

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNS/TRANS/1
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Group of Negotiations on Services

WORKING GROUP ON TRANSPORT SERVICES
(Land Transport Services)

Note on the Meeting of 4 July 1990

1. The Chairman of the working group on land transport services opened the meeting and invited the secretariat representative to provide an introduction to the current exercise within the overall GNS process. He then invited delegations to make general comments on matters of relevance to land transport services in the context of a framework on trade in services.
2. The representative of the European Communities said that in the land transport sector, road traffic was to a large extent subject to bilateral agreements and quotas. Furthermore, all forms of land transport - road, rail, and waterways - were very heavily regulated for safety and other reasons, and in view of this, her delegation considered it would be difficult to achieve significant progress in the liberalisation of transborder transport operations. Nonetheless, the working group could usefully examine a number of issues, including the liberalisation of establishment in road transport, access to and use of transport networks, multimodal transport, and increasing the transparency of the many regulations in existence.
3. The representative of Mexico said it was necessary to examine a number of elements including the means of transport, (i.e. type of vehicle), the drivers or conveyers, and the infrastructure. It was also necessary to differentiate between freight and passenger transport. An important characteristic of this sector was the majority presence of developed countries in the world road transport market and in this regard, it was important to seek how to establish a larger participation of developing countries. Finally, he noted that road transport constituted a strategic sector in all countries; a fact which should be kept in mind when examining the applicability of the Montreal concepts.
4. The representative of the United States said his country had achieved considerable liberalisation and deregulation in both rail and road transport. It would be difficult to see a need for modifications, clarifications or derogations in any annotation to the framework. Regarding safety rules, it was not clear what distinguished road and rail from any other mode of transport in terms of the need for internationally agreed safety rules.

5. The representative of Canada said that transportation, including inland transportation, should be fully covered by a general services agreement. There might be some need for annotations or derogations, but these should be limited. The acceptance of the disciplines of the framework, with as full a commitment as possible, was essential to provide an improved environment for international transport.

6. The representative of Japan said his government had not yet decided to include land transport under the services agreement. He was in favour of liberalisation in this sector, and considered that the framework principles should be applied to the sector. There was a need, however, for provisions to ensure consumer and environmental protection as well as the quality of the service provided; this should not constitute, however, a disguised means of protection.

7. The representative of Austria said that Austria's geographical situation in the heart of Europe was a special one. It was not only situated between the countries of the European Community, but also between the largest vacation-zones in the South, and the economically strong areas in the North. Besides, Austria was situated at the crossroads of Western and Eastern Europe. This special geographical situation led to an overproportional increase of road traffic through Austria and to an enormous increase of the health-hazard of the Austrian population. The residents concerned were no longer willing to tolerate any increase of road traffic. These circumstances had become the central problem of Austria's transport policy which based itself on the following new parameters: protection of the population's health; environmental protection; and the resulting acceptance by the population. The following principles of transport policy were laid down in several governmental declarations: significant shifting of goods transport from road to rail especially by the technique of combined transport; most environmentally benign arrangements for the remaining road traffic, such as the introduction of a green lorry; maintenance of national weights and dimensions in road transport; no further liberalization in the field of transport; separated transit-negotiations with the European Community to find a permanent solution for the transit problem. Although Austria was committed to its international obligations in Europe, the problem of transit traffic would necessitate a firm attitude; a medium-term reduction of goods transit by road would be required and no further liberalization in transport would be accepted.

8. The representative of Austria said further that, based on all these substantial transport policy considerations, the application and implementation of principles such as national treatment, most-favoured-nation treatment, market access without control mechanisms, progressive liberalization, free use of infrastructure, abolition of all quantitative restrictions in the sector of land transport would cause serious problems and would have to be further studied. In regard to the far-reaching consequence for Austrian transport policy inherent in a future GATS treaty, Austria - at the present stage - deemed it necessary to exclude parts of this sector. In any case Austria would have to claim comprehensive sectoral annotations and exceptions in this field. This also

had to be seen in regard of the fact that the framework agreement was not yet available. He repeated, however, that Austria would stand by its international obligations and fulfil its function as a transit country in the heart of Europe, deciding autonomously how to fulfil this function by taking into account the overall European interest as well as especially those of Austrian citizens and the environment.

