



**UNCTAD**

**Commercial Diplomacy Programme**

**TOOLS FOR MULTILATERAL  
TRADE NEGOTIATIONS ON  
TRADE IN SERVICES**

Geneva  
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## **PRESENTATION: THE COMMERCIAL DIPLOMACY PROGRAMME**

### **1) SCOPE AND OBJECTIVES.**

The Programme should encompass two inter-linked and mutually supportive areas of activity:

- ◆ **training** for trade negotiators of developing countries and economies in transition ;
- ◆ **research and analysis** on international trade issues.

Both areas of activity should take into account:

- The *interests of developing countries* in the international trade negotiations (mainly at the WTO): Regular consultations and contacts with delegates and national institutions should facilitate the identification of priorities.
- The need to consolidate a "*positive agenda*" of the developing countries: The inputs of the meetings and seminars on the "positive agenda" should be a main source for the training material and for the research to be undertaken by developing countries' institutions with the support of the Programme.
- The *regional diversity* among developing countries: Except some training activities on general trade issues which should have an interest for any developing country, the Programme should emphasise the specific needs of groups of countries; therefore, the activities should rely on regular contacts and co-ordination with regional and subregional institutions.
- The *co-ordination and co-operation* with existing national, international, and regional organisations involved in training and research on international trade: The Programme should rely on a network encompassing the existing institutional structures, but in the medium-term, it should also stimulate the establishment of new institutions (public or private) for training and research in developing countries.

The over-arching goal of the Programme should be to support a new generation of trade experts and negotiators of developing countries.



## **2) THE TRAINING MATERIAL: THE NEW MODULES**

The basic training material of the Programme which is currently being prepared will go beyond the description of international trade agreements. Bearing in mind the need for "user-friendly" material, a "model module" has been elaborated, conceived as a "kit" which can be easily updated and adapted to different users and groups of countries. It will take the form of printed texts as well as software, in addition to the dissemination in UNCTAD Web page.

The "model module" has seven core elements plus annexes, which are basically the same for each trade issue:

◆ **General features of the issue:** *historical background and current context, existing multilateral disciplines, and the main technical and political features of the issue from the developing and transition economies' perspective, prospects and trends.*

◆ **Important issues for government officials of the country X or the group of countries Y:**

*This part should be specifically designed for the decision-makers of the Ministries of Economic Affairs or International Trade of developing and transition economies, to support the preparation of their own negotiating strategies. It should include substantive and "customised" information and analysis, aimed at answering questions such as:*

- *What is the relevance of the issue in the national economy and external trade? What share of GDP is involved?*
- *What is the existing domestic legal framework related with the issue or with the multilateral disciplines? Are there regional or bilateral commitments which need to be articulated with the multilateral existing or potential agreements? What are the main negotiating positions and the "positive agenda" proposals?*

◆ **Important issues from the private sector perspective:**

*This part should be designed for businessmen of developing and transition economies taking into account questions such as: What is the relevance of the issue for the domestic private sector? What are the exporters' needs and objectives? What is the importers' point of view? What is the role of competition in this issue? What are the implications of the "positive agenda" proposals for the private sector?*

◆ **Important issues for congressmen:**

*The domestic legislative bodies have to understand international disciplines in order to elaborate the corresponding domestic legislation. This part should stress questions such as: What needs to be known to assess the economic and political costs and benefits of the multilateral agreements already in place (or the potential future agreements) from the domestic point of view? Are the domestic laws in compliance with the existing and potential multilateral disciplines? What is the meaning of the "positive agenda" proposals from the*



*point of view of domestic policies?*

◆ **Important issues for research and academic institutions:**

*This part should identify the topics that deserve a deeper and customised analysis at national or regional level. It should also include methodological suggestions, for instance on how to prepare a national study on financial services; How to analyse the domestic implications of tariff escalation on market access, or what is the significance of certain "positive agenda" proposals for the domestic economy.*

◆ **Important issues for the media:**

*In developing countries, the media have a key role in the understanding of international economic topics and the determination of national positions. The information the media gets is the one they convey to the public opinion. This part of the module will stress, with a short presentation, the general economic and political significance of the issue from the national perspective, in a format that may be easily useful for the media.*

◆ **Important issues for regional organisations:**

*This part will emphasise the regional or subregional dimensions, particularly the commitments that require to be articulated around multilateral disciplines in the case of integration schemes, the implications of free trade areas and external common tariffs. The identification of those issues should be done on the basis of consultation with regional secretariats.*

**ANNEXES:**

*Each "kit" may include additional material such as slides (Power Point presentations) for conferences, training courses, etc., based on the information contained in the module; background papers (studies, documents, opinions, etc.); bibliographical data; relevant Web pages; future meetings related with the issue.*

**Your suggestions and comments are welcome. Do not hesitate to contact:**

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## **A.- GENERAL FEATURES: TRADE IN SERVICES**

### **1) MAIN TECHNICAL AND POLITICAL FEATURES OF THE ISSUE FROM THE DEVELOPING AND TRANSITION ECONOMIES' PERSPECTIVE.**

#### **➤ Major trends in international trade in services and economic data.**

Recent advances in computer technology and services in developed countries have had the effect of creating a more **global market** and production system. Indeed, participants in global trade of goods and services are increasingly embracing the new technologies. The chief characteristics of this transformation are: greater automation; the shortening of product life cycles; the flattening of industrial organizations; the **increasing tradability of services** and the globalization of production, firms and markets.

**The challenge facing developing countries is how to compete in world markets if the rate of change in technology-driven industries is leaving them behind.**

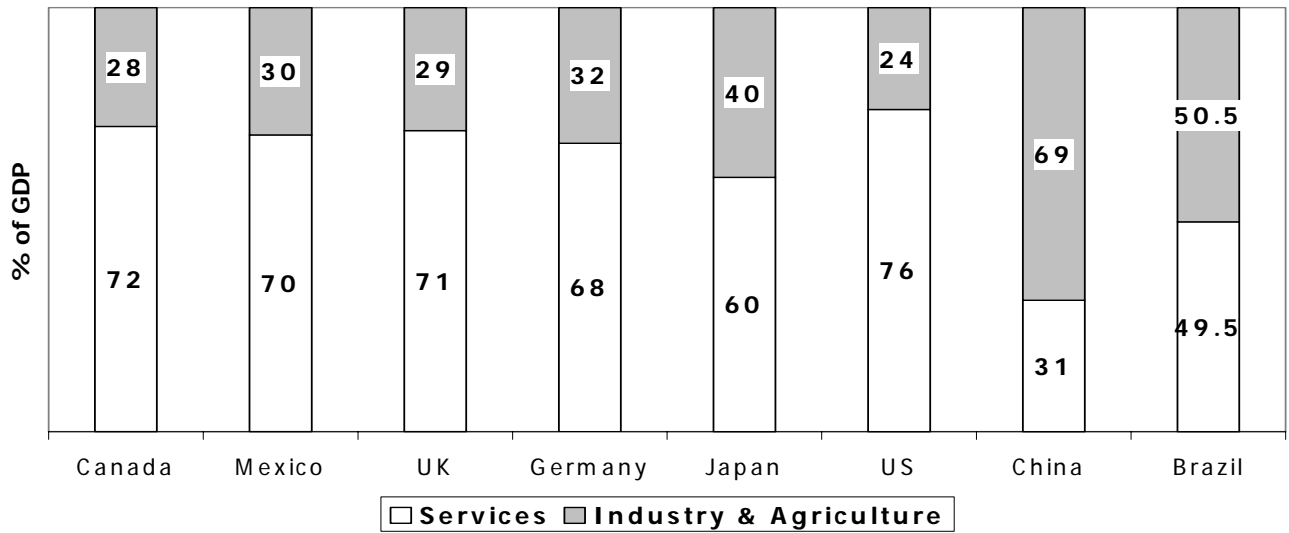
Many developing countries have a large pool of educated and skilled workers who can produce goods and services that will sell in the global market place.

