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# Services and the GATT

by Siegfried Schultz, Berlin\*

**The Uruguay Round of the GATT represents a test of the adaptability and reformability of the multilateral trading system. This is particularly true with regard to trade in services, the treatment of which within GATT has been resisted (to varying degrees) by many developing countries. The following two articles deal with different aspects of this issue.**

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The expansion in world trade from the end of the second world war until well into the seventies was fuelled by trade in raw materials, food and manufactured products. It is therefore only natural that the rules governing the execution and intensification of international commerce concentrated on trade in goods. The tremendous increase in the importance of services since then is evident in two significant trends.<sup>1</sup> First, the service element embodied in traded goods has risen substantially over the years, because manufactured goods are becoming increasingly complex and require highly specialised servicing that is not sufficiently available in importing countries (such as pilot training and the maintenance of aircraft previously supplied); the term "compacts"<sup>2</sup> is used to describe this close linkage between goods and services, whereby services may even stimulate growth in merchandise trade. Secondly, know-how and information have come into their own as a separate branch of international trade; the combination of telecommunications and computer technology has opened up entirely new avenues for international sales of services. The marketing of new services abroad not only modifies the structure of the services sector itself but also has a significant impact on the composition of world trade. Services are no longer an "invisible" appendage to merchandise trade and have become a dynamic element in world trade.

## Characteristics

A critical look at the way in which services have been defined up to now for the purposes of analysing international trade flows shows that no concept has yet been developed that is both theoretically complete and practicable. Particularly in the context of empirical analysis almost exclusive use is made of the

conventional three-sector breakdown (see the United Nations' ISIC classification), which only covers important activities of the modern services industry in very broad terms and therefore cannot adequately portray the dynamism of the individual components at the centre of the present trend.

Opinions are divided about the characteristics of services; sceptics argue that the differences between services and merchandise trade are so great that there is little sense in treating them on a common basis, but the majority view is that there are sufficient similarities for this to be feasible. What are the arguments on each side?

The following factors point towards *differentiation* between goods and services:<sup>3</sup>

- As a rule, services are not tangible and in many cases cannot be stored, so that they cannot be produced for stock; they must therefore be performed as and when required.
- In some countries services are provided by state or state-controlled institutions, reflecting the economic philosophy prevailing in those countries. Such public monopolies can seriously affect competitive conditions, a factor of greater significance in services than in merchandise trade.
- Exporters of goods can generally use the distribution network of the importing country, whereas foreign

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<sup>1</sup> W. E. Brock: Trade in services and economic cooperation, in: Die Zukunft des Welthandels: Protektionismus oder offener Welthandel?/ The future of world trade: Freedom or protectionism?, commemorative volume for W. Haferkamp on the occasion of his 60th birthday, Baden-Baden 1983, pp. 21-33, here p. 23.

<sup>2</sup> Meaning "complex packages" of interlocking goods and services, thereby also increasingly blurring the boundaries between the conventional sectors. See A. Bressand: International division of labor in the emerging global information economy. the need for a new paradigm (manuscript), April/June 1986, p. 10.

<sup>3</sup> See inter alia W. E. Brock, op. cit., pp. 27 f.; and W. E. Brock: A simple plan for negotiating on trade in services, in: The World Economy, Vol. 5, No. 3 (November 1982), pp. 229-240, here pp. 237 f.

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## INTERNATIONAL TRADE

suppliers of services are often required to establish local marketing and distribution subsidiaries for reasons of official supervision and consumer protection. Such requirements affect the very basis of trade in services and are therefore of a different nature than in the case of merchandise trade.

What are the points in *common* between services and goods?

□ Specialisation and the exploitation of comparative advantage are the basis of the international division of labour and promote economic growth and international trade. There is no indication that this applies only to markets in goods; it is universally valid.

□ The main impediments to international merchandise trade are currently non-tariff barriers. The obstacles to

trade in services are of the same kind – physical frontier controls are almost impossible in the case of services – so that there is justification for adopting a common approach to combat them.

□ The principles of a system of rights and duties such as those agreed in the GATT (most-favoured-nation treatment, non-discrimination in the event of trade restrictions, equality of treatment with domestic suppliers) cannot be confined to particular sectors.

