

SENIOR OFFICIALS' GROUP

Record of Discussions

Note by the Secretariat

1. The Group of Senior Officials, established by the Decision of 2 October of the CONTRACTING PARTIES (L/5876), instructed the secretariat to issue summary records of the Group's discussions.

2. At the meeting of the Group on 12 November, the Chairman stated his understanding that the record would cover only substantive discussions, and noted that most of the Group's discussions after the meeting of 1 November had covered points of procedure.

3. These summary records are accordingly being issued by the secretariat under the symbol SR.SOG/- as follows:

SR.SOG/1	14 October	SR.SOG/7	30 October (first part)
SR.SOG/2	15 October	SR.SOG/8	30 October (second part)
SR.SOG/3	16 October	SR.SOG/9	31 October (first part)
SR.SOG/4	22 October	SR.SOG/10	31 October (second part)
SR.SOG/5	23 October (first part)	SR.SOG/11	1 November (first part)
SR.SOG/6	23 October (second part)	SR.SOG/12	1 November (second part)

Substantive points made at the meeting of 8 November will be included in SR.SOG/11.

4. During the discussions, a number of delegations referred to explanations of their positions given in written communications and statements with regard to the proposed new round of multilateral trade negotiations. Reference was also made to relevant statements in the Council debates on 5-6 June and 17-19 July 1985 (C/M/190 and C/M/191, respectively) and in the special Session of the CONTRACTING PARTIES held on 30 September - 2 October 1985 (4SS/SR/1-5).

5. Some delegations stated in the Group that they had frequently refrained from intervening in the discussions because they felt that their positions had been adequately set out in the communications, statements and records referred to in paragraph 4 above, or had been expressed by another delegation, or because they had reserved their right to revert to some of these matters at a later stage in the preparatory process.

6. Two copies of these summary records will be issued to each contracting party. Further copies will be available on request.

¹These communications and statements are: Developing countries L/5647 and L/5744, 24 Developing countries L/5818 and Add.1, ASEAN countries L/5848, Australia L/5842, Austria L/5849, Brazil L/5852, Canada L/5834 and L/5836, Chile L/5850, EFTA countries L/5804, European Communities L/5835, Jamaica (informal paper circulated to the Group), Japan L/5833, Korea L/5851, New Zealand L/5831, Nordic countries L/5827, Switzerland L/5837 and L/5883 (originally issued as Spec(85)52), United States L/5838 and L/5846.

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

SR.SOG/9

22 November 1985

Special Distribution

SENIOR OFFICIALS' GROUP

Record of Discussions

Discussions on 31 October

The Group continued to hear statements on the topic of services.

The representative of the United States said that there were very basic reasons why the CONTRACTING PARTIES must begin to examine services with the objectives of considering some rules and disciplines over trade in these sectors. He noted that traded services constituted very specific areas of economic activity that crossed borders and that sectors such as insurance, telecommunications, tourism or engineering encountered many regulatory barriers that overtly discriminated against foreign entry into host markets. In today's world, the services sectors were an engine of growth of the world economy and were a major contribution to technological improvement and competitiveness for goods and services. He recalled that when GATT was conceived, trade in services was relatively insignificant in total world trade, and most trade in services was attached to the movement of goods across borders. Unlike today, services generally were not exported as single entities. However, the global economy had changed considerably since that time. The improvements in communications had enabled services to move abroad more easily. With this fundamental structural change in world traded services, the impediments to selling services abroad were largely regulatory. He said that in the discussions during the last ten months on services, some countries had argued that the heterogeneous nature of services made it impossible to establish general rules and principles governing their exportation; indeed, made it impractical even to discuss such diverse activities under the same roof. He said that this would be no less true for goods. His Government was much more impressed by the commonality of problems each of these sectors faced. While regulations governing the various sectors inevitably differed in substance, the motivations leading to restrictive regulations were quite similar. The most important common denominator for all the services sectors was that they provided cheaper, more technologically advanced services and this could only be accomplished in a competitive environment. This, he stressed, was the United States' objective in this exercise. He recalled that many had expressed concern that international rules would undermine the basic regulatory sovereignty of each country to place requirements on the provision of services. However, his Government had always recognized the fundamental right of nations to establish rules - whether they be for prudential reasons, consumer protection, or national security - that govern services. But at the same time, one should also recognize that some regulations could be unreasonably contrived to restrict competition in a way that exceeded the sovereign basis on which they regulated. These were the problems that should be the subject of international rules. He disagreed with the assertion of some delegations that one could not apply rules to

something one could not define, and that services trade defied definition. He said that a services understanding would cover the activities of specific sectors, such as insurance, data processing, and tourism, and it would circumscribe the specific activities of these sectors so as to determine precisely their coverage. The resulting definition would be the product of negotiation, but his delegation rejected the notion that it was difficult intellectually to define services. Turning to the question of who would benefit from a GATT-type régime whose purpose was to liberalize trade in services, he said that the United States was a strong services economy, and that one would see the overall adjustment process in the United States economy improved if United States services had more opportunities abroad. But there were many countries which would benefit from a services régime, including those nations whose services component was beginning to expand and which were discovering that these sectors were an integral part of economic modernization and growth. He therefore rejected the notion that there were certain winners and losers in such an exercise. He recalled that at the CG18 meeting in July the United States delegation had put forward some relatively specific ideas for what might be the contents of an understanding on services. The United States considered that it was essential that the Preparatory Committee include services. Since 1982, and particularly in the past year, interested contracting parties had engaged in a useful information exchange that had laid the groundwork for consideration of possible multilateral action in the area of services. He proposed that the Preparatory Committee should examine the possible terms of reference for a GATT negotiation.

