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THE URUGUAY ROUND**

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Group of Negotiations on Services

WORKING GROUP ON TRANSPORT SERVICES
(Maritime Transport Services)

Note on the Meeting of 2-3 July 1990

1. The Chairman welcomed delegations to the first meeting of the informal working group on maritime transport services (MTS) and drew their attention to GATT/AIR/3028. He then invited the representative of the secretariat to make a brief statement on the main developments in the GNS since the start of negotiations. Concerning the organization of work, he said he did not have any fixed agenda in mind and suggested that after an introductory session devoted to general comments by delegations, the group could proceed to examine each of the concepts agreed in Montreal as to their applicability to the MTS sector. He invited delegations to make general comments.

2. The representative of the United States reiterated his delegation's commitment to the liberalization process embodied in the Punta del Este Declaration and the Montreal text. Though the current discussions could be of great use to the work of the GNS, he stressed that this exercise should not in any way prejudice the sectoral coverage under discussion in the group. His delegation had not taken a decision on the coverage of maritime transport or any other sector from the framework. Issues which his delegation deemed essential in the deliberations of the working group included the following: other existing international arrangements, scope/definition of international maritime transport services, dispute settlement procedures, government procurement, subsidies, and the function of sectoral annotations.

3. The representative of Côte d'Ivoire said that existing international agreements affecting MTS should be taken into account in the deliberations of the group. In the maritime field there were international agreements which aimed at the same objectives set out in the Punta del Este Declaration and the Montreal text. He therefore requested a clarification as to the applicability of the work undertaken in the GNS on the MTS sector with respect to other relevant agreements.

4. The representative of the European Communities welcomed the efforts undertaken both in the GNS and in this working group towards a more liberal environment for international trade in services. Though the draft framework was still not available, he said these discussions could be instrumental in highlighting some of the specificities of the MTS sector which might warrant special attention by the group. The deliberations should centre on a precise definition of MTS.

5. The representative of Sweden, on behalf of the Nordic countries, believed the current exercise should constitute a useful examination of the main aspects of the MTS sector which might need to be reflected in specific annotations in addition to the general provisions of the framework. His delegation had not yet taken a stand on whether or not annotations relating to this sector were necessary and would only be able to do so once the draft framework had been made available and fully analyzed. The working assumption was that all tradable services should be considered in the work of the group, including services which were ancillary to the provision of other services. The Nordic countries therefore included both international and cabotage-related services in the scope of international MTS. Great importance was attached to the application of a strong m.f.n. provision to the sector. Issues which in his delegation's view could be discussed in this meeting included: harmonization of standards and regulations, access to cargoes and passengers, treatment of provisions relating to labour, and distinction between cabotage and international trade.

6. The representative of Japan said his delegation was especially concerned that an agreement emanating from the GNS should not legitimize existing anti-competitive measures in the MTS sector. Cargo-sharing and reservation policies should be gradually phased out in order for multilateral liberalization to succeed in this sector. Though his delegation had not yet taken a decision on the exclusion of any services sector from the purview of the framework, he warned that the application of certain general provisions could run into major problems with respect to MTS. Provisions relating to m.f.n., national treatment and market access should not be applied to cabotage trade.

7. The representative of Australia said that the framework should be as comprehensive as possible in its application across services sectors, sub-sectors and activities. In that context, sectoral annotations should be kept to a minimum, their need arising only in cases where general provisions could not address specificities of particular sectors. Annotations should in no way undermine the application of framework provisions. Her delegation was strongly attached to liberalization in the MTS sector, especially since on an a priori basis, no sector should be excluded. The aim of expanding trade in this sector ran directly counter to the objectives embodied in bilateral cargo-sharing and reservation agreements.

8. The representative of Canada said that in examining the application of the Montreal concepts to MTS, some specificities could be revealed. However, it was premature to decide on the need for an annex in the absence of a draft framework. Careful consideration should be given to the application of progressive liberalization, especially as it could affect the widespread practice of cargo sharing and cargo reservation in the sector.

9. The representative of Poland said that trade in the sector was already fairly liberal. It could be of use to know the extent to which international agreements affected that trade. The U.N. Code of Conduct for

Liner Conferences, for example, affected a very limited portion of the international shipping market.

