May Council

GATT grants observer status to the Soviet Union

The Council approved, on 16 May, a request by the Soviet Union for observer status in the GATT. The Soviet Union indicated that it saw its request as a first step towards a future application for GATT membership. Many delegations welcomed the decision as historic and underlined its significance not only for trade, and more generally, on fostering global peace and economic progress.

The Council Chairman, Ambassador Rubens Ricupero (Brazil), said the Soviet observer status in the GATT, could presage a “truly unified economy on a planetary scale”. He added that this was another sign that walls between two economic systems which emerged from World War II “have started to crumble”.

The European Community said the move further supported the potential universality of the GATT trading system. For the next century, the EC envisioned a strengthened multilateral trading system based on economic democracy, in which the Soviet Union could take its place.

The United States hailed the “courageous steps” by the Soviet Union towards economic reforms. However, it noted that the Soviet economic system was not yet compatible with the structure, provisions and principles of the GATT although important changes appeared to be forthcoming. It hoped for the integration of the Soviet economy into the international trading system and the adoption by the Soviet Union of a market system compatible with the GATT. It said the granting of observer status to the Soviet Union “in no way prejudice any action on a possible future request for accession”.

The Soviet Union’s observship was also warmly greeted by Egypt, Argentina, Brazil, Bangladesh, India, Japan, Colombia, Morocco, Korea, Chile, Pakistan, Finland on behalf of the Nordic countries, Austria, Poland, Romania, Switzerland, Tanzania, Czech and Slovak Federal Republic, Peru, Turkey, Nigeria, Yugoslavia, Uruguay, Malaysia, Senegal, Israel, Australia, Hong Kong, New Zealand, Mexico, Cuba, Ghana, Indonesia, Madagascar, Côte d’Ivoire, Myanmar, Philippines, Singapore and Hungary.

Soviet Ambassador Evgeny Makeyev welcomed the opportunity to learn how GATT works. He said this would help in studying the conditions of a future accession to the GATT. He promised to keep the Council informed of the process of restructuring the economy of the Soviet Union. Soviet President Mikhail Gorbachev, he said, had spoken recently in favour of accelerating the process of economic reform in the Soviet Union. In this regard, the Ambassador reported several draft legislative acts were being worked out in Moscow.

Countries with observer status may attend Council meetings, receive GATT documents and, upon invitation, participate in the discussions. Under a longstanding practice, observers are invited to attend subsidiary bodies of the Council except for the Budget Committee.

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Soviet Union granted GATT observer status
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Such invitations have also been extended to the annual Sessions of the Contracting Parties and the Committee on Trade and Development.

The Soviet Union was originally a member of a preparatory committee appointed in February 1946 by the United Nations Economic and Social Council to draft the charter of a world trade organization. However, it chose not to attend the meetings of this committee. Although the Charter of the International Trade Organization was never implemented, these meetings led to the establishment of the GATT in October 1947.

The Soviet Union is the leading member of the Council of Mutual Economic Assistance (Comecon or CMEA), an economic and trading arrangement of centrally-planned economies. Five CMEA members - Cuba, the Czech and Slovak Republic, Hungary, Poland and Romania - are GATT members while work on Bulgaria's request for accession is underway. The Soviet Union is the world's largest country in terms of land area. In 1989, it was the eighth leading merchandise trader with total exports and imports of US$200 billion (3.5% of world merchandise trade).

“Screwdriver” panel report adopted

The Council adopted a panel report which ruled that the European Community's "anti-dumping duties" on so-called "screwdriver assembly" products were not consistent with GATT provisions (see Focus No. 70). This dispute was the first case lodged by Japan in the GATT since becoming a contracting party in 1955.

Stressing that the problem of circumvention of anti-dumping duties must be resolved in the Uruguay Round, the EC said it would not oppose the adoption of the report. However, it signalled that implementation of the panel's recommendations would have to wait until the results of the Round were clear.

The European Community had described the panel report as fundamentally flawed. It presented a paper critical of the panel's findings and interpretation of GATT provisions and charged that the panel had failed to give any indication of how one should cope with the problem of circumvention of anti-dumping duties.