The representative of Chile said that one should not have a code on services which would be valid for some and not for others as was the case for the MTN codes. If contracting parties were to negotiate services his Government would like to participate in the negotiations. He considered that such negotiations were only conceivable within a framework of absolute multilateralism such as GATT, but was opposed to bringing the subject of services into the legal framework established by the General Agreement. He also stated that progress in this area must not be a condition for progress and implementation of results in other areas of the negotiations. In any discussions on services it would be necessary to take appropriate dispositions to grant more favourable treatment to the developing countries. He underlined that his Government would not accept postponing the resolution of some very important problems of trade on account of services. He also stressed that transparency was one of the major concerns of his Government in the area of services.

The representative of Argentina said that negotiations on services should not constitute a prior condition to undertake negotiations on goods and that the subject of services could not be a special priority in the proposed negotiations. There were subjects for GATT and that there were subjects before and facing GATT, the solution of which had been postponed for years. He considered that his government could not give priority to this new subject, and would have great difficulties in accepting the proposal that had been made by one delegation. In his view, the exchange of

information had shown that there were already a number of competent international organizations, each in a different sector of services. He also recalled that on several occasions the Communities had agreed that on questions of substance one could not act otherwise than by consensus and noted that the Communities' recent comment that a certain number of contracting parties might make progress on services contradicted its previous general statements.

The representative of Hungary said that he was struck by the contrast between the Communities' approach towards the service sector and its approach towards the sector of agriculture. He noted that it was beyond any doubt that agriculture was within the competence of GATT yet the present practice in agriculture was to export the burden of the solution of a number of internal social, economic and political problems without any scruples to outsiders, to third parties.

He also recalled that one fundamental element of the Communities' approach to the agricultural question was that the basic concepts and mechanisms of the Common Agricultural Policy could not be touched upon by any new arrangement in the new MTN exercise. He was therefore somewhat surprised that for the purposes of trade in services, no precondition of this type was mentioned by the representative of the Communities. He said that his government's position on services was basically a positive one and that it was in favour of an objective exploration of whether there was a place in the GATT for international trade in services. He noted, however, that if the real purpose of the game was to include services in the new MTN in order to exclude agriculture, then his government would become more than hesitant.

The representative of India reiterated that the question of the mandate of the Senior Officials' Group was very important for his delegation. Discussions in the Group had to be kept within the parameters of the clear understandings reached at the Special Session. This Group was not the forum for discussions on substantive questions that had been raised in the earlier interventions regarding the competence of GATT, definitions, appropriateness of multilateral action and the question of sectoral or other agreements to deal with services issues. His delegation believed that such deliberations were not germane to the work of this Group. However, since a number of delegations had referred to these questions, he felt constrained to address at least some of the important points, if only for the record. Similarly, he would not like to elaborate the arguments in the Group in a manner which would substitute the other forums which had been set up for such discussions by common consent. Referring to the questions of competence and of appropriateness raised by other delegations, he recalled the statements made by his delegation at the Special Session. He would only like to add here that a reference had been made in this context to the Preamble to the General Agreement. He pointed out that the Preamble should not be interpreted in a way which would make the whole agreement lose its specificity, or without taking into consideration the negotiating history of the treaty. He then described the scheme of the Preamble of the General

Agreement which went from the general to the particular, and from the broader to the more specific objective; the more specific objective being a means to attain the broader objective. To illustrate, the reference to "raising standards of living" in the second paragraph of the Preamble was the broadest and most general objective. This was followed by a reference to "ensuring full employment". Clearly, "full employment" was a more specific objective than "raising standards of living" and could be looked upon as a means to achieve the latter objective. In the same way, "steadily growing volume of effective demand" and "developing the full use of resources" were the more specific means for achieving the objective of "ensuring full employment". Finally, the Preamble came to the most specific objective, viz, "expanding the production and exchange of goods", which in turn was the means to achieve the objectives of increasing effective demand and ensuring fuller use of resources. According to this scheme, the statement of objectives in the Preamble zeroed in on "expanding the production and exchange of goods". The modality to achieve this specific objective had been elaborated in the third paragraph of the Preamble in terms of "substantial reduction of tariffs and other barriers to trade" and "the elimination of discriminatory treatment in international commerce". This modality in effect constituted the immediate operational goals of the General Agreement. He warned against trying to interpret the Preamble too loosely or very widely as that would create a very difficult situation for this contractual forum. Raising the standards of living was certainly an important, laudable and commonly-shared objective but education, transfer of technology, the migration of labour from developing to developed countries, the question of multilateral aid and last, but not least, the control of population, were all very relevant to raising standards of living. By the same token, would any or all of these subjects also be discussed in this contractual forum? There was need to look at the Preamble in the scheme of things envisaged in the Preamble and also in the specific context of the negotiating history. It was for this reason that deliberations in GATT had to be confined to the production and exchange of goods.