### Statistical Difficulties

The data available for recording and representing international trade in services are essentially those on cross-border payment flows contained in the balance-of-payments statistics.<sup>4</sup> As well as differences of definition from one country to another, there are

**Table 1**  
**The Main Exporters of Services, 1980 and 1985**

| Country              | Year | Merchandise<br>Exports | Services |         |         | Exports<br>of services<br>in relation<br>to GDP | Exports<br>of services<br>in relation to<br>merchandise<br>exports | Gross<br>domestic<br>product<br>(GDP) |
|----------------------|------|------------------------|----------|---------|---------|---|--|---------------------------------------|
|                      |      |                        | Exports  | Imports | Balance |   |  |                                       |
|                      |      | \$ bn                  | \$ bn    | \$ bn   | \$ bn   | %   | %  | \$ bn                                 |
| United States        | 1985 | 214.77                 | 143.83   | 122.58  | 21.25   | 3.6   | 67.0   | 3957.00                               |
|                      | 1980 | 224.36                 | 118.23   | 83.28   | 34.95   | 4.4   | 52.7   | 2684.40                               |
| United Kingdom       | 1985 | 100.71                 | 100.22   | 88.12   | 12.10   | 22.2  | 99.5   | 452.23                                |
|                      | 1980 | 110.28                 | 91.22    | 82.32   | 8.91    | 17.0  | 82.7   | 535.07                                |
| France               | 1985 | 95.75                  | 58.49    | 50.54   | 7.95    | 11.4  | 61.1   | 511.64                                |
|                      | 1980 | 107.56                 | 64.30    | 50.92   | 13.38   | 9.8   | 59.8   | 655.36                                |
| Fed. Rep. of Germany | 1985 | 173.47                 | 49.50    | 53.83   | -4.34   | 7.9   | 28.5   | 624.97                                |
|                      | 1980 | 183.16                 | 51.37    | 63.45   | -12.08  | 6.3   | 28.0   | 813.61                                |
| Japan                | 1985 | 173.58                 | 45.52    | 50.69   | -5.17   | 3.4   | 26.2   | 1325.21                               |
|                      | 1980 | 126.80                 | 31.50    | 42.85   | -11.35  | 3.0   | 24.8   | 1059.26                               |
| Belgium-Luxembourg   | 1985 | 47.05                  | 33.13    | 31.65   | 1.48    | 38.9  | 70.4   | 85.20                                 |
|                      | 1980 | 55.17                  | 33.77    | 32.33   | 1.44    | 28.1  | 61.2   | 120.34                                |
| Italy                | 1985 | 72.21                  | 26.03    | 24.00   | 2.03    | 7.8   | 36.0   | 333.61                                |
|                      | 1980 | 76.84                  | 28.16    | 22.78   | 5.38    | 7.1   | 36.6   | 395.54                                |
| Netherlands          | 1985 | 62.29                  | 24.22    | 23.36   | 0.87    | 19.5  | 38.9   | 124.25                                |
|                      | 1980 | 67.49                  | 30.26    | 28.66   | 1.60    | 17.9  | 44.8   | 169.38                                |
| Switzerland          | 1985 | 37.06                  | 19.62    | 11.04   | 8.58    | 21.3  | 52.9   | 92.14                                 |
|                      | 1980 | 29.26                  | 12.66    | 7.17    | 5.49    | 12.5  | 43.3   | 101.63                                |
| Saudi Arabia         | 1985 | 27.92                  | 15.35    | 27.37   | -12.02  | 16.4  | 55.0   | 93.65                                 |
|                      | 1980 | 100.72                 | 11.27    | 33.67   | -22.41  | 9.7   | 11.2   | 115.97                                |
| Canada               | 1985 | 90.24                  | 14.79    | 29.16   | -14.37  | 4.2   | 16.4   | 348.85                                |
|                      | 1980 | 67.51                  | 10.51    | 20.38   | -9.88   | 4.0   | 15.6   | 265.04                                |
| Spain                | 1985 | 24.01                  | 14.75    | 8.90    | 5.85    | 9.0   | 61.4   | 164.08                                |
|                      | 1980 | 20.56                  | 13.31    | 8.82    | 4.49    | 6.3   | 64.7   | 210.21                                |
| Austria              | 1985 | 16.91                  | 12.59    | 8.84    | 3.74    | 19.1  | 74.5   | 66.05                                 |
|                      | 1980 | 17.02                  | 14.27    | 9.26    | 5.01    | 18.6  | 83.8   | 76.88                                 |
| Norway               | 1985 | 19.92                  | 9.54     | 10.71   | -1.17   | 16.5  | 47.9   | 57.91                                 |
|                      | 1980 | 18.66                  | 9.60     | 9.91    | -0.30   | 16.6  | 51.5   | 57.71                                 |
| Sweden               | 1985 | 30.08                  | 8.69     | 11.17   | -2.48   | 8.7   | 28.9   | 100.25                                |
|                      | 1980 | 30.67                  | 8.72     | 9.64    | -0.91   | 7.0   | 28.4   | 124.15                                |

