

* Proposals will be reexamined in the light of developments in the relevant negotiating group of the GNG.

2. In order to take account of a specific need, where it exists in a given service sector or sub-sector, PARTIES may decide, in the framework of a sectoral annex, to allow recourse by parties to a system designed to restore a fair price in cases of dumping such as referred to under paragraph 1, or other unfair pricing practices, and/or of subsidisation as referred to under Article VII 1.

ARTICLE IX

MONOPOLIES

1. Whenever, formally or in effect, a party designates or maintains exclusive or monopoly rights, or grants exclusive or special privileges, this party shall ensure that the entity or entities enjoying such rights or privileges, will provide to service providers of any other party treatment no less favourable than that accorded in like circumstances to its own service providers.
2. Each Party shall ensure that entities referred to in paragraph 1 do not, when competing either directly or through an affiliated company in the provision of a service outside the scope of its exclusive or monopoly rights, engage in anti-competitive practices, including through discriminatory provision of a service or cross-subsidisation, in a manner that adversely affects service providers of another party.
3. Each party shall notify the PARTIES of the services which are supplied by entities of the kind described under paragraph 1.
4. The PARTIES may, at the request of a Party which has a reason to believe that its interests under this Agreement are being adversely affected by an entity referred to under paragraph 1, request the party establishing, maintaining or authorising such enterprise to provide information about its operations related to the provisions of this Agreement. This shall not require any party to disclose confidential information which would impede law enforcement or would prejudice the legitimate commercial interests of particular enterprises.
5. After the entry into force of this Agreement, if a party grants new exclusive or monopoly rights on the provision of a service, it shall enter into negotiations pursuant to Article XXIII 2 with a view to reaching agreement with affected parties on mutually acceptable compensatory adjustments by that party.

ARTICLE X

RESTRICTIVE BUSINESS PRACTICES

1. In order to prevent agreements, concerted practices and abuses of dominant positions affecting trade in services of a party which restrain competition, limit access to market, or foster monopolistic control, this party may request information from service providers of another party providing services within its jurisdiction. Such requests shall not exceed that which would be made in like circumstances from domestic service providers on the basis of the legislation of the party concerned. In addition to that, statistical information may be requested, provided that any such additional request is not more onerous than similar requirements in the foreign firm's home country.
2. Each party shall, on the request of another party, provide information, within the limits of the provisions on confidentiality of its legislation, on the content of any individual decision, administrative ruling or other measure related to business practices referred to in paragraph 1 and affecting a service provider of this other party.
3. Any information supplied under this Article shall be dealt with by parties in such a way as to safeguard legitimate commercial interests.
4. Parties shall cooperate through consultations between authorities responsible for competition policy to prevent business practices referred to in paragraph 1.

ARTICLE XI

EMERGENCY SAFEGUARD MEASURES*

1. If a given service is being imported into the territory of a party in such substantially increased quantities [in absolute or relative terms] or a party is faced with such a major external cause of disturbance of its market for a given service as to cause or threaten to cause serious injury to domestic providers of like or directly competitive services the party shall be free, subject to the conditions and procedures laid down in paragraph 2, to suspend, in whole or in part, a liberalisation commitment under this Agreement.

* Proposals will be reexamined in the light of developments in the relevant negotiating group of the GNG. The issue of the existence of injury which may occur only at the level of a region of the territory of a party must also be addressed further.

2. Any measure adopted in pursuance of paragraph 1

- (a) shall not be applied to trade through and the operation of any existing commercial or professional presence on the territory of this party;
 - (b) shall be limited to the sector or sub-sector in which injury occurred or is threatened to occur;
 - (c) shall be proportional and strictly related to the injury established;
 - (d) shall be provided for a limited period of time, and progressively liberalised during the period of application; the duration of any safeguard measure shall not exceed a maximum period of x years. No safeguard measure shall be applied to the importation of a service which has been subject to such a measure within the preceding y years.
3. (a) Prior to the adoption of a safeguard measure, the party shall give notice in writing to the PARTIES of all relevant data concerning the establishment of serious injury and the measures which it intends to take, and enter into consultations with those parties affected by such a measure. Interested parties shall endeavour through consultations to reach agreement so as to limit the impact of safeguard action on the trade of the parties affected by the proposed measure, including through the negotiation of appropriate compensatory adjustments.
- (b) If agreement among the interested parties is not reached, the party which proposes the adoption of a safeguard measure shall be free to do so. Any affected party may pursue the matter in accordance with the provisions contained in Article XXIV of this Agreement. If an affected party establishes a prima facie case that the conditions under paragraph 2 of this Article have not been respected it may, upon the expiration of thirty days from the day on which written notice is received by the PARTIES, suspend the application to the trade of the party taking such action, of such substantially equivalent concessions or other obligations under this Agreement, the suspension of which the PARTIES do not disapprove.

