

Dörrenbächer, Christoph; Fischer, Oliver

Article — Digitized Version

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Intereconomics

*Suggested Citation:* Dörrenbächer, Christoph; Fischer, Oliver (1990) : Telecommunications in the Uruguay Round, Intereconomics, ISSN 0020-5346, Verlag Weltarchiv, Hamburg, Vol. 25, Iss. 4, pp. 185-192,  
<https://doi.org/10.1007/BF02926169>

This Version is available at:

<https://hdl.handle.net/10419/140251>

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Christoph Dörrenbächer\* and Oliver Fischer\*\*

## Telecommunications in the Uruguay Round

*Within the Uruguay Round, the "Group of Negotiations on Trade in Services" deals with the formation of a multilateral framework of principles and rules for the "progressive liberalization" of trade in services. Telecommunications is of high priority in the framework preparations, both as a delivery vehicle for information-intensive services and as a service industry itself. This article attempts to clarify possible economic and developmental opportunities for LDCs which could emerge from the Uruguay negotiations regarding telecommunications and information-intensive services. It contains an up-to-date analysis of the present results of the Uruguay Round and offers an outlook on the consequences of the negotiations.*

Ever since the 1960s, transnational corporations from the services, manufacturing and telecommunications sectors have voted for liberalization and deregulation in the field of telecommunications and services tradeable via telecommunications.<sup>1</sup>

The procurement, interpretation and distribution of information is a core activity of multinational services corporations. Therefore, these multinationals, such as American Express, Citibank and the American International Group, are calling for liberalization in areas related to the transmission of information. They are considering a non-discriminated access to different national telecommunications infrastructures, the right to establish international telecommunications networks,<sup>2</sup> as well as the right to exchange data internationally as a precondition for their further international expansion.

The convergence of telecommunications and computer technologies enables transnational corporations from predominantly manufacturing sectors to centralize strategic tasks, e.g. management and R & D, in one location, while simultaneously decentralizing production at various global locations.<sup>3</sup> The right to use and establish intra-industrial and inter-industrial telecommunications networks<sup>4</sup> in other countries without any restrictions is important for a growing number of such enterprises.

Some telecommunications companies, such as IBM or AT&T, voted to liberalize and deregulate telecommunications services, as they anticipated resulting expanding opportunities for exporting

telecommunications equipment. In view of the competitive conditions in telecommunications, national post, telephone and telegraph administrations might be forced to loosen their traditionally close cooperative relationships with domestic equipment suppliers. The result would be that foreign suppliers would have a greater chance of being considered in procurement policies.

Many of the above-mentioned transnational corporations have their headquarters in the USA. It is not surprising, therefore, that the USA was the first country to promote liberalization and deregulation, counting on increased export opportunities. Since the late 1970s, the USA has deregulated its own telecommunications industry by breaking up the AT & T monopoly, and by removing restrictions allowing telecommunications corporations to enter data-processing ventures. After this, the USA tried to put

<sup>1</sup> Cf. C. Dörrenbächer, O. Fischer: Die Dienstleistungsverhandlungen in der Uruguay-Runde, konfliktierende Interessen im Bereich „Telekommunikationspolitik“, in: International, No. 1 (1990), pp. 13-21, here p. 16 f.

<sup>2</sup> Firms in a number of information-intensive service industries have already grouped together to form networks for data exchange between related companies on a horizontal basis, such as SWIFT, an interbank data network including about 95 per cent of the world's top 500 banks or SITA, a world-wide network of leased lines among 336 airlines in over 100 countries. Cf. K. P. Sauviant: The Tradeability of Services, in: World Bank and United Nations Centre on Transnational Corporations, Services in the World Economy, Washington D.C. and New York 1990, forthcoming.

<sup>3</sup> It has been estimated that 70% of all international information flows are intra-firm, flowing between TNC headquarters and other branch units across the globe; other estimations are even substantially higher. Cf. J. Howells: Economic, Technological and Locational Trends in European Services (Report from the FAST Programme of the Commission of the EC), Brussels and Luxembourg 1988, p. 128.

<sup>4</sup> Already, TNCs have established networks for information exchange on a vertical, inter-industry base, such as ODETTE in Europe and ZENGIN in Japan in the automotive industry.

\* Forschungsgemeinschaft für Außenwirtschaft, Struktur- und Technologiepolitik (FAST) e. V., West Berlin, Germany.

