

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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**Group of Negotiations on Services**

WORKING GROUP ON FINANCIAL SERVICES INCLUDING INSURANCE

Note on the Meeting of 19-20 October 1990

1. The Chairman welcomed delegates to the fourth meeting of the working group on financial services including insurance. He said that the group should firstly attempt to assess whether a specific annotation or annex was needed in the sector and, secondly, try to identify the issues and provisions that would need to be addressed were an annotation or annex deemed necessary and, where possible, to determine their content. The third agenda item before the group related to the discussion of submissions. He suggested that the latter two points be grouped together for the sake of better focusing discussions. He opened the floor to a consideration of the need for an annex/annotation in the area of financial services including insurance.

2. The representative of India said that while his delegation remained open-minded, the discussions, both formal and informal, which the working group had held so far had not produced convincing evidence on the need for an annex or annotation in the financial services area. The only issue which required particular clarification or elaboration in the view of his delegation was that of prudential regulation as it related to the framework provision on domestic regulation. He felt however that this issue could be addressed in the framework itself, thereby obviating the need for a specific annex or annotation in the sector on this issue. He emphasized that the recent evolution of the framework had resolved a number of issues which had remained somewhat vague in MTN.GNS/35, such as the structure of the agreement itself, the provisions on national treatment and market access, the drawing up of the schedules of concessions, etc. As the framework evolved, his delegation was increasingly convinced that the financial sector did not require an annex or annotation.

3. The representative of Brazil felt that the working group could not put aside the recent developments which had occurred in regard to the framework text, noting that the recommendations to come from the working group would always have to be conditioned on the evolution of provisions in the framework. His delegation also remained unconvinced as to the need for a detailed annex or annotation in the area of financial services. This was all the more so as some of the proposals made in the working group foresaw the need for a logic of liberalization, for example in regard to the negotiation of specific commitments, which departed from that of the framework. He emphasized the need to keep annotations to a technical minimum and to avoid creating new or different obligations applying only to

one particular sector. His delegation remained open-minded about the need to clarify some provisions of the framework. As currently drafted in the framework, articles on national treatment and market access were flexible enough to allow countries to negotiate and achieve a higher degree of liberalization if they so desired. He noted that his delegation wished to retain its right to further discuss in the GNS the need for any specific annex or annotation in the light of a more final version of the framework.

4. The representatives of Egypt and Pakistan shared the views put forward by the delegations of India and Brazil and wished to retain the right to further discuss the need for an annex or annotation on financial services in the light of a more complete picture of the contents of the framework.

5. The representative of the European Communities felt that there were a number of reasons for which specific provisions were required to annotate the framework and thereby address the specificities of the financial services sector. His delegation therefore strongly supported the need for an annex in the sector.

6. The representative of Yugoslavia said that his delegation maintained an open attitude as to the need for a specific annex or annotation in the financial sector. Were an annex deemed necessary, his delegation felt that it should relate only to matters of transparency and prudential regulation. Both issues could, however, be addressed directly in the framework text.

7. The representative of the United States said that despite the recent evolution of the framework text, it was somewhat premature to state that no specific annex or annotations were required in the financial services sector. The framework was not currently at a stage where delegations knew firmly whether or not it could address the particularities of a sector as complex as that of financial services. There was a clear need in his view for the working group to identify which framework provisions required annotation. There were instances, for example in regard to monopolies, where a financial services annex might need to adopt a slightly different approach than that envisaged in the framework. He saw nothing inappropriate in departing from the logic of the framework provided there was a consensus among group members. There was at the same time a need to delineate those issues of concern to financial authorities which the framework could adequately address and, if this were not the case, to determine what specific proposals could be made to meet such concerns. He felt that it would simply not be adequate to address the issue of prudential requirements in a generic way in the framework, noting that the object of a financial services annex was to be as specific as possible in areas of fundamental importance to the sector.

8. The representatives of Sweden, on behalf of the Nordic countries, Switzerland and Japan, while duly recognizing the progress made in developing the framework text, strongly supported the need for a specific annex or annotations given the number of specificities which applied in a sector as fundamentally important and complex as that of financial services.

