

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Services

WORKING GROUP ON TELECOMMUNICATIONS SERVICES

Note on the Meeting of 5-6 June 1990

1. The Chairman welcomed delegations to the first meeting of the working group on telecommunications services. He said that the working group would be attempting to broaden its understanding of the telecommunications sector's special characteristics and any elements that may need to be taken into account in the application of the general framework being developed in the Group of Negotiations on Services (GNS). He noted that the working group's task in this regard was not made any easier by the absence as yet of an agreed framework. To set the stage for the working group's discussions, he asked the secretariat to briefly recall the various stages of GNS deliberations so as to allow sectoral experts to gain a better understanding of the reasons which have led the GNS to now focus more specifically on sectoral consultations.
2. The representative of the secretariat said that trade liberalization in services appeared on the multilateral trade policy agenda for the first time following the adoption in September 1986 of Part II of the Punta del Este Ministerial Declaration. To fulfil the negotiating mandate, a Group of Negotiations on Services (GNS) was established. He noted that three fundamental objectives could be derived from the Punta del Este Declaration: (i) the creation of a multilateral framework for trade in services, including the elaboration of possible disciplines in individual sectors; (ii) the expansion of trade in services under conditions of transparency and progressive liberalization; and (iii) the promotion, through such trade expansion, of the economic growth of all trading partners and the development of developing countries.
3. For the first phase of the negotiations a work programme was agreed upon by participating countries in February 1987. The work program consisted of five agenda items: (i) how best to define trade in services for the purposes of the negotiations and how to deal with statistical issues (in particular, the inadequacy of statistics for international trade in services); (ii) how to determine the broad concepts on which principles and rules for trade in services, including possible disciplines for individual sectors, might be based; (iii) how to agree to a sectoral coverage of the multilateral framework to trade in services which represents a balance of interests for the participating countries; (iv) how to deal with existing international disciplines and arrangements that are concerned with services activities on a sectoral basis; and (v) how to identify and deal with measures and practices contributing to, or limiting, the expansion of trade in services.

GATT SECRETARIAT

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4. Following a period of two years of negotiations, there was a meeting of Ministers at the mid-term of the Uruguay Round. At this meeting, agreement was reached on a text which: (i) reaffirmed the objectives for negotiations on trade in services agreed at Punta del Este; (ii) indicated that work should proceed without excluding any sector of trade in services on an a priori basis; (iii) identified a set of concepts, principles and rules considered relevant for inclusion in a multilateral framework; and (iv) provided the guidelines for the work of the GNS during 1989.

5. In particular, Ministers agreed in Montreal that before the concepts, principles and rules which a multilateral framework for trade in services might comprise could be decided upon, these would have to be examined with regard to the implications of their application to individual sectors and types of transactions to be covered by the multilateral framework. To this end, the secretariat was asked to provide a reference list of sectors (found in MTN.GNS/W/50) which served as a basis for selecting the six sectors in which the so-called "sectoral testing exercise" would be conducted in the GNS between June and September 1989. These sectors were (in chronological order): telecommunications and construction and engineering services (June 1989); transport (air, maritime, land) and tourism services (July 1989); as well as financial services (including insurance) and professional services (September 1989).

6. For each of the sectors under discussion, the secretariat prepared background notes which identified the activities comprising the sectors under review, described the ways in which trade in these sectors took place, provided an overview of the rationales, nature and possible effects of regulatory regimes governing their provision and discussed considerations relating to the application of concepts, principles and rules. The background note on telecommunications services was to be found in MTN.GNS/W/52.

7. Ministers in Montreal also agreed that the GNS should endeavour to assemble, by the end of 1989, the necessary elements for a draft which would permit negotiations to take place for the completion of all parts of the multilateral framework and its entry into force by the end of the Uruguay Round. During both formal and informal consultations during the last trimester of 1989, the GNS focused its attention specifically on this task and a document was produced by negotiators on 18 December of last year (found in MTN.GNS/28).

8. He said that work in the GNS had been taking place in 1990 on the basis of the elements assembled in MTN.GNS/28, which provides a full inventory of the issues to be negotiated to successfully fulfil the Group's negotiating mandate. The timetable formally agreed to by negotiators in January 1990 for the final year of the Uruguay Round imposed a July 1990 deadline for the completion of the draft multilateral framework itself, leaving sufficient time both for the framework to be translated into legal language by the end of the Round and for more detailed work on a first set of sectoral annotations to be completed.

9. At the May 1990 meeting of the GNS, it was agreed that Working Groups of the GNS could hold informal consultations on particular service sectors, among which telecommunications, with a view to arriving at a better understanding of the specificities of particular sectors and of any elements that may need to be taken into account in the application of the general framework or in the drafting of sectoral annotations. It was understood that the fact that certain sectors had been selected for consultations in the Working Groups had no bearing on the question of coverage for the framework on trade in services.

10. As regards the nature of sectoral annotations, he noted that Group members had agreed that, where considered necessary to interpret or effectively apply the provisions of the framework to specific sectors, sectoral annotations or annexes shall be multilaterally agreed, form an integral part of the framework, and be reviewed every ... years.

11. The Chairman suggested that the working group consider three agenda items. He intended, first, to give the floor once more to the secretariat with a view to provide greater detail on the concepts, principles and rules being considered in the GNS for inclusion in the multilateral framework. This would be followed, secondly, by a general discussion of telecommunications services and the GNS. His intention under this agenda item was to engage the group in a discussion of the views, concerns and objectives of delegations in regard to the possible contents of a sectoral annotation in the telecommunications area and provide any delegation with the opportunity to present proposals, non-papers and/or other documents spelling out national positions in the sector. He pointed out that the object of the working group's endeavours at this point was not to engage in negotiations, but rather to take a broad view of the main issues before the group. He suggested, thirdly, that the working group reflect on the possible items to address in its future work programme and delineate the agenda of its 9-11 July 1990 meeting.