\*\* Free University, West Berlin, Germany.

telecommunications and services on the world trading agenda. The US administration was vigorous about this, since domestic telecommunications equipment manufacturers faced increasing problems in competing with foreign suppliers in their own market. These problems were seen as caused by the unilateral domestic deregulation without comparable access for US suppliers to regulated equipment markets in other countries.

The EC has also developed a growing interest in the liberalization of telecommunications and information-intensive services markets in third countries. Expectations of growing export opportunities were based both on European value added network services (VANS) markets' annual growth rates of nearly 40% in the late 1980s and on an annual rise of up to 8.5% for telecommunications equipment markets at the same time. An estimated growth rate of 20 - 30% for the European on-line company data and news/current affairs information services markets in the 1990s also heightened export expectations.<sup>5</sup>

In particular, the concepts "market access", "national treatment" and matters regarding the "regulatory situation", are important for liberalization and deregulation supporters:<sup>6</sup>

□ Market access addresses how, on what terms and by which means foreign services suppliers access domestic telecommunications services markets. Among other things, it relates to access to telecommunications networks and distribution systems for service suppliers

<sup>5</sup> In real terms, the annual revenue of the Western European VANS market was estimated at \$ 270 million in 1984, \$900 million in 1986 and forecasted to grow to over \$ 4.8 billion in 1991. The size of the European equipment markets was estimated at \$ 57 billion in 1986 and \$ 79 billion in 1990. Cf. J. Howells, op. cit., pp. 98 and 100. For the growth rates of the TC equipment markets, cf. C. Dörrenbächer, W. Oesterheld: Prognosen zu Technisch-Wirtschaftlichen Potentialen neuer Technologien, in: DGB: Informationen zur Humanisierung der Arbeit und zur Technologiepolitik, No. 5 (1988), p. 44. For the EC interest in liberalization of third countries' markets, cf. Kommission der Europäischen Gemeinschaften: Grünbuch über die Entwicklung des Gemeinsamen Marktes für Telekommunikationsdienstleistungen und Telekommunikationsgeräte, COM (87) 290 final, Brussels 1987, p. 174.

<sup>6</sup> Specific sector-related issues, such as matters of government procurement, subsidies, or customs valuations, are not treated here.

### Telecommunications: Problems of Liberalization

The availability of a telecommunications infrastructure can remove the need for the service supplier's physical presence at the place of consumption. Information-intensive "digitizable" services, e.g. R&D, engineering, or banking and insurance services, have become "long distance services", tradeable via telecommunications infrastructure. Information services, such as telecommunications or online data services, are also gaining increasing economic importance with considerable growth rates expected in the future.

The negotiations on liberalization concerning telecommunications and information-intensive services are complicated by several different factors:

□ There are difficulties with regard to definitions. For instance, there are no accepted international definitions of "value added network services", "information services" or "information-intensive services".<sup>a</sup>

<sup>a</sup> Regarding the services treated in this article, a broad definition would be "information-intensive services", i. e. services with a high information component, e. g. media, banking, advertising, consultancy services, or computer services, such as remote data processing. This category comprises "information services", e. g. on-line data base retrieval and storage services. An important category of information services is "enhanced" telecommunications or "value added network services" (VANS). These are definable as services publicly accessible which add extra value to the function of the basic telephone network, e. g. teletex, electronic mail, facsimile and videotex services.

□ Information-intensive services are often directly or indirectly subject to government regulations via the control of telecommunications networks by public or private telecommunications monopolies. These monopolies have also traditionally been allowed to provide telecommunications services domestically and internationally.

□ There is a variety of sector-related tariff and non-tariff barriers regarding information-intensive services sectors, e. g. broadcasting quotas in the TV and advertisement sector, subsidies and government procurement measures in the insurance sector, technical barriers to VANS, or import licensing measures for data-processing services.

□ The negotiators have to take into account issues which reach far beyond telecommunications matters, such as protection of privacy, public safety, national security considerations, consumer protection, social and cultural objectives.