ARTICLE XII

BALANCE OF PAYMENTS*

1. In the event of serious balance of payments difficulties a party to the Agreement which has invoked Articles XII or XVIII B of the General Agreement on Tariffs and Trade may temporarily apply restrictions on the cross-border provision of services.

* Proposals will be reexamined in the light of developments in the relevant negotiating group of the GNG.

2. Any restriction introduced under this Article shall be applied in conformity with the following criteria :
 - (a) The overall level of restrictions shall not exceed what is necessary to address the balance of payments situation;
 - (b) A reasonable time-schedule shall be formally and publicly announced for the elimination and progressive relaxation of restrictions applied for balance of payments purposes;
 - (c) Restrictive import measures shall be applied with the same level of intensity across sectors of the economy, subject to the possibility of giving priority to the importation of essential services, and without discrimination among parties to this Agreement. Such measures shall be administered in a transparent manner and shall not afford protection to domestic providers of a particular service from competition from the service providers of another party.
 - (d) The measures adopted shall not result in a prohibition or major disruption of the cross-border provision of a given service.
3. Parties applying restrictions under this Article shall notify the PARTIES of the introduction of such measures and of any changes in the application of such measures prior to or immediately after their entry into force. Changes shall comply with the criteria provided for under paragraph 2. Notifications shall include full information on the type of measures applied, criteria used for their administration, sector coverage and trade flows affected, as well as the justification for any departure from the principle of uniformity under sub-paragraph 2(c).
4. The PARTIES shall develop appropriate consultation procedures, in cooperation with the GATT and the International Monetary Fund, that provide for adequate transparency and evaluation of restrictions imposed under this Article. Such procedures shall have the objective of enabling the PARTIES to make such recommendations to the party concerned as they may deem appropriate.

ARTICLE XIII

PAYMENTS AND TRANSFERS

1. Each party shall permit payments and transfers for current transactions and capital to be made to or by a service provider of another party freely and without delay into and out of the first party's territory in a freely convertible currency at the exchange rate on the date of the transfer with respect to spot transactions to the extent that such payments and transfers relate to the provision of services which have been liberalised.

2. Notwithstanding the provisions of paragraph 1, any party may maintain measures:
 - (a) in accordance with Article XII of this Agreement,
 - (b) imposing income taxes by such means as a withholding tax applicable to dividends or interest payments,
 - (d) protecting the rights of creditors, or ensuring the satisfaction of court judgements, through the equitable, non-discriminatory and good faith application of its laws.
3. This agreement shall not alter the obligations of members of the International Monetary Fund under the Articles of Agreement of the International Monetary Fund.
4. The PARTIES shall seek co-operation with the International Monetary Fund to the end that the parties and the Fund may pursue a co-ordinated policy with regard to questions within the jurisdiction of the Fund and questions within the jurisdiction of the PARTIES.
5. In all cases in which the PARTIES are called upon to consider or deal with problems concerning monetary reserves, balances of payments or foreign exchange arrangements, they shall consult fully with the International Monetary Fund. In such consultations, the PARTIES shall accept all findings of statistical and other facts presented by the Fund relating to foreign exchange, monetary reserves and balances of payments, and shall accept the determination of the Fund as to whether action by a party in exchange matters is in accordance with the Articles of Agreement of the International Monetary Fund.

ARTICLE XIV

PUBLIC PROCUREMENT

Without prejudice to any obligation of a party under the GATT Agreement on Government Procurement the provisions of Articles II and IV of this Agreement shall not apply to procurement covered by public procurement laws and regulations. Nevertheless parties shall endeavour to enter promptly in negotiations with a view either to expand the application of this Agreement in its entirety to such procurement of services or to provide for full inclusion of service contracts and concessions in the GATT Agreement on Government Procurement.