Canada, Hong Kong, Korea, Mexico, United States, the Nordic countries, India, the ASEAN countries and Switzerland rejected the Community's criticisms and supported the adoption of the panel report. Nevertheless, some of them recognized that the issue of circumvention of anti-dumping duties was a real problem that had to be dealt with in the Uruguay Round.

The Council adopted the panel report.

EC reiterates objections to report

The Council considered one other panel report - that concerning a complaint by the European Community with respect to the United States' 1955 agricultural waiver and its operation in the sugar sector (see Focus No. 69). The panel had concluded that the measures in question conformed with the obligations in the waiver.

The Community remained opposed to the report's adoption, warning of its impact on the Uruguay Round negotiations. It called for a decision to take note of the report, rather than to adopt it. In the discussion, it became apparent that there was only one precedent for such a case. This had been in respect of a panel report on a complaint by the United States over Spanish measures on domestic sale of soyabean oil. In November 1981, the Council took note of this panel report after many Council members had voiced strong reservations about some of the findings made.

The EC urged the Council to follow this course. The United States objected. It said this action would be a disservice to the GATT dispute-settlement process and that the Community was on its own in faulting the panel's argumentation.

Noting the report was on the Council's table for the third time, the United States urged its adoption.

Canada said that while it made a submission to the panel in favour of the EC position, it now supported the adoption of the report. It expected that one of the
results coming out of the Uruguay Round would be the ending of US reliance on the waiver.

The Council agreed to take up this matter again at the next meeting.

**Australia-Korean beef dispute settled**

Australia announced a recent bilateral understanding which effectively resolved a trade dispute with Korea on beef. Thus, Korea had successfully dealt with two of the three complainants - the United States and Australia - involved in the panel reports adopted by the Council in November 1989. The third complainant, New Zealand, said it would be holding consultations soon with Korea.

The panel reports concluded that Korean restrictions on beef imports were inconsistent with GATT provisions. They recommended that the country eliminate or bring into conformity with GATT its restrictions on imports of beef. Korea was also asked to work out with the countries concerned a timetable for phasing out the restrictions justified since 1967 for balance-of-payments reasons.

Australia reported that Korea had set minimum import levels of beef for 1990, 1991 and 1992, and that the import target for this year was 68,000 tons. It added that the two countries, together with others, would be conducting studies aimed at removing impediments and improving the commercial distribution of beef in Korea.

Korea confirmed what Australia had said. It assured GATT members that the country would implement the panel report as soon as possible. In recent weeks, the US Administration had been consulting with the US Congress, private industry and Australia on this matter. It added that many other countries also restricted importation of sugar and expressed the hope that these restrictions could be dealt with in the Uruguay Round.

**Panel to start work**

A dispute-resolution panel is now set to start examining a US complaint against Thailand's restrictions on imported cigarettes. At the Council meeting, the Chairman announced this panel's composition and terms of reference. Thailand said it had reached an understanding with United States on a number of points relating to the panel proceedings, including the possibility of the panel consulting with competent international organizations on questions such as the health effects of smoking.

After the completion of the regular Council agenda, Austria reported on consultations over a measure preventing the use of German roads by Austrian lorries at night. (Note: At the Forty-Fifth Session of the Contracting Parties, Austria said the German measure was in retaliation to Austria's ban on traffic of certain heavy trucks during night-time hours. Austria said its measure was aimed at protecting human health and was therefore consistent with GATT Article XV-2 while the German measure was discriminatory as it applied only against Austria.)

Director-General accepts trade award

M r. Arthur Dunkel, Director-General of the GATT, accepted on 23 May, the Consumers for World Trade (CWT) award for distinguished service in the cause of open and competitive trade. The award was presented by Ambassador Carla Hills, United States Trade Representative, at the CWT annual awards dinner in Washington.

Accepting the award, Mr. Dunkel emphasized the importance of the consumer's role in multilateral trade negotiations. "Every participant in the production of goods, services and ideas - enterprises and individuals - also a consumer," he said. "A properly functioning multilateral trading system means more innovation, better quality and more competitively-priced goods for all consumers. This is a major objective of the GATT."

"The Uruguay Round is about fundamental reform and expansion of the multilateral trading system. Producers, investors, exporters and importers have a large stake in the competitive environment these negotiations aim to create; but the consumer's voice needs to be heard and heeded," Mr. Dunkel concluded.