- The increasing capacity to process and transmit information, and the associated tradability of services, has allowed companies to locate production and service activities in the **optimum geographical location**. The new technologies enable companies to maintain close control and co-ordination of production processes and services spread over a **large number of locations**. This has also expanded the opportunities for international trade in **outsourced business services**.
- Financing up-to-date telecommunications or transport infrastructures is an expensive business, but businesses in countries where this is not being done will find it harder and harder to compete for customers abroad. **The task of implementing the necessary changes will fall either to governments, the private sector or a partnership between the two.** With limited funds, governments can only finance state-controlled expansion through cuts elsewhere or through borrowing. The privatisation and deregulation of public utilities are alternative solutions that many developed and developing countries have chosen.

The impact of services on the production of goods has brought with it new economic realities. There have been changes in the composition of service industry providers. There is growing participation of the private sector in service industries such as water, electricity and telecommunications, which used to be considered too strategically important to be left at the mercy of market forces. Nowadays services generate more wealth and employment than any other sector of the economy. In some developing countries, services account for 50% of gross domestic product and employment while in a number of developed countries this rises to 70%. (See tables 1 and 2 below):

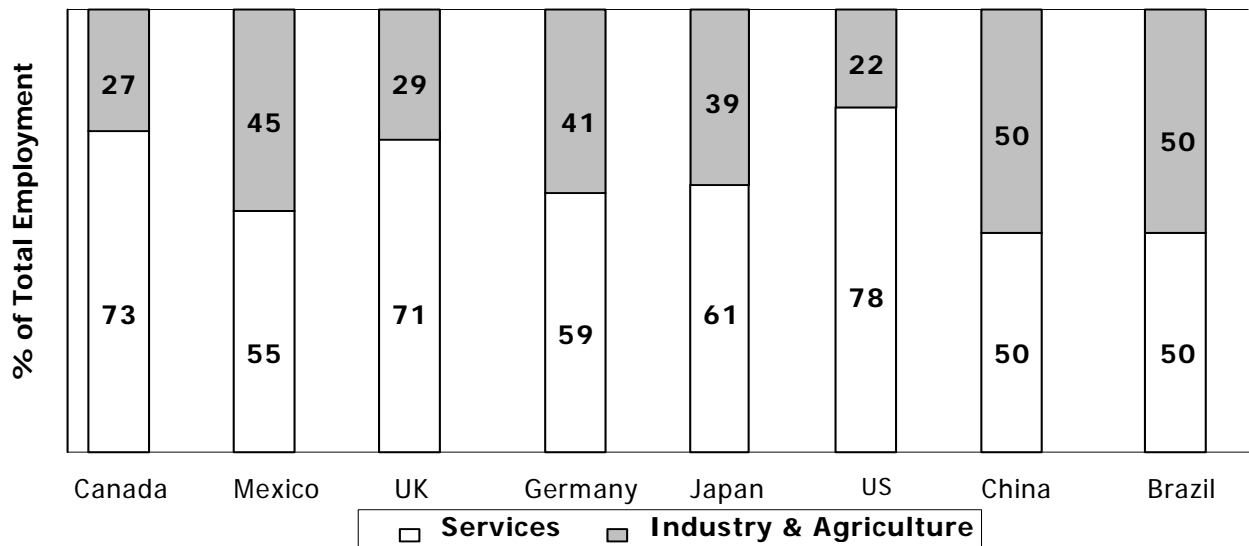


**Table 1: Percentage of GDP**



Source: World Bank 1999

**Table 2: Percentage of total employment**



Source: World Bank, 1999





➤ **Key Service industries**

**Services are characterised as being:**

- intangible,
- invisible and
- incapable of storage and therefore requiring simultaneous production and consumption.

- ❖ Services such as **transport, communication, banking, education, or health** are part of the basic infrastructure of economies and a prerequisite for economic development.
- ❖ **Tourism** is one of the industries that most generate employment and also provides an important source of foreign currency.
- ❖ The provision of services such as **insurance, accountancy** and **research** has an impact on economic competitiveness through interaction with industrial activities and other services.
- ❖ Services such as **banking** and **finance** are a vital instrument of macro-economic policy.
- ❖ Services such as **advertising** and the **mass media** influence patterns of consumption and have an important socio-economic impact.

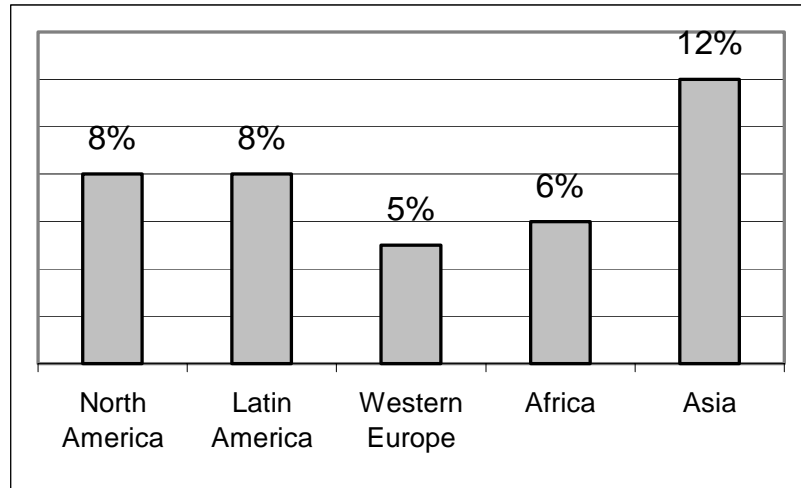
The global economy of services is based on **knowledge** and one of its most precious resource is information, ideas and new technologies.

