

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNS/39

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Special Distribution

Group of Negotiations on Services

NOTE ON THE MEETING OF 22 OCTOBER 1990

1. The Chairman welcomed delegations to the thirty-fifth meeting of the GNS and noted that the agenda for the meeting was contained in GATT/AIR/3115 of 5 October 1990. Regarding item 2.1 of the agenda, he said that he had put before the GNS a new informal version of a draft framework on trade in services dated 22 October 1990; this text was based on MTN.GNS/35 but extended and revised on the basis of consultations with a large number of delegations. The text was being put forward on the Chairman's own responsibility and it did not commit any delegation; work was still going on among delegations on some important articles, the result of which might lead in some cases to changes in language and substance of some of the provisions; this version formed at this stage a reference point for the work to be undertaken in the sectoral ad hoc Working Group of the GNS. Furthermore, he noted that he, with the help of the secretariat, would continue consultations on the basis of the present version of the text, taking into account the outcome of the work of the ad hoc Working Group in the different sectors under discussion, with a view to finalizing a complete draft text of the framework including possible annexes or annotations for the next and final GNS meeting scheduled for the week of 12 November. This would include also considerations as to the changes that needed to be incorporated in the text from a legal point of view.

2. Concerning agenda item 2. the Chairman noted that the GNS had before it the final reports of the chairmen of the sectoral working groups on telecommunications, labour, construction, professional services, transport (air, maritime, land), tourism, audiovisual services. The report on financial services was for technical reasons in a separate paper. The reports, in line with the mandate given by the GNS, contained an assessment of, and the opinions voiced in, the different working groups as to (a) whether a specific annotation/annex was or was not needed in that sector, and (b) if an annotation should be deemed necessary, an identification of the issues/provisions that might need to be annotated suggesting, to the extent possible, the nature and content of such an annotation. The sectoral working groups, having fulfilled their mandate, now ceased to exist and the sectoral work would be finalized, as agreed, by the sectoral ad hoc Working Group which would be constituted after the meeting of the GNS.

3. The representative of India expressed concern about the procedures adopted in one of the groups whereby a draft annex seemed to have been presented on the personal authority of the Chairman on the basis of

consultations with delegations outside the forum of the working group. Any such report could not be a basis for consideration in the ad hoc Group.

4. The representative of Brazil, thanking the Chairmen of the working groups, felt that the reports before the GNS would be a useful basis to further discussions in the ad hoc Group. He agreed that developments in another working groups had been most unfortunate as delegations had not been kept fully informed of, nor invited to, meetings held in the area in question. As such, the views contained in the Chairman's report did not adequately reflect those of all delegations. He agreed with the assertion made in the report that there existed no convergence of views on the need for a specific annotation or annex in the sector in question.

5. The representative of the United States recalled that no specific procedures had been established with regard to the submission and consideration of documents in the various working groups. He noted that financial services ranked amongst the most complex and heavily regulated of sectors and were thus prime candidates for an annex. He recalled that the specific suggestions that were contained in the report of the Chairman of the working group on financial services had been fully discussed in the group and he felt that it was important that the ad hoc Group be able to consider the suggestions of all delegations on the desirability and possible contents of an annex covering the sector.

6. The representative of Egypt noted that the lack of agreement as to the contents of the framework had significantly complicated work on the various sectors, particularly as regarded the need and possible contents of annexes or annotations. He supported the earlier statements of the delegations of India and Brazil on the procedural difficulties encountered in the working group on financial services, noting that the draft that had been appended to the Chairman's report reflected the views of only some delegations.

7. The representative of Chile felt that the sectoral exercise could have been more fruitfully carried out after the GNS had reached agreement on the contents of the framework. He expressed disappointment that the work on financial services had not been conducted in a manner analogous to that in the telecommunications working group.

8. The representative of Yugoslavia said that while his delegation fully supported the report of the Chairman of the financial services working group, the group had not respected the basic rule of transparency. He noted that the Chairman of the working group himself had not been able at times to follow the informal negotiating process in the sector. He recalled his delegation's understanding that all documents, both formal and informal, which were listed in para. 1 of the Chairman's report remained on the table. These documents, alongside the Chairman's report and its annex, formed the basis of what the ad hoc Group could consider in attempting to draft an annex in the sector. He agreed with those delegations that felt that the elements of a financial services annex which the Chairman had appended to his report under his own responsibility contained views which were not shared by all delegations, including his own. For this reason, his

delegation felt that this document could not be considered as the sole basis for the purposes of drafting a sectoral annex.