See Table 2 for definitions and method of calculation.

Sources: IMF: Balance of Payments; and IMF: International Financial Statistics, various years

substantial statistical deficiencies that hinder analysis of the foreign trade integration of the services sector even on a national basis. At the international level there are further shortcomings that impair country comparisons where national data are not detailed to the same degree.

The IMF's standard classification recognises only a small number of categories of cross-border services, primarily "shipment", "passenger services", "other transportation" and "travel". However, even with this scant breakdown not all countries are covered (although for some countries more detailed data are given) and the data for the countries that are covered are far from uniform. Not infrequently, the IMF aggregate "other goods, services and income" is used for international comparisons in order to bring in as many countries as possible. This approach has been followed here. Given the diversity within this item, some of the results may be distorted with respect to services proper.

### Figures on Trade in Services

Subject to these reservations, a number of broad trends can nevertheless be identified:

□ According to conservative IMF figures, worldwide exports of services probably amounted to at least US \$

400 billion in 1985. However, there are also plausible estimates that put the international trade in services at \$ 500 billion as early as 1980.<sup>5</sup> Exports of services probably account for between 25 and 30 % of total world trade in goods and services.

□ More than three-quarters of exports of services are from industrial countries. The USA has long held the lead, with around 10 % of the export volume, followed closely by some of the EC countries. A few developing countries, such as Mexico, South Korea and recently Brazil, have also built up a strong position in the world market. Trade in services that are in demand internationally is highly concentrated, most if it being transacted between industrial countries (Table 1).

□ Services increased significantly in relation to GDP in most of the industrial countries between 1975 and 1985. This was true of exports and imports of services by the

<sup>4</sup> In balance-of-payments analysis "services" are understood to mean non-factor services, such as freight, other transport, tourism, other private services and other official services. "Factor income" relates primarily to income from capital. By general convention, remittances of foreign workers are recorded under unrequited private transfers

<sup>5</sup> G. C. Hofbauer, J. J. Schott: Trading for growth: The next round of trade negotiations, in: Policy Analyses in International Economics, Vol. 11, Institute for International Economics, Washington, D.C., 1985, p. 66.