➤ **Importance of services in the international trading system**

**The task of measuring the value of trade in services has been and remains a difficult task.** Firstly because trade figures for merchandise are artificially inflated by a high and rising share of re-exports and secondly because available trade data for services fails to capture important modes of supply and greatly understate the reality. Nevertheless, available data shows that over the last 15 years, international trade in services has grown significantly faster than merchandise trade:



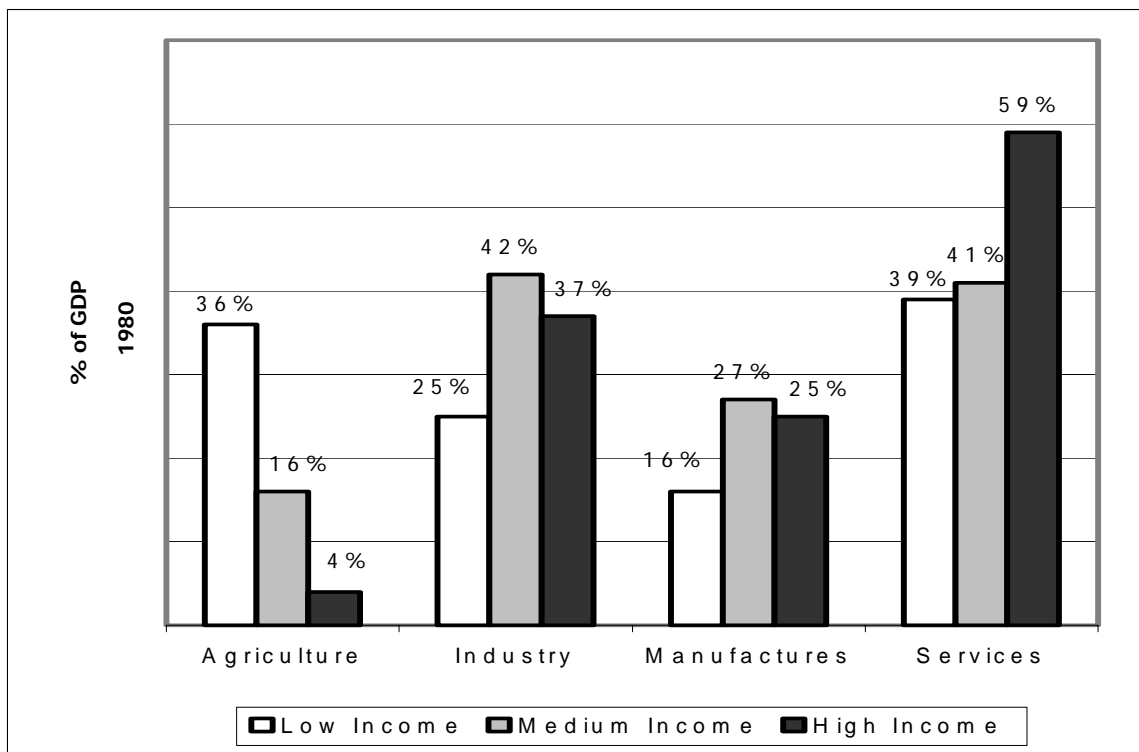
**Table 3: Growth in International Trade in Services 1980-1995 by Region**