9. The Chairman felt that no one was questioning the fact that the financial services sector presented a number of specificities which had to be addressed in one way or another. While some delegations were of the view that the final contents of the framework would need to be known before reaching a decision on the need for a specific annex or annotations on financial services, he recalled that the working group had to draw up a report fairly soon which would identify as clearly as possible what was required in the sector by way of interpretation or clarification of the framework. He opened the floor to a consideration of agenda items two and three.

10. The representative of Canada said that his delegation had done work in the financial services area with a view to contributing usefully to the working group's deliberations and had prepared a non-paper which it was now able to circulate and which it hoped could be given due consideration by group members.

11. The representative of Yugoslavia said that it was unfortunate that the non-paper was being distributed only now; his delegation would need time to study its contents. The representative of Egypt expressed puzzlement at the fact that the non-paper contained bracketed language and sought clarifications on the matter.

12. The representative of Canada said that the purpose of his delegation's efforts was to bring forward a text which would hopefully contribute to the objective of determining the appropriate path for a financial services annex. His delegation had chosen the vehicle of a non-paper since its intent was not to represent Canada's views, but rather to seek consensus. It had listened intently to the discussions of previous group meetings, had reviewed closely the documents tabled by the United States, the European Communities and Malaysia, and had held extensive discussions with other delegations. This had led in his view to many areas where there was a basis for consensus. This was represented by unbracketed text, which included the vast majority of the text. There was also bracketed text - this represented areas where he had the feeling that there were significant differences of views. These items clearly needed further consideration before they could be resolved. There were also notes in the text. The notes, in Canada's view, served to provide guidance to GNS negotiators with respect to areas of a more horizontal nature, but yet of significant importance to financial services providers. The notes could suggest future inclusion in the GNS framework or future inclusion in the annex itself. Nevertheless, in his delegation's view, the substance of the notes also needed to be discussed further. He briefly described the basis for including some of the individual articles. With respect to transparency, the desire expressed in the last working group meeting for protection for regulators was recognized. In addition, there was a general concern about the length of time for applicants to be informed of decisions. This issue was addressed. On domestic regulation, previous discussions suggested that there was a major concern about the right to regulate. Perhaps the most important provision here was the prudential provisions which would effectively override the agreement when parties had to take prudential actions. There were also extensive articles in the text on payments and

transfers. Previously the GNS has sought the advice of financial experts on these issues and many of these had discussed the matter informally. In drafting this, he realized that provisions would be needed in the framework. Therefore, there may eventually be need for provisions in an annex on payments and transfers. A key aspect of the text was the Part III application procedure. He felt that it provided all countries with the ability to make positive commitments in areas where they chose to do so. Some countries had indicated a readiness to commit to all items listed in Part III, subject of course to reservations as provided for in Article XX of the framework. Other countries would wish to make commitments only on certain items. The choice was clearly up to each individual country. Included in Part III was of course market access and national treatment with several aspects of particular importance to financial services. In addition there were two other provisions which many financial experts felt strongly about - the granting of new monopoly rights and financial services provided to public entities. Under institutional provisions, he noted that Article XXV raised the possibility of creating subsidiary bodies. He had the sense from many financial experts that a financial service body would be essential to allow for the proper expertise. Such a body's exact form and role were unclear at this time. However, the non-paper made what he believed to be some important suggestions. He hoped that this non-paper would serve as a good basis for fruitful discussions.

13. The representative of India asked the Canadian delegation whether the non-paper that had just been circulated represented the views of the Canadian authorities. The representative of Canada said that it was his understanding that delegations could, in presenting non-papers, express views which were not the formal ones of their governments. The non-paper nonetheless identified important areas in relation to financial services which the Canadian government felt should be discussed in the working group. The non-paper reflected the great amount of discussions that had taken place on financial services within the group and aimed to contribute positively to the group's important work in the sector.

14. The representative of India felt that one could start with the presumption that the non-paper before the group was not a Canadian one since it did not reflect the views of the Canadian government. He was unsure as well whether it represented the views of the Canadian delegation and sought clarifications on its status in the group.

15. The representative of Canada reiterated that the non-paper addressed issues which the Canadian government believed to be ones which had to be dealt with in the working group on financial services including insurance and hoped that the group could turn its attention to these issues.