He also noted that the question of services was being posed as if it were a question which had acquired prominence in the debate today, or maybe over the last few years. History did not support this contention. As early as 1946, in the Preparatory Committee III which had met in London, in the preparatory process which ultimately resulted in the Havana Charter and later in GATT, the question of services had been debated and the delegations of Brazil, Chile, Cuba, and India had referred to the question of services in the context of restrictive business practices. He recalled that at that time the Chairman of Committee III, squarely ruled that in terms of the ECOSOC Resolution, and in terms of the mandate that the Committee had, the question of services could not be discussed in that forum. The representative of India thus concluded that services were not a new subject and that the question of jurisdiction, and the delimitation of the functions of GATT were not a new discovery.

Referring to the Agreement on Government Procurement he noted that the issue was discussed in GATT because it was in relation to goods and because there was no objection that GATT should deal with the issue. He said that launching any new initiative in the GATT forum would have to be decided by consensus. Finally, he said that while he recognized the sovereign right of contracting parties to express views on any subject, it would not be proper to go beyond the mandate of the Group, which had been decided in the Special Session of the CONTRACTING PARTIES not too long ago. He maintained that the report of the Senior Officials' Group would have to respect the terms of the mandate.

The representative of Yugoslavia recalled that an integral part of the Decision of 2 October, taken at the Special Session of the CONTRACTING PARTIES, was the understanding that the work of the Senior Officials' Group would not prejudice the ongoing work of the GATT in terms of the 1982 Work Programme and would not prejudge the work on services in terms of the 1982 and 1984 decisions and agreed conclusions of the CONTRACTING PARTIES. The November session would also receive reports on this ongoing work. He further said that services were outside GATT competence and that until the CONTRACTING PARTIES reached an eventual decision by consensus that multilateral action was necessary in this sector and that GATT was the appropriate institutional framework to deal with services, the work in GATT should be carried out only within the framework set out in the Ministerial Declaration of 1982 and the agreed conclusions of the CONTRACTING PARTIES of 1984. In his view the Senior Officials' Group should not in its report refer to services as a subject matter for negotiation, and services should appear in the report of the Group only as a subject on which individual delegations had expressed their opinions. Otherwise, the Group would prejudice the decisions of the CONTRACTING PARTIES yet to be taken.

The representative of Switzerland said that trade in goods and services were interlinked and that in many trade operations it was extremely difficult to draw a clear distinction between goods and services. He noted that restrictive trends were much more manifest in trade in services than in trade in goods and that the diverging purposes of these measures very often had a negative influence on trade in services. Switzerland was in favour of concerted international and multilateral action in GATT to try to modify the situation so that it would become similar to that which was applicable for goods. He believed that the present legal vacuum, in spite of somewhat misleading appearances, was of no use to anyone and was in fact resulting in a fragmentation of the services trade, contrary to the spirit of multilateralism. He considered that services should be included as a topic for negotiations which could be launched shortly. In his view the major objective of negotiations on services would be not so much trade liberalization as creation of an instrument, similar to the General Agreement itself, which would make such liberalization possible. The instrument for liberalization would in fact be a multilateral régime, and would in no way challenge the sovereignty of parties entering into such an arrangement.

The representative of Sweden, speaking on behalf of the Nordic countries noted that the issue of services concerned both developed and developing countries. He said that some developing countries, however, seemed hesitant to embark on "new" issues in a negotiating context because they feared that doing this would detract attention from "traditional"

trade policy issues which might be of more immediate concern for developing countries. He noted that trade in services was obviously the key issue in this regard and had been referred to as something "alien" to the GATT system. He said that the Nordic countries did not share this view and considered that one of the important objectives of a new trade round should be the creation of a system that was capable of handling not only the trade policy problems of today but also those of tomorrow. He noted that trade in services was of growing importance and regarded it as an increasingly important area for growth both domestically and in world trade. He also noted that the GATT already covered certain aspects of trade in services. However, as services increasingly tended to constitute an integral part of trade in goods made it increasingly important to examine the possibilities for devising rules which were compatible with those already applicable to trade in goods. The Nordic countries did not approach work on services in the GATT context with a predetermined view; on the contrary, the complexity of the issues involved made it necessary to allow for continued substantive analytical work. As part of this work contracting parties should examine whether and how the GATT rules and principles might be applied to services, and in the light of that analysis they should elaborate appropriate international rules. In the opinion of the Nordic countries, GATT should play a major rôle in the future work in this important area. He noted that the work to be anticipated in the area of services was a continuation of the present mandate from 1982 and belonged to the GATT. The Nordic countries, he said, were willing to consider different views on possible practical alternatives for handling this issue in a negotiating context when they entered more substantive discussions on subject matters and modalities for negotiations. There was a large measure of flexibility on the part of the Nordic countries on how to approach the issue of trade in services in the GATT framework, but they were of the firm opinion that multilateral negotiations were the proper forum for further work on services.

The representative of Cuba said that her country had always reserved its position in connection with this subject, both during the meeting in 1982 and during various sessions of the CONTRACTING PARTIES, because it felt that the results which had been achieved so far did not in any way prejudice its position as a contracting party. She noted that GATT was not competent to discuss the issue of services. Her delegation knew that the working party established for that purpose had been unable to show any evidence of such competence; accordingly it was impossible to take up the matter at present. She said that for developing countries traditional trade in goods was of the utmost importance, i.e. in agriculture, textiles and tropical products. Her Government could allow that, in present or future discussions, consideration of topics relating to goods should be conditional on consideration of services, and still less their effects.

