

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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Group of Negotiations on Services

WORKING GROUP ON TOURISM SERVICES

Note on the Meeting of 1-2 August 1990

1. The Chairwoman opened the proceedings by welcoming delegations to the meeting and drew their attention to the aim of these informal consultations as contained in GATT/AIR/3046. Following the invitation by the Chairwoman, a secretariat representative briefed the Group on the main developments in the GNS since the start of the negotiations in September 1986.

2. The Chairwoman opened the floor for general comments. The representative of Chile emphasised that the draft framework text contained in MTN.GNS/35 was not an agreed text and his delegation did not consider it as an adequate basis for the deliberations in the working group. The representative of the United States said that trade restrictions or impediments in this sector affected both individual travellers and tourism enterprises which were engaged in providing a range of services. He considered it necessary to identify the various components of the tourism industry, noting that the classification of these components might be important in terms of how the agreement would function. He suggested that an annotation or an annex could outline the scope of this industry.

3. The representative of Australia considered that the provisions contained in the draft framework should be sufficient to meet the needs of the various components of the tourism sector, thus obviating the need for particular special provisions in an annotation. Due to the overlap of services between tourism and other sectors, she thought it would be difficult to extract a list of activities exclusive to the tourism sector. The preference of her delegation was to address the problem of regulatory and other barriers to trade in tourism services through the negotiation of national schedules.

4. The representative of Egypt outlined a number of points which required discussion: the scope/definition of the tourism sector had to be clear; better statistics were required, in particular with respect to the negotiation of specific commitments; the link between the framework agreement and existing international arrangements in the tourism sector should be defined; the impact of transnational companies on host countries required discussion as well as how to treat TNCs in general and anti-competitive practices in particular; and how to achieve development promotion in tourism, including the promotion of transfer of technology and managerial skills.

5. The representative of Japan agreed that it was necessary to specify the scope and definition of the tourism sector. The representative of

Tanzania emphasised the importance of the promotion of development of developing countries and, in particular, of the least developed countries. The representative of the European Communities considered that a sector specific annex for tourism would probably not be necessary, provided that some specificities of the sector were addressed in the framework, such as, ensuring universal coverage, applying the transparency provision to exit visa and exchange regulations and designing a provision on domestic regulation which would allow appropriate regulation to ensure consumer and environmental protection. The representative of India considered that coverage should be universal and should be addressed in the general framework agreement. The representative of Canada said it might be necessary to explore a number of tourism sub-sectors to arrive at a consensus on what was included or excluded; failing that, countries might find themselves facing a long agenda of eventual dispute settlement requests without a reference point to assist in arbitration. In his view there were two outstanding issues to be addressed: first, the increasing use of mainly privately owned and developed computer reservation systems and the need to provide a fair service; secondly, the right of consumers to travel.

6. The representative of Hungary considered that significant barriers for individual travel related to burdensome and lengthy visa issue practices. Regarding the supply of tourism related services he noted the existence of a number of impediments to the mobility of personnel employed by tourism enterprises, such as restrictions on the entry of foreign travel guides. The representative of Poland considered that it would be better to draft a specific annex on tourism, and that if this were not done, he would favour dealing more specifically with this sector within the context of the framework agreement. The representative of Austria, supported by the representative of Turkey, considered that it was important to discuss relevant barriers and that the issue of computer reservation systems was key to tourism. The representative of Mexico agreed on the importance for this sector of the movement of consumers to the country of export and of the movement of service providers. He said it might be important to have guidelines which differentiated the two activities; in addition, he noted that statistics would need to be used as benchmarks for countries which were exchanging concessions. The representative of Korea suggested that the tourism sector needed to be defined, and that the linkage should be examined between transportation, tourism and telecommunications; furthermore he considered that the relationship of existing bilateral tourism agreements with a future framework agreement should be discussed. The representative of Jamaica noted that tourism was one of the more liberal areas of trade; his delegation did not prejudice the need for a sectoral annex and considered that measures which were linked to security and those that flowed from macroeconomic policies should not necessarily be viewed as barriers to trade.