Consumers for World Trade is a non-profit organization in the United States, established in 1978, which concerns itself with the interests of consumers in international trade policy.
In the 1980s, exports of commercial services have expanded twice as fast as exports of goods. Services exports now roughly equal exports of food and fuels combined, or the total export value of cars and electronic products. GATT economists estimate that in 1988, trade in services amounted to some US$600 billion.

The potential for a larger role for services in world commerce is hampered by the virtual absence of an internationally-agreed trade rules. Drawing up a framework of principles and rules has been the mandate of the Group of Negotiations on Services (GNS).

Under this mandate, the GNS members have been pursuing three basic goals:

- The creation of a multilateral framework for trade in services including the elaboration of possible disciplines in individual sectors;
- The expansion of trade in services under conditions of transparency and progressive liberalization; and
- The promotion, through such trade expansion, of the economic growth of all trading partners and the development of developing countries.

Breakthrough in Montreal

The first breakthrough in the negotiations came at the Mid-Term Review of the Uruguay Round in Montreal in December 1988. The Ministers cut through a voluminous report on the first two years of negotiations and produced detailed guidelines for the Group, including clear signposts for its future work.

The Montreal decision, in effect, defined the backbone of a future services agreement by identifying concepts and principles relevant to the negotiations. Many of these elements (see Sidebar) were inevitably drawn from the GATT. They include:

- The need for transparency in services laws and regulations;
- The achievement of progressive liberalization of trade in services;
- The application of “national treatment” requirements;
- The application of a “most-favoured-nation”/non-discrimination provision;
- Expectation of market access for service suppliers;
- Facilitation of the expansion of the services sectors of developing countries and their increased participation in world trade;
- Safeguards and exceptions; and
- Recognition of the right of governments to regulate the services sector, consistent with commitments made under the multilateral framework.

“Testing” the sectors

The GNS was asked by the Ministers to “test”, or assess the applicability, of these principles and concepts to specific services sectors. Six services sectors were used for this “testing” procedure last year: telecommunications and construction sectors; transportation and tourism; and professional services and financial services in September (see Sidebar).

In December 1989, the Group adopted a draft document aimed at fulfilling the Mid-Term Review mandate to “assemble the necessary elements for a draft which would permit negotiations to take place for the completion of all parts of the multilateral framework and its entry into force by the end of the Uruguay Round”.

The draft was divided into three sections with a fourth section envisaged on institutional aspects of the future framework. The first covered the scope of the agreement and involved the definition of trade in services. The second laid out the concepts, principles and rules to be embodied in it, namely: m.f.n/non-discrimination, increasing participation of developing countries, safeguards, exceptions, regulatory situation and other provisions. The third section considered approaches to the coverage of the agreement, the modalities of progressive liberalization (initial commitments and the mechanics of liberalization) and sectoral annotations for interpreting or clarifying the framework.

An ambitious agenda

Work in 1990 is taking place against the backdrop of the elements assembled in this draft document which provides a full inventory of issues to be negotiated and an agreed timetable. The deadline is for the Group to complete the draft multilateral framework in July. This would leave sufficient time both for the framework to be translated into legal language by the end of the Round and for more detailed work on the first set of sectoral annotations to be completed.

The GNS work agenda for 1990 is ambitious, particularly when one considers the heterogeneity and inherent complexity of a subject matter appearing on the multilateral negotiating agenda for the very first time. Of all outstanding issues before the Group, four stand out as particularly important. These relate to: the “mechanics” of progressive liberalization; the drafting of concepts, principles and rules into legal language; the treatment of developing country concerns; and the framework’s scope of coverage.
MECHANICS OF
LIBERALIZATION

Basically, the issue of "mechanics" of progressive liberalization refers to finding an agreed formula for progressively opening the international services market to the forces of competition.

In GATT parlance, this issue can be seen as relating to the means through which "concessions" could be exchanged between those countries prepared to reduce their barriers to services trade while requesting others to reduce barriers elsewhere.

The negotiators are now grappling with these key questions:

- How the framework would apply to existing regulations, given the role of national regulations in both developed and developing countries in promoting domestic policy objectives?
- Would signatories be ready to accept a freeze against the introduction of new regulations inconsistent with the framework?
- Granted that the framework could, in principle, cover all sectors, should there be a negative list of measures, reservations or exceptions from the process of liberalization, or rather a positive list of measures to be included in a progressively expanding schedule of concessions?
- Should the process of liberalization proceed through the gradual removal of reservations?