**Table 2**  
**GDP and Trade in Goods and Services<sup>a</sup>, 1975 and 1985<sup>b</sup>**  
(percentages)

|                      | Exports                |         |          |        | Imports |         |          |        | Growth <sup>c</sup> from 1975 to 1985 |         |          |         |          |
|----------------------|------------------------|---------|----------|--------|---------|---------|----------|--------|---------------------------------------|---------|----------|---------|----------|
|                      | Goods                  |         | Services |        | Goods   |         | Services |        | GDP                                   | Exports |          | Imports |          |
|                      | 1975                   | 1985    | 1975     | 1985   | 1975    | 1985    | 1975     | 1985   |                                       | Goods   | Services | Goods   | Services |
|                      | as a percentage of GDP |         |          |        |         |         |          |        |                                       |         |          |         |          |
| Canada               | 20.5                   | 25.9    | 3.5      | 4.2    | 20.8    | 22.0    | 6.4      | 8.3    | 7.8                                   | 10.3    | 9.7      | 8.4     | 10.7     |
| Japan                | 10.9                   | 13.1    | 2.7      | 3.4    | 9.9     | 8.9     | 3.8      | 3.8    | 10.2                                  | 12.3    | 12.9     | 9.0     | 10.4     |
| USA                  | 6.8                    | 5.4     | 3.1      | 3.6    | 6.2     | 8.6     | 2.2      | 3.1    | 9.6                                   | 7.2     | 11.5     | 13.2    | 13.5     |
| Belgium-Luxembourg   | 35.2                   | 55.3    | 16.4     | 38.9   | 36.5    | 55.6    | 13.9     | 37.2   | 2.7                                   | 7.4     | 11.9     | 7.1     | 13.2     |
| Fed. Rep. of Germany | 21.0                   | 27.8    | 5.5      | 8.0    | 17.0    | 23.3    | 7.0      | 8.6    | 4.1                                   | 7.1     | 7.9      | 7.4     | 6.4      |
| France               | 14.7                   | 18.8    | 6.9      | 11.5   | 14.4    | 19.7    | 5.7      | 9.9    | 4.2                                   | 6.8     | 9.6      | 7.5     | 10.2     |
| United Kingdom       | 18.1                   | 22.2    | 13.4     | 22.0   | 21.3    | 22.7    | 11.3     | 19.4   | 6.8                                   | 9.0     | 12.3     | 7.5     | 12.7     |
| Italy                | 18.0                   | 21.8    | 5.7      | 7.8    | 18.6    | 23.7    | 5.6      | 7.3    | 6.4                                   | 8.5     | 9.8      | 9.1     | 9.4      |
| Netherlands          | 36.8                   | 50.2    | 14.8     | 19.5   | 35.8    | 46.0    | 12.7     | 18.9   | 3.6                                   | 6.9     | 6.6      | 6.3     | 7.8      |
| Spain                | 7.4                    | 14.6    | 5.8      | 9.0    | 14.5    | 17.0    | 3.2      | 5.4    | 4.6                                   | 11.9    | 9.3      | 6.3     | 10.4     |
| Austria              | 20.0                   | 25.7    | 13.0     | 19.1   | 25.2    | 31.7    | 8.1      | 13.4   | 5.8                                   | 8.4     | 9.9      | 8.2     | 11.3     |
| Switzerland          | 24.1                   | 40.2    | 11.6     | 21.3   | 24.2    | 41.9    | 6.1      | 12.0   | 5.4                                   | 11.0    | 12.0     | 11.4    | 12.8     |
| Brazil               | 6.8                    | (12.9)  | 1.2      | (1.5)  | 9.7     | (6.6)   | 4.0      | (7.8)  | (6.0)                                 | 11.7    | 9.8      | 0.9     | 12.9     |
| Hong Kong            | 64.3                   | (88.8)  | .        | .      | 72.2    | (89.5)  | .        | .      | (14.6)                                | 17.5    | .        | 15.9    | .        |
| India                | 5.3                    | (5.4)   | 1.1      | (2.0)  | 5.6     | (7.6)   | 1.6      | (2.6)  | (8.7)                                 | (9.1)   | (16.1)   | (12.4)  | (14.3)   |
| Mexico               | 3.4                    | 12.3    | 3.8      | 4.4    | 7.1     | 7.6     | 4.8      | 9.1    | 7.3                                   | 21.9    | 8.9      | 7.9     | 14.2     |
| Singapore            | 90.6                   | (120.8) | 56.1     | (48.8) | 133.2   | (142.5) | 23.2     | (29.9) | (14.3)                                | 15.5    | 10.0     | 12.6    | 14.9     |
| South Korea          | 23.7                   | 30.7    | 4.2      | 7.7    | 31.6    | 30.7    | 6.3      | 9.4    | 15.1                                  | 18.1    | 22.4     | 14.8    | 19.9     |
| Taiwan               | 34.5                   | 51.5    | 6.3      | 8.4    | 36.1    | 32.6    | 8.5      | 11.3   | 14.4                                  | 19.1    | 17.7     | 13.3    | 17.7     |

<sup>a</sup> Services including income receipts and payments (e.g. investment income). — <sup>b</sup> 1984 figures in brackets. — <sup>c</sup> Annual average growth rates on the basis of nominal values; current US dollars and exchange rates.

Sources: IMF, UN and national source (Taiwan); calculations by DIW.

leading industrial countries (G-5 or G-7) and also applied to most of the newly industrialising countries (Table 2). Trade in services grew more rapidly than merchandise trade in all the industrial countries except Canada and the Federal Republic of Germany and in South Korea and India among the developing countries examined.

