

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

MTN.GNS/W/6 MTN.GNS/W/6

9 April 1987

Special Distribution

Group of Negotiations on Services

Original: English

COMMUNICATION FROM SINGAPORE

The attached communication is circulated at the request of the delegation of Singapore to the members of the Group of Negotiations on Services.

Statement of Singapore at the GNS Meeting
on 25 February 1987

I. Definitional Issues

(a) Consumption

A Singaporean wants to view an Australian TV programme.

He can go to Australia and view it there. From Singapore's point of view, this is consumption.

He can also receive it directly through a powerful receiver in Singapore.

If this involves payment of a user fee to the Australian TV station, it is trade.

The Singapore government can prevent him from receiving the TV programme in Singapore because it is an X-rated programme.

This is not trade restriction.

If the Singapore government imposes a special levy, this may be considered as a trade restriction, but this is legitimate.

However, in some of the services, the producing agent cannot be separated from the service product itself, eg a hair cut.

A Singaporean can go to Australia to get a hair cut from a particular barber. From Singapore's point of view, this is consumption, not trade.

If the Singapore Government discourages him from going to Australia to have a hair cut, this is not a trade restriction.

(b) Trade

A Singaporean can also send in a barber from Australia to have his hair cut in Singapore.

This is trade. It is also a labour service.

In this case, cross border delivery/production of the service, or establishment, is involved. The hair cut cannot be performed by the particular barber in Singapore if he himself is not physically present in Singapore.

Hence, the establishment of the agent himself is part and parcel of the service production.

If the Singapore government prevents the barber from producing his service in Singapore (ie hair cutting), say, by insisting on special licensing requirement, can this be construed as a trade restriction?

This must necessarily involve the question whether the agent, as a legal entity, is separable from his product.

Take a more sophisticated service, say, banking.

The foreign banker can either engage a local to perform the banking service for him (in which case, the local man is his agent-proxy) or he can set up a bank himself. In either case, the production of the service cannot be carried out unless the agent or his agent-proxy has to establish a presence.

Hence, the question arises whether, in selling his service, the prerequisite of establishment or contract with a local distribution system can be considered to be part of that service. If the agent, as a legal entity, is separable from the service itself, then it can be argued that since the legal entity cannot claim automatic right of entry, establishment or to employment, the production of the service is a subsidiary issue.

Take the case of the barber. If we contend that labour service, (ie movement of workers across border) is an immigration or consular issue, we have accepted that there is a separation of the agent (eg an engineer) as legal entity from his service.

Hence, in the services negotiation, market access of services can only be a matter of concession, and not a right of establishment or to contract with local distribution systems.

In short, there are two distinct features in trade in services:

(a) The product cannot be stored, eg TV programme transmission. If not consumed, it will expire.

Same can be said of transmission and usage of data. Usage is instantaneous. It also involves payment, eg a user fee.

Within a country, the use of such service is

For cross border, it can also be considered as trade as it involves payment in a foreign currency.

As in the case of trade in goods, imposition of tariffs or non-tariff restrictions such as special licensing are legitimate.

(B) The right of establishment/contractarises only where the agent cannot be separated from the production of the service itself, eg a hair cut.

In this case, the production of the service and its consumption are instantaneous.

In cross border transactions, it involves both production and sale and consumption simultaneously.

But conceptually, there is no difference from a company setting up a manufacturing plant and selling the products in the country of establishment.

It involves both establishment to produce and to sell, even though in the case of services, the sale and consumption take place simultaneously.

As in the case of manufacturing of goods, there is no basis for automatic right of establishment or right to contract with a local distribution system.

II. Statistical Issues

They should serve two purposes:

- (a) to evaluate the dimension/volume, both absolute and relative, of trade in services;
- (b) to assist in the exchange of concessions, particularly in specific sectors agreed upon.

Though the statistics can be broadly obtained from the current account invisibles, specific categorisation would require search into Departmental records, or revenue books of establishments concerned such as Telecoms Authorities.

This process of gathering statistical data can be complex and tedious, especially for those countries which do not have the comprehensive data either because the collection system is inadequate or because there are too many private establishments involved in providing the same service, e.g. telecommunications.

In this connection, it would be useful if the GATT Secretariat, in consultation with other agencies such as IMF or UNCTAD could develop a model technique for distinguishing and gathering of statistical data on various sectors of trade in services. This technique will help member countries in their data collection, particularly on specific sectors where exchange of concessions may be required later on.