9. The representative of Sweden, on behalf of the Nordic countries, said that the Nordic countries did not have any predetermined view on the need for an annex on land transport services. When the draft framework was available at the end of this month, all delegations would be in a better position to determine whether annotations were needed or not. The Nordic countries were working on the assumption that all tradeable services in all sectors would be covered by the framework agreement, including road and rail transportation as well as related services. He then raised a few issues that he believed could usefully be discussed in this working group. Regarding road transport, the first point concerned harmonization or recognition of standards and regulations: trade liberalization in this sector would be greatly facilitated if countries applied similar requirements to driver's qualifications, vehicle measurements, pollution, road safety, etc. Second, access to cargo or passengers would be needed for effective market access in this sector. Third, access to cargo handling equipment and the right to establish cargo handling facilities might also influence the value of a market access concession. Finally, a cross-border provision of trucking services raised the issue of which country's labour laws should apply to a driver that operated within the territory of another Party. Regarding rail transport, he said that access to infrastructure was a crucial issue. The right to use existing networks, to build additional rail and to connect different track systems fell under this heading. Second, access to cargo and passengers, and use of station facilities and cargo handling equipment was also relevant for effective market access in rail transportation. Third, regarding the harmonization of technical standards, he said that regulations relating to measurements for rail tracks and wagons were in certain cases necessary and legitimate prerequisites for the liberalization of rail transportation services. In this context he noted the issues of protection (security) of the network and rail safety requirements.

10. The representative of Switzerland said his delegation wanted to find a solution which would minimise the negative effects of transport liberalization measures such as those that arise out of the geographic concentration of transit traffic in his country. The representative of Yugoslavia said that his country was also a transit country and was facing problems in trying to build up its road infrastructure in the face of strains imposed, for example, by tourist traffic flows.

11. The representative of Australia was concerned that at the outset countries were expressing the wish to exclude certain sectors or to derogate from application of the framework principles through an annotation.

12. Following the presentation of general observations, the Chairman invited comments on the applicability of the Montreal concepts.

13. Regarding transparency, the representative of the European Communities said that transparency could be applied fully to this sector in terms of prevailing regulations concerning, inter alia, vehicle size and weight, taxes, border formalities, and traffic prohibitions.

14. The representative of the United States said that he saw no problem in applying the core principles of transparency, progressive liberalisation, national treatment, m.f.n. and market access. Regarding environmental and safety regulations prevailing in the road and rail transport sectors, he said there was no inherent difference between the safety and environmental problems posed by road and rail and compared to those posed by maritime and air transport which also had significant problems regarding noise, pollution, congestion and infrastructure. The representative of the European Communities said that the coverage should include road, river and rail transport; rail however should only be covered to the extent to which it rendered a service in the area of combined or multimodal transport. The representative of the United States emphasised that rail in its entirety should be considered in this working group; regarding inland waterways, he said that water transport should be subsumed under the discussion of maritime transport services.

15. The representative of Mexico said that transparency through publication of regulations had to be applied to the following five situations: (i) changing the cabin of the truck but not the trailer at the border between two countries in the provision of cross-border trucking services; (ii) transborder mobility for the whole unit, i.e. the cabin and the trailer; (iii) commercial presence of a foreign enterprise in the host country which would recruit local personnel; (iv) commercial presence of a foreign firm with foreign personnel; and (v) recruitment or contracting by a local enterprise of foreign personnel.

16. Regarding progressive liberalisation, the representative of Canada noted that his delegation continued to believe that the ideas expressed in MTN.GNS/W/63 were still valid for transportation services including inland transport. The representative of Mexico said it was essential to take into account the level of development of the various signatories in dealing with progressive liberalisation. The representative of Egypt recalled that it was important that sectors of export interest to developing countries should be negotiated on a priority basis. The representative of Yugoslavia considered that the concept of progressive liberalisation should be applicable to this sector under the condition that national policy objectives were fully respected and that appropriate flexibility was granted for individual developing countries. The representative of Korea said that his delegation was flexible regarding the liberalisation of the inland transportation sector as long as this was progressive and took place within the GNS framework; domestic deregulation, however, should take priority over the opening up of the transport sector to interested foreign parties. The representative of Austria said that as road and rail transport were of strategic industrial importance, the application of

progressive liberalisation to this sector should be considered with care, taking macroeconomic effects into account. He also considered that modes of transport which contributed to environmental pollution should not be liberalised.