□ The proverbial, often regretted lack of appropriate statistical information on trade in services is particularly acute concerning information-intensive services. Data and information about international information service transactions are extremely poor. Among other things, this is in part due to the fact that there is no generally accepted method of valuing or counting information.

within importing (host) countries in order to provide international telecommunications services. The USA proposed the “right of establishment” and the “right of non-establishment”; foreign suppliers of competitive telecommunications services shall have the right to “establish locally any facilities required”, such as telecommunications networks and affiliates, to distribute their services. Since foreign suppliers may prefer to provide their services across the border from a foreign location via a telecommunications network, they shall *not* be required to establish local facilities in the importing country.<sup>7</sup>

□ The national treatment principle shall allow foreign telecommunications providers to compete on an equal footing with national providers. Its supporters are interested in applying this principle to telecommunications laws, regulations, requirements and advantages, as they affect the interests of these foreign providers. National treatment shall extend to “the actions of both regulatory authorities and TC monopolies”.<sup>8</sup> The scope and activities of government monopolies shall be reduced in order to provide a larger economic space for competition.

□ Discussions about the “regulatory situation” refer to reducing distortions in trading telecommunications services and using telecommunications networks “as a channel for intracorporate and intercorporate data flows”. Foreign firms shall be allowed to process, store and transfer data across national borders.<sup>9</sup>

### Initial Rejections by LDCs

Liberalization and deregulation interests were being countered even before the Uruguay Round. Developing countries (LDCs), led by Brazil and India, opposed the inclusion of trade in services in the multilateral discussions.

LDCs had little confidence in negotiations on market access, national treatment or deregulation, because they suspected an increase in power of transnational corporations as a result. Multinationals could become able to increase their economic and political influence in

the importing (host) countries and encroach upon their national sovereignty.

LDCs also argued that their domestic services industries could not yet stand competitive pressure by suppliers from developed countries. They opposed calls for reduction of government monopolies’ authority because, in their view, telecommunications monopolies often maintain national targets, e.g. employment stabilization, consumer protection, or ensuring adequate services to lower-income segments of the population.<sup>10</sup>

The liberalization proponents argued that liberalization of data flows and information-intensive services across national borders would enable more countries to participate in world trade in services and offer development and export opportunities for more remote peripheral areas. LDCs, however, suspected the contrary. In their view, liberalization of data flows would primarily enable transnational corporations to exploit the differences in the distribution of international production factors. LDCs believed, in view of the current distribution, that merely labour-intensive, less sophisticated, routine services would be allocated to them, whereas technology and know-how intensive activities with high productivity would remain in developed countries. The uneven distribution of international advantages in production and trade benefits could then possibly become more pronounced, while the technological and educational development of LDCs could be hindered.<sup>11</sup>

Furthermore, LDCs were concerned about balance-of-payments effects of liberalized flows of information and data. They saw their role in the global economy of data transfers as one of exporting raw data and importing processed data and information. They feared, therefore, that liberalization could aggravate their balance-of-payments disequilibria.<sup>12</sup>

<sup>7</sup> Cf. “Telecom Annex to Framework on Trade in Services” (possible elements of a telecom annex proposed by Geza Feketekuty, counsellor to US Trade Representative in November 1989), in: *Transnational Data and Communications Report*, Dec. 1989, p. 6.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.* Additionally, the issue relates to licensing of facilities, pricing arrangements, cost-accounting practices, technical standards, interconnection practices and transparency provision. See: Group of Negotiations on Services: *Trade in Telecommunications Services*, GATT Secretariat MTN.GNS/W/52, 19 May 1989, p. 2 f.

<sup>10</sup> Of course, this refers mainly to LDCs at an advanced level of development. For LDCs at a lower level, the main concern is not to favour domestic monopoly telecommunications and services suppliers, but rather to obtain access to telecommunications and such services.

<sup>11</sup> The UNCTAD refers to such disadvantageous processes within the EC; the liberalization of data flows and information services has had the consequence that sophisticated services remained (or were located) in large metropolitan areas in order to be in close contact with clients and to concentrations of skilled labour. The less sophisticated services were shifted to the peripheral areas which became increasingly less attractive as location sites. Cf. UNCTAD: *Services: Issues Raised in the Context of Trade in Services*, UNCTAD Secretariat TD/B/1197 (1988), p. 16.

<sup>12</sup> Cf. M. Jussawalla: *Trade in Data Services, Developing Countries and GATT: The Institutional Aspects*, in: J. Becker (ed.): *Transborder Data Flow and Development*, Bonn 1987, pp. 109-130, here p. 119.

