

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

MTN.GNS/46

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Group of Negotiations on Services

NOTE ON THE MEETING OF 21 OCTOBER TO 1 NOVEMBER  
AND 29 NOVEMBER 1991

1. The Chairman welcomed delegations to the forty-second meeting of the Group of Negotiations on Services (GNS) and drew their attention to the agenda for the meeting contained in GATT/AIR/3250 of 10 October 1991.

2. Regarding agenda item 2.8, Further Work on Initial Commitments, the Chairman invited a number of delegations to introduce their initial offers concerning initial commitments on trade in services. These offers comprised communications from: El Salvador, Guatemala, Honduras and Nicaragua (MTN.GNS/W/142); Morocco (MTN.GNS/W/141); Thailand (MTN.GNS/W/132/Add.1); the European Communities (MTN.TNC/W/53/Rev.3); Cuba (MTN.GNS/W/143); Australia (MTN.TNC/W/51/Rev.1); Philippines (MTN.GNS/W/131/Add.1); Switzerland (MTN.GNS/W/109/Rev.1); Argentina (MTN.GNS/W/125/Add.1); and India (MTN.GNS/W/144).

3. Regarding agenda item 2.1 on maritime transport services (MTS), discussions focused on paragraphs 5 and 6 of the proposal contained in MTN.GNS/W/135 from the Nordic countries for a common approach to MTS which dealt with maritime transport auxiliary services. At the request of the Chairman, the representative of Norway, speaking on behalf of the Nordic countries, explained that while paragraph 5 aimed to address the situation of shipping companies as suppliers of auxiliary services (though not necessarily by themselves), paragraph 6 aimed to address the situation of shipping companies as consumers or users of port and auxiliary services. Whereas paragraph 5 dealt with the reduction of restrictions affecting services and suppliers in their provision of certain port and auxiliary services, paragraph 6 dealt with the terms and conditions under which shipping companies had access to, and use of, such services. The main intent of paragraph 6 was therefore to ensure that the provision of shipping services, including the transport function itself, should not be frustrated by restrictions on access to, and use of, port and auxiliary services. As the aims of the two paragraphs were distinct, the term maritime transport auxiliary services did not refer necessarily to a common list of such services. The point was also made that the services subsumed under paragraph 5 were not intended to cover multimodal services in general. Neither paragraph was intended to mean that countries could not supply port and auxiliary services through government bodies nor that they had an obligation to provide additional services to those already available at their ports.

4. The representatives of Japan, the EC, New Zealand, Switzerland, Canada, Hong Kong and Australia supported the standstill and the possibility to negotiate further restrictions affecting maritime transport auxiliary services contained in paragraph 5, as well as the commitment to

ensure improved access to and use of such services contained in paragraph 6 of the Nordic proposal. In fact, these countries considered the whole of the Nordic proposal as an acceptable means to liberalize trade in MTS.

5. Delegations which favoured the liberalization of trade in MTS but which had reservations about the notion of a common approach included Morocco, Côte d'Ivoire, Nigeria, Cameroon, Malaysia, Uruguay, Indonesia, Brazil and India. The representatives of Côte d'Ivoire and Cameroon, speaking on behalf of the twenty-five member countries of the Ministerial Conference of West and Central African States on Maritime Transport (MINCOMAR), in referring to the communication from these countries contained in MTN.GNS/W/138, highlighted the importance of the MTS sector in the economies of their countries and stressed the role of the UN Convention on a Code of Conduct for Liner Conferences in that regard. They said that the liberalization process should provide flexibility for developing countries.

6. The representative of the United States noted that his country had legislation in place which permitted unilateral measures to be taken against trading partners who pursued restrictive policies in the area of maritime transport auxiliary services. Given the little support in the GNS for a common approach such as the one proposed by the Nordic countries, he said his government would find little incentive to give up such means of achieving liberalization of port and auxiliary services. The reluctance on the part of many participants to go along with the Nordic proposal, did much to highlight the reasons for the scepticism displayed by his country's maritime industry regarding the application of multilateral disciplines to the MTS sector.

7. Regarding agenda item 2.2 on Financial Services, two new texts relating to a possible annex for financial services were introduced. The representative of Sweden, on behalf of the Nordic countries, introduced MTN.TNC/W/50/Add.2, explaining that it was a revision of Parts I and II of MTN.TNC/W/50. The Co-Chairman for financial services introduced an informal note on financial services and possible elements of an annex dated 14 October 1991. Delegations offered comments and raised questions regarding these texts.

8. Regarding agenda item 2.4 on Telecommunications Services, the Co-Chairman for telecommunications services introduced an informal note dated 21 October 1991 containing a draft annex for consideration, indicating that the note was intended to serve as a basis for informal consultations. Delegations commented generally on this note and agreed that it could serve as a basis for further discussions.

9. When the meeting was reconvened on 29 November, the Chairman gave a summary of the intensive work that had been carried out informally on the draft services agreement. He gave a progress report on discussions concerning individual articles as well as the various annexes. At the end of the consultations which had taken place during the period of the GNS meeting, he said that since the distribution of the Consolidated Text (8 November 1991), the drafts of certain Articles had been further developed

as a result of his consultations, namely, Article VIII: Monopolies and Exclusive Services Providers, and Article XXV: Council and a Ministerial Decision on Institutional Arrangements for the General Agreement on Trade in Services. In addition, an informal note by the secretariat on the subject of exemptions from m.f.n. (i.e. Article II) had been distributed. Considerable progress had also been made in consultations regarding Articles V, IX, XI and XXIII and the Annex on the Movement of Natural Persons Providing Services under this Agreement. The Chairman would be in a position to provide new drafts in the near future. He noted that some delegations had suggested that the notion of confidentiality, which has so far been addressed under different Articles of the Agreement, including Articles VIII and IX, might need to be addressed as a new article.

10. The Co-Chairman then distributed an informal note relating to the Scheduling Group of Articles and Other Articles. Commenting on the Part III provisions of the framework, he noted that two earlier interpretative notes had been deleted from Article XVII (national treatment) on the understanding that no performance-based assessment would be made of whether the requirements of the provisions had been met. The notes stipulated that (a) the assessment should not be based on economic performance in the relevant market including market share achieved; and (b) panels might consider statistics and other factual data submitted by a Party in the application of this Article.

11. The Chairman closed the proceedings.