The representative of Israel considered that the Senior Officials' Group had a clear mandate to deal with services to the extent it thought necessary. He noted that during the forty years or so the GATT had considerably evolved, and drew attention to joint action agreed upon in Article XXXVIII and which in many respects was not connected with trade in

goods. He noted, for example, that joint action included collaboration in "seeking feasible methods to expand trade for the purpose of economic development, through international harmonization and adjustment of national policies and regulations, through technical and commercial standards affecting production, transportation and marketing". He noted that the terms "production", "transportation" and "marketing" referred not only to goods and said that all those present in the meeting had signed these agreements and had agreed to such joint action. He considered therefore that there was no possibility to claim that, because forty years ago at some Committee services had not been discussed, they should not be discussed today. In the meantime, the Ministers had agreed unanimously to give continued consideration to changes in the trading environment so as to ensure that the GATT was responsive to these changes. He believed that to be responsive to these changes GATT must today deal with services. It must be made clear already in the present meeting of the Senior Officials that there were a number of developing countries that not only agreed that rules on services should be drawn up but also considered that they should be drawn up in a manner to benefit the developing countries. He noted that the expansion of trade in services among developing countries was increasing rapidly and that these countries' interest in assuring an appropriate framework should and must be taken into consideration.

The representative of New Zealand said that there were higher priorities for his Government in the context of negotiations in the new round than services. He recognized, however, that the linkages with the goods sector were becoming increasingly close and that trade in services and trade in goods had in fact been interlinked for a long time. Financial services, for example, were a key input for almost all internationally traded primary and secondary goods. New Zealand remained open to the possibility of developing a more comprehensive system of rules and principles to govern trade in the services sector. He noted that certain aspects of trade related services were already specifically addressed in the General Agreement; examples were Article IV concerning screen-time quotas in relation to the exhibition of films, and Article VII concerning insurance and freight in valuation for customs duty purposes. He said that services were, however, a complex and sensitive area and not one in which hasty decisions as to a legal framework, or indeed a time-frame for establishing this, should be taken. He believed, nevertheless, that there was a case for developing in a Preparatory Committee an appropriate basis for negotiations within the context of the new round, provided that the primary focus of the negotiations remained on the core GATT issues of first and long-standing importance such as agriculture and trade in textiles.

The representative of Egypt recalled that the Group had started its discussions on services by referring to the decision of the 2 October 1985 and that the debate in the Group should stay within the parameters of that decision. It was the view of his delegation that the GATT had nothing to do with a subject like services and that it should remain this way. He noted that to include services in the Preparatory Committee would be a significant departure from the previous rounds of multilateral trade negotiations, and he endorsed statements by the representatives of India concerning the

interpretation of the preamble of the General Agreement. Recalling that certain delegations had made reference to Article XXV he noted that any interpretation of the Article had to take into consideration the whole Article as well as other provisions of GATT, and not only one paragraph. He said that any joint action within the GATT had to follow the provisions of GATT and should be decided upon by all contracting parties. He stressed that before embarking on the new issues GATT should first deal with problems which required solutions and were within the competence of GATT, such as agriculture, quantitative restrictions, safeguards, textiles, dispute settlement and rollback.

The representative of Canada said that the meetings on services held this year had provided the opportunity to exchange information on sixteen national studies, including the Canadian study, and to review information on work being done in various international organizations. He considered that through this process, a substantive body of knowledge had begun to develop and a profile of the importance of services in national economies and in international trade had emerged. The exchange of information on national studies had also provided a broader picture of the variety of regulations applied by governments in these services sectors and of the barriers which were perceived to exist with respect to trade in services. Canada's preference for the elaboration of a multilateral framework in which to bring international discipline to the area of trade in services had been set out in documentation circulated to contracting parties. He believed that it would be mutually beneficial to lay out ground rules under which this important and expanding segment of many economies, including Canada's, could further contribute to the objectives set out in the General Agreement. He recognized that the examination of services was still at the early stages and that while important work had been done, there were a number of questions which had been identified as requiring more detailed scrutiny and analysis. However, Canada did not see this as an impediment to the development of a multilateral framework, but rather as a challenge through which to enhance the international trading system. He noted that Canada did not at this stage have a fixed view as to what kind of multilateral framework should be established. He saw merit in exploring concepts such as non-discrimination, national treatment and transparency as they might apply to services, but it was an open question for him as to whether this framework should be a comprehensive agreement, agreements particular to specific sectors or a combination of both. Canada believed, however, that work to this end was best carried out in the framework of GATT and Canada was ready to play its part in conjunction with others to explore these issues further in the context of the new round of trade negotiations. Contracting parties, having regard to the objectives of the General Agreement and to the provisions of Article XXV, could and should address issues such as trade in services so as to ensure that the GATT remained a relevant instrument for dealing with the challenges facing the international trading community and for managing trade relations. He said that no party could be forced to accept agreements to which it had not agreed to become a part. No party could be forced to be bound by a new agreement or any new provisions in the area of services or any other area unless it had specifically accepted them as a party. It was on this basis that Canada supported the inclusion of services on the agenda for the new round.