10. The Chairman invited delegations to make comments on the concept of transparency.

11. The representative of the United States said his country constituted a model of transparency in the MTS sector. The scope of application of transparency provisions would need to be carefully considered. Should they apply, for example, to the confidential notes attached to bilateral agreements? In that context, not only government-to-government bilateral arrangements should be considered, but also agreements of a commercial nature. The representative of the European Communities agreed that the application of transparency with respect to bilateral agreements should be considered. Transparency should apply not only to laws, regulations and administrative guidelines but also to practices deriving from private arrangements among shippers. The representative of Egypt referred the group to MTN.GNS/W/101 where transparency was to apply to laws, regulations, administrative guidelines, international agreements, including local government and non-governmental regulatory bodies of the parties. He stressed, however, that the confidentiality of information provided should be respected.

12. The Chairman opened discussion on the concept of progressive liberalization.

13. The representative of Australia said that her delegation favoured an approach which involved liberalization, in accordance with the provisions of the framework, of all services sectors, sub-sectors, and transactions which were not specified in a list of reservations to be attached to the framework. Annotations should only be necessary to clarify provisions of the framework with respect to their application to specific sectors.

14. The representative of the United States said that his delegation was looking for liberalization commitments in all services sectors, including the MTS sector. Of relevance was whether standstill, and provisions aiming at the increasing participation of developing countries would lead to liberalization in an already liberal sector. The ability to grandfather existing agreements in the shipping area should be examined with great care in order to avoid damaging the liberal character of the sector.

15. The representative of Egypt stressed that commitments relating to MTS should be undertaken in accordance with the level of development of individual countries. Sufficient flexibility should be provided under the framework with respect to the level of commitment expected of developing countries. The strengthening of the domestic services capacity in this, as in all other sectors, should ultimately be translated into an increased participation of developing countries in world services trade. In that respect, special attention should be devoted to the MTS sector including labour-intensive ship-building and ship-preparing industries. Nothing in the framework should affect other existing international agreements.

16. The representative of Canada said that the concept of progressive liberalization was very closely related to the concept of market access. There were many relevant barriers to market access in the sector which could be examined under progressive liberalization. Cargo sharing and reservation arrangements, for example, could have a very detrimental effect on trade in MTS. Special attention should also be devoted to cabotage in the context of the various modalities of liberalization which could be envisaged for trade in the sector.

17. The representative of India said that in addressing the concept of progressive liberalization, it was imperative to keep in mind that the ultimate result of these negotiations should provide for a balance of interests among all participating countries. In the MTS sector, it was of utmost importance that the group reach a consensus on how existing arrangements relevant to the sector would be dealt with by the framework and/or related sectoral annotations. The U.N. Liner Code should be viewed as an attempt to address an imbalance in world shipping markets deriving from certain anti-competitive practices by market operators.

18. The representative of the European Communities stressed that the purpose of the GNS and this working group was to attempt to provide for further liberalization in a sector which was already quite liberal in practice. This exercise should not be perceived as a means to cement the existing situation in the sector, but to go beyond it in providing the context within which unconditional liberalization commitments could be made. A standstill applying to MTS trade was therefore insufficient given the aims of the GNS. The representative of the United States added that the Liner Code constituted an anti-competitive agreement which, if grandfathered, could adversely affect transactions in the sector. The representative of India said that agreement on a standstill should be reached in the context of the GNS and not in sectoral working groups.

19. The Chairman opened the floor for comments on the concept of national treatment.

20. The representative of the United States said that national treatment could have significant implications for cargoes reserved for national-flag carriers. The application of the concept could have quite a positive impact on the so-called auxiliary services, (e.g. those relating to port operations).

21. The representative of the European Communities envisaged that a substantial number of annotations might be in order with respect to the application of national treatment to trade in MTS involving both the blue-sea element of shipping as well as shipping-related activities. Clearly, an area for the application of national treatment was cargo-sharing and cargo reservation. Other elements of relevance included differential rates and charges for land-side services and incentives granted to national ship-owners.