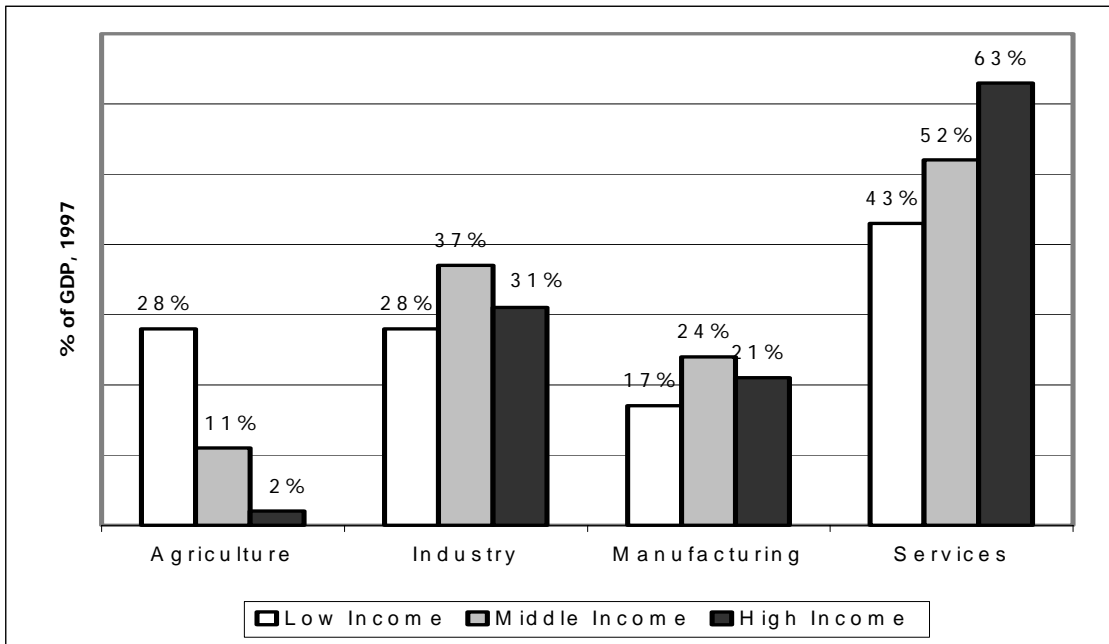
Source: WTO, *International Trade 1999*

**Table 4 : The increasing contribution of services to world trade.**

**Services as a proportion of world trade.**

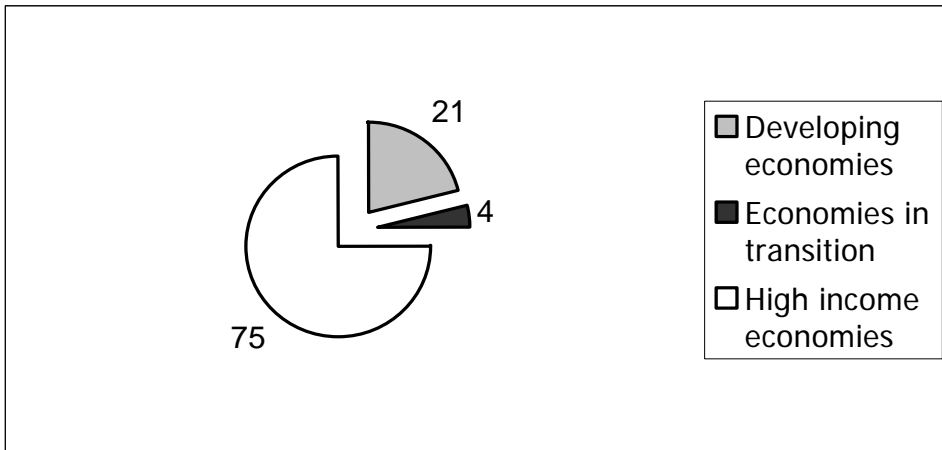


Source: World Bank, 1999



Source: World Bank, 1999

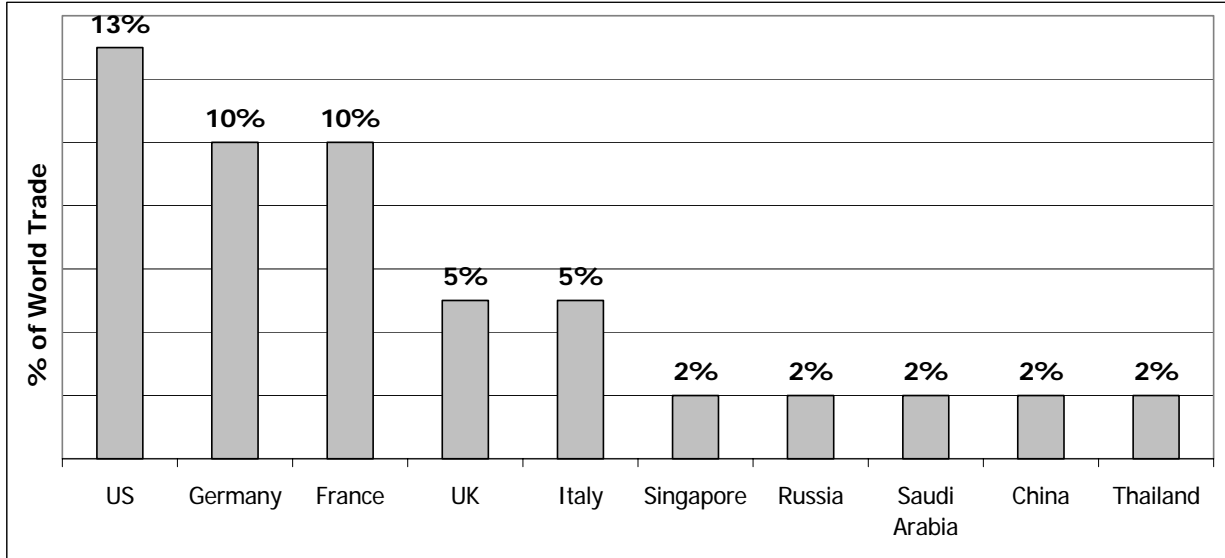
**Table 5: Leading Service Traders: A Comparison of Developed, Developing and Transitional Economies**



Source: UNCTAD Handbook of International Trade and statistics, 1999

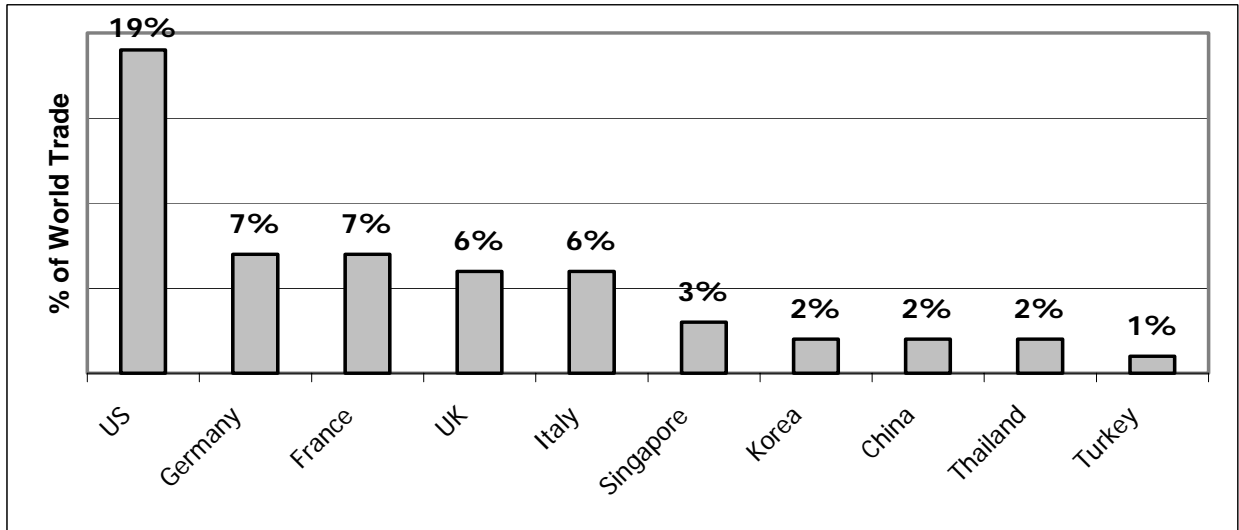


**Table 6: Leading Service Exporters. A comparison of various countries.**



Source: UNCTAD, *Handbook of International Trade and Development Statistics, 1999*

**Table 7: Leading Service Importers:**



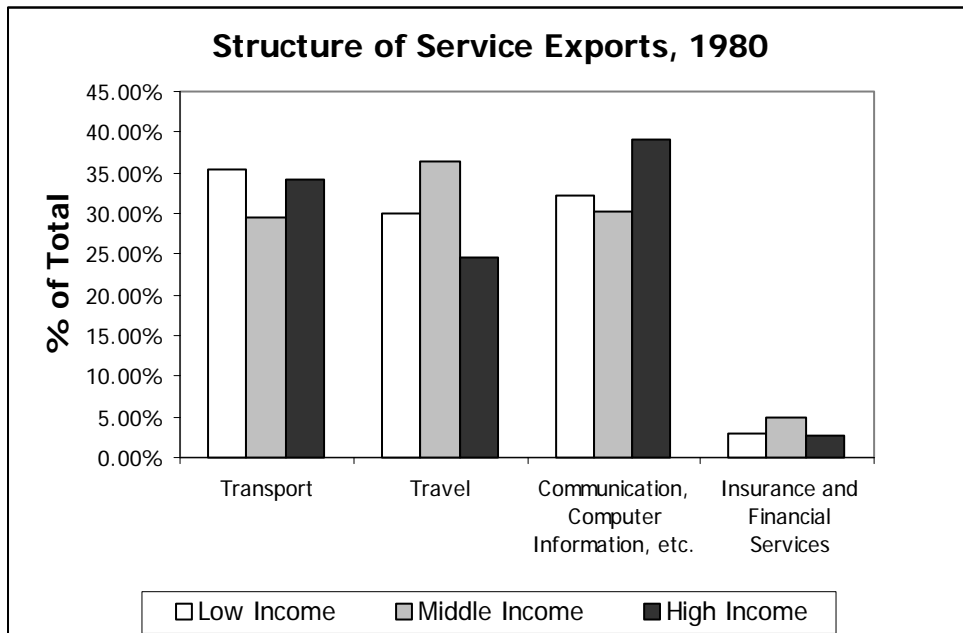
Source: UNCTAD, *Handbook of International Trade and Development Statistics, 1999*



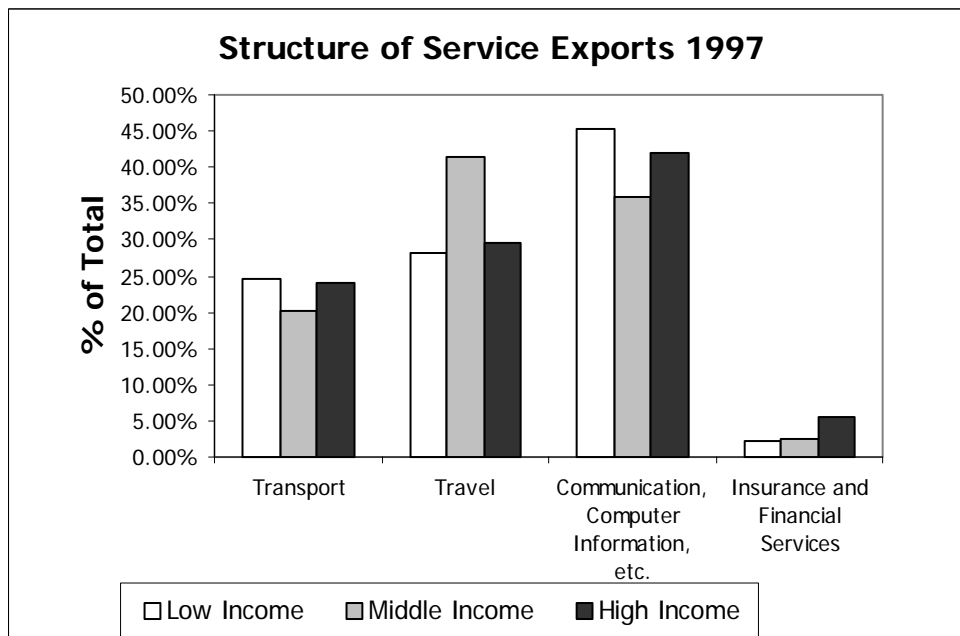
➤ **Structure of Service Exports**

There has been a shift in the main traded services. Whereas in the 1980s the leading sectors of world trade in services were transport and travel, by the end of the 1990s, they had been replaced by telecommunications, computing services and information.