The representative of Nicaragua said that GATT should not deal with services because it was a subject foreign to its competence. It was very urgent to restore confidence and credibility to the multilateral trading system based on the General Agreement and for that purpose one should take all the appropriate measures to implement the 1982 Work Programme which had not been applied in reality. He did not think that it was appropriate or necessary to get out of the legal framework of GATT by including other subjects which were foreign to GATT's competence. He believed that it was quite evident that a majority of countries were in disagreement with the inclusion of services in a possible new round of negotiations.

The representative of Uruguay said that his delegation was quite open to dialogue within GATT, and always ready to analyse any proposal that might be made within the framework of this organization. In this spirit he also included services as a subject for discussion. He recalled that in 1982 when the Ministerial Declaration had been approved Uruguay had reserved its position with respect to services. Together with the other Latin American countries Uruguay was a member of the Latin American Economic System which had chosen that services should be discussed in UNCTAD. He noted, nevertheless, that this did not mean that his government was not open to discussion in GATT.

He said that goods and services had to be discussed or treated separately and that formulas which would mix up these two separate questions would be unacceptable. For Uruguay, trade in goods had priority and it was also the priority within GATT. In considering the new round of negotiations one could in no way lose sight of the fact that his country was not satisfied with the manner in which GATT was being applied, especially in the case of subjects such as standstill, rollback and other questions. He stressed that all contracting parties should make an effort to achieve a better balance of advantages and of obligations within GATT. His country's position on services would depend on whether there was more equity in the field of trade in goods.

The representative of Poland recognized the importance of trade in services, but noted that the assessment of its relative significance as against trade in goods was a controversial subject even in dispassionate economic literature, much more so in relations among sovereign contracting parties. However, his delegation considered that the preliminary discussions on services held so far in the GATT - interesting and informative as they were - had provided little, if any, evidence that the existing GATT rules could be applied to the services trade sector. If, on the other hand, the GATT rules were to be stretched to cover services, this would inevitably mean passing a breaking point with unpredictable consequences for the GATT system. Consequently, he said that whatever rules on services were to be elaborated should be specifically designed for services trade without any implications for the disciplines defined for traditional areas of GATT. He noted that there was a growing number of hints that the notion of effective and mutual reciprocity in national

treatment of trade in goods and services seemed to gain a growing popularity in some quarters. In his view such hints, if and when they became reality would be a most unwelcome development. Therefore his delegation believed that whatever discussions on services were, and might continue to be held, in the GATT, they should not cut corners and ought to take into account the particularly sensitive nature of the issues involved.

The representative of Australia said that the service sector accounted for the largest share of GDP in most countries and according to one figure amounted to 64 per cent of world production in 1979. It seemed that about 60 per cent of world services production was concentrated in a trade, finance and other service categories. He observed that his Government had given some preliminary thinking to the problem. He said that if a multilateral framework were feasible, specific sector agreements would be necessary within the umbrella of an overall agreement. Some sectors might already be adequately covered by existing international agreements, other questions would need to be answered. He noted that if one were to assume that countries agreed to enter into negotiations on trade on services, the most rigorous test of whether a multilateral framework was possible would be the negotiations themselves and whether countries were willing to develop a system of rules and whether disciplines would be operationally effective, rather than negotiating an agreement so general as to be ineffective. It was evident that a several-tiered approach was necessary. On the one hand, some sort of general agreement seemed necessary and on the other hand there would seem also some need for separate arrangements on a sectoral basis. He noted that there would need to be transparency of notification of laws and regulations whose purpose was to protect domestic service industries and said that this raised the obvious issue of how specific domestic laws were defined. For example, a regulation to prohibit foreign entertainment could be regarded as protecting the domestic entertainment industries, or as a regulation to preserve the national culture and hence not notifiable under any sort of regulation. The rôle of public monopolies would have to be considered, which was a vexed question in many countries. There was a need for decent dispute settlement procedures for trade in services, which he hoped would be inspired by the basic principles of the GATT rather than the procedures for dispute settlement to which the contracting parties had fallen lately. He noted that services arrangements would also require market access assurances both for an "appropriate" degree of initial market access as well as reducing barriers in trade in services and that the issues of contestable markets would arise. He wondered whether foreign services would enter and leave the market or whether they would be limited by factors such as high capital costs with fixed pricing policies. He said that one would also face the question of subsidies in trade in services and he endorsed the comments made by the representative of Hungary on the matter. He also considered that there would be a need to deal with treatment of investment and that the question would arise of how to distinguish between trade and investment components of services in order to determine whether meaningful rules of trade in services could be developed in isolation from multilateral consideration of investment issues. He noted that the growing importance of trade in services suggested that this was an appropriate

subject to be included in the agenda of a new trade round. In his view, it would seem to suggest that consideration of the possible development both of multilateral and sectoral rules as well as, finally and ultimately, bilateral negotiations on specific access issues, would be necessary. He noted, however, that this could be a very lengthy process and, as someone had said, that it might be twenty years before anything like a workable international services regime was to emerge. He expected that whatever discussions were initiated on services would still be continuing long after the bulk of negotiations that one would expect to occur on goods in the forthcoming trade round would be concluded. In his view, it was unlikely and undesirable that an agreement on a framework for trade in services was reached before completion of negotiation on trade in goods. There should be some sort of modality or understanding to separate the discussions on services from those on trade in goods and that at a minimum, progress on negotiations in trade in goods should not be explicitly linked to progress on negotiations in trade in services. Furthermore, consideration of trade in services in a new round should not be given priority over the current major unresolved issues in the GATT such as safeguards, trade in agriculture, non-tariff barriers, subsidies, dispute settlement, textiles, tropical products, and so on. On the contrary, priority needed to be given to reducing barriers and distortions to trade in goods in any forthcoming multilateral trade round. He considered that the best way to manage this was to give a preparatory committee for a trade round the task of settling the issues of modalities and work out a basis on which contracting parties could decide how to deal with this vexed question of services in a trade round.