22. The representative of Norway, speaking on behalf of the Nordic countries, said that the logic inherent in the concept of national

treatment ran into conflict with the established regulatory practices in international shipping. The provision of international MTS were always affected by at least two national regulatory frameworks, rendering it difficult in practice to determine which national system should serve as a reference in the application of the concept.

23. The representative of Japan said that the scope of application of national treatment should extend to all areas of MTS. The only plausible exception in that context could relate to cabotage trade. The representative of Australia indicated that in respect of cabotage, it would be necessary to enter certain reservations against application of framework principles. The representative of Canada agreed that cabotage trade deserved special consideration by the group. National treatment could apply to services related to port operations, as provided for in many of his country's bilateral agreements. The representative of Egypt said that annotations might be necessary to address technicalities relating to the application of national treatment to MTS. Consideration should be given to regional integration agreements and preferential arrangements favouring developing countries.

24. The representative of India said that national treatment should only be granted once market access had been made available through negotiations and the fulfilment of certain conditions of entry. In that sense it did not constitute an obligation per se. This view was challenged by the representative of the European Communities who contended that due to the nature of shipping transactions, the granting of national treatment in a particular market to a foreign provider was identical to the granting of access to that market. To be treated as a national in international shipping implied having access to the same cargoes available to nationals in their own market. To that extent, national treatment and market access were interchangeable in their application to trade in MTS.

25. The Chairman introduced the discussion on the concept of m.f.n./non-discrimination.

26. The representative of Norway, on behalf of the Nordic countries, said his delegation had similar problems with the application of this concept as it did with the application of national treatment regarding the international nature of regulatory frameworks applying to shipping markets.

27. The representative of Poland said that it would be useful to clarify the scope of shipping activities under consideration by the group. There was a distinction to be made between shipping services and the providers of such services - i.e. shipping firms. A further clarification could also be made regarding whether the application to providers should also extend to seafarers, crews and ships in addition to shipping companies per se.

28. The representative of the United States said that the application of m.f.n./non-discrimination to MTS could imply radical changes in the international regulatory regime affecting the sector which was essentially bilateral in nature. In the case of cargo sharing, for example, the application of the concept could entail the elimination of such

arrangements, including possibly the dismantling of the U.N. Liner Code. An important question relating to m.f.n./non-discrimination was whether annotations pertaining to shipping could ultimately include derogations from the application of the concept.

29. The representative of the European Communities said that starting from the assumption that the ultimate aim of these discussions was to provide for a free world shipping market, the group should focus much more closely on the concept of national treatment than m.f.n./non-discrimination. As pointed out by the representative of the Nordic countries, in applying m.f.n./non-discrimination the group would need to work on the mistaken assumption that regimes restricting access to cargoes were national and not international in nature (i.e. more than one national regulatory framework applying to MTS activities). National treatment on the other hand provided a much more useful means of maintaining the existing liberal environment in world shipping while stimulating further liberalization commitments.

30. The Chairman invited delegations to make comments on the concept of market access.

31. The representative of the European Communities said that access to cargoes was the essential aspect of increased market access in shipping. Conditioning the granting of national treatment to the fulfilment of entry measures might be applicable to some services sectors such as banking but did not have a clear meaning in the MTS sector. The issue of establishment also did not have the same relevance in this sector as in others where a significant share of services was provided through some form of presence in the importing market. Access to port facilities was much more relevant to shipping than the possibility of establishment in the local market.

32. The representative of Egypt said that in accordance with articles 14 and 15 of MTN.GNS/W/101 only once market access concessions had been made available through negotiations, subject to conditions of entry and operation, could national treatment be accorded. The representative of the European Communities said that such an approach to market access and national treatment would have some very restrictive implications in many of the sectors under negotiation.

33. The representative of Australia said that in some sectors preferences granted to nationals were so prominent as to render market access ineffective in the absence of national treatment. Once again, she noted that annotations should not go beyond the provisions of the framework in providing for liberalization commitments. Their function should be to complement framework provisions.

34. The representative of the United States said that various forms of commercial presence were relevant with respect to market access. The movement of essential labour was also very important in the MTS sector as crews of maritime vessels often needed to enter countries other than their own when awaiting their vessel's departure. Investment could also be relevant regarding ownership of facilities in foreign ports.