7. The representative of the World Tourism Organization (WTO) circulated, and then introduced, a position paper prepared by the WTO secretariat on "Trade in Tourism Services" dated 30 July 1990. He drew the attention of delegations to the WTO's statistical definition which had been in use since

1963 and which classified an international visitor in the following way: for the purpose of statistics, the terms "international visitor" describes any person who travels to a country other than that in which he had his usual residence, the main purpose of whose visit is other than the exercise of an activity remunerated from within the country visited and who is staying for a period of one year or less. This definition covers two classes of visitors: "international tourist" and "international excursionist" which are defined as follows: International tourist, i.e. a visitor in accordance with the foregoing definition staying at least one night but not more than one year in the country visited and whose main purpose of visit can be classified under: (a) pleasure: holidays, culture, active sports, visits to friends and relatives, other pleasures purposes; (b) professional: meeting, mission, business; (c) other tourist purposes: studies, health, pilgrimage. International excursionists, i.e. a visitor in accordance with the foregoing definition who does not stay overnight in the country visited. International excursionists include cruise passengers, i.e. visitors in accordance with the foregoing definition who arrive in a country aboard a cruiseship and who do not stay overnight at an accommodation establishment in the country visited. He then noted that the legal definition currently under consideration was rather similar and could be found in the WTO "Draft Budapest Convention To Facilitate Tourist Travel, Visits and Stays" (dated 20 October 1989). Article 4.1 of the convention read as follows: The Convention applies only to tourists and other visitors, that is to say, to any person: (i) who intends to travel, and/or travels, to a country other than that in which he has his usual place of residence, (ii) whose main purpose of travel is a tourist visit or stay not exceeding three months, unless a tourist stay longer than three months is authorized or the three months authorization is renewed, (iii) who will not exercise, or be called upon to exercise, in the country visited, any remunerated activity, (iv) who, at the end of said tourist visit or stay, will obligatorily leave the country visited, either to return to the country where he has his usual place of residence or to travel to another country.

8. The representative of Egypt, supported by the delegations of Japan and Chile, suggested that the secretariat, in collaboration with the WTO, could try to develop a list of tourism related services based on the indicative list in MTN.GNS/W/50 which would facilitate agreement on what should be included as being within the tourism sector.

9. Following the general statements, the Chairwoman invited comments related to the applicability and implications of a number of trade concepts, principles and rules to the tourism sector.

10. With respect to m.f.n. treatment, the representative of Egypt accepted the principle of m.f.n., provided countries could enter into preferential agreements on a bilateral or a regional basis. The representative of Japan said it was important for each country to be aware of the bilateral obligations it had, and their implications for the application of m.f.n. to the tourism sector. The representative of Chile supported the unconditional application of m.f.n. treatment and considered that a grandfather clause might give countries an incentive to enter into

bilateral agreements which they did not currently have. The representative of Korea considered that countries should receive preferential treatment in instances where they were parties to pre-existing bilateral tourism agreements and that grandfathering should take place. The representative of Hungary also supported a strong application of m.f.n. treatment but he found the view problematic that existing bilateral agreements would be exempted from m.f.n. without clear criteria being established. He added that trade in tourism services involved the movement of consumers, and that the language in article III of the draft framework text did not refer to movement of consumers. The representative of Mexico stressed the need for discussion on how derogations and reservations in other sectors such as transportation might affect tourism, and how it might limit the scope of liberalisation in that sector. The representative of Sweden, on behalf of the Nordic countries, wondered what was contained in the bilateral agreements under discussion that might conflict with the application of m.f.n. The representative of the European Communities also considered that it was necessary to know more about the role, scope and content of existing bilateral agreements and suggested that that they could be brought into conformity with the m.f.n. provision in the framework. The representative of Australia was concerned about the possible adverse impact of grandfathering existing bilaterals in the tourism sector. Her delegation preferred to eliminate them, but considered that the GNS would have to address this question as a generic issue.

