

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

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Definition of Trade in Services

The attached communication is circulated at the request of the Permanent Delegation of the Commission of the European Communities to the members of the Group of Negotiations on Services.

DEFINITION OF TRADE IN SERVICES

Introduction

1. Since the beginning of the Uruguay Round negotiations, the need to define trade in services has been perceived as an important element of the GNS exercise. Many participants have underlined the utility of defining the scope of the future framework. Such a definition does not of itself necessarily imply that all activities thereby covered will be liberalised, but it places an outer limit beyond which activities will not be considered as "trade". If such a definitional exercise is not attempted, the exercise being undertaken will be of a different nature. Rather than liberalising trade, we shall be liberalising all investment and all labour movement. The Community does not believe that this is an appropriate goal for the GNS.
2. The text agreed in Montreal on this issue (84 of MTN.TNC/7) recognises this need when it states that "Work on definition should proceed on the basis that the multilateral framework may include trade in services involving cross-border movement of services, cross-border movement of consumers, and cross-border movement of factors of production where such movement is essential to suppliers. However, this should be examined further in the light of, inter alia, the following:
 - a) Cross-border movement of service and payment.
 - b) Specificity of purpose.
 - c) Discreteness of transactions.
 - d) Limited duration."
3. The Community does not consider that an all-embracing, generic definition of trade in services, which stands on its own, will be feasible, due to the difficulty of developing unambiguous, universal criteria to determine where factor movement is essential to suppliers. While a definition may be possible which eliminates certain types of factor movement from the scope of the framework, some linkage with the issue of sectoral coverage may be necessary before final agreement on the scope of the framework will be possible at the end of 1990.
4. In the light of these considerations, the Community puts forward the following approach as a basis for agreement on the definition of trade in services as one element of the draft framework.

Proposed approach to the Definition of Trade in Services

For the purposes of the multilateral framework, trade in services shall be considered to include the provision of a service through one or more of the following types of transaction:

- ° transactions involving cross-border supply of the service;
- ° transactions involving cross-border movement of consumers;
- ° transactions involving a commercial presence, whether temporary or permanent (including through the creation of wholly-owned subsidiaries, branches, representative offices, joint ventures, partnerships and franchising operations), providing that activities are limited to the specific purpose for which access was granted;
- ° transactions involving the movement of personnel essential to the supply of the service (to be defined by sectoral annotation as appropriate) i.e. key personnel and other skilled personnel, and providing that such movement is limited to the specific purpose for which the access is granted, and is of limited duration or is a discrete transaction.

It is understood that liberalisation in any sector will be progressive and does not necessarily cover all forms of trade. The relationship between the scope of the framework and the specific liberalisation commitments/bindings of each signatory to the framework is set out in section C of the Community's proposal "The Basis for the Progressive Liberalisation Process" (doc. MTN.GNS/W/66).