

**MULTILATERAL TRADE
NEGOTIATIONS
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Group of Negotiations on Services

WORKING GROUP ON TRANSPORT SERVICES
(Land Transport Services)

Note on the Meeting of 26 September and 18 October 1990

1. The Chairman of the working group on Land Transport Services welcomed delegations to the second meeting of the group and noted that the purpose of this meeting was that the group should give its assessment as to whether a specific annotation/annex was needed in the light of any relevant characteristics/peculiarities in the sector; if it came to the view that an annotation was needed, it should identify the issues/provisions that should be annotated and suggest, to the extent possible, the nature and content of such an annotation in relation to the specific provisions of the framework involved. As compared to some other working groups, the working group on Land Transport Services had a serious handicap, i.e. the fact that the subject of land transport services had never been discussed on a world-wide scale. It was in the nature of land transport services that they were being provided on a national or regional basis. Concerning inland waterway transport, he noted that in a joint meeting of the working group on Land Transport and Maritime Transport Services, it had become apparent that some delegations considered that inland waterway transport, due to national legislation and traffic characteristics, was part of maritime transport (i.e. part of cabotage); other delegations viewed inland waterways and maritime transport as entirely different sectors with completely different regulatory systems which could not be merged from the administrative point of view. It was agreed, however, that the provisions of Article II of the general framework should not apply to the provision of inland waterway transport.

2. Before starting informal consultations on the need for, and possible contents of, an annotation/annex, the Chairman noted that two relevant proposals were on the table, both entitled Draft Sectoral Annex on Land Transport: one was a communication by the European Communities (contained in MTN.GNS/TRANS/W/2) and the other communication from Austria (in document MTN.GNS/TRANS/W/5).

3. In presenting his country's proposal, the representative of Austria said that land transport was a typical regional problem where general and abstract concepts like full liberalization could not be applied irrespective of the geographical constraints. There were many bilateral and plurilateral agreements presently addressing this particular situation which did not lend themselves to extension through an unconditional m.f.n. provision. He underlined that the use of infrastructure was not extendible

without limitations because land was a scarce and limited resource; therefore, unconditional access to use of infrastructure was not feasible and thus not acceptable. In this context, Austria would have to safeguard her right to apply strict laws and regulations to protect the environment, and human, animal or plant life or health as well as measures to protect the integrity of its infrastructure. He supported the idea of facilitating combined transport which would contribute to shifting goods transported to rail or inland waterways, the latter two modes of transport being more benign to environment and easing the burden of environmental pollution. Any liberalization had to be subject to these overall objectives, as any further increase of road traffic was not acceptable to the public in Austria.

4. After a discussion of the two proposals, and following a number of informal consultations, the Chairman announced his intention to draft a report based on the deliberations of the working group. In this regard he noted that, concerning the need for an annotation/annex in the light of relevant sectoral peculiarities, some (in particular, transit) countries considered an annex to be necessary due to the need for (phased/transitional) derogation from immediate and unconditional application of most-favoured-nation treatment/non-discrimination regarding access to infrastructure, environmental regulations, subsidies in the rail sector, existing bilateral relations and cabotage. It was considered that one of the peculiarities of the sector was that some parties took part in highly regulated quota and authorization systems. Furthermore, a transport policy based on reciprocity and a number of bilateral treaties and agreements would make it difficult to fully apply national treatment and most-favoured-nation treatment. Others saw no need for a derogation or annotation and were concerned that any derogation should not result in a more restrictive situation. Some countries had an open mind on this question, noting there was no obligatory market access under the general framework and that monopolies (e.g. rail) would be safeguarded. For one delegation there was a difference between public transport services and more commercial services (that utilized public services) and it would be necessary to envisage some sort of derogation for public rail services (provided by monopolies). For another delegation, rail (and road) transport (which in at least one country had been extensively deregulated) would not require a derogation. There seemed to be a general understanding that cabotage should be excluded from the provisions of the general framework. Some countries held the view that this should also apply to cross-border provision of road transport services and the related movement of factors or production. In that case, as far as road transport was concerned, Article II of the general framework should only apply to establishment in the case of a permanent presence. Following these remarks, he then closed the meeting.