11. By way of clarification, the representative of the WTO said that bilateral tourism agreements contained inter alia provisions relating to: the waiver of visas, mutual establishment of representations on each country's territory, recognition of tourist guides accompanying parties of tourists, cooperation in tourism on matters such as exchange of personnel or knowledge and expertise, and on any other matters considered desirable. He estimated that there might be fifty or sixty bilateral agreement in existence; they were often signed at ministerial level, in force for a period of five years, and then renewed.

12. Regarding transparency, the representative of Japan considered that tourists sometimes lacked safety and security information with respect to destinations and that it might be necessary in this regard to discuss whether precise language should be developed that would further elaborate upon the draft transparency provision. The representative of India considered that the draft provision on transparency in the general framework was sufficient to deal with tourism-related issues; moreover, in his view the movement of consumers was adequately covered under definition/scope. The representative of Egypt considered that countries should publish laws and regulations with respect to entry requirements e.g. visas, vaccinations and requirements for currency conversion. The representative of the United States also considered the draft transparency provision to be adequate for this sector and noted that there were other sources of relevant information such as the IMF publication on Exchange Arrangements and Exchange Restrictions. The representative of the European Communities noted that as there were many different sources of laws and regulations governing tourism, it was necessary to be as transparent as possible.

13. With respect to the principle of increasing participation of developing countries in trade in tourism services, the representative of Mexico, referring to paragraphs 36 and 37 of the document circulated by the WTO, stressed the need to improve access to information and reservation networks, strengthen domestic tourism services in the form, say, of technical assistance, and liberalise the movement of personnel. The representative of Chile said that it was necessary to take account of the difficulties of developing countries in the process of progressive liberalisation. The representative of Egypt noted that article V of the draft framework did not refer to international tourism, and suggested that developing countries should have greater access to the media in developed countries and should have greater possibilities to open tourism representation offices in those countries. The representative of India said it was necessary to ensure that the tourism infrastructure of developing countries met world standards, noting the existence of a significant resource and technology gap between developed and developing countries. The representative of Cuba felt that the principle of increasing participation was not sufficiently developed in the draft framework, and supported the views put forward by the delegates of Chile and Mexico. The representative of Jamaica considered that technical know-how and the improvement of access to information and reservation networks was needed by developing countries.

14. Concerning the principle of domestic regulation, the representative of Mexico agreed with the content of draft article VII and considered that developing countries required flexibility in order to enact new legislation and possibly to amend existing legislation. The representative of the European Communities considered that the draft provisions on mutual recognition in article VII of the draft framework was relevant with respect to the qualifications of tourist guides.

15. With respect to safeguards and exceptions, the representative of the European Communities, supported by the Austrian and Chilean delegations, considered that an exceptions provision should include consumer protection. The representative of the United States felt that the existing provision on exceptions in article XIV of the draft framework was adequate to cover this sector; with respect to balance of payments problems, measures were sometimes taken which were intended to either prevent travellers from leaving the country, or to slow down the outflow of currency. The representative of Hungary said that if countries were interested in meeting consumer protection objectives, they had ample opportunity to do so under the appropriate domestic regulations. The representative of India said that measures to safeguard the balance of payments constituted a generic problem which should be dealt with in the GNS.

16. Regarding market access and national treatment, the representative of the United States said that the country of origin of the traveller had an influence over market access with respect to the traveller being allowed to leave the country and what amounts of currency could be taken out of the country. He wondered whether this situation should be explicitly recognised in the framework perhaps in the form of an annotation to market

access. The representative of Mexico considered that onerous customs formalities might have a significant adverse impact on returning residents and the disincentives that such formalities might have for further outbound travel. The representative of India said that in practical terms, market access would be dependent on, and in accordance with, the terms agreed and specified in the appropriate schedules; he considered that this approach would be sufficient to meet the needs of the tourism sector.