17. Regarding national treatment, the representative of Egypt recalled his delegation's position that once market access had been made available through negotiations subject to conditions of entry and operation, national treatment should be accorded. The representative of Yugoslavia said his delegation reserved its views on national treatment, m.f.n. and market access and intended to return to these subjects at the next meeting. The representative of Mexico said his position was similar to that expressed by the Egyptian delegate and considered that the link between national treatment and market access called for negotiations between the parties to the agreement. The representative of Austria said that the transport policy of his country was based on the principle of reciprocity and on a number of bilateral treaties and agreements; in his view this situation hindered the full application of national treatment, as well as m.f.n., to the inland transport sector.

18. Concerning the concepts of m.f.n./non-discrimination, the representative of the European Communities said that at present it was difficult to apply the concept of m.f.n. to cross-frontier land and river transportation services. In Europe, the quota and authorisation systems were highly regulated, making it unlikely that the situation could be adequately dealt with in the GNS context. The representative of Mexico considered that the least that could be done was to extend m.f.n. treatment within a multilaterally agreed time frame which should not be excessively long.

19. Regarding the principle of market access, the representative of Mexico said that several countries were involved in the autonomous liberalisation of many services including land transport, and he considered it appropriate that such liberalisation measures were encouraged and given credit in the negotiations on trade in services. The representative of the European Communities said that it would be important to include for road transport the principle of free use of, and free access to, the various transport networks along the lines of GATT Article V regarding freedom of transit; for rail, for example, this concerned the possibility of access to, the use of, the railway network for multimodal transport.

20. With regard to the issue of increasing participation of developing countries, the representative of India considered that developed countries should liberalise their national regulatory regimes to enable developing country service firms abroad to supply services and to recruit personnel from the most economically advantageous sources; in his view the land transportation sector could play a crucial role in helping to achieve the overall balance sought by developing countries.

21. On safeguards and exceptions, the representative of Mexico considered that it was necessary to establish a series of procedures in the context of balance of payments problems and of increasing imports with regard to this

sector. He thought it was necessary to discuss this matter in depth in the GNS in order to see how the concept could be applied to the sector under discussion. Concerning exceptions, he emphasised that there would have to be a series of general exceptions (e.g. protection of the environment) which would apply to the land transport sector, and was not convinced that any specific exceptions would have to be negotiated. The representative of the European Communities noted that the provisions applicable in respect of exceptions should be as limited as possible; she added that national regulations, rather than specific exceptions, should cover matters such as environmental protection or road safety, and should not be discriminatory in nature, a problem which might occur in the case of exceptions.

22. On regulatory situation, the representative of Japan, supported by the representative of Egypt, said that necessary regulation concerning congestion as well as consumer and environmental protection, should be permitted to the fullest extent possible, on the condition that such regulation did not discriminate against foreign service providers.

23. Following the discussion on the applicability of the Montreal concepts, the Chairman proposed that delegations suggest issues to be put on the agenda for the next meeting, such as looking at certain concepts and principles in more detail.

24. The representative of Switzerland suggested that further discussions on the basis of the draft framework which should be available by the next meeting, could focus on whether land transport required an annex. The representative of the European Communities also proposed that future discussions in the working group should take into account the draft framework text; she added that her delegation intended to submit proposals at the next meeting of the group. The representative of Sweden, supported by the representative of India, did not consider it necessary to go through the concepts again, although the discussion might be guided by the issues that had been raised in the present meeting.

25. The representative of Japan, supported by the United States, suggested a discussion could take place on what constituted the land or inland transport sub-sector. The Chairman proposed that the delegations of the European Communities and the United States prepare a document setting out what in their view constituted inland transport, and in particular inland waterways. The representative of Switzerland pointed out that this matter had already been discussed elsewhere in the past; he asked whether the secretariat or the delegations concerned could obtain relevant information from the transport division of the Economic Commission for Europe (ECE). The representative of Yugoslavia considered that the differences of view that had been expressed regarding rail also required further clarification.

26. The Chairman, regarding the dates for the next meeting of the working group, took note of the preference expressed by some delegations for the next meeting of the working group to take place either during last week of September or the first week of October 1990.