### Treatment in the GATT

The General Agreement on Tariffs and Trade has only very limited relevance to services. The term "product" is not expressly defined in the agreement, so that it might be extended to cover services. However, records concerning the drafting of the 1947 agreement show that it was designed primarily to govern merchandise trade; only a small number of articles relate directly to trade in services.<sup>6</sup>

The Tokyo Round had very limited success with regard to services because the majority of the contracting parties were afraid of overburdening the negotiations. Discussion was therefore confined to certain specific aspects, so that some of the agreements approved in the Tokyo Round already contain certain provisions that are also relevant to services, such as those on government procurement, customs valuation, subsidies and countervailing duties and the Agreement on trade in civil aircraft.

The final communiqué of the meeting of the GATT Council of Ministers in November 1982 explicitly referred to services, though more or less as a memorandum item in the last point of the joint declaration. Nevertheless, this demonstrated that it was not simply a question of resolving specific sectoral problems; services raised questions of general

relevance to trade policy and were a subject to which all the contracting parties would have to pay attention in future. As a result of the work commissioned by the Council of Ministers in 1982, a number of national studies on the problem of services have now been completed, consisting of a blend of historical description, quantitative analysis and prediction. According to the Ministerial Declaration made in Punta del Este in September 1986, services will be handled by a separate negotiating group at the new round of multilateral trade talks. After a slow start, the programme of work was agreed in January 1987 and by the summer the group had held three meetings in which it had tackled the agreed agenda of five "elements",<sup>7</sup> concentrating so far on questions of definition and statistics.

### North-South Problems

For all the controversy among the industrial countries, such as US criticism of the state monopoly of postal and telecommunications services in Europe, the industrial countries are more or less in harmony with regard to the inclusion of services in the multilateral negotiations. The potential for conflict lies mainly in the North-South relationship.

The rapid technological changes occurring in the services sector are creating scope for a rapid expansion of trade in services as well as goods between industrial and developing countries. The existence of a host of sectoral trade barriers has prompted several leading

<sup>6</sup> Cf. R. J. Krommenacker: *World-traded services: The challenge for the eighties*, Dedham, Ma., 1984, p. 163.

<sup>7</sup> GATT "Focus" Newsletter, No. 43 (January/February 1987), pp. 7 f. The "elements" are: definitional and statistical issues; broad concepts for concrete principles and rules; coverage of the multilateral framework; existing international disciplines and arrangements; and trade barriers.

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industrial countries to campaign for the establishment of internationally recognised rules for crossborder trade in services. With the exception of certain NICs such as Hong Kong and Singapore, the majority of developing countries are currently sceptical about any international agreement that would limit their ability to protect their own budding service industry against the pressure from imports that could be expected if their markets were opened up. Brazil and India, in particular, have long been vehement opponents of liberalising trade in services within the framework of GATT. They fear that they may be offered concessions on merchandise trade only if they open up their markets in services, action they regard as a threat to their sovereignty; they argue that liberalised trade in services would lead to foreign domination of key sectors such as banking, insurance and telecommunications and would benefit primarily the established firms from industrial countries.

This concern is not unfounded; on the other hand, it prevents an objective judgement being made about the benefits the developing countries can also derive from a greater liberalisation of trade in services. Where market power is unequally matched, the alternative to multilateral agreements is usually a bilateral "solution" in which the advantage is one-sided. In such circumstances, the pressure on individual developing countries to open up their markets is greater (and the chances of their obtaining better market access in other sectors poorer) than under a multilateral umbrella with agreed principles and rules, which however must be backed up by effective machinery for settling disputes.

Empirical evidence about the determinants of international trade in services is still very sparse. As part of the World Bank research programme, an attempt has been made to complement the conventional approach of the comparative costs theory by considering different combinations of production factors and to test both this and the product cycle theory empirically.<sup>8</sup> In this way it was possible to identify a number of economic factors as determinants of comparative advantage, and hence of the structure of international trade in services. The main ones are the availability of physical and human capital. According to the study, the supply of transportation services (freight and passenger services) is determined by the supply of physical capital, while human capital is a key factor in the supply of competitive insurance services. Cross-border trade in "other services" seems

to be closely correlated with technological know-how,<sup>9</sup> which in turn is a function of the available human capital.