Another reason that LDC representatives voted against the inclusion of telecommunications issues in the Uruguay Round was that they viewed the GATT negotiators as incompetent. Liberalization in the telecommunications field has implications beyond the scope of trade policy. For instance, foreign public telecommunications networks users could begin using or selling national data of other countries. This could injure interests in protection of privacy, public safety, or national security. The GATT does not have experience in these fields and, in the view of LDCs, the highly developed countries also had no interest in discussing them in a GATT Round.

LDCs also feared that the GATT negotiators would not be able to fully consider the cultural implications of a liberalized services exchange via telecommunications infrastructures. Additional liberalization, e. g. in media services sectors, would be a step towards increased inequities in the North-South exchange of information with high cultural and social implications. LDCs have long perceived this inequity as a threat to their political integrity and cultural identity.<sup>13</sup> LDCs argued that the GATT contracting parties should concentrate on the frequent and serious problems concerning trade in goods. In their view, telecommunications issues should be treated by institutions experienced in this field.

### Changed Attitudes

The LDCs' initial rejection of negotiations on services seems to have changed in some cases. Since the start of the Uruguay Round in 1986, LDCs have participated in the discussions on services and, to some extent, have begun to assert their own interests. The "draft",<sup>14</sup> as a major result of the multilateral discussions on trade in services, reflects some of the interests of LDCs regarding telecommunications and information-

intensive services. These interests are classified here in three categories:

- containment of liberalization and deregulation,
- the development of telecommunications infrastructures,
- the stimulation of export opportunities.

Relating to the above-mentioned keywords "market access", "national treatment" and "regulatory situation", the draft contains the following definitions:

- a foreign supplier "shall be free to choose his preferred mode of delivery" where more than one mode of delivery is available as a result of the negotiations;<sup>15</sup>
- "... national treatment means that exports and/or exporters of any signatory are accorded in the market of any other signatory, in respect of all laws, regulations and administrative practices, treatment no less favourable than that accorded domestic services or services providers in the same market";<sup>16</sup>
- Signatories of the framework for the trade in services (in the following: "framework") or a specific agreement

<sup>13</sup> Already in the sixties, LDCs expressed concern for their identity. Frequently, LDCs were forced into the role of permanent importers of media information services because they lacked the resources to produce and export information for themselves. The concept of a "New World Information and Communication Order" was created in order to remove these imbalances.

<sup>14</sup> The Group of Negotiations on Services (GNS) proposed elements which are the basis for further negotiations on the multilateral framework for trade in services. See: Group of Negotiations on Services: Elements for a Draft which would permit Negotiations to take Place for the Completion of all Parts of the Multilateral Framework. GATT Secretariat MTN.GNS/28, 18 December 1989 (in the following: "Draft"). The draft is based on a text adopted by GNS ministers at a meeting in Montreal ("Montreal Declaration"), 5-9 December 1988. Cf. GATT: News of the Uruguay Round (NUR) 023, 14 December 1988, pp. 40-43.

<sup>15</sup> Cf. Draft: II (c) Market Access.

<sup>16</sup> Cf. Draft: II (d) National Treatment (basically, the definition is derived from GATT: paragraph 4 of Article III concerning national treatment for imported goods).

## PUBLICATIONS OF THE HWWA-INSTITUT FÜR WIRTSCHAFTSFORSCHUNG-HAMBURG

Hans Günther Oberlack

Large octavo,  
261 pages, 1990,  
price paperbound, DM 59,-  
ISBN 3-87895-384-4

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respectively,<sup>17</sup> shall have the right to "regulate the provision of services within their territories in order to meet national policy objectives. This includes the right (...) to introduce new regulations (...); it is recognized that developing countries may have a particular need to exercise this right."<sup>18</sup>

What could be gathered from these definitions relating to the considerations of LDCs? The results of an inclusion and implementation of market access in the draft's wording will depend on the definition of trade in services. Since "establishment" would be covered by this definition, "market access" could oblige potential importing (host) countries to remove impediments to the establishing of private telecommunications networks and other facilities for delivering services by foreign exporters in their countries. Since the Group of Negotiations on Services (GNS) would determine cross-border movement of data and information as trade in services (or accepted "mode of delivery" respectively), this could lead to obligations for signatories to the "framework" to avoid restrictions on data transfer. However, whether establishment and transborder data transfer should be covered under "trade in services" is still undecided.<sup>19</sup>