Important differences remain as to what can be achieved by the completion of the Uruguay Round in regard to specific liberalization commitments. In particular, some participants believe that only a framework of general provisions should be achieved, leaving much - if not most - issues relating to specific liberalization commitments to be dealt with in future periodic negotiations.

For others, it is crucial to set the motion of progressive services trade liberalization firmly in march by the end of the Round. This then would suppose not only the completion of a general framework but also a first package of mutual concessions and/or an undertaking to “freeze” the degrees of market access provided by existing regulatory regimes.

This more ambitious goal is set out in an informal joint proposal of the United States and the European Community. They have called for initial commitments which would relate to: a set of provisions of general application (transparency, m.f.n./non-discrimination, dispute settlement, regional integration arrangements, safeguards, etc.); and an additional layer of negotiable commitments (e.g. national treatment, market access, subsidies, etc.). The United States and the European Community have called for further liberalization commitments to be taken before the end of the Uruguay Round so as to achieve, where necessary, a balance of benefits/effective market access.

In short, the basic premise of the US-EC proposal is that all trade in services would be covered by a trade-liberalization agreement. However, countries may propose to initially exclude or reserve certain disciplines or services. On the other hand, proponents of the “positive list” approach call for liberalization to apply only to services tabled by participants. This would not, however, exclude future discussions or negotiations for further liberalization.

Among the proposals advocating the “positive list” approach are two draft legal texts tabled at recent meetings of the Group. The submission by eleven members of the Latin American Economic System (SELA) stresses the need to take account of development needs in a number of respects, for instance, granting flexibility to developing countries for opening fewer sectors or liberalizing fewer types of transaction. Cameroon, China, Egypt, India, Kenya, Nigeria and Tanzania, in a joint proposal, have called for progressive liberalization that would initially concentrate on concessions by developed countries. Future liberalization by developing countries would be dependent on the extent to which their services exports have benefited from liberalization by developed countries, and would be in conformity with their developmental and technological objectives.

Efforts to bridge the gap between these two approaches are underway, mainly through informal consultations on the structure of the agreement on trade in services.

CONCEPTS, PRINCIPLES AND RULES

A second issue over which governments will need to achieve greater convergence relates to their approach to the concepts, principles and rules (such as transparency, non-discrimination, national treatment, etc.) of a multilateral framework.

What this entails, in essence, is reaching agreement on the precise legal drafting of those provisions that would constitute the “pillars” of the services framework. While one should not underestimate the conceptual challenge which negotiators might face in crafting legal provisions in hitherto largely uncharted waters, there is nonetheless a broad measure of agreement on what the concepts should be as they have been continuously under discussion in the GNS since its inception (see “Montreal principles”).
During the past three and a half years, participants have been examining in depth a wide range of critical and often conceptually new issues. The GNS has focused on the need to ensure the broadest possible coverage of sectors and transactions, on the development of concepts and principles for inclusion in the framework, on the specific applicability of these concepts and principles in individual sectors as well as on the practical means of setting in march the process of progressive liberalization.

The Montreal principles

In Montreal, the Ministers agreed that the following concepts, principles and rules are relevant to the negotiations on liberalizing trade in services:

(a) Transparency
Provisions should ensure information with respect to all laws, regulations and administrative guidelines as well as international agreements relating to services trade to which the signatories are parties through adequate provisions regarding their availability. Agreements should be reached with respect to any outstanding issues in this regard.

(b) Progressive Liberalization
The negotiations should establish rules, modalities and procedures in the multilateral framework agreement that provide for progressive liberalization of trade in services with due respect for national policy objectives including provisions that allow for the application of principles to sectors and measures. Provisions should also be established for further negotiations after the Uruguay Round. Specific procedures may be required for the liberalization of particular sectors.

The aim of these rules, modalities and procedures should be to achieve, in this round and future negotiations, a progressively higher level of liberalization taking due account of the level of development of individual signatories. To this end the adverse effects of all laws, regulations and administrative guidelines should be reduced as part of the process to provide effective market access, including national treatment.