The representative of Barbados said that the services sector was a very complex sector and that Barbados was trying to follow the discussion and to make sure that it was not left out of it. He said that a number of countries, including his own, did not really understand the multi-faceted sector of services and were surprised to be confronted with calls for negotiations to bring trade in services under the disciplines of GATT. His Government had its own priorities as far as GATT was concerned but had an open mind, having regard to the fact that trade in services was considerably interlinked with trade in goods. He considered that the time was not ripe to include services in a new round of multilateral negotiations, because a number of developing countries were not very clear of the complexities of this whole sector. If contracting parties had faith in the GATT to govern trade in services they should certainly also have faith in GATT to govern trade in textiles or in agricultural products. Recalling that his Government had an open mind on the question of services he said that there were a number of outstanding issues that had to be addressed even before addressing trade in services under any new round. He also saw with some concern the implication that was drawn by Australia that there might be an attempt to link any conclusions or decisions to be arrived on a new round to the establishment of a framework for trade in services.

The representative of Korea said that services had become a major trade issue for Korea and that his country would like therefore to deal with this issue in a multilateral framework rather than on a bilateral basis. He said

that multilateralism gave Korea more security than bilateralism which was susceptible to the rule of jungle laws. Another reason for Korea's interest in the multilateral treatment of services was that Korea did not belong to any of the preferential trading blocks into which the world had been divided. As service sectors of special interest to Korea he mentioned construction machinery repairs, ship repairing services, nursing and certain medical services.

The representative of Pakistan said that services were a complex and controversial issue on which not only governments but also academics were divided. According to some academics services were not a productive activity. It might be a sad thing, some academics believed that if GATT were applied to services because under GATT governments were entitled to raise tariffs whereas so far international transactions on services were free of tariffs. He was attracted to the latter argument because during discussions on textiles developing countries were always told that if one applied GATT to exports of textiles from developing countries, their market access would be reduced. He endorsed the statement of the representative of India concerning the framework of the discussion and GATT competence in services and noted the point made by the EEC that the GATT rules could not be simply extended to the services area. He also noted that some submissions on this subject were too ambitious. He stated that the process of exchange of information on trade in services in GATT should be continued and that there were still some areas and issues where discussion was required. He noted that the issue of services could only be discussed in broader perspective of international economic system of which GATT and trade were only a part. Stressing the importance of the development perspective in international transactions of services he said there was a strong case for handling this issue in an organization which was responsible both for trade and development. He also stated that contracting parties should agree on certain basic presumptions, mostly on the lines indicated by the Brazilian delegation, in order to prepare the ground for future consideration of this matter. In his view the services issue had divided the contracting parties and had been systematically promoted at the expense of the central responsibility of the General Agreement. He noted that GATT itself had started on a step-by-step basis and that a similar approach would be most appropriate for trade in services.

The representative of Peru said that the Ministerial Declaration of 1982 decided to invite the CONTRACTING PARTIES to proceed to an exchange of information on services and that at the end of this review and in the light of its results, the CONTRACTING PARTIES should decide as to the future of the question. He noted that the Group on Services had dealt with only sixteen national studies and that there were ninety contracting parties in GATT. His delegation therefore considered that the exchange of information still had to continue and that one could not yet conclude that multilateral action in the sector of services was required. He said that priority had to be given to trade in goods and especially to problems in tariffs, trade barriers, textiles, tropical products, agriculture, to mention only a few of them. He could not see how in such a situation one could open negotiations on subjects which were completely outside the legal competence of GATT. He stated that his Government could not deal with services within GATT because the provisions and preamble of GATT referred exclusively to trade in goods; and was not ready to deal with goods and services together in negotiations because services were not covered by the General Agreement.

The representative of Singapore, speaking on behalf of the ASEAN countries, said that services were a new issue for the GATT. He recalled that ASEAN was prepared to work on new issues, so long as the issues of interest to ASEAN were given priority. He considered that fulfilment of the commitments of the Tokyo Round and the completion of the relevant elements of the 1982 GATT Work Programme were essential. He noted that the issues of priority for ASEAN had already been made known in the GATT on previous occasions and needed no repetition at present.

The representative of Czechoslovakia recognized the growing importance of trade in services in international trade and was of the opinion that the issue was of such a great complexity that it was not easy even to identify it. There was therefore a great need for further examination. He said that in a new round of multilateral trade negotiations priority should be given to trade in goods. However, if the decision were taken in GATT to include trade in services in a new round, he stressed that Czechoslovakia's preference would be to separate negotiations on trade in services from negotiations on trade in goods; with no link between these two processes.