"National treatment" in the draft's sense could, in theory, force signatories to avoid a discrimination of foreign telecommunications services and services suppliers in favour of domestic services or services producers within the multilateral framework. The existence of national telecommunications monopoly suppliers could hardly harmonize with "national treatment" in this wording, because it automatically favours domestic producers over such outside interests. Before the draft was proposed by the GNS, however, many participants held the opinion that the national treatment principle would have little practical meaning where national monopolies exist.<sup>20</sup>

The draft's details on the "regulatory situation" do not contain provisions for removing barriers to free

exchange of data and information. Additionally, LDCs' authority to regulate the provision of services within their territories is commonly accepted.

Thus, the presently accepted definitions of issues relevant to telecommunications and information-intensive services do not suggest that provisions for an unhindered "right of (non-)establishment", or an entirely free exchange of data could be included within the multilateral framework. Additionally, rights of LDCs to exercise national regulatory policies regarding telecommunications and monopolistic authority, at least relating to the provision of basic telecommunications services,<sup>21</sup> probably will not be jeopardized by the framework.

Besides these, some of the other above-mentioned concerns of LDCs seem to have been considered in the Uruguay discussions. For instance, the draft contains a statement on the necessity of enabling LDCs to protect their infant industries against competitors from developed countries. It also states that safeguard measures for balance-of-payments purposes should be allowed.<sup>22</sup> In response to the suspected lack of GNS competence in areas outside trade matters, the negotiation agenda on Trade in Services has already directed the GNS to "take into account the work of relevant international organizations" which have more experience.<sup>23</sup> Indeed, the GNS is advised by certain organizations experienced in issues such as the protection of privacy, national security and cultural and sovereignty-related consequences of deregulation in the telecommunications area. For instance, the GNS takes the International Telecommunications Union Convention as a kind of reference point regarding the alignment of principles and disciplines on telecommunications and telecommunications services.<sup>24</sup> The LDC concerns about the encroachment

<sup>20</sup> In June 1989, the GNS examined the principles and concepts of the Montreal Declaration (cf. footnote 14) with regard to their applicability, and the implications of their application to telecommunications services and telecommunications. See report in: News of the Uruguay Round, NUR 029 (1989), p. 6 f.

<sup>21</sup> During the above-mentioned meeting in June 1989 (cf. Footnote 20), many negotiators argued that the multilateral framework should apply only to the enhanced telecommunications services, and not the basic telecommunications services.

<sup>22</sup> Cf. Draft: II (b) Progressive Liberalization, No. 4, and Draft: II (g) Safeguards, No. 2.

<sup>23</sup> Cf. GATT: Ministerial Declaration on the Uruguay Round, in: GATT: Focus Newsletter, 41/1986, p. 5.

<sup>24</sup> An important element of the convention is the full recognition of the "sovereign right" of each country to regulate its own telecommunications; accepted reasons for exercising that right are the protecting of national security and the development of cultural goals. Cf. Group of Negotiations on Services: Trade in Telecommunications Services, op. cit., p. 11 f. The GNS also cooperates with other important organizations, such as INTELSAT, OECD and UNCTAD.

<sup>17</sup> It is not yet completely clear if the term "signatory" refers to signatories of a comprehensive umbrella framework, or to signatories of specific agreements on, e. g., service sectors or specific trade principles. In the opinion of some GNS-members, the draft does not discount the possibility of negotiating separate agreements applicable only between the parties to these agreements. Cf. Draft: III. Coverage and Application of a future framework on trade in services, B. Mechanics of liberalization No. 5. For instance, the USA has an interest in a specific sector-agreement on telecommunications which becomes clear with the above-mentioned "Telecom Annex to Framework Agreement on Trade in Services" (cf. footnote 7).

<sup>18</sup> Cf. Draft: II (i) Regulatory Situation.