35. The Chairman invited delegations to make comments on the increasing participation of developing countries.

36. The representative of the United States said that the group should consider inter-modal transport (e.g. port-handling, warehousing) and the extent to which the application of the concept would condition the granting of market access by developing countries.

37. The representative of Egypt said that the Montreal text contained sufficient guidelines towards an increased participation of developing countries in world services trade. It was necessary to translate those general guidelines into greater participation of developing countries in MTS. Some segments of the sector were more relevant in that respect than others, labour-intensive ship-building and repairing industries standing as the most prominent examples.

38. In response to a question raised by the representative of the United States as to whether ship-repairs were considered as a service, the Chairman said that in many countries ship-building and repairing were considered as an industry rather than as the provision of a service.

39. The representative of the secretariat said that there was not any definitive classification of services for the purposes of the GNS. The reference list prepared by the secretariat included ship-repair under the heading of "business services" (as maintenance and repair services) and not under transport. This followed the product-based classification of the Central Product Classification. The classification to be adopted or developed by the GNS was still a matter for negotiation. Regarding labour mobility, he referred the group to paragraph 4 of the Montreal text where it was stated that mobility essential to suppliers should be considered. He reminded the group that the labour mobility question was also being dealt with in a generic manner in the working group on labour mobility.

40. The representative of Egypt said that another element of relevance for developing countries was labour movement in shipping insofar as crews were concerned. The representative of the European Communities said that these negotiations were aimed at facilitating the rendering of services. The labour movement issue in maritime transport or other services sectors should be examined with a view to respecting that basic objective of the GNS. The representative of India said that labour mobility should be treated horizontally by the GNS, in a manner which applied to all services sectors including MTS. The representative of Egypt added that in this sector, as in others, the movement of labour essential to suppliers should be considered with respect to both skilled and unskilled labour.

41. The representative of the United States said that various forms of commercial presence, along with access to infrastructures, were relevant in the consideration of this concept and had significant implications for both developing and developed countries.

42. The representative of Yugoslavia agreed with the representative of the United States that ship-building should be included in the scope of

activities under consideration by the group. He stressed, however, that a related aspect of relevance concerned the financing which was necessary to support an increasing developing country capacity in shipping through the building of larger national fleets.

43. The Chairman opened the floor for comments on safeguards and exceptions.

44. The representative of the United States said that national security considerations were of utmost importance in the MTS sector and should be taken into account in the discussion of exceptions. He referred to paragraph 30 of MTN.GNS/W/64 where some of these considerations were based on the fact that many countries viewed their flag carriers as manifestations of their sovereignty. Maritime security considerations should not only apply to vessels, but also extend to port operations.

45. The representative of Canada said that no special treatment should be in order regarding safeguards applying to the MTS sector. As to exceptions, he found Articles XX and XXI of the GATT to be appropriate and sufficient to address specificities of the sector. The representative of the European Communities said that his delegation favoured a safeguards provision of wide application across sectors, based on Article XIX of the GATT. The group should exert great prudence in providing for national security exceptions and avoid going beyond GATT's Article XXI. The representative of the United States stressed that his delegation viewed the need for exceptions in the form of annotations as a last resort.

46. The representative of Egypt said that in accordance with MTN.GNS/W/101, safeguard measures might be applied by developing countries in order to promote the development of certain services sectors, sub-sectors and/or activities. Developing countries should also be permitted to apply safeguard measures in order to correct structural problems in particular services sectors. These measures should not all be applied on a permanent basis. Relevant areas for exceptions included national security and environmental protection. The representative of the European Communities contended that safeguard measures for development reasons did not constitute a reliable means for increased competitiveness of developing country firms.

47. The representative of India said that general provisions relating to safeguards and exceptions under the framework should be applied to the MTS sector without any further qualifications.