ARTICLE XV

EXCEPTIONS

1. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between parties where like conditions prevail, or a disguised restriction on international trade in services, nothing in this Agreement shall be construed to prevent any party from adopting or enforcing measures :
 - (a) necessary to protect public morals and public order;
 - (b) necessary to protect human, animal or plant life or health;
 - (c) necessary to protect personal data and individual privacy;
 - (d) necessary to protect consumers;
 - (e) necessary to secure adherence to laws and regulations which are not inconsistent with the provisions of the Agreement, including those relating to the prevention of fraudulent or deceptive practices, the prevention of tax evasion and the enforcement of criminal law;
 - (f) necessary to meet a sectoral exception enumerated in a sectoral annex.
2. Nothing in this Agreement shall be construed :
 - (a) to require any party to furnish any information the disclosure of which it considers contrary to its essential security interests; or
 - (b) to prevent any party from taking any action which it considers necessary for the protection of its essential security interests
 - (i) relating to the provision of services as carried on directly or indirectly for the purpose of provisioning a military establishment;
 - (ii) taken in time of war or other emergency in international relations; or
 - (c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

In taking action under this paragraph, parties shall take into consideration the interests of third parties which may be affected.
3. PARTIES shall be informed to the fullest extent possible of measures taken under this Article.
4. All parties affected by action under this Article retain their full rights under this Agreement.

ARTICLE XVI

MARKET ACCESS

1. From the entry into force of this Agreement, a party shall not place new restrictions on the forms of market access provided for in Article I 1 by modifying existing measures or introducing new measures.
2. Each party shall specify in its schedule the commitments it undertakes to eliminate totally or partially, whether immediately or on the basis of a time schedule, existing restrictions on the market access provided for in Article I 1. It shall not maintain restrictions on the forms of market access provided for in Article I 1 other than those specified in its schedule.

ARTICLE XVII

APPLICATION

1. From the entry into force of this Agreement all existing and new measures of a party shall comply with the provisions of this Agreement, with the exception of Articles IV and VII 1.
2. Unless otherwise provided for in its schedule, each party shall comply with the provisions of Articles IV and VII 1 to the fullest extent not inconsistent with mandatory existing legislation, administrative regulations or international agreements specified in its schedule. Each party shall furthermore specify in its schedule the commitments it undertakes to eliminate totally or partially, whether immediately or on the basis of a time schedule, existing measures incompatible with Articles IV and VII 1.
3. A party shall not decrease the previously existing degree or consistency with the provisions of Articles IV and VII 1 by modifying existing measures or introducing new measures.

ARTICLE XVIII

SECTORAL ANNEXES

1. Sectoral annexes may contain, to the extent necessary to ensure the effective operation of this Agreement*, provisions applicable only to a specific sector or sub-sector, in the form of:
 - (a) clarifications of a provision of the Agreement,

* The Articles of the Agreement to which this provision will apply will need to be defined; it will in principle not apply to institutional provisions.

- (b) modifications of a provision of the Agreement,
 - (c) additional provisions,
 - (d) exemptions of the application of a provision of the Agreement.
2. Sectoral annexes are an integral part of this Agreement.
3. The effective application of the provisions of the sectoral annexes shall be reviewed [3] years after the entry into force of this Agreement and periodically thereafter, with a view to possible amendments as provided for in Article XXIX of this Agreement.

ARTICLE XIX

SCHEDULES

1. Each party shall set out in its schedule measures and commitments relevant to the provisions of Articles XVI, XVII and XX.
2. The schedule for each sector shall be structured in the following manner:
- (a) Column I "Market Access" shall specify in section (a) any restrictions on a form or market access described under Article I 1, and in section (b) any commitments under Articles XVI and XX 2 (a).
 - (b) Column II "National Treatment/Subsidies" shall specify for each form of market access under Article I 1 in section (a) inconsistencies with Articles IV or VII 1, and in section (b) any commitments under Articles XVII and XX 2 (b).
 - (c) Column III "Effective market access" shall specify additional commitments under Article XX 2 (c).
3. The schedules are an integral part of this Agreement.

