

PANEL THREE: GENERAL DISCUSSION

Mr. Aronson

I am not suggesting that the GATT or governments should go away. Nobody, including Citicorp, wants that.

I would like to make one other distinction in connection with something that Mr. Gakunu mentioned. There is an important distinction between services that are internationally exchanged and those that are provided within the country. Nobody is suggesting that countries are going to be forced by other countries or foreign firms to open up their national systems against their wishes. If Brazil, for example, decides that doctors must meet local licensing requirements, nobody can do much about it.

Mr. Ascher

I would like to address one of the many points that Mr. Aronson mentioned in his presentation, and that is the question of the complexity of trade in services and perhaps trade in general. There are many different government agencies that are involved in services and each has a different cast of characters. The negotiations involve not only trade ministries but also finance ministries, transport ministries and others. The point is that this is not unique to telecommunications, nor to services; it applies as well to goods. We find that in over forty years of experience in the GATT, the tariffs have come down and the non-tariff barriers become more restrictive than the tariffs, so they got more attention in the GATT at the Tokyo Round. So there is some experience along those lines.

In addition, we find that bilaterally we are having the same problems in the United States. When non-tariff barriers in a given country are called to our attention we may start with a trade ministry but we may end up with discussions that deal with the transport and finance ministries.

A good example of that was the "High Cube" problem in Japan, where certain containers that were actually made in Japan and bought by American shipping companies were not allowed to be transported along Japanese roads when they were full and contained cargo from the United States. This was worked out, it took a long time, there are still some problems, but it involved dealing with various administrative agencies—the Ministry of Transportation, the Ministry of Construction, the National Police Agency and local police jurisdictions. The safety of public roads was involved, certain times of the

day had to be specified, and certain routes for the transport of these containers had to be specified. Every time you crossed a different boundary line, the local police came into play. So these are complex and different types of issues. Nevertheless, they have been treated in a trade context.

Mr. Hawley

I just wanted to be sure that there is a clarification here. In addition to the *cross-border* provision of services, certainly financial services and some others, our *presence* in the local market place is an essential element of what has to be discussed. Nobody is trying to dictate this, but the agreement that the financial sector is looking for in the negotiations is one that would recognize that many services cannot be adequately provided without a presence in the market place. So we are in fact asking for something more than simply cross-border transmission over the wire. I would further argue that, as you could discern, there is a fundamental difference in economic analysis between my views and those of Mr. Gakunu. I would argue that a country that follows a line of economic thought that does not recognize the advantage that accrues to that economy and to its modernization from allowing a competitive environment and the presence of foreign service providers may be accomplishing some domestic political objectives, but, I would suggest, at enormous cost to the development of their economy.

Mr. Kakabadse

Right at the beginning Professor Wilner asked "why now?". I agree completely with the answers already given to that question. The United States was obviously instrumental in making services a negotiating issue. I would add that in the early and mid 1980s there was a process of examination in which many of the OECD countries studied their own service sectors. The European Community, for example, to its surprise found out after studying its own service sector that it was an important factor on the world scene, and that realization helped in the agreement to allow negotiations to proceed. For many other countries, however, who are still engaged in actually studying the strengths and weaknesses of their own service sectors, this level of information is very important in being able to negotiate, to recognize the issues and to go forward.

While I basically agree with Mr. Aronson's analysis, we are talking about very different and complex sectors. In the GATT reference list we have over one hundred services sub-sectors and those are further

sub-divided. So what are we talking about? We are talking about general rules and then more detailed work on sectors.

To what extent the GATT is useful in that process I am not really certain yet. We are not there to lay down detailed rules, to tell businesses and governments what they can or cannot do, but perhaps one of the things the GATT can do is to force people to justify their indefensible barriers. That is quite a useful thing.

A final comment to Mr. Gakunu. He summarized the development debate extremely well. On the one hand, the benefits to developing countries have been argued out, benefits in terms of direct foreign investment, increased employment and transferring technological skills. But these arguments have not displaced concerns about displaced employment, national security and protection of infant industries.

Perhaps I could ask Mr. Gakunu to comment on the following: If developing countries are going to participate in a services agreement, an agreement that must have some meaning beyond a mere statement of general intentions, then to what extent does Mr. Gakunu think that the issue of linkage of other issues in the Uruguay Round is going to be instrumental in that? In other words, if you participate are you going to want progress in textiles, tropical products or other areas.

Mr. Gakunu

If we look in the recent past we will find that most of the things that we are now calling tradeable services have not been tradeable in the past. They have now become tradeable. For example, Citibank was not treated as a multi-national enterprise, but today it is. Mr. Aronson gave us a lecture with respect to how IBM is shifting away from computers to telecommunications. So you can see that at one time perhaps a service which was not tradeable becomes tradeable with the changing times. The developing countries are saying that until they are allowed to develop, it is not possible for them to participate in the international market. Of course I agree that it will cost them a lot in order for them to participate in the international market, but it did cost those who are now having those services in the market something and if it did cost them anything, then it must have cost somebody something. I am sorry Ambassador Batista is not here, because he would have clearly demonstrated that although it may have cost Brazil a lot, Brazil might start reaping the benefits of that cost in this particular area of services.

I have not said that developing countries should not participate in the negotiations on services. They stand to benefit. It is only that

their participation must be such that any framework on services must emphasize the developmental aspect.