48. The Chairman invited delegations to make comments on the concept of regulatory situation.

49. The representative of the United States said that, as set out in paragraph 31 of MTN.GNS/W/64, the International Maritime Organisation (IMO) Convention should be respected in relation to its provisions on safety certification, manning of ships and other aspects. The concept of regulatory situation also had significant implications with respect to the ability of foreign providers of MTS to have different forms of commercial

presence in certain markets. The representative of India said that whether or not issues touching on foreign investment regimes would apply to MTS was to be decided by the GNS. Also, it was still incumbent upon the GNS to determine whether certain modes of delivery, including telecommunication links, were to be treated horizontally across all services sectors or addressed through annotations for individual sectors. The representative of the European Communities suggested that the group devote some attention to measures applied against price-distorting practices in shipping markets. Also, consideration should be given to the treatment of auxiliary services, including maintenance and repair and loading/unloading. The representative of Poland indicated that another element meriting the consideration of the group was the granting of subsidies which distorted competition in international shipping. He proposed that ways be explored of providing for the gradual removal of such subsidies.

50. Based on the above discussions, the Chairman introduced a note on subjects for further consideration by the maritime transport services working group. The points contained in the note reflected specific requests on the part of certain delegations. The Chairman then opened the floor for comments on the first point in the note - namely, other existing international arrangements.

51. The representative of the United States pointed out that his delegation had proposed this item for further discussion as a means to examine arrangements such as the U.N. Liner Code and its effects on shipping markets. Another international arrangement deserving the attention of the group was the IMO. The representative of Poland cited the Convention and Statute on the International Regime of Maritime Ports signed in Geneva in 1923 as an international agreement which could be relevant for the work of the group. Fifteen European and seven non-European States became parties to the Convention in the period between the wars, and a further eleven non-European States had acceded to it by the mid-seventies. If the treatment of shipping services were to extend to ports, such a convention might be worth examining more closely. Another agreement of relevance could be the Convention on the Transit Trade of Land-locked Countries signed in New York in 1965, covering not only shipping but also other transport sectors. The representative of the European Communities agreed that the 1923 Ports Convention might deserve some consideration by the group. This subject matter might fall under what his delegation had characterized as auxiliary shipping services. Careful consideration should be given to the U.N. Liner Code and other existing international arrangements. This view was supported by the representatives of Egypt and Côte d'Ivoire.

52. The Chairman opened the floor for comments on scope/definition of international maritime transport services.

53. The representative of the United States suggested that this be taken up at a later stage of the deliberations due to time considerations. This item had been proposed by his delegation in order to improve its understanding of the scope of activities under consideration by the group. Would the examination extend to port entry, cargo handling, fuelling and

other related matters? The representatives of the European Communities, Sweden, on behalf of the Nordic countries, Australia, and Mexico said that the manner in which discussions were conducted under this item should in no way prejudice the broader issue of scope/definition before the GNS. The representative of Mexico agreed with the representative of the United States that this issue should be taken up later in the discussions.

54. The Chairman opened the floor for comments on dispute settlement.

55. The representative of the United States said that a GNS agreement would need to achieve the same level of effectiveness in its system of settling disputes as existing bilateral agreements in the shipping sector. This constituted a key factor influencing decisions by participating countries on the applicability of the framework to the MTS sector. The representative of the European Communities agreed that attention should be devoted to the dispute settlement system to be applied to this and other services sectors but maintained that the current bilateral system of settling shipping disputes could benefit from considerable improvement. The representative of Egypt said that dispute settlement provisions should be of general application across sectors. There was no reason to believe that annotations regarding the application of dispute settlement provisions to MTS would be necessary. The representatives of Yugoslavia and India said that it was premature to discuss dispute settlement at this point in time.

56. The Chairman opened the floor for comments on government procurement.

57. The representative of the European Communities said that the group would need to address the scope of activities under consideration in relation to government procurement. For example, what types of government-impelled cargoes should be considered: paid-for, purchased, sponsored, aid cargoes or military equipment. The representatives of the United States, Canada, and Sweden, on behalf of the Nordic Countries, referred to the fact that negotiations on the Code on Government Procurement were also taking place elsewhere, and could have implications deserving the attention of this working group. The representatives of the Nordic Countries, and Japan shared the view that to the extent that government procurement limited competition in this and other sectors, it should be considered by the group. A provision on government procurement of general application across sectors would constitute the best means to address procurement practices affecting trade in services. If need be, however, specificities in the application of government procurement provisions to trade in MTS could be addressed through annotations. The representative of Japan added that the application of national treatment should extend to government procurement in this sector.