**Table 8: The structure of service exports world-wide: A comparison of 1980 and 1997.**



Source: World Bank 1999



Source: World Bank, 1999



**“Niche Opportunities” for exports of services of developing countries:**

Different expert meetings convened by UNCTAD identified 6 sectors in which developing countries have an apparent or potential comparative advantage:

- Professional and business services (i.e. computer and office services);
- Health services;
- Tourism;
- Construction;
- Audiovisual services;
- Transport.

*These sectors are all linked to the movement of natural persons.*

## **2) EXISTING MULTILATERAL DISCIPLINES.**

**Until the 1980s, there was a tendency to underplay the importance of services within the context of national economies. Services were considered important only in so far as they:**

- supported trade in goods,
- were strategic from a national security point of view (such as telecommunications),
- contributed to social welfare through the provision of water, electricity and waste disposal.

**Technological advances have served to change the provision of services as well as the perception of the service sector as a whole.** Thought at one time to be "unproductive of any value," nowadays, there is a greater understanding and appreciation of the value of this sector. Services represent key economic activities. Banking, insurance, land and water transport, aviation, tourism, accountancy etc are produced in their own right or as a component of some product or another service.

Negotiated in the Uruguay Round, the General Agreement on Trade in Services (GATS) is the first ever agreement of multilateral, legally-enforceable rules aimed at the liberalization of trade in services. It consists of general obligations and disciplines, provisions for specific sectors and modes of supply, and individual countries' specific commitments to provide access to their markets, including indications of where countries are temporarily not applying the "most-favoured-nation" (MFN) principle of non-discrimination.

It is important to take into account, that the main obstacles to free trade in services are of a **non-tariff nature**. Indeed, tariffs on services are rare. The services sector is usually much more **regulation-intensive** than the goods sector and reform of this sector faces different sorts of problems.



➤ **The Basic Structure of the GATS.**

**SUMMARY OF PROVISIONS ON SERVICES ADOPTED IN THE URUGUAY ROUND**

	<b>Provisions</b>	<b>Key features</b>
Part I (Article I)	<b>Scope and definitions</b>	
Part II (Articles II - XV)	<b>General obligations and disciplines</b> <i>Key Articles:</i> II MFN III Transparency IV Increasing participation of Developing Countries V Economic Integration (exception to MFN) IX Business Practices X Emergency Safeguard Measures	Basic principles inspired by disciplines applied to trade in goods.
Part III (Articles XVI - XVIII)	<b>Specific Commitments</b> <i>Articles</i> XVI Market Access XVII National Treatment XVIII Additional Commitments	Specific national schedules of commitments are to be negotiated, much like tariff bindings and rates in the GATT.
Part IV (Articles XIX - XXI)	<b>Progressive Liberalisation</b> <i>Articles</i> XIX Negotiation of Specific Commitments XX Schedule of Specific Commitments XXI Modification of Schedules	Progressive liberalisation is seen as proceeding via a series of negotiating rounds, as in the GATT. First round: launched in February 2000 as part of the "built-in agenda" of WTO <sup>1</sup>
Part V (Articles XXII - XXVI)	<b>Institutional Provisions</b> <i>Key Articles</i> XXII Consultation XXIII Dispute Settlement and Enforcement	Similar to trade in goods
Part VI	<b>Final Provisions</b>	

<sup>1</sup> The "built-in" agenda refers to the commitments agreed upon at the end of the Uruguay Round, i.e., in particular, the review of the Agreement of Agriculture and the review of the GATS in 2000.



(Articles XXVII - XXIX)		
<b>Annexes</b>	(i) Article II exceptions; (ii) Movement of Persons; (iii) Financial Services; (iv) Telecommunications; (v) Air Transport; and (vi) Negotiations on Basic Telecommunications	Sectorial commitments

Source: John Whalley, "Services in the Uruguay Round and beyond", in UNCTAD, *Uruguay Round Results and the Emerging Trade Agenda*, New York & Geneva.

- ❖ One of the key general obligations concerns the **most favoured nation treatment MFN**, adopted from the provisions of the GATT on trade in goods. As applied to the latter, MFN means that identical goods arriving at a border should not be subject to different treatment on the basis of country of origin. However, this principle is difficult or even impossible to apply for a number of key services. In telecommunications, for instance, international service provisions involve arrangements between specific geographical locations. For such reasons, MFN does not apply for notified exceptions in telecommunications or in financial services. Nor does it apply to traffic rights in air transportation, where prevailing bilateral airline treaties specify particular arrangements on bilateral routes.
- ❖ Members negotiate **bilaterally** for specific commitments with an exchange of concessions on **market access** and **bindings**, i.e. commitments to maintain market access commitments as included in the national lists of the GATS. The results of these bilateral negotiations are extended to all WTO members on a MFN basis.

Although it may be possible to assert that GATS has been of little or no significance for developing countries in general, it is difficult to quantify what impact it has had in particular sectors. Little quantitative work has been done which might provide a basis for evaluating the effects of the GATS. This is simply because meaningful data on service trade flows by category is rarely available. There are, for example, no cross-country comparisons, indicating which countries have comparative advantage in which service categories. Quantitative representations of barriers and hence a basis for evaluating the significance of impediments to services trade are also limited. The lack of meaningful data also means, therefore, that it remains difficult to assess what impact future liberalisation in services might have on developing countries.

As far as developing countries are concerned, the studies that have been done seem to suggest that liberalisation in services would have the potential to bring significant productivity gains. Liberalisation would impact on the economies of developing countries by reducing costs in the key 'intermediate' services through space(transportation), time(banking), or between agents (retailing, wholesale). Export costs would be reduced and therefore developing countries would benefit from an improved trade performance in goods.





What remains unclear at this stage is by how much developing countries might benefit and how these benefits might be distributed.

➤ **Key features of GATS disciplines:**

❖ **The four modes of trade in services:**

Trade in Services is quite different from trade in goods in so far as generally speaking, services are intangible and invisible; unlike goods, services cannot be stored; imports can be consumed abroad; and exports do not necessarily require sales presence in the export market.

There are four ways or “modes” of trading in services exist according to the GATS (Art. I, par. 2):

1. **cross-border supply** – from one country’s territory to another’s, (e.g. transport, telecommunications);
2. **consumption abroad** – the importing country’s citizens or firms consume the service purchased outside their country’s territory (e.g. tourism, ship repairs);
3. **commercial presence** – direct investment in the importing country’s market by a foreign supplier of a given service, (e.g. fast food chains);
4. **the temporary entry of natural persons** – the temporary presence of an intermediary or of the service supplier himself (e.g. consultant, fashion model) in the export market.