ARTICLE XX

NEGOTIATED LIBERALISATION COMMITMENTS

1. Not later than [3 years] after the date of entry into force of this Agreement and periodically thereafter parties shall undertake negotiations on a reciprocal and mutually advantageous basis in pursuance of progressive liberalisation with a view to providing effective market access.
2. The negotiations shall lead to commitments as to:
- (a) the total or partial elimination, whether immediate or on the basis of a time schedule, of restrictions on market access,

- (b) the total or partial elimination, whether immediate or on the basis of a time schedule, of measures inconsistent with Articles IV and VII 1 of this Agreement,
 - (c) additional measures to achieve effective market access through the modification or elimination of measures, other than those referred to in paragraphs 2 (a) and (b), which restrict the range of activities or otherwise deny service providers of other parties competitive opportunities on the market of the party concerned equal to those of its own providers.
3. Commitments of each party will take into account its level of development and degree of liberalisation, both generally and in individual sectors.
4. The commitments will be consolidated in the parties' schedules.

ARTICLE XXI

NON-APPLICATION OF COMMITMENTS

1. At any time a party enters into a commitment in a specific sector or sub-sector which covers a form of market access not previously subject to a commitment of this party it shall be free to withhold, in whole or in part, the resulting benefits from another party when it considers that the level of commitment of the other party is not in keeping with the particular characteristics of that party's market and its degree of liberalisation as well as its level of development.
2. At the request of the affected party, bilateral consultations shall take place with a view to reaching a mutually satisfactory solution.
3. Any action taken shall be notified to the PARTIES not later than the moment of entry into force of the commitments concerned.
4. The affected party may raise the matter before the PARTIES. They shall examine whether the action being taken is justified in the light of the provisions of paragraph 1, and may make appropriate recommendations.
5. The application of the provisions of paragraphs 1 to 4 above shall be the subject of a review by the PARTIES [-] years after the entry into force of this Agreement and at intervals of [-] years thereafter, with a view to the elimination of the application of paragraph 1.

ARTICLE XXII

NON-APPLICATION OF THE AGREEMENT BETWEEN PARTICULAR PARTIES

1. This Agreement shall not apply as between any two parties if
 - (a) the two parties have not entered into the negotiation of liberalisation commitments with each other, and

- (b) either of the parties, at the time either becomes a party, does not consent to such application.
2. The PARTIES shall review the application of paragraph 1 in particular cases at the request of any party and make appropriate recommendations.
 3. The application of paragraph 1 shall be the subject of a review by the PARTIES [-] years after the entry into force of this Agreement and at intervals of [-] years thereafter, with a view to the elimination of such application.

ARTICLE XXIII

MODIFICATION OF SCHEDULES

1. A party which intends to modify its schedule shall notify the PARTIES not later than 3 months before the intended implementation of the modification.
2. At the request of any affected party the PARTIES shall consider the proposed modification as well as the need for a consequent compensatory adjustments with a view to maintaining the overall balance of rights and obligations provided for in this Agreement. In the event an agreement cannot be reached, the party concerned shall be free to implement the proposed modification, affected parties being free to make adequate compensatory adjustments concerning their commitments vis-à-vis the modifying party on a provisional basis until the matter has been resolved under the provisions of Article XXIV.

ARTICLE XXIV

DISPUTE SETTLEMENT*

1. Each party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as may be made by another party with respect to any matter affecting the operation of this Agreement.
2. If any party considers that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired or that the attainment of any objective of the Agreement is being impeded as the result of the failure of another party to keep or carry out its obligations or commitments under this Agreement, it may with a view to a mutually satisfactory resolution of the matter request in writing consultations with the party in question, providing an explanation of the reasons for the request. Any such request shall be notified to the PARTIES.

* Proposals will be reexamined in the light of developments in the relevant negotiating group of the GNG.

3. If no satisfactory solution is effected between the parties concerned within sixty days after the request for consultations, the matter may be referred to the PARTIES which shall proceed, mutatis mutandis, according to the dispute settlement procedure of the GATT. Individual decisions of a party shall only be subject to the dispute settlement as far as a party claims that the general rule underlying the decision constitutes a failure to keep or carry out obligations or commitments under this Agreement.
4. If the PARTIES consider the circumstances are serious enough to justify such action, they may authorise a party or parties to suspend the application to any other party or parties of such commitments or obligations under this Agreement as they determine to be appropriate in the circumstances; the application of such suspension to sectors which are not the subject of the dispute shall, as a general rule, be regarded as inappropriate. It shall not be applied to trade through and the operation of any existing commercial or professional presence on the territory of the party authorised to take such action.