58. The Chairman invited delegations to make comments on subsidies.

59. The representative of the United States said that his delegation had suggested this item, since the granting of subsidies constituted a widespread practice in the MTS sector. He referred the group to paragraph 32 of MTN.GNS/W/64 where it was stated that subsidies in the

sector took the form of direct operational or capital subsidies. Special tax incentives or concessional financing were other forms of subsidies granted to national-flag shipping firms. Standstill provisions under the framework could inhibit the ability of some countries to adjust their subsidy programmes. The representative of the European Communities supported the U.S. proposal to examine this item. The representative of India said that tied and soft loans linked to purchases of ships should also be examined as price-distorting subsidies.

60. The Chairman asked for comments on the function of sectoral annotations.

61. The representative of the United States said that it had become apparent in the GNS deliberations that sectoral annotations were not to undermine provisions of the framework. However, in an informal checklist by the secretariat at the request of the GNS, one question posed with respect to sectoral annotations was whether they should permit derogations from the basic provisions of the framework. The representative of Canada said that the function of sectoral annotations was to clarify the application of framework provisions whenever that was necessary and with a view to strengthening and not undermining those provisions. Waivers and derogations in the form of annotations, if at all necessary, should be kept to a minimum. The representative of the European Communities shared the same concerns as the previous speaker, adding that the points on the note by the Chairman should not be construed in any way as identifying areas necessarily warranting special treatment through annotations.

62. The representative of Sweden, on behalf of the Nordic Countries, said that sectoral annotations should clarify, modify and in some cases complement framework provisions. An annotation might be needed in order to ensure that the application of general framework provisions to international shipping did not change the existing flag-state jurisdiction over the vessel, its operations and crew. She stressed that without such an annotation, the application of national treatment to international shipping services might be misinterpreted, having significant implications for an otherwise well-established and accepted practice in international shipping relations.

63. The representative of India said that it was important to identify peculiarities of the MTS sector before annotations could be considered. So far, the group had failed to identify peculiarities significant enough to warrant treatment in annotations, with the possible exceptions of concerns relating to the application of the national treatment and m.f.n. concepts to MTS.

64. The Chairman invited comments on the application of an m.f.n. provision, maritime safety and security and cargo sharing and reservation policies.

65. In commenting generally on m.f.n. and other points made previously by her delegation, the representative of Sweden, on behalf of the Nordic Countries, said that no derogations, whether in the form of

annotations or otherwise, should be envisaged in relation to the application of a general m.f.n. provision to trade in MTS. Her delegation perceived the harmonization of safety and security regulations and standards as a de facto pre-requisite for further liberalization in the MTS sector. The framework should promote harmonization and standardization in this and all other services sectors. She did not expect such work to take place in the GNS context but to continue in specialized fora where it had already been undertaken. The group should devote attention to labour issues which should not be viewed as relating to the cross-border mobility of labour as such. Crews, along with the vessels they manned, should be considered as production units and not as production factors which moved across borders for the provision of shipping services. Concerns relating to the cross-border mobility of labour in other services sectors did not apply to MTS. Finally, she suggested that specificities regarding the distinction between cabotage and international trades be clarified as a means to further the discussions of the group.

66. The representative of Egypt suggested that greater attention be devoted to the application of the m.f.n. principle as set out in other existing international arrangements affecting the provision of MTS. The representative of Yugoslavia asked for a clarification as to whether the principle of non-discrimination should be examined alongside m.f.n.

67. The representative of Canada said that the essence of the work of the group was to provide for increased liberalization in the MTS sector through the reduction and/or elimination of anti-competitive measures and practices, including bilateral trading arrangements and cargo-sharing and reservation policies.

68. In response to a clarification sought by the representative of the European Communities, the representative of Sweden, on behalf of the Nordic Countries, said that the complication she was referring to previously regarding crews related principally to the interpretation which might be given to the principle of national treatment. It could be argued that if applied in a traditional fashion, the principle of national treatment could imply that once in another country's jurisdiction, vessels flying a foreign flag would automatically be required to operate in the same terms and conditions as national-flag vessels with respect to their crews. That could be problematic since common practice dictated jurisdiction of the flag-state over the crew manning a particular carrier. Annotations clarifying the application of national treatment in that respect could be instrumental in facilitating the undertaking of market access commitments in the MTS sector.