<sup>19</sup> Within the draft, some GNS members asserted their opinion that permanent establishment and foreign direct investment should not be covered by the definition of trade in services. Cf. Draft: I. Scope/definition, No. 2.

on their sovereignty seem to have been considered in the negotiations, and are asserted in the draft: exceptions from provisions of the framework shall be permitted to deal with situations involving "national security, (...) cultural or social values, environment, safety and development."<sup>25</sup>

### Telecommunications Infrastructures

National telecommunications infrastructures, compatible with international systems, can be considered an integral element of a country's developmental process because they promote the efficiency of many economic and social activities. They may help to:

- enable access to international data bases and information resources, and distribute information throughout the country;
- improve the distribution of supplies all over the country;
- economize the work of administration and make it more efficient;
- economize the purchase of raw materials for industry;
- open up international markets for national goods;
- improve the emergency and health services.<sup>26</sup>

The telecommunications infrastructures of many LDCs are at a low stage of development. More than 75% of the 600 million telephones in the world are concentrated in only 9 countries. More than two thirds of the world's population do not have access to a basic telephone service.<sup>27</sup> In India, which can be considered a relatively well-equipped LDC, there are 5 telephones per thousand inhabitants. Only 7.54% of all Indian villages are equipped with telephones.<sup>28</sup> In most LDCs there is a large demand for basic telecommunications services which cannot nearly be served in view of the high installation costs. For instance, in the Philippines there are more than 400,000 applicants, many of whom have been waiting years for telephone connections.<sup>29</sup>

<sup>25</sup> However, this part of the draft is (like many parts of the draft) put in parentheses because it does not reflect the opinions of all GNS participants. Cf. Draft: II (h) Exceptions, No. 1.

<sup>26</sup> Cf. M. A g i : Communications and Third-World Development, in: Transnational Data and Communications Report, June 1987, p. 12.

<sup>27</sup> Cf. *ibid.*, p. 10.

<sup>28</sup> Cf. T. H. C h o w d a r y : Telephones in Rural Areas – an Indian Experience, in: *Telematics and Informatics*, No. 1 (1988), p. 29 f.

<sup>29</sup> Cf. „Philippinen suchen neue Telekom-Struktur“, in: *Nachrichtentechnische Zeitschrift NTZ*, No. 8 (1989), p. 508.

In theory, the LDCs' interest in establishing or further developing national telecommunications infrastructures could be brought into line with the interest of highly developed countries in market access, national treatment or deregulation. Better conditions for services suppliers from developed countries could be offered as a counter-concession for their support of telecommunications infrastructure developments in LDCs.

With regard to this, some LDCs expressed their interest in including elements in the framework which could "require foreign service providers to transfer technology and know-how through contractual arrangements as a condition of market access".<sup>30</sup>

In fact, the opportunity for technology transfer by way of transnational corporation activities has to be viewed very cautiously. First, such a transfer is by no means helpful to an LDC's infrastructural, technological and educational development if the technologies are not accessible and usable for importing countries. Secondly, there is the risk of creating discrepancies within LDCs. Especially in the field of telecommunications, there are differing costs for establishing facilities in cities and rural areas. Technological enclaves could be created, and the benefits of such developments could be confined to only a few groups rather than to the broad population.

With these risks in mind, some LDCs demanded elements in the draft on transfers to stimulate the broad diffusion of utilizable technology and know-how within the LDCs. For example, according to some LDCs, the framework should include provisions for facilitating training programmes for local personnel,<sup>31</sup> conducted either by foreign services exporters or by their own countries. Some LDCs also voted to include provisions to promote the participation of national suppliers in the R & D activities of foreign services exporters.<sup>32</sup> Possibly such objectives could be realized by way of incentives or obligations for services exporters to hire national workers within the importing LDCs, or through joint venture arrangements between exporting and importing countries, including cooperation in R & D.<sup>33</sup>

<sup>30</sup> Cf. Draft: II (f) Increasing Participation of Developing Countries 10, No. 9 (this part is in parentheses).

<sup>31</sup> Cf. Draft: II (f) Increasing Participation of Developing Countries 10, No. 10 (this part is in parentheses).

<sup>32</sup> Cf. *ibid.*

<sup>33</sup> Such proposals were made during a conference in which some GNS members participated; cf. Conference Report "Trade-related Issues in Telecom and Data Services", in: *Transnational Data and Communication Report*, October 1989, pp. 13-16, in particular p. 16.