The representative of the European Communities said that for services to become a subject matter for the negotiations, it would be necessary to have a decision by the CONTRACTING PARTIES. He noted that among the developing countries that had taken the floor there were in fact very few who were against as compared to the great majority of those who were in favour. Having done a mental calculation he had noted some thirty for and ten against. He said that the Communities, having listened to the developing countries, did not deny or refuse the priorities which these countries had repeated so often. Nevertheless, GATT needed services as a locomotive for further movement. He recalled that the Communities did not ask all contracting parties to participate in the negotiations, and that it was of course possible for those who participated to withdraw. He said that a decision had to be taken on negotiations, and that for the Communities it was a question of consensus. He pointed out that the concept of consensus was of a political nature and was not synonymous with legal unanimity because this created a temptation to abuse it as a veto. He said that it would be impossible to base oneself exclusively on unanimity from a strictly legal point of view because trying to achieve legal unanimity among ninety or so countries would mean a veto in every case, or at least amount to a veto, even though in the minds of those who voted it would not really be a veto right. He pointed out that it was for that reason that contracting parties had resorted a long time ago to the concept of political consensus which also meant a spirit of compromise and a spirit of understanding. He noted that the statement of the representative of India was perfectly true but it was true from India's point of view which the Communities did not necessarily share. He said that there was nothing in the text of the General Agreement that suggested that GATT was not competent nor that services could not be dealt with in GATT. He added that when discussing the issue of GATT competence one could not refer only to the written text and forget the spirit of the text. This type of sterile discussion should be avoided; he recalled that law followed life and did not precede life. He said that it was frequently difficult to isolate the service content of a

traded product and to determine which part of the product came strictly under GATT since it was trade in goods, and which was the part where GATT's competence was questioned since it was trade in services. He recalled that for the time being everybody agreed that there was going to be a round of negotiations but that contracting parties were not yet in agreement as to the subjects to be negotiated. He would like to include services but the representative of India did not want to, or could not, agree. He wondered also whether the representative of Brazil did not want to, or could not, agree. Referring to agriculture, he said that he did not make any preconditions, simply noting that this sector had shared a fate similar to textiles since the conception and creation of the General Agreement. He recalled that agriculture also had its own specificity and was a sensitive area; with all these constraints inherited from a huge number of precedents one was thus not on virgin territory. He noted that services was new, consequently it was quite easy not to establish preconditions; he would not know what conditions to set. But, he continued, in agriculture he would know what conditions to raise and nobody would be too surprised if he did so. If some contracting parties wished to negotiate on agriculture and other on services, then both should be included: that was the rule of the game. After all, he said, it would be naive to think that because the two things were not placed in the same basket, either could be forgotten in the bargaining process. Having read some incorrect interpretations of the Communities' position in the press, he recalled for those who had not heard or understood that there were openings in that position. He stressed that the Communities showed flexibility as to whether its negotiating objectives should be addressed sequentially, to facilitate the inclusion of services. The liberalization of barriers to trade in services should be explored, but not necessarily right at the beginning, and only barriers which can objectively be considered as being of protectionist nature should be tackled. This should be done through negotiations and not by imposition or by decree of trading partners. He noted that this already introduced an element of specificity.

The representative of Nicaragua said that he was fully in agreement with the representative of the European Communities and noted that the trade embargo, decreed unilaterally and illegally by the Government of the United States had deprived Nicaragua of spare parts for equipment, including North American computers that Nicaragua owned.

The representative of Zaire noted that the large majority of developing countries viewed with some degree of apprehension the introduction of services in a proposed new round of negotiations in GATT. He said that services as such occupied only a secondary position in world trade. He recognized that for certain countries the role of services in trade amounted to 60 or even 70 per cent, but considered that it was important to see what was the impact of services on world trade. He said that services as such only represented a secondary input: 6 per cent for transport, 4.5 per cent for tourism, 7.5 per cent for services which were related to the exchange of goods, i.e. for insurance, telecommunications, financing and consultancy. He concluded that roughly 80 per cent of world trade was accounted for by

goods. He said that in countries such as his, sectors such as insurance, maritime and air transportation, telecommunications, and audio-visual were protected by the state, and noted that an all round liberalization might perhaps endanger his country's economy. He suggested that some further clarifications were needed as to the type of approach towards services in GATT before his country could take any position and noted that even for developed countries' governments there were still many unknowns in the area of services. He said that the delegation of Zaïre was conscious of the vital interests in the field of goods and yet was also aware of the needs of other countries. He had attentively listened to what the others expected from his country. His delegation remained open to all constructive proposals which would allow the Senior Officials' Group to fulfil its mandate which had been set by the CONTRACTING PARTIES at its October meeting.

The representative of India said that the only way one could understand the General Agreement was by reading it, and by trying to understand its meaning in terms of its negotiating history. Recalling the observation of the representative of the Communities that trade in services was the engine of growth for world trade, he noted that the rate of growth of trade in services was slower than the rate of growth of trade in goods and wondered how the slower component could be characterized as the engine of growth. He therefore maintained that GATT should concentrate on trade in goods, if it was to function properly. He recalled the Ministerial Decision that contracting parties should keep in view the changes in the trading environment and should try to see how GATT could be made responsive to those changes. But the question really was, what were the changes that contracting parties should have in view? It was quite apparent that the changes in the environment would appear to be different, depending on the particular point from which one was viewing them. One of the most important changes in the trading environment since the GATT had been formed was the emergence of the newly industrialized countries trying to have their share of world trade, and the difficulties and barriers they were facing. The GATT should try to remove those barriers, if one believed that this institution should respond to the new realities. This in his view, was the the new reality which was emerging and to which GATT was not giving adequate response. Another issue that GATT should address was a proper, comprehensive understanding on safeguards, so as to ensure that the rule of law and the system of GATT functioned properly. He noted that there were various estimates as to the share of intra-firm trade which was not effectively covered by the rules of GATT and that one estimate suggested that the share was as high as 60 per cent. He wondered how the rules of law based on free competition among the trading nations could function in such a situation and particularly when such trade was governed by a host of restrictive business practices which had only multiplied and become more and more complex over the years. He asked whether GATT had taken note of this complex reality; it was time to make GATT responsive to such changes. He was quite surprised to see that no mention was being made of these realities which to his mind were far greater and more important than the growth in trade in services. Another important aspect was the asymmetry in the trading relationship between the developing countries and the developed