The substantial know-how component in the catch-all group of "other services" in the case of industrial countries and the highly labour intensive nature of these activities in both industrial and developing countries strengthens the suspicion that the low disaggregation of the statistical data currently available conceals important qualitative differences in the type of services offered and in the level of productivity. There is evidence, however, to support the view<sup>10</sup> that services complementary to manufacturing (such as transport and insurance) are closely comparable in both industrial and developing countries but that in developing countries "residual" services are largely personal services with a low productivity whereas in industrial countries they are predominantly information-related activities. This would give industrial countries a competitive advantage in world trade, because not only does their dominant position in dynamic branches of manufacturing industry such as computers and telecommunications equipment underpin the growing information-intensive and data-processing based part of their services sector, but their more efficient tertiary sector makes for easier worldwide marketing of goods and increases the international tradability of certain services. This input complementarity of goods and services<sup>11</sup> means that comparative advantages in the capital-intensive production of goods and services are mutually reinforcing. The close linkage between high-tech hardware and associated services (software and maintenance) illustrates this particularly clearly, but other examples are to be found in plant establishment and other construction work.

This linkage may explain some of the suspicion with which developing countries greet the liberalisation efforts of the leading industrial countries.<sup>12</sup> Liberalisation is not necessarily a zero-sum game, however; even net importers of services benefit from a greater international division of labour. In the course of the increasing "computerisation" of society, "intelligent" services have dynamic repercussions on the production of goods. It would be detrimental to the future economic development of the developing countries if they saw

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<sup>8</sup> A. Sapir, G. Lutz: Trade in services: Economic determinants and development-related issues, World Bank Staff Working Paper, No. 480, Washington, D.C., 1981.

<sup>9</sup> A. Sapir: North-South issues in trade in services, in: *The World Economy*, Vol. 8, No. 1 (March 1985), pp. 27-42, here p. 36.

<sup>10</sup> J. F. Rada: Information technology and services (manuscript), January 1986, pp. 17 f., forthcoming publication in *Services World Economy Series* (Geneva), No. 1: The emergence of the service economy, part II.

<sup>11</sup> A. Sapir, op. cit., p. 36. See also R. J. Krommenacker: The impact of information technology on trade interdependence, in: *Journal of World Trade Law*, Vol. 20, No. 4 (July/August 1986), pp. 381-400.

<sup>12</sup> This section follows A. Sapir, op. cit., p. 40.

imports and the domestic production of services only as alternatives. Nevertheless, if the majority of the developing countries are to be persuaded to shift their position, discernible steps must be taken towards reducing the level of protection in industrial countries against traditional exports from the Third World in order to prepare the ground for an all-embracing solution.

### Probable Shape of the Negotiations

The period leading up to the meeting of the GATT Council of Ministers in September 1986 demonstrated the difficulty of establishing universally valid principles and to agree on new areas of international co-operation in times of economic crisis. The four years that had passed since the last Council of Ministers had seen a series of tactical expedients; for example, the "Jaramillo group" established in 1984 to appease the hardliners among the developing countries was able to continue to operate, while at the same time a preparatory committee chaired by A. Dunkel was drafting proposals for the organisation of a new round of trade talks.<sup>13</sup> This kind of political compromise was continued in Punta del Este, in that the subject of services was placed on the agenda by a decision of the ministers in their capacity as ministers with responsibility for economic affairs or trade, whereas the decision on negotiations about trade in goods was taken by the same persons in their role as representatives of contracting parties to the GATT. The formal link is provided by the newly-established trade negotiations committee, which will monitor progress in both spheres. According to current plans, the results are to be presented to a GATT Council of Ministers in 1990 constituted as a meeting of the contracting parties, which will then decide whether the recommendations from the services arm of the negotiations should be incorporated in the GATT. Such procedural questions may seem quite ridiculous from an economic point of view, but in trade diplomacy they give the parties a face-saving escape route.