The rules, modalities and procedures for progressive liberalization should provide appropriate flexibility for individual developing countries for opening fewer sectors or liberalizing fewer types of transactions or in progressively extending market access in line with their development situation.

(c) National Treatment
When accorded in conformity with other provisions of the multilateral framework, it is understood that national treatment means that the services exports and/or exporters of any signatory are accorded in the market of any signatory, in respect to all laws, regulations and administrative practices, treatment "no less favourable" than that accorded domestic services or services provided in the same market.

(d) Most-Favoured-Nation/Non-Discrimination
The multilateral framework shall contain a provision on m.f.n./non-discrimination.

(e) Market Access
When market access is made available to signatories it should be on the basis that consistent with the other provisions of the multilateral framework and in accordance with the definition of trade in services, foreign services may be supplied according to the preferred mode of delivery.

(f) Increasing Participation of Developing Countries
The framework should provide for the increasing participation of developing countries in world trade and for the expansion of their service exports, including inter alia through the strengthening of their domestic services capacity and its efficiency and competitiveness.

Provisions should facilitate effective market access for services exports of developing countries through, inter alia, improved access to distribution channels and information networks. These provisions should facilitate liberalization of market access in sectors of export interest to developing countries.

Autonomous liberalization of market access in favour of services exports of developing countries should be allowed.

(g) Safeguards and Exceptions
Further negotiations will be necessary on provisions for safeguards, e.g. for balance-of-payments reasons, and exceptions, e.g. based on security and cultural policy objectives.

(h) Regulatory Situation
It is recognized that governments regulate services sectors, e.g. by granting exclusive rights in certain sectors, by attaching conditions to the operations of enterprises within their markets for consumer protection purposes and in pursuance of macro-economic policies. Asymmetries exist with respect of the degrees of development of services regulations in different countries. Consequently, the right of countries, in particular of developing countries, to introduce new regulations is recognized. This should be consistent with commitments under the framework.

Developing country concerns

The credibility of a Uruguay Round services agreement would partly depend on how many countries sign that agreement. The challenge of ensuring the widest possible country coverage implies finding how best to address and accommodate the concerns of developing countries.

Efficient infrastructural services - telecommunications, transport, banking and insurance to name a few - are critical ingredients in the process of economic growth and development, increased productivity, and ultimately international competitiveness in both services and goods trade. Developing countries require access to the most efficient traded services to promote their own indigenous development. This concern is reflected in the Punta del Este Declaration itself as the progressive liberalization of trade in services has as its twin objectives the economic growth of all trading partners and the development of developing countries.

The benefits of liberalization are not always obvious to developing countries. The likely benefits of more rapid growth in the services sector include increased direct foreign investments, higher employment levels, and the transfer of technology and skills to local nationals. But these potential benefits may be overshadowed by more immediate concerns over the ability of fledgling domestic service industries to withstand the pressures of international competition.

The negotiating stance of developing countries in these talks marks a significant departure from previous rounds when they tended to concentrate on obtaining special and more favourable treatment. In this Round, and in services in particular, developing countries have been concentrating their negotiating efforts on the establishment of rules rather than on exceptions on them.

Several developing countries have tabled proposals, including Brazil and more recently India. The submission from India outlined a number of approaches to secure the increasing participation of developing countries in
service sector activity. These included: the relaxation of restrictions (immigration regimes) on the international flow of labour; requirements on foreign service providers to transfer technology and know-how and to build up the export earning capacity of domestic services enterprises; and the facilitation by developed countries of market access for services exports of developing countries including improved access to distribution channels and information networks.

The challenge remains of accommodating within the structure of the multilateral framework what are collectively considered to be legitimate concerns, so as to provide developing countries with the proper set of incentives to progressively expand the scope of application and coverage of the framework.

**Sectoral coverage**

Few of the challenges facing the negotiators are as great as that of ensuring that all commercially-traded services are covered by the multilateral framework. It is clear that only through such broad coverage can an agreement be produced in which there is an overall balance of benefits which makes all parties better off.

The need for a global coverage can also be seen as relating to the dual nature of services as sectors of growing importance in their own right as well as vital inputs into all parts of the economy. Services are a major driving force in the process of structural change. In accommodating this change - as with the vast structural evolutions in the goods area in the post-war period - the world trading system has a crucial role to play. The success of GATT in facilitating this process in the post-war years for trade in goods good is a major reason why countries wished to negotiate the liberalization of services trade within the ambit of the Uruguay Round.