12. In responding to the request of the Chairman, the representative of the secretariat recalled that the current situation in the GNS in regard to the concepts, principles and rules which might be embodied in a future framework on trade in services could be found in Part II of MTN.GNS/28. He said that while these concepts, principles and rules were not in final form, there was nonetheless a great deal of material on the table. As well, he recalled that ministers agreed at the Montreal Mid-Term Review that work should proceed in a parallel and interrelated fashion. He then briefly indicated what concepts (agreed to at Montreal) were under review: (a) transparency - provisions should ensure transparency of information with respect to all laws, regulations and administrative guidelines as well as international agreements relating to services trade to which the signatories are parties. Agreement should be reached with respect to any outstanding issues in this regard; (b) progressive liberalization - the aim of these rules, modalities and procedures should be to achieve, in this round and future negotiations, a progressively higher level of liberalization taking due account of the level of development of individual signatories; (c) national treatment - when accorded in conformity with other provisions of the multilateral framework, it is understood that

national treatment means that the services exporters of any signatory are accorded in the market of any other signatory, treatment "no less favourable" than that accorded domestic services providers; (d) most-favoured-nation/non-discrimination - it is agreed that the multilateral framework shall contain a provision on m.f.n./non-discrimination; (e) market access - when market access is made available to signatories it should be supplied according to the preferred mode of delivery; (f) increasing participation of developing countries the framework should provide for the increasing participation of developing countries in world trade and for the expansion of their service exports, including, inter alia, through the strengthening of their domestic services capacity and its efficiency and competitiveness. Provisions should facilitate effective market access for services exports of developing countries through, inter alia, improved access to distribution channels and information networks; (g) safeguards and exceptions further negotiations will be necessary on provisions for safeguards, e.g. for balance-of-payments reasons, and exceptions, e.g. based on security and cultural policy objectives; and (h) regulatory situation - it is recognized that governments regulate services sectors, e.g. by granting exclusive rights in certain sectors, by attaching conditions to the operations of enterprises within their markets for consumer protection purposes and in pursuance of macro-economic policies.

13. The representative of Egypt suggested that in view of the absence of telecommunications experts from some countries' delegations, it would be most useful if representatives of the ITU present their views on the subject matter before the working group.

14. The Chairman took note of the Egyptian delegation's proposal and indicated that he would be giving the floor to ITU representatives at the end of the morning session.

15. The representative of Korea introduced his delegation's informal paper for the telecommunications services negotiations. He said that it was not proposed as a telecommunications annex, but should rather serve as a statement of principles that might need to be considered in discussing the coverage of telecommunications services under the services framework agreement and the broad terms of any telecommunications annex. He said that Korea's paper discussed which telecommunications services should be covered by the Agreement, as well as the question of access to and use of the telecommunications network. These questions were necessarily interrelated. It had to be clearly understood that the right of use and access did not confer on users the right to provide any telecommunications service to third parties that was not a covered service. He expected that, as deliberations progressed, specific proposals should emerge regarding issues such as network access, use of leased lines, pricing of services and competitive safeguards. He indicated that Korea had not yet completed its examination of these specific issues and was thus not able to present its detailed views during this session. His delegation's paper, therefore, did not attempt to deal with these and other specific issues, but rather set forth several principles that governed Korea's approach to the application of a services agreement to the telecommunications sector. He listed the

principal points contained in his delegation's paper. The paper firstly defined two types of service providers on the basis of ownership of transmission facilities and discussed the respective scope of business activity for the two types of service providers. Korea believed, secondly, that in opening the telecommunications market it was essential that infrastructure service providers be given protection from intrusion by users of the infrastructure into areas reserved for the infrastructure providers. For example, value-added service providers would be prohibited from engaging in simple transmission service, such as telephony and telex, where such service was reserved for the infrastructure service provider. Each country should have sufficient authority to prevent users of leased lines from bypassing the public network by interconnection with third parties. He felt that this approach was warranted by the need to protect the ability of the infrastructure service provider to further develop the infrastructure and to foster universal service. Other countries that had more advanced networks would, of course, be free to allow a greater degree of competition, but this should not be required by the Agreement. He noted, thirdly, that determination of the scope of services open to competition was the sovereign prerogative of each party. When a service was open to competition, this should be done on the basis of national treatment and without discrimination. The Korean paper did not differentiate between foreign service providers engaged in delivering competitive services and domestic service providers insofar as the provision of such services was not in violation of any other principle in the paper. He noted that the new regulatory concepts and terminology introduced in the paper could cause some confusion. Korea could have used terminology and definitions appearing in other countries' proposals but refrained from doing so to avoid the impression that it adopted a particular country's regulatory scheme. He believed that once all the proposals now in the process of being prepared had been submitted, the working group should attempt to standardise the terminology to facilitate discussions.

16. The representative of India felt that the task before the working group was particularly daunting in view of the absence of clear guidelines on the contents of the multilateral framework. While the need to work simultaneously on two fronts was perhaps inevitable in view of the current time constraints, he felt that the group's work might not lead to firm conclusions until a more definitive view of the framework itself emerged. Recalling that the concepts, principles and rules which might form part of the multilateral framework had been under discussion in the GNS for almost four years, he noted that it was in regard to their application that participants in the working group had to look at the specificities of the telecommunications services sector. He felt that one of the main challenges before that group was to address the uniqueness of the telecommunications sector, both in terms of its importance to national economies in regard to the production and delivery of numerous goods and services and in view of the technological features found in it. He noted the crucial distinction which in his view had to be made between telecommunications as a mode of delivery and as a sector for the purposes of liberalization. He felt that the former had to be considered by the GNS as it related to the more fundamental issue of the definition of trade in

services. His delegation's understanding was that the working group should provide the GNS with the necessary technical assistance to arrive at a better understanding of this distinction. He felt that there was a need for a better understanding also of the distinction between basic and enhanced telecommunications services and sought the views of the ITU on this issue. In regard to the application of the concepts, principles and rules in the sector, particularly those of market access and national treatment, he recalled that the sectoral testing exercise conducted in June 1989 had raised many questions which remained unanswered. One such question related to the application of national treatment in situations where basic and/or enhanced services were provided on a monopoly basis. He indicated that his delegation, along with others, was working on a submission which he hoped could be tabled before the working group's next meeting. He noted that his delegation's key concern in the paper would relate to the developmental aspect of the telecommunications services sector and on the means to increase the participation of developing countries in international trade in the sector.

17. The representative of Japan introduced his delegation's non-paper and noted that work on a telecommunications services annex should take into account the marked differences which could be observed in the levels of telecommunications network and services development among countries. It was essential, in his view, that a telecommunications annex be sufficiently flexible to accommodate this reality so as to ensure the success of the overall services negotiations. Before entering into the details of his delegation's non-paper, he recalled the basic ideas which underlined it (listed on pages 1-4 of the non-paper). He noted that whereas some countries regulated their telecommunications sectors based on the distinction between basic and enhanced services, other countries regulated on the basis of the distinction between operators who provided services through their own transmission facilities (so-called Type I carriers in Japan) or through leased transmission facilities (Type II carriers in Japan). He noted that his delegation refrained, in its non-paper, from using the latter distinction as it had no intention of forcing other countries to adopt Japan's regulatory model. He said that his delegation had developed its proposal using the distinction between infrastructural-basic services on the one hand and superstructural-enhanced services on the other. He said that the object of the proposal's Article 3, which dealt with the use of infrastructural-basic services for trade in services covered by the framework agreement, was to guarantee to the the maximum extent possible liberalised conditions in regard to infrastructural-basic services. Article 4 for its part dealt with the provision of telecommunications services. He recalled that no provision in the proposed annex would require a Party to authorize a person of another Party to provide infrastructural-basic services within or into its territory (Article 4.1.1). However, as regards the provision of superstructural-enhanced services, he said that Japan's proposal was that Parties be encouraged to limit reservations placed on market access and national treatment in regard to the provision of such services in harmony with the ITU Convention (including Regulations) (Article 4.2.1). Finally, he stressed the importance of conformity with international standards, an issue addressed in Article 4.3 of his delegation's non-paper.