17. The representative of Sweden, on behalf of the Nordic countries, said that any restrictions on inbound tourists would mean export restrictions in the tourism sector, while restrictions on outbound travellers would be import restrictions. It should be clear in any market access provision that for this sector, the market access commitments which would be entered into national schedules should reflect both types of restrictions. She questioned that the term "their markets" in paragraph 1 of draft article XVI adequately reflected the fact that in tourism, it was the market that was mobile in the sense of movement of the consumer. In fact, this issue was relevant to other sectors where the consumer had to cross national boundaries in order for an international transaction to take place. The representative of Australia considered that paragraph 1 of article XVI of the draft framework on market access covered the movement of consumers from the importing to the exporting country, and although the consumer was not mentioned in paragraph 2 of that article, the group should move cautiously in any attempt to revise that paragraph.

18. The representative of India, supported by the delegations of the European Communities and Australia, said it did not seem necessary to revise particular articles in the draft text of the framework as the wording on definition/scope was wide enough to cover the movement of consumers; furthermore, this aspect of tourism could be covered under particular scheduled commitments. In general terms he considered that this issue had two aspects: first, the situation where the country of origin restricted movement of consumers could be dealt with under a safeguards article; second, if the country of destination refused entry to the potential consumer, this would amount to an export restraint which could be taken up by the GNS if necessary.

19. As there were no further comments on particular concepts and principles, the Chairwoman considered that two issues had appeared to receive the most attention in the deliberations of this working group and these related to (a) m.f.n. treatment regarding in particular the relationship between existing bilateral agreements and m.f.n.; and (b) market access with respect to the role of the movement of the consumer both from the country of origin and into the country of destination. She then invited comments and suggestions for the agenda of the next meeting.

20. The representative of the United States raised the question of the need to clarify the nature of the tourism industry; he proposed that delegations consider the possibility of adding some language somewhere in the framework to the effect that it should be recognised that the tourism sector overlapped and interrelated with many other service and that the sector consisted of consumers (travellers) and enterprises that provided

services to consumers. In this way it was not necessary to get into the difficult task of trying to specify each and every type of service applying to tourism. Furthermore, tourism was a unique sector in that regulations of the country of origin of the traveller (consumer) could influence the extent of market access for tourism providers. He added that the services of travel agents, tour operators and other providers of tourism services should be covered in the framework agreement.

21. The representatives of Japan and Poland reiterated the importance of the definitional question and suggested it be on the agenda for the next meeting. The representative of India asked what the purpose would be of pursuing the discussion on definition; he considered that the universal coverage concept in the GNS was sufficient to deal with this matter. The representative of Chile considered that the development issue should be taken up again as a priority item. The representative of Mexico said that establishing a clear definition of what constituted the tourism sector would be very difficult; he preferred to discuss development-related issues raised in paragraphs 35 and 37 of the WTO paper that had been circulated to delegations. The representative of Hungary also questioned the point of continuing work on the aspect of definition. The representative of Egypt considered that certain aspects of article XI in the draft framework concerning safeguards and the balance of payments required discussion and in particular the possible relationship between the GATT and the IMF; he agreed with a number of other delegations that this subject was best left to discussion in the GNS.

22. The Chairwoman considered that there were two subjects for the agenda of the next meeting: first, she invited delegations that had contributed to the discussion on the nature (definition) of tourism to come to the next meeting with some precise language not defining tourism but describing the tourism sector and its parameters; she added that the principles which would have a direct bearing on such a description would be m.f.n. treatment and market access and suggested that delegations focus on how such language might be incorporated into the framework text on m.f.n. and market access. Second, she said that the subject of increasing participation of developing countries should also be pursued. She informed the members of the working group that the date of the next meeting was provisionally scheduled for 10-11 October 1990 and then closed the proceedings.