In market economies, the process of market-led structural change means that resources should move to those areas of the national or international economy where they are most competitive and productive. While national policy objectives should be respected, it is widely recognized that this process should not be inhibited or distorted through unnecessary government obstacles. The negotiations towards the progressive liberalization of trade in services which governments have embarked on are designed to support this process of market-led structural change.

It has become clear in GNS deliberations that a multilateral framework should provide the proper mechanisms with which to address and accommodate sectoral concerns and specificities. There is broad agreement in the Group that sectoral considerations could be addressed through reservations with respect to some activities and/or modes of delivery in particular sectors. Sectoral peculiarities may also be dealt with through sector-specific annotations which, while forming an integral part of the multilateral framework, would spell out in greater detail its scope of application in particular sectors.

To arrive at a better understanding of these issues, the GNS in May 1990 established working groups to conduct informal consultations on the following: financial services, telecommunications, transportation, construction and engineering, professional services, and tourism. Consultations will also take place on the issue of labour mobility.

### The six services sectors

**Telecommunications**

In discussing telecommunications, many participants emphasized the difference between the basic network (in most cases dominated by a state-controlled or owned monopoly) and enhanced, value-added services like teletext, electronic mail and remote data processing which made use of the basic network.

The view was expressed that, initially at least, the new framework of trade disciplines should apply to the enhanced services only. Frequent references were made to the close relationship between the sale of goods (telephone exchange equipment, for instance) and the provision of services in this sector. This was especially relevant given rapid changes in technology. It was also the case that telecommunications services were closely related to the provision of other services like banking and tourism.

For some participants, there were security and privacy aspects of the sector to be taken into account, while for many developing countries the necessity of providing rural telephone services was a preoccupation despite their essentially uneconomic character.

In looking at the applicability of transparency to the sector, the need for transparency with respect to the activities of the many national regulatory bodies was a common theme - and the need for national enquiry points where foreign suppliers could have access to information relating to regulations a frequent suggestion.

The concept of progressive liberalization, for many participants, meant access to the basic network but could also be related to liberalization with respect to equipment supplies. In the context of the promotion of development, some countries pointed to the need for support for infrastructure development. The concept of national treatment was also discussed, though there was a widely-held view that the concept would have little meaning where national monopolies existed.

**Construction**

The value of construction contracts awarded to the top 250 international contractors in 1987 was $74 billion with a further $4 billion in design contracts. As with telecommunications, there was often a close link between the supply of the service and associated goods.

Importantly, the question of the movement of labour to supply the service is more relevant to construction than to most other services. Many developing countries stressed the need for any framework agreement to cover labour mobility, skilled and unskilled alike. Developed countries recognized the need to consider seriously the labour question although several pointed to the sensitivity of commitments which would imply major changes to immigration laws.

In a discussion of the applicability of the concept of transparency to the construction sector, many participants pointed to the voluminous regulations which exist not merely at a national or federal level but also at local levels of government. Potential suppliers would need to be aware of relevant regulations at all levels which meant, for some delegations, a comparatively sophisticated system of enquiry points. As in the discussion on telecommunications, a number of developing countries expressed reservations about their ability to find the necessary resources to establish such an elaborate system.

National treatment conditions could be especially important in a sector open to subsidization, local content rules, local personnel recruitment and government procurement. One delegation stressed the need to tackle subsidization in this sector.
The discussion of transport was confined largely to the air transport and maritime sectors although surface transport and multimodal transport were also discussed. Background material by the GATT Secretariat showed that, in 1988, the United States was by far the largest provider of scheduled air services carrying passengers, freight and mail. The US was followed by the Soviet Union, then Japan, the United Kingdom and France.

The scheduled air services sector, noted many participants, was highly regulated and subject to many bilateral agreements. These agreements, negotiated under the 1944 Chicago Convention, dictate airline access to routes and airports and are founded on the principle of national sovereignty over air space. Many air fare structures are negotiated through the International Air Transport Association (IATA) while air services are also subject to a high degree of national regulation (safety, etc.).