18. The representative of Sweden, on behalf of the Nordic countries, said that telecommunications had for many years been an important business per se in the field of terminals and equipment. Thanks to different universal agreements on technical specifications, there was now a well functioning world market and substantial international trade in that field which he strongly believed was one of the most important explanations for the rapid development of technical knowledge. This rapid development was also a manifestation of the needs of mankind to communicate. The provision of telecommunication services represented a significant portion of society's total production. Telecommunications provided important support for activities such as banking, insurance, public administration, tourism, transportation and manufacturing. It was thus evident that telecommunications created a framework and an infrastructure for other activities. He noted that in June 1987, the Commission of the European Communities illustrated the importance of modern telecommunication services very clearly in its Green Paper on the future development of the telecommunications sector. He said that the Nordic countries were in the process of creating a common telecommunications market. As one example, he mentioned the construction of a Nordic mobile service network which now covered all the Nordic countries. This was one of the largest public mobile networks in the world. He stressed that telecommunication services should be produced at the lowest possible cost to the national economy. However, improper pricing of telecommunications could lead to a situation in which national economic resources were used inefficiently. The telecommunication markets were increasingly being opened up to competition in many countries. He said that in his own country this dated back to the turn of the century, when local and regional companies were struggling to acquire market shares. Unlike telecommunications administrations in most countries, Swedish Telecom had never had a statutory network monopoly. Prior to 1980, the Nordic telecommunications administration had exclusive rights to supply terminals for connection to the public network but today also that monopoly had been fully abolished. The very cost-effective networks in the Nordic countries were to a great extent the result of a liberal market which had provided incentives for interested parties to continuously evolve the product. He noted that telecommunications administrations generally had the assignment to provide effective communications throughout their respective countries. This meant that overall policies had to incorporate regional and social considerations. Income earned from international and long-distance traffic was often used to finance telecommunications facilities in sparsely populated areas. Furthermore, it was not unusual that income from telecommunications services was an important source of government revenue. These factors had to be taken into consideration in the work which the group was now embarking upon but noted that since they might have a serious impact on the necessary liberalization of the market, regulations which safeguarded regional and social responsibilities should be formulated so as to minimize their trade distortive impact. There were also other factors which had a negative impact on trade in telecommunication services. As one example, the existing international accounting rates for trans-border communications could be mentioned. He said that the present system created artificially high prices for international calls and distorted trade in services. It penalised those operators that cut prices and deterred higher volumes of

telecommunications. He noted that telecommunications service was a comprehensive term for a variety of different types of services. In the view of the Nordic countries, the working group should refrain from spending too much of its precious time in trying to solve terminology questions. The Nordic countries were of the opinion that the future agreement should cover the whole telecommunications service sector and that in principle all types of services should be subjected to competition. Hence no exact definition of different types of services was in his view needed. Without embarking on a study of texts at this stage, he said that an annex on telecommunications should be drafted in such a way that it fully took into account the very rapid technical development of the sector. He recalled that telecommunications organizations sometimes had the dual role of being a regulating authority and an operator in competitive markets. This situation could have a distortive effect on trade. Although the Nordic countries did not at this stage claim that the organizations' dual role should be regulated in an agreement, they felt however that this condition should be taken into account during the discussions. He concluded his statement by stating that the Nordic countries strongly supported the efforts to achieve an agreement concerning liberalization of trade in telecommunication services and said that they were ready to embark on the work of this group in a constructive way.

19. The representative of Korea noted that time constraints had prevented his delegation from tabling a draft annex. He said that he welcomed any reactions which his delegation's non-paper might elicit and would take them into account in developing the current non-paper into a more formal proposal for submission to the working group in the near future.

20. The Chairman indicated that all documents submitted in a final form to the working group would be given a serial number in a manner analogous to procedures followed in the GNS.

21. The representative of Japan said that the word "superstructural" appearing in the first line on page 8 of his delegation's non-paper should be replaced by the word "enhanced".

22. The representative of the European Communities said that the Community had acquired some experience in dealing with matters relating to the cross-border liberalization of telecommunications services and was now considering the relevance of this body of experience at the international level. He noted that the EC experience to date had clearly shown that the liberalization of telecommunications favoured the growth prospects of all segments of national economies. As an underlying transport mode for providing a host of other services, telecommunications was a sector in which the need for fair and reasonable access and use conditions figured with great prominence. It was as well a sector of considerable importance in its own right, one in which providers could only secure an effective degree of market access through conditions of fair competition. The latter consideration was all the more important in view of the prevalence of monopoly providers in the telecommunications area. Telecommunications was, in addition, a complex sector in both technical and regulatory terms, a reality which the introduction of the Japanese delegation's non-paper had

clearly highlighted. He invited the Japanese delegation to provide concrete examples of the various types of telecommunications services contained in the table appended to its non-paper. He recalled that a sectoral annotation covering telecommunications would need to be drafted in sufficiently general terms and contain an appropriate degree of flexibility to accommodate and cater to the rapid pace of technological and regulatory change applying in the sector. Transparency was in his view an essential ingredient of the liberalization process in a sector as complex as telecommunications. He stressed the importance of the link between services and equipment, noting that in instances where the connection of a given type of equipment was not authorized, it might be impossible for a supplier to offer a service whose provision might have been liberalized. Similarly, if the equipment was incompatible, it might be impossible to engage in the international exchange of particular services. The strong link between services trade liberalization and standards-related issues also needed to be taken into account in the telecommunications sector. He felt that annex provisions might also need to be considered in regard to the protection of data transmitted over networks as well as the need to protect information of a personal and private nature. The question of access to information was also worthy of further consideration in the working group.