countries which had come to surface particularly in the 1960's and 1970's. Contracting parties should see how they could change the rules of GATT in order to make them more responsive to the needs of developing countries. He said that the UNCTAD Belgrade resolution on trade 159(VI) had taken note of that change and that if the multilateral trading system was to survive, it had to become more responsive to the needs of the developing countries. Another reality which, in his view, was completely ignored in the forum of GATT was, for example, the principle of non-discrimination. In the GATT forum contracting parties tried to close their eyes to the fact that discriminatory practices were governing a large part of world trade. He suggested that some of the proposed new areas of concern were not as important as the kind of changes which he had pointed out. In an effort to make GATT responsive to these changes, one must also remember that a solid rule of consensus was a very important principle that should be followed. Nothing should be done in this institution in order to make it more responsive to the so-called changes in the trading environment which would cut at the very root of this principle of consensus. Recalling some calculations of the representative of the Communities as to those in favour and those against the issue of services, he said that his own calculations gave him different results. But he felt that in the GATT forum one should not be an accountant, but rather a statesman. He said that he was happy to hear that the European Communities believed that contracting parties should go by the rule of consensus.

The representative of Brazil said that he very much appreciated that the representative of the European Communities referred to his statement and his personal interventions. He said that the Communities interrogation could lead some to believe that his interventions on services could be personal or reflected personal views. He said that all delegations should realize the very official nature of all of Brazil's interventions on services.

The representative of the United Kingdom speaking on behalf of Hong Kong said that Hong Kong had a substantial interest in trade in services. He stated that if services were now to be seriously discussed in the GATT and negotiated in a new round with a view to developing international disciplines, then Hong Kong would wish to be involved in such discussions. He said that Hong Kong had been able to develop and maintain its position in the services sector by reliance on non-interventionist free market principles and policies and without the benefit of a multilateral instrument. Although Hong Kong had been studying the subject in the context of the exercise commenced under the 1982 Ministerial Work Programme, his government authorities did not see an urgent need to embark on services negotiations. This was a complex field and even if discussions now got off the ground it could be very many years before anything concrete resulted. There was no scope for linkage between services and goods. The priority at present was to progress the work on trade in goods that was still outstanding from the Ministerial Declaration of 1982.

The representative of the United States said that the Group had had very interesting and engaging legalistic debates which missed the point. He noted that some discussions had taken place on procedural matters, on how to interpret the document that came out of the Special Session, how not to interpret it and that the net result was that very few people were in fact focusing on the substance of the issue. He noted that no-one at this point believed there was unanimity on the substance but one of the purposes of getting a better understanding of the substance was to discuss the substance further. Unlike others he did not have the same nostalgia for the good old times and did not believe as strongly as others in the static world of 1947. He considered that from everyone's perspective, contracting parties were better off now than they were in 1947.

The representative of Kuwait said that his delegation believed that services were not within GATT competence, as GATT was created for goods only. He added that a new round of trade negotiations should likewise limit itself to trade in goods. The Preparatory Committee for the new round should limit itself to the problems and subject matters related to the General Agreement, i.e. the exchange of goods and not the exchange of services. To this effect his delegation endorsed the positions of developing countries as stated by India, Egypt, Yugoslavia and Pakistan.

The representative of the European Communities said that everyone must find satisfaction at the end of a negotiation and that this was the reason for which he had very carefully avoided, in this very delicate matter of services, taking a position which was not solidly based and which offered no way out. He noted that dialogue was possible whilst awaiting the necessary compromise. He said that he had studied in detail the Indian statement at the Special Session of the CONTRACTING PARTIES and the sentence that really struck him was the following: "It is not a matter of procedure but of law". He said that in his view this was not the problem. The problem was to convince contracting parties that one day or another they would have to reach a compromise. He noted that statistics of trade in products and goods did not indicate the important share attributable to services. The invoiced price for a product which was entered into trade statistics included the costs of market studies, transportation, insurance, exchange, financing costs including credits, after sales service and so on. He noted that there was thus an ever-increasing, if not yet fully identifiable, share of services in trade statistics. This enormous share of services should be taken into consideration when GATT adapted to the new environment. While the stand taken by the representative of India was perhaps respectable, it was also essentially political. He noted that there was a problem and suggested that all contracting parties discuss ways and means of extracting themselves from the corner into which they had painted themselves. Addressing the representative of Brazil, he said that a compromise had to be found; the question was how to establish it. Failing a compromise, the future of the GATT looked bleak.

The Chairman proposed that for the meetings of the Group scheduled for 30-31 October and 1 November, delegations should continue to deal with the remaining list of elements contained in the Ministerial Work Programme starting with textiles, and then take up modalities.