Some LDCs are interested in including provisions for improved access to information networks and distribution channels for services within the framework;<sup>34</sup> this points to export interests of some LDCs in the field of information-intensive services. The OECD suggests a growing role by LDCs in the export of such services with a high labour component, e. g. data processing, data input and software production.<sup>35</sup>

### Opportunities to Stimulate Exports by LDCs

In many cases, these activities result from relocations of labour-intensive segments by transnational corporations from the developed countries to LDCs which offer suitable conditions and have lower wages. For instance, the Caribbean and the Philippines conduct key-punching, and other, often less sophisticated, computer services for US companies. Some LDCs, more highly developed, have also begun exporting more knowledge-intensive services, such as software production and development. Brazil and India are strong telecommunications services and software producers and exporters. The Republic of Korea and Taiwan are developing software for Japanese firms by way of joint ventures.<sup>36</sup> Some LDCs, such as Singapore and Jamaica, have set up plans to increase their export facilities in information services.

Via such relocations, some LDCs were able to access information networks and thus have been able to provide their services via telecommunications. Declining costs for establishing information networks, caused by advances in microelectronics and information technologies, will probably increase the possibilities for LDCs to establish domestic telecommunications infrastructures, with compatibility with international networks.<sup>37</sup>

<sup>34</sup> Cf. Draft: II (f) Increasing Participation of Developing Countries 10, No. 10 (this part is in parentheses).

<sup>35</sup> Cf. OECD: Trade in Services and Developing Countries, Paris 1989, p. 36 f.

<sup>36</sup> Japanese firms established 12 joint ventures for software development in China, Taiwan, and the Republic of Korea in the 18-month period ending mid-1986. Cf. UNCTAD, op. cit., p. 16 and OECD, op. cit., p. 38. Cf. these sources also for the following country-specific information.

<sup>37</sup> Additionally, the expected improved access of LDCs to information networks and expected transfers of know-how and technology could increase the possibilities for many LDCs to use telecommunications as a vehicle for trade in services.

<sup>38</sup> Cf. Draft: I Scope/Definition, No. 2, and Draft: II (f) Increasing Participation of Developing Countries 6 (these parts are in parentheses). Some developed countries argued that the cross-border movement of labour was no "trade" issue, and for that reason was no subject for multilateral trade negotiations; on the other hand, some LDCs argued that the movement of labour could be seen as a form of "establishment" abroad, comparable with the aspired "right of establishment" by multinationals of developed countries.

But at this time, many LDCs export services via the cross-border movement of workers to the importing countries, e.g. software development which often is provided through the temporary presence of software experts abroad. For this reason, many LDCs asserted that the temporary movement of skilled and unskilled workers was a legitimate component of trade in services within the draft: a controversial issue within the Uruguay negotiations.<sup>38</sup>

It is also true that the facilitation of temporary movements of workers involves risks for importing (host) countries, such as competition for domestic workers from "cheaper" work forces of other nationalities. Certain problems could also arise for exporting (labour-sending) countries:

- unfair exploitation of "cheap" workers;
- in the case of movements by highly skilled workers, the risk of a "brain drain";<sup>39</sup>
- in the case of the movement of low-skilled workers, less, or no, possibilities of gaining know-how essential for the development of the labour-sending countries;
- uncertain durability of the work opportunities, due to advances in information technology which often have led to the elimination of jobs.

Some LDCs did not dispute such risks, but nevertheless voted for the inclusion of labour movement within the framework because, in their view, these problems could be diminished. For example, in order to avoid negative social consequences within and between the importing and exporting countries, specific arrangements could be made to consider various interests.<sup>40</sup> In the opinion of LDCs, improving the conditions for training and (further) education within these countries, which, as addressed above, should be promoted by the framework, could help to reduce the risk of an increased brain drain as a possible reaction to

<sup>39</sup> The Indian software producer TATA Consultancy Services already loses every year a quarter of its new programmers while they are working out of India. Cf. B. P l a t z : Zwischen Autonomie und Abhängigkeit, Computerpolitik in Indien, in: Wechselwirkung, No. 33 (1987), p. 16.

<sup>40</sup> Already, some labour-sending countries have introduced arrangements to consider the social needs of workers (however, only for their own nationals) who work in other countries. For instance, 97 per cent of Korean nationals working overseas are closely supervised by the Ministry of Construction which takes responsibility for workers' salary and employment conditions. Cf. OECD 1989, op. cit., p. 89 f.