23. The representative of the United States said that the draft annex which her delegation tabled in MTN.GNS/W/97 was an elaboration of Article 17.11 of the United States' proposed framework agreement (MTN.GNS/W/75). She noted that references to the services of the public telecommunications transport "network" made in the draft framework proposal had been replaced in the draft annex by public telecommunications transport "services". This was done to indicate clearly that her delegation was referring to access to the services of public telecommunications transport system and not access to the network itself. She also noted that the term "public telecommunications transport services" was equivalent to what the United States called "common carrier basic services", although it had been developed as a term which was not specific to any particular country. Turning to the draft annex, she noted that it was intended to guarantee to providers of all services which Parties agreed to cover under the framework agreement access to and use of public telecommunications transport services for the conduct of their covered business. She noted that the draft annex also addressed the needs of businesses to use public telecommunications transport services for their intra-corporate communications. She recalled that the annex did not determine the right of any entity to go into the business of offering any particular service, including telecommunications services. That determination would be made under the coverage mechanism of the framework agreement. Moreover, in order for the draft annex to address the coverage of competitively-provided services which the United States would consider as basic services, she noted that it would be necessary to modify the language of the annex or to write new provisions. She said that the approach taken in her delegation's submission could be described as horizontal, in that it was intended to apply to all services that a Party committed to cover under the framework agreement. Such an approach reflected the critical importance which telecommunications services had assumed in the conduct of business today. Telecommunications services were the primary vehicle for domestic and cross-border services trade. She said

that in the special case of telecommunications services, it was important to distinguish basic from enhanced services. The annex specified how providers of enhanced telecommunications might use public telecommunications transport services in the provision of their services. She said that customers of public telecommunications transport services often found that services were available on terms so restrictive as to make it difficult for them to use such services in a cost-efficient manner. For example, customers of public telecommunications transport services were often restricted in their ability to attach customer premises or terminal equipment such as a facsimile machine to the network. She noted that the heart of the draft annex was found in Article 3 which contained specific obligations placed on Parties. Articles 3.1, 3.2 and 3.3 established the obligation of a signatory to allow customers to have access and use of public telecommunications transport services offered within or into the Party's territory. She said that the signatory Party was to impose this obligation on the providers of public telecommunications transport services that it operated, or which operated under its regulatory jurisdiction. Article 5, the so-called access provision, specified that the annex was intended to cover any public telecommunications transport service offered within or into the Party's territory. She pointed out that service providers, such as insurance or tourism firms, needed access to a wide variety of services, such as telephones, public data services, telex, leased circuits, etc., as well as the option of being able to choose the particular services that most efficiently met their business needs. Article 3.5 also singled out one service that was particularly important to service providers - leased circuits, which provided the building blocks for the private networks which many businesses used today. In Article 3.5.2, she noted that the annex contained a general provision obligating parties not to permit the pricing of public telecommunications transport services to discourage their use because these might, for instance, be set too high. Article 3.6 turned from the question of making services available to that of obligations concerning the ways in which customers must be able to use such services in order to carry out their own business. This she called the user provision. The annex provided under this article that customers would be able to attach their specialized terminal or customer premises equipment to the public telecommunications transport service. Examples included facsimile, computers, or modems. Customers had to be able to use leased lines to provide their services directly to customers and to interconnect with the leased lines of other customers so that separate groups with a common commercial interest could communicate with each other. For instance, an insurance company should be able to interconnect with a data processing firm which processed its claims, or a franchiser should interconnect with his franchises around the world. Customers would also need to be able to move information belonging to the business enterprise, both domestically and internationally and to store such information located in a computer of their choice. She noted that Article 3.7 included a number of provisions designed to ensure that use of a public telecommunications transport service for the provision of another service did not result in the imposition on such service providers of certain universal service obligations that were typical of a public utility. For example, a customer of the public telecommunications transport service would, as a condition of access and use, not be obliged to offer services to the general public, nor

be obliged to interconnect either to other private networks or to the public switched network or to use mandatory standards.

24. The representative of Canada said that his delegation recognized that telecommunications was a sector of economic activity that was essential to trade in goods and services by allowing firms to operate more efficiently on a geographically decentralized basis. Further, with the merging of telecommunication and computer technologies, it had permitted the emergence of new services that had expanded the capability of telecommunications networks to meet the specialized requirements of users. He noted that these developments had propelled changes in national approaches to the domestic regulation of telecommunications, adding that equally important changes were emerging in the international regulation of the sector. He said that the working group would no doubt be addressing the issue of whether or not telecommunications could be considered as a traded service, noting that there appeared to be a general recognition that such services were becoming increasingly tradable as markets evolved. Rules should therefore be envisaged in the working group that should facilitate the evolution of markets rather than trying to foreclose options for the future. He said that one of the objectives which his delegation saw the working group pursuing in these discussions was the development of a binding set of rules with broad participation so as to avoid a situation in which international telecommunications might in the future be regulated by a patchwork of bilateral agreements. An agreement should, in addition, create disciplines on the actions of governments as well as of monopolies and/or exclusive service providers. To this end, his delegation sought an agreement which, while recognizing the sovereign right of countries to regulate, required the transparency of rules and other measures, ensured non-discriminatory conditions of access and use to networks and established safeguards against the anti-competitive practices of monopoly service providers in areas outside of their statutory jurisdictions.

25. The representative of Switzerland emphasized the duality of telecommunications as an important sector in its own right as well as a facilitator of trade and listed a number of difficulties which participants in the working group might have to confront in their endeavours. One such difficulty related to definitional matters, in particular the often debated distinction between so-called basic and enhanced services. He wondered whether the working group could avoid addressing this thorny issue given the range of regulatory approaches applied by various countries in this regard and the lack of internationally-agreed definitions on the matter. An added difficulty stemmed from the wide differences which could be observed in the levels of development of telecommunications infrastructure and services across countries. He recalled as well that many countries considered that telecommunications was a sector in which certain regional and/or social policy objectives had to be pursued; a reality which the current discussions could not obviate. He agreed that the need for flexibility was of the utmost importance given the rapidity of technological and regulatory changes in the sector, noting that a host of new regulatory challenges might need to be addressed in regard to issues such as the safety of networks, protection of data and of privacy, etc. He alluded, finally, to the difficulty of reconciling the need for a certain

degree of regulatory harmonisation with that of freer competition in the choice of technical standards. He felt that the working group would need to address this question with a view to promoting a more coherent international telecommunications system.

26. The representative of Japan responded to a question raised by the representative of the European Communities by listing examples of the types of telecommunications services contained in the table appended to his delegation's non-paper. Under infrastructural-basic services, he mentioned public switched telephone networks, public switched data networks, integrated services digital networks, leased circuits as well as cellular telephones. Under superstructural-enhanced services, he pointed to value-added network services using infrastructural-basic services supplied by other entities. He said that infrastructural-enhanced services related to value-added services offered by infrastructural-basic service providers and noted that cross-subsidization issues were of relevance in this regard. He noted, finally, that the simple resale of leased circuits for telephony purposes was one example of superstructural-enhanced services.