Examples of the **four modes of supply of services:**

- **services supplied across the border**, e.g. information-based services transmitted through telecom networks or the mail, various transportation services, and goods shipped for repair or processing;
- **services consumed abroad**, e.g. tourism, education, and medical services purchased by travellers to other countries;
- **services sold through locally established businesses**, e.g. foreign owned banks, insurance companies, or advertising agencies; and
- **services provided by individual service providers who reside in the exporting country** but have gained temporary entry into the importing country for the express purpose of producing a service locally, e.g. services provided by foreign orchestras, sports teams, professors, doctors or architects.

❖ **Transparency Provisions:**

The transparency provision of the GATS obliges countries to **publish all government measures affecting trade in services** (where commitments were made) and to respond to inquiries about such measures. There are a number of additional provisions that apply to all internationally traded services that fall within a sector included in a country’s schedule of commitments. With respect to these services, governments are obliged to:



- notify service providers of any measures that affect trade;
- administer regulations in a reasonable, objective and impartial manner and establish procedures that meet a due process standard; and
- record in their negotiated national schedule of commitments all government measures which limit access to the domestic market through any of **the four modes of entering the market**.

#### ❖ **Avoidance of Restrictions on Foreign Investment:**

In sectors where a country has made market access commitments, that country is committed to avoid restrictions on foreign investment and to give foreign investors **national treatment** unless the country enters a specific reservation in its national schedule of commitment. Some examples of restrictions may be:

- limitations on the **number of service suppliers**, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
- limitations on the **total value of service transactions or assets** in the form of numerical quotas or the requirement of an economic needs test;
- limitations on the **total number of services operations** or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirements of an economic needs test;
- limitations on the total number of **natural persons** that may be employed in a particular service sector or that a service supplier may employ and who are necessary for and directly related to , the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;
- measures that restrict or require **specific types of legal entities or joint ventures** through which a service supplier may supply a service;
- limitations on the **participation of foreign capital** in terms of a maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

#### ❖ **Provisions Pertaining to Individual Sectors:**

Other provisions apply to individual services **covered by specific commitments** entered into the national schedules. Governments are required to ensure that any regulation which affects trade in these services:

- (1) is based on objective and transparent criteria,
- (2) is not more burdensome than necessary, and
- (3) will not constitute a restriction on supply in the case of licences.

Governments are also required to ensure that monopoly suppliers of services treat foreign customers of covered services like domestic customers (national treatment) and that they avoid anti-competitive practices when supplying covered services on a competitive basis.

#### ❖ **Market Access**

Substantive commitments on market access and national treatment take the form of detailed **commitments in national schedules**. The major outcome for the



Uruguay round of negotiations was to obtain commitments from countries to preserve the existing degree of market access in as many sectors as possible. Maximum coverage was important because a number of disciplines incorporated in the GATS are dependent on the existence of sector or product specific commitments in national schedules. **During the Uruguay Round, binding the existing degree of openness and non-discrimination was important because as and when competition becomes more intense, the pressure to impose restrictions may increase.**

The national schedules of commitments are divided into two parts. The first section contains commitments on laws or measures that apply to all industry sectors listed in the schedule. The second section contains sector and sub-sector specific commitments.

## SPECIAL & DIFFERENTIAL TREATMENT for DEVELOPING COUNTRIES in the GATS

The GATS stresses **the rights and particular needs** of developing countries to regulate and to introduce new regulations on the supply of services in order to meet national policy objectives. The achievement of these objectives should be sustained and facilitated through the application of the GATS in a way that facilitates the **participation** of developing countries in trade in services and their **expansion of service exports. (preamble)**

**Art. V** provides that more favorable treatment may be granted to firms of developing countries that are members of a regional trade agreement.

Increasing the participation of developing countries in world trade is specially treated in **Article IV**. Specific negotiated commitments should facilitate their efforts to strengthen their services capacity, distribution and information networks and service markets of export interest to them. Developed countries are committed to establish contact points to facilitate access to the necessary information. Special priority must be given to **least-developed countries**.

As to the opening of markets, the GATS spells out a more **development-oriented approach** than previous multilateral agreements. **Market Access and National Treatment are negotiated concessions.** What is more, developing countries can liberalise more **gradually** and may obtain **trade-offs** and reciprocal benefits on the basis of the **positive list approach** used in the GATS i.e. specifically indicating the service sectors that are being liberalised, rather than using a “negative” list of sectors excluded from general liberalisation. (**Art. XIX**).

The Agreement recognises the particular pressures on the **Balance of Payments** of Members that are in the process of development or economic transition. These pressures permit a Member to adopt or maintain **restrictions on trade in services**, including on related payments and transfers, in order to maintain levels of financial reserves that are adequate for its development or transition programmes



## ❖ Flexibilities in the Application of the Rules

There are certain exceptions to the obligations and commitments applicable **to all Members**. These apply to:

1. **MFN** – a Member has the right to continue treating some Members less favourably than others for a period of “in principle” 10 years after the GATS entry into force, ie. 2005 (the Annex to para. 2 of Art. II contains the list of exemptions introduced by members of the GATS). However if a Member seeks to introduce new measures that are inconsistent with the MFN rule, this right does not apply. Such measures have to be dealt with under para. 3 of Article IX of the WTO Agreement (according to para. 2 of the Annex).
2. **Transparency** – Besides the commitment to publish all government measures affecting the trade in services, the GATS also recognises the right of a Member not to disclose confidential information which would be contrary to the public interest or to legitimate commercial interests, public or private (Art. III).
3. **Domestic Regulation** – a Member should not be required to institute or maintain tribunals or procedures that are inconsistent with its constitution or legal systems. (Art. VI, para.2).
4. **Free Payments and Transfers** – Member countries could apply restrictions on exchange regimes when they are in conformity with the articles of the IMF Agreement (Art. XI para. 2).
5. **Government Procurement** – MFN, Market Access and National Treatment commitments do not apply to laws and regulations governing the purchase of services by government agencies for their own use (Art. XIII).
6. **General Exceptions** - Members retain the right to adopt or enforce measures (so long as they are not arbitrary, unjustified or are a disguised restriction) in order to protect public morals, life or health; to prevent fraud; to protect personal privacy in the domain of personal data; to ensure the collection of taxes and the avoidance of double taxation under respective agreements (Art. XIV).
7. **Security Exceptions** – Members retain full rights to protect their essential national security interests by withholding essential security information, taking necessary action in the area of defence or in compliance with its obligations under the United Nations Charter (Art. XIV bis).
8. **Emergency Safeguard Measures** – Members have the right to maintain such measures (Art. X).

## ❖ Regional Integration

**Article V** recognises the rights of Members to be part of preferential agreements that liberalise trade in services among a group of countries. When only developing countries are involved in those preferential agreements, it is explicitly recognised



that more favourable treatment may be granted to firms from these countries. (See Section G: Issues for Regional Organisations).

➤ **The Uruguay Round's "unfinished" agenda:**

The Uruguay Round negotiators identified a number of areas where further negotiations were required over the near term. The "*unfinished agenda*" items fall into three categories:

- ❖ GATS rules on **subsidies, emergency safeguards, and government procurement**, which may need to be addressed in the GATS agreement;
- ❖ **sectoral agreements** such as **maritime transport, basic telecommunications, financial services, and professional services**, which have been singled out during the Uruguay Round for possible sectoral agreements.