ARTICLE XXV

INSTITUTIONAL MACHINERY

1. Wherever reference is made in this Agreement to the parties acting jointly, they are designated as PARTIES. PARTIES shall convene annually to perform such functions as may be necessary to facilitate the operation and further the objectives of this Agreement. They shall undertake whatever measures may be required to ensure the implementation of the obligations and commitments under this Agreement.
2. A Council shall be set up to perform the functions of the PARTIES between sessions. The Council shall establish its own rules of procedure. It may establish such subsidiary organs, including committees for specific sectoral issues, as may be necessary for the effective discharge of its functions.

ARTICLE XXVI

RELATIONSHIP WITH THE GATT

1. The chief administrative officer of this Agreement shall be the Director-General to the CONTRACTING PARTIES to the GATT, who will appoint officers as may be necessary to service this Agreement.
2. [The relationship with the GATT will need to be dealt with more specifically in the light of further developments in the Uruguay Round.]

ARTICLE XXVII

RELATIONSHIP WITH OTHER INTERNATIONAL AGREEMENTS AND ORGANISATIONS

The PARTIES shall make whatever arrangements are appropriate for consultation and co-operation, including enactment of provisions for observer status in the organs of the Agreement where appropriate, with the United Nations and its specialised agencies as well as other international bodies concerned with services.

ARTICLE XXVIII

DEFINITIONS

For the purpose of this Agreement the following definitions apply :

1. Provision of a service

Production, delivery, transportation, distribution, marketing, sale or facilitation of a service, including access to, and use of, distribution systems and public telecommunications networks and services, and the purchase or use of a service.

2. Service provider of a party

(a) A natural person who as a citizen of a party provides services or a legal person providing services which is incorporated in the territory of a party, has its registered office, central administration or principal place of business within the party, and has an effective and continuous link with the economy of that party*.

(b) In the cases of market access under Article I 1 (c) a service provider under sub-paragraph (a) shall, for the purposes of Articles II, IV, V, IX and X, be considered to be also a service provider of the party from which it is owned or controlled.

3. Measure

Any law, regulation, international agreement, rule, standard, procedure, requirement, practice, judicial decision, administrative guideline, ruling or decision.

4. Subnational government entity

A government other than a central authority, including regions, states, provinces, cantons, municipalities, its ministries or departments or any body subject to the control of such a government in respect of the activity in question.

* Special provisions must be laid down in the sectoral annexes for transport.

5. Non-governmental bodies

Any regulatory or administrative entity other than a government, whether public or private, which has the legal power to take measures which pertain to or affect the provision of services or the operation of service providers.

ARTICLE XXIX

ACCEPTANCE AND ACCESSION

1. This Agreement shall be open for acceptance by governments contracting parties to the GATT and the European Economic Community until 31 December 1991.
2. Any contracting party to the GATT which is not a party to this Agreement may accede to it on terms to be agreed with the PARTIES. A decision of the PARTIES under this Article shall be taken by a two-thirds majority.

ARTICLE XXX

AMENDMENTS AND WITHDRAWAL

1. Amendments to the Agreement shall become effective upon acceptance by all parties to this Agreement. Amendments of sectoral Annexes shall become effective, in respect of those parties which accept them, upon acceptance by two-thirds of the parties, and thereafter for each party upon acceptance by it.
2. Any party may withdraw from this Agreement at any time after its entry into force. Such withdrawal shall be effective six months from the day on which written notice thereof is received by the chief administrative officer. The Council shall be informed immediately and any party may request an immediate meeting of the Council.

ARTICLE XXXI

DEPOSIT AND REGISTRATION

1. This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT, who shall promptly furnish to each party and each contracting party to the GATT a certified copy thereof and of each amendment thereto or withdrawal therefrom pursuant to Article XXIX and of each acceptance thereof or accession thereto pursuant to Article XXVIII.
2. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

ARTICLE XXXII

ENTRY INTO FORCE

This Agreement shall enter into force on 1 January 1992 for the parties which have accepted it by this date. For other countries, it shall enter into force on the thirtieth day following the day of their accession to this Agreement.