27. A representative of the ITU said that his organization welcomed the opportunity to be present during these discussions and stood ready to be of assistance in every way possible in the conduct of the Group's work. He recalled that the ITU Plenipotentiary Conference held in Nice last year had emphasized the importance of strengthening the Union's cooperation with other international organizations having an interest in telecommunications, including GATT. Subsequently, in many public addresses over the past several months, the ITU Secretary-General had acknowledged the growing significance of on-going work in the GATT in connection with the completion of a multilateral framework for trade in services. He had accordingly encouraged a closer relationship at the secretariat level between the two organizations. Furthermore, he had reiterated via a Circular Letter to ITU members the importance of the GNS discussions and urged their involvement. He noted that many developments had occurred within the past few years which were related to trade and market-oriented approaches to telecommunications. In addition to the rapidly changing technologies, these included a broad array of developments instituted by service or facility providers, users, and the policy-making community. Effectively managing these complex changes was the single biggest difficulty and opportunity for everyone. He said that among the legal instruments of the Union that had a bearing on GATT's work were the International Telecommunication Convention and the associated Administrative Regulations. Of the latter, the International Telecommunication Regulations established general principles and norms capable of comporting with the broad range of regional and national provisioning environments today. This treaty instrument touched upon basic aspects like provisioning of telecommunication services, access, use, and the establishment of special networks, systems and services to meet specialized needs. In addition, hundreds of legally non-binding technical, operational and tariff recommendations of one of ITU's international consultative committees, the CCITT, concerned access to and use of telecommunication facilities and networks. Further to a resolution adopted by the conference which prepared

the new Regulations as well as the Nice Plenipotentiary Conference, the ITU was now in the process of instituting an information exchange process to make available information on access and use of telecommunication services and facilities worldwide. On a continuing basis, the ITU today supported and engaged in many activities that were fundamentally related to the operation of information-telecommunication networks and the provision of services which had a bearing on the potential GNS framework. It should in this context be pointed out that because of the rapidly changing telecommunication environment, the nature and scope of ITU's work, as well as its approaches, were constantly evolving. Finally, he said that it was important that the GATT-GNS and ITU work proceed in a complementary manner, allowing even a sharing of concepts, labour, and expertise. Significant examples already existed. For instance, extensive technical work was proceeding in the CCITT to develop many "open" and highly flexible telecommunication capabilities. During the course of the on-going dialogue, however, it would be important to assure that the agreements established within the ITU and GATT did not contain substantive differences concerning key terms, concepts and other provisions.

28. The Chairman proposed that delegations present their views of whether, and for what purpose, an annex was needed, and that they also review the non-papers and proposals presented with a view to determining the main differences among them.

29. The representative of India raised several points regarding the United States submission (MTN.GNS.W/77). He observed that the United States paper was closely related to the United States proposal for a framework, aspects of which would be discussed in the GNS meetings. He noted that Articles 1 and 2 of the United States paper imply that the United States concept of "common carrier" should be adopted at the international level. He sought clarifications regarding the meaning of the language "whether or not covered by the framework agreement" in Article 2.1 and the term "intracorporate communications." On 2.1.2, he asked if the language implied that public communications networks would be limited only to offering the interconnection and switching necessary for real time transmission and would permit value added and other enhanced service providers/users to take over PTO functions heretofore considered part of PTO responsibilities. He asked, with respect to Article 2.1.4, if the term "customer" was defined in a manner that was too open ended and requested clarification on the wording of Article 2.2 regarding what would constitute nullification. On Article 3, he noted that the article addressed telecommunications as a mode of delivery and does not, in the view of his delegation, have a place in an annex. The issue, he said, of the definition of trade in services and mode of delivery was under discussion in the GNS. He described Article 3 not as an elaboration, but as granting rights to all covered services where providers chose telecommunications as a mode of delivery. He noted his delegation's concern that access and use of telecommunication services should not result in de facto liberalization without actual market access concessions in that sector. He observed that Article 3 appeared to demand deregulation of domestic telecommunications services structures and markets by all parties to the agreement. He asked whether it was correct to interpret Article 3.3 to mean that exclusive

service providers could not discriminate against other entities entering the market with the same or similar services in terms of rates and conditions. He pointed out the domestic public service responsibilities of these public telecommunications organizations and noted his concern if value added service providers were to have such equal access without equal responsibilities. On pricing, in Article 3.5, he asked whether parties would be committing their pricing policies to international regulation. He recalled that public pricing policies were related to public welfare considerations and that it was not clear that the GNS was mandated to deal with public pricing issues. Article 3.6, he noted, appeared to create a laissez-faire environment for intracorporate and commercial exploitation of telecommunications services, with the only boundary being that they could not sell to the general public. He said also that Article 3.6.2 seemed to allow standards only to prevent technical harm to the public network. Regarding Article 3.7 on monopoly providers, he noted that public telecommunications organizations would be obliged to abandon a number of existing regulatory practices, and asked whether this was possible given the wide national disparities in the infrastructure of the sector. Article 3.8, he said, indirectly dealt with the very basic issue under consideration in GNS, that of right of establishment or right of non-establishment. This issue would have to be dealt with in the larger context of the definition of trade in services. He reiterated that the contents of the United States proposal for an annex did not serve as an interpretation of the rules of the framework. The United States proposed annex, he said, sought total liberalization of telecommunications as a mode of delivery without exchange of concessions.

30. The representative of the United States said that the delegation would first address the technical matters raised by the representative of India. The term "common carriage" was not used with an intention of importing into a text a legal term of any specific country, but referred to services generally available to the public. He said that the US proposal did not require other countries to adopt the concept of "common carriage" as used in the United States, noting that other terms have been used for a similar concept in other papers presented at the meeting. He said that the phrase "whether or not covered by the framework," was used in Article 10 of the United States' framework proposal. The wording, he commented, would have the same meaning in the annex as in the framework proposal. He next pointed out that the United States proposed annex did not contain a definition of the term intracorporate communication, and said that exploring a definition for use in the agreement would be an appropriate subject for further discussion. Regarding the role of public telecommunications organizations, he noted that the United States' proposal did not challenge the existence of these organizations, whether government owned or regulated. Rather, it sought to work with the structure each country had selected and then focus on ensuring that the services these organizations offered were made available to, and usable by, the providers of covered services. He said the United States' use of the word "customer" was similar to the concept that had evolved in ITU discussions. It encompassed users that could be designated by the customer as users for a service. He added that the United States did not believe that this definition was too open-ended. Regarding the question on the proviso in

Article 2.2.1 relating to nullification of obligations under Article 3, he said that the provision attempted to address differences in the classification of leased circuits among countries. In the United States, the provision of leased circuits to customers was regarded as a service, but in some countries leased circuits were referred to as facilities. In Article 2.2.1, the United States noted that nothing in this annex would require a party to lease a "facility" to a person of another party. This proviso was included, he explained, to clarify the status of obligations contained in Article 3 relating to leased circuits. On pricing, he said the United States proposal referred to cost-based pricing for leased circuits because the bulk of the costs of providing leased circuits to a customer for a stated period of time were non-traffic sensitive. Therefore, he said, the United States felt that the most appropriate way of recovering these costs was through non-traffic sensitive charges. He agreed that the United States recognizes public policy issues related to the pricing of services and that this was a difficult question to address. With respect to Article 3.6.2 regarding standards for the attachment of terminal equipment, he said that using a standard limited to technical harm is aimed at allowing the maximum flexibility for users to attach the equipment that they needed to provide their services, while recognising the necessity to protect the network. He observed that a central question raised with respect to Article 3 of the United States' proposal was whether, the obligations of annex as drafted provided a so-called back door to the provision of that service if a country was not to make market access commitments for the provision of a given service. The obligations of the telecommunication services annex for a given service would depend on two entry doors: (1) a service would have to be covered for a provider of that service to demand access to and use of the telecommunication transport service, and (2) the country would have to make a market access commitment. The reference point for the proposed annex was the definition of provision of a covered service found in Article 17.11 of the United States' draft framework (MTN.GNS/W/75). If a service was neither covered nor provided, she concluded, that the applicability of the proposed telecommunications services annex would be limited.