69. The representative of the United States said that though the share of international shipping affected by cargo sharing and reservation policies could be very small, the group should still devote attention to such policies, as they constituted important barriers to increased market access in the MTS sector. It was also necessary to examine private commercial practices which were anti-competitive in nature, including the closed conference system used in many parts of the world.

70. In response to a request made by the representative of Poland, the representative of the UNCTAD said that in terms of the tonnage of world trade, liner cargo accounted for ten to fifteen per cent of the total. Nearly ten per cent of the liner cargo total was in turn governed by the U.N. Liner Code, implying a share smaller than one per cent of total world shipping trade for cargoes affected by the provisions of the Code. The relevance of the Code should, however, be perceived in terms of trade relations. Judging from the structure of the contracting parties and the reservations lodged by these parties with respect to provisions of the Code, it became evident that the Code was primarily applied in trades between European (members of the EC and Scandinavian countries) and a number of developing countries.

71. The representative of Switzerland said that universal coverage of MTS activities might be instrumental in safeguarding the liberalization already achieved, while promoting further liberalization commitments in the sector.

72. The representative of India remarked that the GNS and related working groups should not pass judgment on other existing international arrangements. The main concern before the group in that respect was to provide for the liberalization of trade in services while taking into account the work of other relevant international arrangements. An important issue before the group was how to apply the principle of m.f.n. to MTS, especially as it might conflict with other existing international arrangements affecting international shipping.

73. The Chairman opened the floor for comments on unfair practices in international shipping markets.

74. The representative of the European Communities said that in the Communities there was a regulation dealing with unfair pricing practices in international shipping markets, relating principally to freight policies adopted by individual shipping companies. This issue might deserve to be reflected either directly in specific framework provisions or in the form of annotations pertaining to the MTS sector.

75. The Chairman opened the floor for comments on auxiliary shipping services.

76. The representative of the European Communities said that important changes had taken place in the MTS sector, the most evident ones relating to the structure and activities of shipping companies. Many shipping-related services, including those of a multimodal nature, played a crucial role in the provision of shipping services and should be covered by the framework emanating from the GNS. The representative of the United States said that there was an inherent conflict between carriers who preferred to self-handle ancillary services and countries which required that such services be provided by nationals on a monopoly basis. He was concerned about the manner in which the application of concepts such as progressive liberalization, increasing participation of developing countries and regulatory situation could affect the ability of shipping firms to self-handle ancillary services. Obstacles to self-handling were

very significant in the area of inter-modal transport services. The representative of the European Communities said that auxiliary maritime transport services should be directly linked to other maritime transport services, whether through framework provisions or sectoral annotations.

77. The Chairman confirmed the understanding expressed by the representative of Yugoslavia that the issue of increasing participation of developing countries permeated all of the points under discussion.

78. In response to a request by the representative of Mexico that an explanation be given regarding the notion of increasing participation of developing countries and how it was dealt with in the GNS, the representative of the secretariat said that unlike a number of earlier initiatives to accommodate the concerns of developing countries, the GNS discussions had not focused on special and differential treatment but on the positive contribution of the provisions of the framework to development. An area where such provisions were being discussed was export promotion through the inclusion of sectors of export interest to developing countries. A second area was flexibility in the undertaking of liberalization commitments so as to permit individual developing countries to open fewer sectors or liberalize fewer types of transactions while progressively extending market access in line with their development situation. The third category of provisions related to the concept of increasing participation of developing countries in world trade in services through the strengthening of their domestic services capacity and its efficiency and competitiveness. In that connection, provisions would be envisaged to facilitate effective market access for services exports of developing countries through improved access to distribution channels and information networks. There was also a realization that particular account needed to be taken of the serious difficulties of the least developed countries in accepting negotiating commitments in view of their special economic situation and their development, trade and financial needs.

79. The representative of the European Communities said that the work of this group needed to continue as there were very complex problems to be resolved before liberalization in the sector could follow its course. He accepted the Chairman's invitation for delegations to do the necessary background work in their capitals, if possible towards the assembling of written proposals on aspects of relevance to the work of the group.

80. As there were no more comments, the Chairman adjourned the meeting.