**Basic telecommunications**

This was an area where governments did not offer commitments during the Uruguay Round — essentially because the privatisation of government monopolies was a complex issue in many countries. Sophisticated value-added telecommunications services, which are more commonly provided on a private basis, were, however, included in many of the original GATS schedules. The negotiations on basic telecommunications ended in February 1997 with new national commitments taking effect from January 1998.

**Maritime transport**

Negotiations were originally scheduled to end in June 1996, but participants failed to agree on a package of commitments. The talks may resume with the up-coming WTO negotiations on the "built-in agenda" launched in 2000. Some commitments are already included in some countries' schedules covering the three main areas in this sector: access to and use of port facilities; auxiliary services; and ocean transport.

**Movement of natural persons**

"Movement of natural persons" refers to the entry and temporary stay of persons for the purpose of providing a service. It does not relate to persons seeking permanent employment or permanent residence in a country. Some commitments are already included in the schedules but it was agreed that negotiations to improve commitments would take place in the six months after the WTO came into force.

**Financial services**

Financial services is another area where further negotiations were scheduled to improve on the commitments included in the initial Uruguay Round schedules. Officially the first set of talks ended in July 1995, but WTO members decided that more could be achieved if further talks were held. These latest negotiations ended in December 1997.



## **B.- IMPORTANT ISSUES TO BE CONSIDERED BY POLICY MAKERS AND TRADE NEGOTIATORS**

### **1) ISSUES FOR THE WTO “BUILT-IN AGENDA” TRADE NEGOTIATIONS**

Part IV of the GATS spells out that the process of negotiations for progressive liberalisation shall take place with due respect for **national policy objectives** and the level of **development** of individual Members and with appropriate **flexibility** for individual developing countries as to:

- opening fewer sectors;
- liberalising fewer types of transactions;
- extending market access depending on their development situation;
- the right, when opening their markets, to attach conditions giving them better access to technologies, to distribution and information networks and to sectors and modes of supply of export interest to them (Art. XIX, par. 2).

The Council for Trade in Services, in preparing assessments of trade and guidelines for new rounds of negotiations is to make special reference to the objectives regarding developing countries. Such guidelines must also establish modalities for the special treatment of least developed Member countries (Art. XIX, par. 3).

#### **THE CONTENT OF ARTICLE XIX OF GATS**

- Art. XIX.1 launches the new negotiations in services to achieve a **progressively higher level of liberalization of trade in services**.
- Art. XIX.2 provides that there should **be appropriate flexibility for individual developing countries** for liberalizing fewer sectors and types of transactions, in line with their development situation, and determine access conditions aimed at achieving the objectives referred to in Art. IV of the GATS.
- Art. XIX.3 mentions that **negotiating guidelines** should be established.
- Art. XIX.4 mentions that the process of progressive liberalization is supposed to be advanced **through bilateral, plurilateral, or multilateral negotiations**.



➤ **Expanding market access commitments in national schedules:**

**The number one priority for developed countries in the new round of negotiations on trade in services is likely to be the expansion of market access commitments incorporated in the national schedules.**

Negotiators will have to decide whether to prioritise their efforts in one sector, e.g. in information-based services, or whether to cover as much as possible across all services sectors. Developed countries will urge developing countries **to increase the current degree of access to members' markets**, through all four modes of accessing the market -- cross border trade, establishment, consumption abroad, and temporary entry by foreign suppliers. Most developed countries will probably commit themselves to bind the current degree of openness in all sectors and in all areas. They are likely to expect developing countries to set as high a percentage target for coverage as possible.

The next level of priority for developed countries will be to **liberalise overt barriers to trade in services** such as embargoes, quotas, or other forms of discrimination against foreign suppliers of services. It should be easier to reach agreement on the removal of such barriers in so far as major changes in the **regulatory regime** of the countries involved would not be required. It may prove difficult to achieve substantial liberalisation in certain more heavily-regulated domestic sectors. To do so, **governments will probably have to address key regulatory issues on the basis of sectoral negotiations**. To facilitate future negotiations, member countries with heavily regulated domestic sectors may choose to seek out the opinions of key actors on the rationale and techniques for regulatory reform. They may also give serious consideration to a further amplification of the provisions on regulations contained in **Article VI** of the GATS on domestic regulations.

Negotiators are likely to adopt a **"formula" approach** to the market access negotiations, whereby countries would agree to a **percentage reduction or elimination of particular types of market access restrictions such as quotas, citizenship requirements, and limitations on locally established foreign firms' volume of activity**. For certain types of barriers it might be possible to apply a formula to all sectors, while for other barriers it may be necessary to develop formulas to reflect the particular characteristics of that sector. Both horizontal and sectoral formulas could establish separate targets for developed countries, developing countries and least developed countries.

➤ **GATS rules:**

Uruguay Round negotiators identified three areas of rulemaking for follow-up work. The three areas are **emergency safeguards, government procurement, and subsidies**. Developing appropriate disciplines in these areas requires a careful analysis of the special characteristics of services in general and of individual services sectors in particular. There remains uncertainty, in the minds of some commentators, as to **whether there is a need to develop substantive rules in these areas for services**. Just because there are rules governing the trade in goods in these areas does not mean that similar rules are required for trade in services.



There are other outstanding issues that need to be addressed:

It is difficult to prepare objective analysis of price and cost data for a rule-based application of safeguard and countervailing duty measures. This is because data on production, consumption, costs, and prices are available only for broad categories of services, not for detailed products.

It is also difficult to develop one discipline that would cover all services in an equally effective manner. This is because there are significant differences in the industrial structure, method of distribution, and nature of various types of services. These differences may make a sectoral approach to the development of necessary disciplines more workable than a generic approach in some sectors.

Market access commitments cover not only cross border trade but also trade based on local establishment, movement of consumers, and movement of service providers. **The question remains whether the disciplines governing the four modes of service provision are going to cover each mode separately or whether a single discipline should cover all four modes equally.**

❖ *Emergency Safeguard Measures.*

Governments are naturally wary of the possible future domestic impact of liberalisation commitments. The purpose of a safeguards regime is to help governments to overcome uncertainties with respect to negotiations on binding commitments. Safeguards measures allow governments to withdraw commitments temporarily when a surge of imports threatens to injure the domestic industry. Consequently, the existence of an emergency safeguard measure can encourage negotiators to undertake more substantive commitments.

There are a number of reasons why it may be difficult to devise appropriate safeguard rules for services.

First and foremost, **it may be very difficult to liberalise many domestic regulations that restrict trade in services through a series of marginal changes.** Secondly there is a lack of empirical data to inform the rule-making process. A number of questions remain outstanding. Have countries that have liberalised services unilaterally made use of transitional regulatory safeguards? If they have, what steps were taken and what discernible effects on the trade flow of services did they have?

Given that some countries may not want to forego the option of applying safeguard measures in the services sector at some point, there are two possible approaches that could be adopted. The first would be to encourage countries that hesitate to make a commitment to insert an escape clause into their national commitments in the form of a **reservation**. The second approach would be to allow countries to propose **specific safeguard measures** when the need arises, subject to the approval of the Council on Services.