31. The representative of Singapore suggested that the annotation should be drafted broadly so that the need of the countries with differing stages of development in the telecommunications sector could be addressed. He also suggested limiting references to specific details of pricing of telecommunications services, because such specification would limit flexibility.

32. The representative of Australia commented generally about the role of annexes with respect to the framework agreement. She said that her delegation's prime objective was to establish a framework of strong rules which cover all services, were unambiguous, and subject to as few reservations and modifications as possible. She said that her delegation resisted the idea that any particular sector of services should be given a derogation from the rules. She stated that such derogations operated to the disadvantage of small- and medium-sized countries, among which many developing countries are included. She said that her delegation remained to be convinced that special rules were required for telecommunications.

She reiterated the view that acceptable annotations would amplify or clarify the framework rules for the particular sector in question, rather than contain rules that derogated from the framework. She sought clarifications on the contents and intentions, adding that she hoped such clarifications would help determine the types of provisions that such an annex should contain. She said that Australia understood the United States' annex as relating only to access to facilities by value-added service providers, meaning non-discriminatory access to telecommunication facilities within the scope of the host country's regulatory regime. She added that her delegation also viewed it as accommodating differing national regimes and allowing for their further development. On a more detailed level, she requested further clarification on definitions of "conduct of business" and "intracorporate communications." She also asked how Article 3.3.1 related to the bilateral obligations the United States had in the telecommunications sector, particularly with Japan and the United Kingdom. On Article 3.6 she asked whether it would be possible to reserve against some of the listed activities, as Australia, for example, might need to do so. She asked, more generally, whether the United States viewed annexes as involving obligations that could be reserved against, noting that the GNS would need to address this issue further. In regard to leased circuit prices, she expressed reservations about whether flat rate charging should be insisted upon. The real issue, she said, was to ensure that carriers did not discriminate in providing leased lines.

33. The representative of the European Communities expressed the view that an annex should have two main aims: access to markets and access to and use of the public network. The representative posed two questions for general discussion: "Should such an annex cover market access and under what conditions?" and "Should the two aims be covered, and if so, how?" On the U.S submission, the EC representative sought clarification as to whether obligations under Article 3.3 regarding monopoly providers covered United States entities that provided international services.

34. The representative of the United States said that no entities that provided international telecommunications transport services in the US were monopolies, nor had any been granted exclusive or limited-entry rights by the United States government.

35. The representative of the European Communities asked whether obligations not to restrict competition would also apply to other entities which were not monopolies but to which a common carrier status would be granted by the United States.

36. The representative of the United States responded that the United States law required that common carriers must provide services on a non-discriminatory basis, at reasonable charges, and upon reasonable request and asserted that such obligations would apply both to providers of domestic and of international telecommunications transport services. He added that there were no measures in the United States that would prevent providers of covered services from having the kind of access and use described in Article 3 for international service, even though there were no

monopoly or exclusive provider rights in that area, due to the competition which existed in the United States environment.

37. The representative of Canada asked whether the United States considered local exchange carriers covered by Article 3, but not long distance carriers.

38. The representative of the United States responded that while the Bell operating companies were monopolies and would be covered under Article 3.3, long distance carriers were not monopolies.

39. The Chairman again requested delegations to consider whether an annex was, indeed, needed in this sector and generally what characteristics of the sector would require special rules in an annex.

40. The representative of Hungary asked whether the United States' proposal was an annex in the GNS sense, or whether it was an annex relating to access to a specific mode of delivery, especially in view of the references to obligations irrespective of whether or not telecommunications transport services were covered by the framework agreement. He asked whether the United States text anticipated any negotiations, or saw telecommunications as a mode of delivery. On pricing, he asked whether the United States' proposal intended to address only discriminatory pricing or also a high rate if the United States found it unreasonable, even if the same prices were paid by domestic users.

41. The representative of Sweden expressed the view that all telecommunications services should be liberalised and covered under the framework agreement being negotiated in the GNS. He said that certain considerations of telecommunication networks, such as regional and social responsibilities, might need to be protected, but only these limited areas. He stated that an annex should cover only those types of services that could not be subjected to free trade. Thus, the annex should deal with basic services, if necessary, but other types of telecommunications services might not need to be addressed in an annex.

42. The representative of Canada said that his delegation's motives in envisaging a sectoral annex for telecommunications, related to certain concepts that required additional amplification, particularly access to and use of networks, non-discrimination, and regulatory safeguards against monopolies and exclusive service providers. Issues relating to the separation of regulators and market operators as well as access to information might also need to be explored. He said that Canada sought a clear framework agreement and efficient liberalization, but also the sectoral provisions necessary to assure this liberalization.

43. The representative of India emphasized the need to separate the dimension of access and use of telecommunications as a mode of delivery from the dimension of sectoral peculiarities of telecommunications services. Telecommunications as a mode of delivery, he said, needed to be tackled in the framework agreement itself, not treated as part of the annex. This issue should be resolved in the framework, along with the

issue of whether national treatment and market access would be general obligations or undertaken on the basis of an exchange of concessions. While there could be some borderline issues, most other issues related to sectoral peculiarities to be addressed in an annex. He said that the mandate given to the group by the GNS for work on annexes was to see to what extent the general principles evolving in the framework needed to be elaborated upon or interpreted. He suggested that focusing on this mandate could lead to more rapid progress.

44. The representative of Korea took the floor to explain the major differences between the proposals in the Korean non-paper and the United States proposal. He said that the major Korean concern was the protection of the financial viability of the infrastructure telecommunications providers, who were responsible for providing universal services. He noted that there were some grey areas where traditional telecommunications services merged with the central computer services which service providers wanted to make use of to provide their services more efficiently. He said that from the point of view of infrastructure providers, customers were the same whether they were providing telecommunications services or using such services. The United States' definition of public telecommunications transport service, he said, was more narrowly defined, in a way that could allow users to encroach on areas which Korea viewed as reserved for infrastructure providers.