<sup>41</sup> A lack of opportunities for technical professionals from LDCs to update themselves by way of seminars, meetings, or university courses, is suggested as an important motivation for leaving their countries; already there are concepts to reduce the brain drain by means of computer mediated communications or "virtual classrooms" in order to transfer technical further education to LDCs. Cf. M. T u r o f f , S. R. H i l t z : Computer Mediated Communications and Developing Countries, in: Tele-matics and Informatics, No. 4 (1988), pp. 357-376, here pp. 372 and 367.



the facilitated temporary movement of labour.<sup>41</sup> Arrangements for joint ventures between firms of the importing and exporting countries are considered helpful in order to avoid forcing LDC workers into the role of low-skill services providers. LDCs also believe that problems emerging from job reductions within the importing countries as a result of the temporary immigration of "cheaper" workers or of technological innovations could be decreased by means of such cooperation. In order to avoid short-sighted and risky (labour)-export strategies, some LDCs demanded information opportunities about market tendencies within the potential importing countries via "enquiry points" and "contact points".<sup>42</sup>

### Outlook

In contrast to the initial rejections of negotiations on trade in services, including telecommunications and information-intensive services, some LDCs participated in the Uruguay discussions and, to some extent, seem to have been successful in asserting their interests.

The results hitherto of the multilateral negotiations do not give the impression that transnational corporations could be enabled to encroach upon the sovereignty of LDCs as a consequence of the later multilateral framework. Moreover, a later framework could in theory even stimulate technology transfer to LDCs, and strengthen their export abilities and opportunities in information-intensive services.

A GATT Round could also provide a forum for debates in a way which would forward the interests of LDCs. The participants of the multilateral negotiations are formally equal. Therefore, in theory, the Uruguay Round could offer opportunities to make fair compromises between representatives of developing and developed countries.<sup>43</sup> Moreover, a high number of countries will probably become signatories to the framework, which could lead to a certain international control of the later implementation of its principles and rules.

But such an optimistic assessment would not be realistic. Firstly, the inclusion of the above-mentioned elements, which relate to the interests and situations of LDCs, is still controversial. In particular, the USA, which traditionally has a strong position in GATT Rounds, holds different opinions concerning these elements.<sup>44</sup>

Previous GATT Rounds reveal that economically strong countries often have the final say, despite the formally equal rights of all participants. Secondly, even the unlikely inclusion of all the above-mentioned elements would not guarantee their implementation in trade reality. The GATT itself offers many examples of differences between trade rules and principles on the one hand and trade reality on the other, in spite of the existing international control by the GATT contracting parties. For these reasons, the real opportunities for LDCs to assert their interests within the framework on trade in services, and within trade reality, should not be overestimated.

Finally, a remark on the fundamental problem of analysing "the" situations and "the" interests of LDCs: it is always difficult to make an overall assessment regarding the situations and interests of LDCs (or other "groups" or "categories" of countries), but it is particularly difficult with issues influenced by technology and political considerations, such as telecommunications and information-intensive services. Because of rapid advances in information technology, the possibilities of information exchange and economic opportunities are quickly expanding. It is more than likely that differences in the economic situations of those (developing) countries which possess telecommunications infrastructures or have access to such systems, and those countries which do not have these possibilities, will increase. As a result, LDCs at different stages of development will correspondingly shift their emphasis to different interest categories, such as infant industry protection, development or export facilitation.

An overall assessment of LDCs' interests is additionally hindered by the political relevance of telecommunications and some information-intensive services, leading to differing positions within and among LDCs. For example, an LDC which is open to importing or exporting data processing services may be against importing media services due to socio-cultural considerations. Two countries with similar economic profiles may have different interests regarding the liberalization of data flows because of security considerations in one of the countries. This is why single-country analyses are a prerequisite for a reliable assessment of the LDCs' interests in order to draw conclusions regarding useful principles and rules for trade in information-intensive services.

<sup>42</sup> Cf. Draft: II (f) Increasing Participation of Developing Countries, No. 7 (this part is in parentheses).

<sup>43</sup> For instance, compromises mutually acknowledging the "establishment of affiliates of transnational corporations" and "movement of labour" respectively, as generally accepted kinds of trade in services.

<sup>44</sup> This became evident with the above-mentioned "Telecom Annex to Framework Agreement on Trade in Services", which contains, for instance, a clear demand for liberalized data flows, but no clear acceptance of a preferential treatment for LDCs.