Some delegations argued that principles like non-discrimination or national treatment could not be applied within the present system. They argued that the bilateral agreements were, in any case, becoming more liberal and should not be challenged or undermined by new multilateral disciplines. However, some delegations felt that the current system was too restrictive and, while it could not reasonably be challenged in the short term, air services should not be indefinitely ruled out of coverage by a services agreement.

There was, nevertheless widespread agreement that some aspects of the air transport industry did lend themselves to the application of the Montreal principles. These included ground handling services, charter aviation, and computer reservation systems.

The Group also noted the high degree of regulation affecting the maritime transport sector. Here, a mixture of liner conferences (groups of companies fixing tariffs on regular shipping routes), the UNCTAD Liner Code (sharing freight business between pairs of developed and developing countries) and cabotage (reservation of coastal shipping for national flag carriers and, often, crews and ships of national origin) again made the application of all or most of the Montreal principles problematical.

Some participants pointed out that the high level of regulation reflected concern over the national shipping capacities, standards of safety and national security interests. Again, some delegations considered that the present system best represented the interests of the shipping sector and its users while others believed the system to be restrictive, inefficient and liable to lead to unnecessarily high transport costs. These latter countries believed that the application of liberal, multilateral principles should not be ruled out for the long-term.

The tourism sector has been estimated to represent the largest industry in the world with total sales, in 1987, of US$1.9 trillion. Since governments go out of their way to attract tourists it is a less regulated trade than others with which the group has dealt. Nevertheless, there exist regulations which affect individual tourists (visa or currency restrictions for instance) and the activity and ownership of enterprises (tour operators and travel agents as well as hotels and catering services).

The question of the movement of personnel across borders was raised in the Group as were restrictions on the ownership of tourist institutions. The Group spent some time discussing the promotion of tourism in developing countries.

Financial services

Financial services include banking, securities-related and insurance services. It was noted that banking and securities-related services could be considered, firstly, in regard to cross-border financial flows and, secondly, in the context of establishment or commercial presence. These services are highly regulated since they represent instruments of national and international macro-economic management - monetary policies, debt management and fiscal policies for instance. Moreover, their institutions and markets are widely subject to prudential and other supervision.

Many delegations stressed the importance of maintaining the integrity of regulatory systems because of these wider economic preoccupations and it was generally recognized that the application of a new framework of trade rules might often entail as much re-regulation as de-regulation. Nevertheless, substantial deregulation and liberalization has been achieved in both developed and developing countries in recent years, often associated with the liberalization of capital movements. However, a number of participants considered that many regulations still affecting establishment, acquisition of domestic enterprises and the operation of foreign-owned banks and securities houses were often over-restrictive and could be subjected to disciplines in a multilateral framework. Many developing countries stressed the importance of banking to the development process.

Total premiums paid, in 1987, for both life and non-life insurance has been estimated at US$1,070 billion, with companies in North America taking 40 per cent of the business, those in Europe over 30 per cent and those in Asia 25 per cent. The premium income of developing countries in total was around 5 per cent. Again it is a highly-regulated sector: partly on the basis of consumer protection and partly because insurance premiums frequently provide a major source of investment funds. Apart from re-insurance, transport-related insurance and worldwide coverage of multinational businesses, cross-border trade in insurance services is often excluded by regulation. Regulations related to establishment usually determine whether a foreign insurer can be admitted to the market and the terms on which it may carry out its business.

While some participants believed that the integrity of national insurance industries could be threatened by the application of liberal trade principles, others saw significant scope for progressive liberalization of the sector.

Professional services

Forms of professional services which are internationally traded include accounting, legal, management, advertising, health care, architectural, engineering and software services. The nature of trade may be cross-border (via computer terminals, for instance, or through travel by the supplier or customer) or through a local commercial presence.

The motivation for regulations in this sector tend to include consumer protection, promotion of domestic business and local employment, the need to manage foreign exchange and the preservation of national identity. In particular, the recognition of professional qualifications and the licensing of the right to provide the service often stands in the way of access of foreign professional service firms.

Participants drew attention to the disparate nature of professional services and the danger of generalizing. Nevertheless, a key issue was the practice of discrimination on the basis of nationality and the recognition of foreign qualifications in order to practice. Developing countries stressed the difficulties they face in training and educating skilled professionals who are subsequently attracted abroad.

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