45. The representative of Japan said that the basic difference between his delegation's proposal and that of the United States was that the latter did not distinguish between ordinary users and the enhanced service providers that leased circuits in order to provide a service to customers. Under the United States proposal, he said, every country would incur the obligation to open its market to superstructural/enhanced services. He felt that the provision of superstructural/enhanced services was an independent service sector for which each country had the right to decide whether to grant market access. The second major difference, he said, was that the Japanese proposal emphasised the flexibility to ensure the right of each country to regulate the telecommunications sector within its territory. Third, he said that the Japanese proposal emphasized the importance of decisions taken in the ITU, especially in the field of standards.

46. The representative of the United States responded to the questions posed by Hungary on pricing. He pointed out that Article 3.5.2 was intended to be a general obligation, placed on parties having made market access commitments, not to use pricing to undermine those commitments. The provision would certainly apply to discriminatory pricing. Regarding limits on pricing, he said that he would refrain from citing specific parameters, but would rather pose the issue that prices could have a distorting effect on the use of services.

47. The representative of India noted that the United States had answered only technical questions relating to its proposal, but not addressed fundamental issues. He restated his questions concerning the basic nature of the mandate of the working group.

48. The representative of Canada sought clarification on how the Korean and Japanese non-papers dealt with intracorporate communications, as compared with the United States proposal.

49. The representative of Korea responded that his delegation's non-paper did not use the word intracorporate, but pointed out that it contained similar concepts. One of the three types of uses classified in the Korean non-paper, he said, was individual or exclusive use of a customer, which he did not believe endangered the infrastructure provider. As long as the user was not supplying a third party, Korea did not think any restriction was needed on the use of the telecommunications services. Communications between branches, because they were parts of the same legal entity, could fall within the definition of individual users. The distinction was being made between telecommunications service providers as a business from those who were not providing the services as a business. A telecommunications business was charged for telecommunications services. So a business as a user was treated in the same manner as a residential user.

50. The representative of Japan responded that he was not sure what intracorporate communications implied in the United States proposal, but if intracorporate communication meant communication inside one company and not the provision of services to a third party then it would qualify under the Japanese definition of user. This definition excluded cases which resulted in the provision of superstructural services. He then asked the United States why it needed intracorporate communication distinct from users.

51. The representative of the United States responded that some firms encountered restrictions to their communications even when used within the company and not for the provision of a service. He said that the reference was intended to clarify the rights of such users for this purpose.

52. The representative of the European Communities asked the Korean representative to explain the difference between services not defined as telecommunications services, such as financial services, and reserved or restricted services.

53. The representative of Korea explained that the proposal provided a broad definition of all services that involved transmitting or receiving information through telecommunications networks. The proposal also distinguished between two types of telecommunications service providers, one was providing the service as a business and the other was not.

54. The Chairman invited the representative of the European Communities to introduce his delegation's non-paper on a telecommunications annex to the General Agreement on Trade in Services.

55. The representative of the European Communities said that although the contents of the non-paper were still being discussed among member states, the view of the European Communities was that it might prove helpful to the working group's discussions. The non-paper aimed to be annexed to a draft framework proposal which the European Communities would soon be submitting to the GNS. The representative of the European Communities noted that the

draft annex was based largely on the experience which had been built up in the process of liberalizing telecommunications services trade in the Community. As such, it was based on the principles of transparency, objectivity and non-discrimination between users. It also took into account the need for gradual implementation, which corresponded to the GNS concept of progressivity. The non-paper was divided into four chapters. In Chapter 1, which described the objectives and scope of the annex, a distinction was drawn between market access and access to the network. She said that the issue of access to the network and to services were directly related to that of effective access to what was needed to provide services as well as to that of protecting the network where necessary. She noted that the conditions of market access were more general in nature and included the ability to choose the transport means, privacy and data protection issues, licensing as well as access to information. She recalled that Article 1.3 of the draft annex foresaw that Parties should not be obliged to construct networks or provide services which were not currently available. In Chapter 2, which dealt with market access, she stressed that emphasis had been put on choice for users (Article 2), noting the need to ensure that user choice was not adversely affected for instance by unduly high tariffs. She noted that the section dealing with licensing or registration procedures (Article 3) related to Articles 5 and 6 of her delegation's proposed framework agreement. As regards privacy, found in Article 4 of the non-paper, she said that it was a specific aspect of the right to regulate which would undoubtedly assume greater importance as the international telecommunications environment became increasingly digitalized. She noted that Article 15 of the EC's draft framework proposal was concerned with exceptions and referred to the necessity to protect personal data and individual privacy. She said that Article 5 on access to information was aimed at dealing with situations where firms which were dependent on electronically supplied data might be cut off from or enjoy reduced access to such information. In regard to Chapter 3, which dealt with access to, and use of, public telecommunications networks and services, she recalled the importance of transparency for the telecommunications sector. This was addressed in Article 6, which listed the types of information which her delegation felt should be published in order to provide meaningful access to the network. The section of access and usage conditions in Article 7 was designed to ensure, on the one hand, that the need for the imposition of such conditions was recognized and, on the other, that they be kept to a minimum, be reasonable, non-discriminatory and transparent. She said that her delegation had attempted to list the main headings which together should ensure a meaningful degree of access to the network. Such access and usage conditions covered obligations placed on telecommunications organizations, including the need for quality of service parameters such as maintenance and fault reporting arrangements. The access and usage conditions also covered obligations placed on private service operators such as conditions on resale, sharing and interconnection. She said that Article 8 on public network and service requirements was intended to list the main requirements necessary to safeguard the network, notably network security and integrity, service inter-operability as well as the protection of data. She noted that Articles 9 and 10 covered the questions of standards and technical interfaces as well as tariff principles. There was, in regard to standards,

a clear need to promote international standardisation in order to provide open access to networks. She felt that despite the obvious importance of the role of tariffs in accessing networks, the question remained a particularly difficult one to address in an international setting, not least because of the political sensitivities raised in all countries by the issue of cost-oriented tariffs. She noted that progressivity would no doubt be required in dealing with tariffication. Article 11, which dealt with the attachment of terminal equipment to public telecommunications networks, aimed at striking a balance between the need to connect equipment to the public network for the provision of services while ensuring that the equipment satisfied some requirements where necessary. She indicated that Chapter 4 was concerned with definitional aspects. A representative of the European Communities pointed to the strong links between the draft annex and the framework proposal of his delegation, noting that a number of principles of direct relevance to the liberalization of telecommunications services were contained in the framework proposal. These included transparency, m.f.n./non-discrimination, national treatment, domestic regulation, monopolies, restrictive business practices, progressive liberalization, economic integration, relationship to other international agreements and organizations as well as dispute settlement.