Before the formal opening of the Uruguay Round the USA made it very plain that it would try to organise a union of like-minded countries if a further attempt to regulate trade in services within the GATT were to fail. The core would be formed essentially by members of the OECD, plus a few cooperative ASEAN countries. However, purely bilateral arrangements along the lines of the trade agreement with Israel and the one planned with Canada were also being considered. The

advantages of such regional liberalisation were supposed to attract other interested parties, bearing counterconcessions. This arrangement, often termed "GATT Plus", would have satisfied the American desire for a swift solution while at the same time keeping "free riders" at bay.

The alternative of dealing with services under the GATT umbrella would in principle entail either modifying and extending existing Articles and codes or establishing new codes in the mould of those that have already been approved. Since some parts of the GATT can be amended only by a two-thirds majority and others even require unanimity, extension of the Agreement is not practicable and hence unlikely. The way out would be to continue the practice adopted in 1967 for the formulation of the anti-dumping code, whereby interested parties reached ancillary agreements that were not linked to the text of the GATT. The contracting parties, which now number more than 90, and the other 30 or so countries that apply GATT rules *de facto* would then be free to accede to an agreement on a conditional most-favoured-nation basis.

Of course, this is really a way of achieving a partial solution even without the necessary majority or unanimity. For example, the flexibility of the code technique made it possible to cast the results of the Tokyo Round negotiations on certain non-tariff barriers in a form that undoubtedly would not have met the legal requirements for amending GATT Articles. There is naturally a price attached to this strategem; some of the existing codes have been signed by only a minority of GATT members, so that the initial hopes regarding the number of subsequent signatories have not been realised. To that extent the legal framework of the GATT in the broad sense has been fragmented, but "à la carte" signatures of this kind probably still ensure stronger cohesion of the GATT framework than special agreements among a small circle of economically advanced countries.

The development of a workable "conceptual framework" is crucial if the present negotiations are to bear fruit. The Trade Committee of the OECD has been carrying out valuable preparatory work in this field for several years. The main task is to identify parallels and differences between goods and services. It has proved difficult to distinguish clearly between issues affecting trade and those relating to investment. It is true that foreign investment is part of international capital movements and not of trade in services, but the problem of investment has a particularly strong impact on services since in many cases they can only be provided

<sup>13</sup> For further details, see A. Koekkoek, J. de Leeuw: The applicability of GATT to international trade in services: General considerations and the interest of developing countries, in: *Außenwirtschaft*, Vol. 42 (1987), No. 1, pp. 65-84, here pp. 78-80.

by subsidiaries on the spot in the user country. For that reason the armoury of defensive measures is similarly two-pronged; international trade in services faces barriers that in some respects are comparable to those erected against merchandise trade but also additional obstacles in those instances in which services are supplied via investment in the host country.

The OECD studies of individual service activities (construction, engineering, insurance, shipping, banking, tourism, etc.) and its examination of the general characteristics and problems of the services sector have had a positive impact on the discussions among GATT member countries. In particular, the "horizontal approach" has produced a series of key words and clarified existing concepts. These include above all the questions of market access, transparency of regulations, right of establishment, equal treatment with nationals and equality of competition. However, mention should also be made of the definition of and mutual respect for nationally protected areas. Without some basic consensus among the GATT members on the application of these principles or rules in the services sector and generally, the understanding reached in Punta del Este first to freeze protectionism at its existing level and then to reduce it by mutual consent will remain empty words.

Both advantages and disadvantages can be foreseen whether it is decided to seek an umbrella agreement for services as a whole or a number of separate sectoral agreements.<sup>14</sup> Negotiations on individual sub-sectors would probably make faster headway, but there is a danger that this step-by-step approach would produce solutions that differed too markedly to be standardised at a later date. The advantage of an agreement on universally applicable principles and rules lies in its signal effect for multilateral trade negotiations as a whole; it should also encourage liberalisation in individual sub-sectors. The main problem with this approach is the risk of failure at a time when protectionism is advancing rather than retreating. On balance, the better strategy would appear to be to work for a kind of umbrella agreement from the outset and then to tackle the details and dismantle specific barriers.

### Conclusions

A number of conclusions about the way in which services will probably be treated in future within the GATT can be drawn from the facts outlined above and the positions of the various parties involved.

1. The present economic climate of moderate growth and high unemployment is not conducive to fashioning

an additional field of the world economy with the objective of liberalising international trade. However, given the risks inherent in a further spread of aberrant trade practices, to wait longer is a worse option.