16. The representative of India felt that the working group was in the rather unique position of having before it a document circulated by a delegation that was not wedded to all it contained. He said that, alongside the material already available within the group, his delegation could have understood that a document such as the Canadian non-paper could emanate from the Chairman of the working group. It could not, however, give authority to the attempt by one delegation of summarizing the various views

expressed within the group, particularly as all delegations had not been consulted in preparing the non-paper.

17. The representative of the European Communities said that his delegation was concerned by the lack of time to engage in substantive work and questioned the extent to which the willingness of a delegation to submit a paper in the form it saw fit could be curtailed or opposed. He doubted whether any procedural rules existed in this regard.

18. The representative of the United States said that a clearly understood procedure in the GATT was for formal (i.e. green band) documents to represent the official views of delegations. However, in setting up the GNS working groups, it had been left to the individual groups to determine whether any particular ground rules would have to be followed in submitting documents. It was his delegation's understanding that no such rules had been established, something which suggested that the Canadian non-paper was most welcome, all the more so as it addressed questions of substance to which attention needed to be given on a priority basis. He recalled that his delegation had itself submitted a room document at an earlier meeting of the working group.

19. The representative of Egypt said that his delegation had difficulty in understanding why a delegation would wish to present a non-paper which it could not fully endorse and recalled that it should be up to the secretariat to prepare documents which attempted to reflect the views of all delegations.

20. The representative of Yugoslavia said that it was highly regrettable that the principle of transparency had not been respected in deliberations on financial services, as it placed some delegations, among which his own, at a distinct disadvantage in participating fully in the negotiations.

21. The representatives of Sweden, on behalf of the Nordic countries, and of Switzerland, agreed that the group should be addressing substantive matters, not procedural ones, and recalled that it was customary in negotiations for papers to be used as a means of testing ideas. It was, as such, not correct to challenge or question the right of any delegation to come forward with any document it felt could contribute in a positive manner to the negotiating process. He felt that the Canadian non-paper represented a very constructive effort at summarizing the discussions that had taken place on financial services.

22. The representative of Cuba felt that the way in which the Canadian non-paper was presented to the working group did not allow delegations enough time to react to its contents and assess whether it adequately reflected the views of all delegations involved in the working group's deliberations.

23. The representative of India recalled that his delegation had taken the floor only after the introduction of the Canadian non-paper. It was thus wrong to portray his delegation as wishing to prevent the introduction of the non-paper. His delegation had simply wished to voice strong

reservations as to the manner in which the non-paper had been put before the working group. He disagreed with those delegations that saw the non-paper as an attempt to summarize the deliberations of the working group. The non-paper rather represented, in his view, an attempt at summarizing the views of some group members. His delegation felt that the non-paper could not be considered as the basis upon which to continue work in the group. It should as such serve as -and be treated like- any other paper before the group, i.e. as one of the elements with which to further the discussions.

24. The Chairman said that it was regrettable that papers were submitted so late in the working group's deliberations and took note of the questions that were raised as to the manner in which the Canadian non-paper had been introduced. He noted that the non-paper should be treated as one element of discussion alongside all other documents already before the group. He reiterated his request for suggestions as concerned the second and third agenda items and suggested that the working group should consider both items in an informal setting so as to provide for a freer exchange of views, particularly as regards the identification of issues and provisions which might need to be annotated in the sector and, if possible, the contents of any such provisions. He said that he intended to provide delegations with an opportunity to register their positions in a formal manner before the current meeting ended.

25. The Chairman briefly summarized the ground that had been covered during the group's informal discussions. He informed group members of his intention to forward to the GNS a report under his own responsibility which would indicate the positions taken by various delegations on the two questions which had been put to the working group: i.e. the need or not for an annex/annotation and the identification and possible contents of an annex/annotation. In this vein, he informed group members that he would be appending to his report language developed in the working group on framework provisions dealing with payments and transfers and with measures to safeguard the balance-of-payments. Such language was being sent to GNS with a view to considering its possible incorporation into the framework text. He said that he intended to present his draft report to group members at an informal meeting to be convened before the start of the sectoral Ad hoc group's meetings.

26. The representative of India asked whether group members would have the opportunity to amend the Chairman's report.

27. The Chairman said that the report would be drafted under his own responsibility and would delineate in an objective way the positions taken in the working group by all participants. He asked whether any delegation wished to register its position in a formal manner. There were no comments.