9. The representative of Korea said that despite the intensive negotiations that had taken place during the last few months his delegation was not encouraged by the imbalanced results of the work on sectors. He recalled that the role of sectoral annexes was to clarify and interpret the application of specific provisions of the framework, but not to increase or decrease the level of specific market access commitments made in respect of Part III of the framework. He felt that there needed to be a balance of obligations within the various sectoral annexes in order to secure an overall balance of benefits amongst participants. He expressed his delegation's concern over the contents of one sectoral working group report.

10. The representative of Japan felt that one of the ad hoc Group's most important tasks would relate to the development of specific provisions in regard to financial services. He regretted that conflicting statements had been made on the contents of the report of the Chairman on the financial services working group, noting that all groups had developed their own procedures or working methods depending on the contents of their work. He noted that there were no alternatives to the text that had been appended to the Chairman's report under his own responsibility, adding that delegations which did not share the views contained in the elements of a financial services annex could voice their concerns during the course of the ad hoc Group's deliberations.

11. The representative of Canada expressed appreciation for the reports of the sectoral working groups, noting that such elements provided the ad hoc Group with the necessary elements with which to carry work further in the various sectors. He noted that substantively different views had been expressed in the various reports, adding that the financial services area was no exception in this regard. He agreed that all documents considered in the sectoral working groups formed the basis of the ad hoc Group's deliberations, noting however that the reports of the chairmen of the various working groups should serve as a point of departure.

12. The representative of India felt that the Chairman of the GNS had clearly laid down a few procedural rules to be followed by the sectoral working groups, namely that all groups and documentation would be serviced and produced by the secretariat. He noted that the working group on financial services was one where such procedures had not been followed since its beginning, a development which in his view had affected the very substance of the work done in the sector. He noted that transparency had been lacking throughout the work of the financial services group and that some delegations had held outside consultations which were then smuggled into the working group. He said that such developments were of great concern to his delegation, noting that the elements of a financial services annex which was appended to the Chairman's report could not serve as a basis for further discussions in the sector.

13. The representative of the European Communities said that his delegation had hoped that the Chairman of the audiovisual services working group could have gone a little further in proposing that an annex addressing the specificities of these services was necessary. The fact that for different sectors different informal groups were formed on the initiative of interested delegations should not in any way deter the GNS or the ad hoc Group from making substantive progress in the negotiations. Papers produced by such informal groups should be assimilated as substantive inputs into the negotiating process. Along the same lines, the text proposed by the Chairman of the working group on financial services should be accepted since it reflected in large measure consultations held among delegations on the matter of financial services.

14. The representative of Cuba, Egypt, Yugoslavia and Chile supported the view expressed by others that the report submitted by the Chairman of the working group on financial services was unacceptable since it reflected the views of a small group of countries and not of the working group as a whole. The representative of Yugoslavia added that both the substance of the proposed annex on financial services and the procedures adopted by a few delegations in drafting such an annex were unacceptable for his delegation. Procedurally, his delegation had been excluded not only from informal but also formal consultations. The representative of Chile stressed that transparency in the negotiating process was vital for small delegations in order to ensure that their views were picked up at least as minority opinions.

15. The representative of Australia supported the views expressed by the representatives of the United States and the European Communities regarding the flexibility of the negotiating process both in terms of the content of the report on financial services as well as in terms of the procedures adopted by delegations in the drafting of proposals.

16. The representative of Switzerland said that his delegation would submit a voluntary offer that represented what the Swiss Government was ready to bind as initial commitments and which would come into force at the time of the conclusion of the Uruguay Round. The offer was conditional upon the overall results of the Uruguay Round and of a satisfactory outcome of negotiations on the framework including a strong m.f.n. commitment, and on the substance of other offers. Therefore the Swiss offer would be subject to adaptation. The offer would be subject to discussion among all delegations along with offers put forward by others.

17. The representative of Chile asked how such an offer could be treated legally and what was meant by describing the offer as conditional. He asked whether, if the delegation of Switzerland considered the levels of commitments insufficient, it would not accede to the general agreement on services.

18. The representative of India recalled the present state of negotiations and of the framework, especially regarding the fundamental issues of m.f.n. derogations and coverage. Once these issues were settled, the annexes could be finalized. Thus, it was premature to talk of initial commitments

while these issues were unresolved and while no procedures has yet been established for negotiating the commitments.

19. The representative of the United States said that it would be very difficult to sign on to a framework without initial commitments. The United States would submit an offer similar in nature to that described by the representative of Switzerland. It was not impossible to submit offers with the provisions of the framework incomplete. Were the framework to change it would affect the way countries would tailor their offer, since it was conditional. The reality was that the value of the framework would depend on the specific commitments made.

20. The Chairman noted that the GNS might need to return to the issue of offers at a later stage and adjourned the meeting.