56. The representative of India asked, in regard to Article 1 of the non-paper of the European Communities, what the difference was between telecommunications as one of the possible modes of delivery and as an underlying transport mode for the provision of a service to which conditions of access and use to public networks and services could be attached.

57. The representative of the European Communities said that telecommunications was one of the means of facilitating the cross-border delivery of a service. It was, as such, one of the underlying transport modes for providing a service.

58. The representative of Australia said that her delegation was interested in seeing a services framework contain provisions which ensured that market access commitments were not nullified or impaired by measures relating to the underlying transport mode. Her delegation had not yet taken a firm stance on whether this should be achieved in the framework agreement or in an annex appended to it. On the distinction between telecommunications as a mode of delivery and as a facilitator of trade for other services, she said that her delegation saw the issue of modes of delivery as primarily one which the framework should address under definition and scope. She saw specific commitments with respect to individual modes of delivery in particular sectors as being set out in country schedules to be attached to the agreement.

59. The representative of Mexico said that as the ITU dealt with issues, such as tariffs, technology and standards, in which problems of terminology abounded, he wondered whether the representatives of the ITU had views to offer on the best means of ensuring that members of the working group avoided creating new terminological problems which might undermine the ability of making progress in both GATT and ITU.

60. The representative of Canada asked how the European Communities' non-paper dealt with safeguards against anti-competitive practices by telecommunications service providers.

61. The representative of India recalled in regard to market access that there was agreement among members of the GNS that where more than one mode of delivery was made available as a result of negotiations, foreign suppliers should be free to choose their preferred mode of delivery. By implication, therefore, one of the elements appearing in countries' national schedules following an exchange of market access concessions was those modes of delivery available to foreign suppliers for providing a particular service. He said that it was quite likely that, in the case of a particular service, telecommunications may not be permitted as a mode of delivery. If that were so, he wondered how a provision such as that envisaged in Article 1.2.2 of the European Communities' non-paper could be made consistent with the kind of freedom envisaged in the framework agreement itself, i.e. where particular modes of delivery could be withheld for particular types of service transactions. He noted that where a given mode of delivery was not made available, it was up to partner countries to decide whether a concession offered was worthwhile or not. The value of concessions made would indeed have to be judged in terms of the available modes of delivery.

62. The Chairman asked the representative of the ITU if he would like to respond to the question posed by Mexico.

63. The representative of the ITU said that the ITU encompassed a complex of existing treaty instruments and standards. He said there was an immense amount of ongoing work in the standards area. He noted a continuing effort to assure that the GATT and the ITU were proceeding in a complementary manner. He also noted that in many of the contributions, ITU work had been borrowed for such purposes as definitions. He said there would be a need for continuing collaboration, and cited as an example ongoing work with respect to access to networks that not only involved the ITU but also a number of organizations that were increasingly part of the international standards system such as the International Standards Organization (ISO) and the regional standards organizations. He said that there were two types of ITU materials that could be applicable in addition to those mentioned earlier; radio regulations that were administrative regulations under the Convention, as well as a number of standards of the International Radio Consultative Committee (CCIR) in the form of recommendations. He assured the representative of Mexico that there was a continuing cooperative effort at the staff level. The Secretary General was sending out circular letters fairly regularly to try to apprise members of ITU work.

64. The representative of the European Communities responded to the question of the Canadian representative saying that his delegation was currently satisfied that restrictive business practices were adequately addressed in provisions 9 and 10 of their draft of the framework agreement.

65. The representative of Hungary commented that the EC proposal recognised, in Article 1.1 and 1.2, the dual role of the telecommunications

sector as both a service sector subject to liberalization commitments and as one of the possible modes of delivery for other services. He noted that the manner of dealing with the modes of delivery, including telecommunications, was as yet undecided and that it would have to be settled. At the same time, he argued, telecommunications was not unique as a mode of delivery in which limitations could inhibit market access commitments in other sectors; this was also true for financial flows and movement of personnel. On the issue of basic and enhanced services, he noted that his delegation believed that distinguishing between the two might not be critical. He said that Hungary would like to see the framework agreement cover the totality of telecommunications services, including basic services. Whether to open up the market for basic services, he said, would depend on negotiations and on individual countries' national policy considerations. Hungary, he said, might consider opening up forms of the basic telecommunications services to competition. Recognizing that all countries need not do the same, he said that this general approach may, however, help resolve the issue of basic/enhanced distinction for the purpose of the framework and the annex.

66. The representative of the European Communities noted that his delegation arrived at its internal decisions not by drawing a clear distinction between value-added and basic services, but by establishing a distinction between reserved and competitive services from a regulatory standpoint.

67. The representative of Malaysia addressed the issue of pricing included under Article 10 of the EC proposal. He said that this provision implied taking on an obligation that was more common to those of countries with more advanced telecommunications networks. This would be difficult for Malaysia to undertake. He expressed the view that the United States text might go so far as to encroach on the area of regulatory functions in the sector. He suggested that this was an area where one needed to tread with caution.

68. The representative of Canada requested clarification regarding the scope of the EC definition of public telecommunications services.

69. The representative of the European Communities responded that the definition covered reserved services. As for other services, he said this would depend on which definition was adopted and what type of services would fall within the definition.

70. The Chairman suggested that delegations discuss the future work programme of the Group. He suggested that the question of whether telecommunications should be considered as a mode of delivery or as a service sector remained a matter to be considered by the Group, noting however that its ultimate resolution would require further determination within the GNS. Among other issues for future discussion he proposed the distinction between basic and enhanced services and how any such distinction could relate to an annex, transparency, standards and attachment of terminal equipment, pricing and tariffs, information-related issues such as privacy and security, monopoly behaviour, conditions for use

of networks, and the general question of the increasing participation of developing countries. The Chairman proposed that the secretariat be asked to produce a working document to serve as a chairman's text comparing the issues raised in the proposals currently under consideration in the group.

71. The representative of India said that the Chairman had identified many issues which needed to be discussed further. He suggested other general principles such as national treatment and m.f.n as topics for further discussion. He noted that the group should keep in mind that some of the issues before the Group would require further discussion in the GNS. He expressed reservation about discussing tariff-related issues. As well, in regard to anti-competitive practices it might be necessary to see how issues might be addressed in framework discussions. Regarding the Chairman's proposed working document, the Indian delegate suggested that further rounds of discussions and additional proposals would be needed before a comparative text would be appropriate.

72. Observing that a consensus was not obtained on his proposal for a working document, the Chairman proposed instead to draw up of a list of issues to serve as the basis for the agenda for the July meeting of the working group. The representatives of the European Communities, Canada and India spoke in support of the Chairman's proposal. Accordingly, the Chairman agreed that a list of issues would be prepared. He recalled that the Group would meet again on 9-11 July 1990 and noted that an agenda would be circulated prior to the meeting.