I can see a clear link with what happens, for example, in the area of textiles or agriculture in the context of the Uruguay Round, where developing countries have competitive advantage, whereas developed countries have a competitive advantage in the service sector. I can see that coming up in the negotiations, but that only brings a certain group of countries into the picture. Unfortunately, most of the developing countries do not fit into either of those two groups. If you look at agriculture, the kind of products that are produced by the low-level countries is not the kind of agriculture that is being subjected to controls and restrictions in the GATT. If you look at the textiles sector, the countries that are participating in GATT are not the countries at the lower end but are the countries that are in the process of threatening the developed countries. So I still see that a great number of the developing countries might not be effectively represented in the negotiations.

Mr. Wilner

One thought that arose out of this last exchange, particularly the issue on linkages, which seem inevitable, is that access to markets in the developing world or in other parts of the world for services is an important economic fact and would have very important economic consequences for a very long term. If a group of countries receives these services from abroad on a very wide level then they may never develop their own system. They may rely on the competition among foreigners for their market. The temporary lowering of certain barriers could be useful temporarily, but it certainly is not the ultimate solution that the developing countries seek for their economic development. So the two really are not the same.

On the one hand, you open up, perhaps forever, an important sector for which there is no turn-around in terms of the development of local capacities or regional capacities. On the other hand, you are doing this as a trade-off for something that you hope will be a temporary aspect of importance in your economy before you achieve the industrial and other development that you want. So those are dangerous sorts of trade-offs that some countries might be advised to think about. By telling a number of developing countries that liberalization is always good, this logic is an article of faith, rather than a reality in many instances. The developing country response, that "we need to develop within the context of what we have," is

also an article of faith. Well, which do you take, and is one better or is one closer to the truth than the other?

On the other hand, it is very clear that among the OECD countries the sense in the discussions is that the time is right. Maybe when the Soviet Union joins the GATT, that will be another important factor to bring in, and maybe at that point the United States will be delighted to allow access to all countries in services. There is no question that the liberalization in services, which is absolutely necessary and will take place, ought to be lead by the GATT in the separate path it has been taking. Perhaps GATT might be subtle in whom it includes and at what stage. I do not know whether we are talking about a two or three-year transitional period, but with respect to some areas of the world we are talking about a thirty or fifty-year transitional period. That is much more realistic. Why this is so, is another matter.

Mr. Hawley

I am reminded of discussions that I have every once in a while with the trade representatives and ambassadors of several countries. When I talk to the Indian Government officials about national treatment they often smile and ask me whether I'm really sure whether we want "national treatment" in India. Do I really want to be treated like they treat their own banks? And my own people over there ask me every once in a while whether this is really what we want. My reply is "yes", but I recognize that this is a "second best" solution. Obviously in every environment the people operating in that environment are going to have suggestions for change. We have a lot of suggestions for change in the U.S. regulatory environment on which we are quite outspoken. But our feeling is that, for all of the reasons that we have been outlining here, the number one objective in the financial area is to find a basis for agreement with a number of other major markets out there among the major diversified economies of the Third World like Brazil, Mexico, Korea, Indonesia, and Taiwan. How do we get a basis for such an agreement? I see the "national treatment" approach as being most likely to provide a basis for agreement, because it does allow a certain diversity in national regulatory systems. National treatment allows them to have a different system in each one of these countries as long as they will move closer to equality of competitive opportunity among the domestic and foreign operators within that market. If we were to go in a different way, and try somehow to standardize all those systems, that would be a

much tougher process and would probably have a much less successful outcome.

Mr. Ascher

I think that is the answer. I have a couple of observations, though, on national treatment, but not necessarily the conflict with regulations and developing countries. There is a problem from the standpoint of the United States when a country says it has five banks already and does not need any more banks, and that it will not permit any domestic interests to establish banks in that country, and therefore will not allow an American company to set up a bank there. That country is giving you national treatment. That country is treating you exactly the way it treats its own national interests. That gives you an example of why national treatment by itself will not get us access to markets. There have to be other considerations. There have to be additional rules which need to be worked out in the GATT.

The second observation is in regard to what Mr. Hawley mentioned earlier, the U.S. policy within the United States of national treatment here. One of the reasons we have a national treatment policy is that if we shifted over to reciprocity then we would have to treat each other country the same way that our banks are treated in that country. Then we might find ourselves with fifty different policies rather than one uniform policy. So it is from a pragmatic point of view that national treatment is probably preferable.

Mr. Wilner

But would not it be even more preferable to have an international minimum standard that could be fashioned to allow a certain minimal amount of liberalization in terms of access?

Mr. Ascher

That could be possible, but our approach right now is to allow more flexibility than that. The objective is not to harmonize rules and get everybody on exactly the same wavelength. There is a need to get better access, but that can be accommodated within the current structure of the laws and regulations of the other countries.

Mr. Wilner

The papers presented and comments made in the course of this panel's deliberations have taken up not only the major issues involved in creating a framework for agreement on trade in services, but also the very desirability of any arrangement on the liberalization of trade

in services. The vast number of types of services that could be included in an agreement and the peculiarities of various sectors of services have been discussed. There has been agreement among panelists on the crucial importance of trade in services to the future of the international trading system. The approach to achieving liberalization by first adopting a global framework agreement has been generally accepted. Strong concern has been expressed, however, over the danger that, in the liberalization process, developing countries in particular will lose much of their power to shape their economic development in the area of services, without achieving any significant advance in their economic well-being.

Well, we have just begun to discuss the issues. It is unfortunate that we do not have a meeting this afternoon, this evening and tomorrow to battle things out. On behalf of the Georgia Society of International and Comparative Law and the *Georgia Journal of International and Comparative Law* I want to thank the panelists for their magnificent contributions which we will all see in print in the near future. This is a time to get all these views across to the public. So once again with great thanks and my own personal thanks to all of you for having come here, some from near some from very far, I wish you all a very *bon voyage* on the way home. Thanks again.