2. Structural change resulting in a rise in the importance of services is in full swing. Foreign trade has also been affected by the shift; for around ten years cross-border trade in services has been growing faster than merchandise trade. Apparently no-one denies the need for some degree of regulation. However, a minimum of fundamental rules must be laid down multilaterally if we are to avoid having a thicket of inconsistent bilateral agreements.

3. GATT is the right forum for this. After the failure of the ambitious Havana Charter it proved itself a resilient and flexible institution. New life nevertheless needs to be breathed into some of the ground rules.

4. The underlying objectives of a round of negotiations covering services must be (a) to prevent the spread of new barriers to trade, (b) to involve the majority of member countries in establishing a system of principles and basic rules applicable to as many different types of services as possible and (c) first to dismantle those obstacles that do not represent sacrosanct national interests, such as the development of new service industries in developing countries or consumer protection in industrial countries.

5. Rapid change is occurring in some parts of the service sector; "financial supermarkets"<sup>15</sup> are developing to replace compartmentalised fields such as banking, insurance, stockbroking and securities trading and the linking of telecommunications and computer technology has given birth to a separate information industry. The dynamic development of this modern part of the service sector is making negotiations on an internationally respected set of rules undoubtedly more difficult than earlier negotiations on merchandise trade.

6. Despite certain differences between trade in goods and that in services, it would seem sensible to take the rules and mechanisms of the GATT as the starting-point for discussion about the future organisation of international trade in services.

7. The negotiations should be directed towards establishing rules based on universal principles of world trade and not on factors specific to particular sectors.

<sup>14</sup> H. B. Malmgren: Negotiating international rules for trade in services, originally published in: *The World Economy*, Vol. 8, No. 1 (March 1985) and reproduced in: *economic impact*, No. 54, 1986/2, pp. 27-32, here p. 30.

<sup>15</sup> C. M. Aho, J. D. Aronson: *Trade talks: America better listen!*, Council on Foreign Relations, New York 1985, p. 30.



Rules should be framed to deal with general rather than particular problems in order to ensure that they remain valid for many years in the rapid and continuous technological change occurring in cross-border trade in services.

8. Given the characteristics of the services sector, protectionism here impedes both trade and investment. The debate about the status and rights of foreign subsidiaries is a handicap for an early and successful conclusion to the negotiations. In this situation the procedure might be eased by beginning with trade questions and turning to investment issues at a later date.

9. The attitudes of the majority of developing countries, which range from scepticism to rejection, could be

countered by measures that would improve their export prospects. This would also ease their debt problems. The higher the industrial countries' demands regarding services, the wider they must open their markets to traditional and manufactured products from the Third World.

10. The successes and failures of the GATT have mirrored the predominant trends in the trade policies of the leading world trading countries and they continue to do so. However, there is also need for institutional reform that provides for effective monitoring of rules and creates sanction mechanisms to ensure that contracting parties abide by their existing and new commitments. Nonetheless, it would be a mistake to develop the GATT into a kind of international court; political consensus is its life blood.

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## INTERNATIONAL TRADE

# Developing Countries and Services in the Uruguay Round

by Ad Koekkoek, Rotterdam\*

International trade in services has been a focus of interest for some time. It first came into prominence in the run-up to the GATT Ministerial Conference in 1982; since then there has been continued discussion, within GATT and elsewhere, on its many aspects. The background to this discussion is the desire of many industrialized countries to subject trade in services to a regime similar to that governing trade in goods, with a view to minimizing unfair practices.

There are many reasons for such an approach. Trade in services offers the industrialized countries scope for adjusting their economies, bearing in mind that it is precisely in the field of modern services that they enjoy comparative advantages. Modern services after all are

relatively human and physical capital-intensive. In addition liberalization of trade in services could serve as a self-sustaining generator of growth, as did liberalization of trade in goods in the fifties and sixties.

In contrast to this emphasis on international trade aspects, developing countries assigned key significance to the role of the service sector in the development process. The special position and role of services in the development process was emphasized in order to signify that dealing with services on GATT lines was not as such the right approach, that GATT was not the proper forum and that dealing with services in that context would only produce disadvantages for developing countries.

This was the framework within which the debate on services was conducted in the period 1982-86, during the preparations for a new GATT round. The discussions

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