The second problem in devising a rule for safeguards concerns the difficulty in devising an approach that could apply equally to all four modes of importing





services. Unlike the GATT market access commitments on goods, the GATS market access commitments on services cover not only cross border trade but also trade based on local establishment and movement of either the consumer or the supplier of services. **The question that arises concerns the use of safeguard measures across modes.** Would it ever be justifiable to take safeguard measures with respect to one mode in response to disruption caused by import surges in another mode? In other words, should a country be allowed to limit the activities of locally established suppliers when the import disruption is due to cross border trade or vice versa? Should a country in such cases be allowed to limit the temporary entry of service suppliers or even the consumption of services abroad by its own citizens?

If the rules regarding the use of safeguards to protect trade in services are to be consistent with those regarding trade in goods, **safeguard actions should be mode-specific.** This is because safeguard measures taken on cross-border trade in goods, for example, have not prevented foreign producers from expanding their investment in the importing country. On that basis, countries should therefore only be allowed to take safeguard actions taken with respect to any one mode in terms of the injury or threat of injury that exists from imports in that mode.

#### ❖ **Subsidies.**

There are two relevant aspects with regards to subsidies in services - the **possible discipline on subsidies and the nature of an appropriate remedy.** Under GATT rules, subsidised imports are subject to countervailing duties, while distortions created in the home market of the subsidising country or in third markets are subject to the potential remedies available under the dispute settlement system.

As there are few, if any, instances of direct export subsidies in services, it should be relatively easy to reach agreement to establish a multilateral agreement to regulate them. Domestic subsidies, on the other hand, tend to be concentrated in a few sectors such as sea, air and land transportation, telecommunications, and in public "goods" such as health, education, and pension systems. One approach would be to adopt **a general subsidies discipline** along the line of the GATT Subsidies Code. Certain types of subsidies in certain sectors will need to be excluded from the general code and dealt with under sector-specific commitments.

**Sector specific subsidy agreements will vary according to the sector.** Governments tend to consider it legitimate to subsidise sectors such as health, education and pensions that are concerned with the provision of public goods. Sector specific agreements will need to allow governments sufficient leeway to provide such services to those that need them, while leaving room for the provision of privately funded services for those that can afford them. In the transportation and telecommunications sectors, the issues will concern how to transform ailing national giants while ensuring the provision of socially desirable services to rural areas, the poor and elderly.

Due to the special nature of services, it would be difficult to arrive at **an appropriate remedy.** First, the invisible nature of many service imports would



make it impractical to impose a countervailing duty. Second, the imposition of a duty under the GATT requires the calculation of the production costs of an individual unit of services, which would be an impossible exercise for many services. Remedies are currently available under the dispute settlement system for subsidised competition in the home market of the subsidising country or in third markets for goods.

#### ❖ **Government Procurement.**

The development of a discipline on government procurement will need to address two special characteristics of services.

First, government procurement of many services is made on the basis of small contracts that would fall under the thresholds built into the **Government Procurement Code for goods**<sup>2</sup>. The threshold for services could be lowered but it may prove too costly to impose the requirements associated with the Code on many small transactions. The second issue concerns **the problem of arriving at objective assessments of the value of a particular professional service**. Any agreement would have to come up with acceptable formulae for these hard-to-quantify quality judgements. There are, however, a number of other services, such as transportation services, telecommunications services, construction, and financial services to which the procurement code could easily be applied in so far as neither scale nor hard-to-quantify quality judgements are an issue.

**ADDITIONAL MATERIAL ABOUT THE FORTHCOMING NEGOTIATIONS IS INCLUDED IN THE ANNEX TO THIS MODULE, PARTICULARLY THE PROPOSALS INTRODUCED IN THE WTO (GENERAL COUNCIL) IN 1999.**

## **2) KEY CONCEPTS**

- The agreement sets out principles surrounding **progressive liberalisation** in services through negotiations on **specific commitments** and modifications of **schedules** through negotiating rounds. However, many of the restrictions at issue are at the heart of **domestic regulatory regimes**, which are not so easily modified by “mercantilist bargaining” as are pure border measures like tariffs.
- **One of the problems facing liberalisation in services is that governments may be reluctant to translate some 'non-tariff barriers in services' into tariff equivalents.** The services sector is usually much more regulation-intensive than the goods sector. Therefore, the main obstacles to free trade in services are of a non-tariff nature. Domestic institutions may prefer to see some of the regulations that deal with trade in services as natural and inevitable precautions rather than as impediments to trade. It is also possible that some domestic

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<sup>2</sup> The Government Procurement Agreement establishes an agreed framework of rights and obligations among its Parties with respect to their national laws, regulations, procedures and practices in the area of government procurement. Under the WTO there are three on-going activities in relation to government procurement. Two of them are multilateral (i.e. in which all WTO Members participate) and the third is plurilateral (i.e. only certain WTO Members are parties to it).



regulations have been in force for so long that governments are not always aware of their existence. Even when governments are fully aware of the barriers that are in place, there remains the problem of understanding their economic consequences. The economic linkages and interdependencies between the goods sector and the rest of the economy (the input-output coefficients in national accounts) are well-understood. The economic linkages and interdependencies between the services sector and the rest of the economy are less well understood in developing countries.

- **It has been estimated that current levels of services protection are as high as those applied to goods in developing countries in the early 1980s.** The available information on the level of protection in large sectors suggests that average *ad valorem* tariff equivalents range from 50 percent to 100 (Messerlin, 1999; Warren and Findlay, 1999). Available studies suggests that this is the case in both developed and developing countries.
- **In contrast with trade in goods, services liberalisation efforts usually rely on central decision-makers and domestic regulations as opposed to “offer-request” type negotiations.** The liberalisation of trade in goods was facilitated by the fact that border protection in the shape of tariffs were prevalent enough to provide a focal point for trade negotiators. The mechanics of reciprocity could begin a process that was extended to include non-tariff barriers. This dynamic is less likely to prevail in services. Reciprocity can play less of a role because non-border protection is dominant.
- **In many developing countries, income from service sector exports is significantly less than that from goods exports.** Consequently, there are fewer service sector exporters seeking better access to foreign service markets to counterbalance resistance to the reform and liberalisation of services. In short, trade negotiators may lack the necessary focal points for negotiations, the necessary information about the way the sector operates and organised support from interested domestic parties.
- **While tariffs are easy to identify because they usually concentrate in a single legal instrument (e.g. customs duty), the barriers to market access for services embrace a wide range of legal instruments.** Therefore, identification of the barriers applied to a specific export is particularly difficult for developing countries' exporters who lack the tools to initiate a full investigation. The UNCTAD "MAST" (see Annex) aims at providing the exporters and negotiators of developing countries with technical support to help overcome these obstacles.

At issue, in the context of non-tariff barriers in services, are the ways in which domestic regulatory regimes may be reformed. Any reform of services that is undertaken should, for domestic political purposes, be seen to enhance the efficiency of the economy and bolster the prospects for economic growth. Multilateral negotiations and institutions should serve to support the process of implementing the reforms, not to instigate reform and highlight the effects of the liberalisation of trade in services from the development perspective.

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from the point of view of the national interest and policy objectives in the service sector. It might be more appropriate to take a more rule-based approach towards harmonising domestic regulatory rules.

Any such assessment requires a clear grasp of the underlying principles and the links existing between the various rules – be they general disciplines, specific obligations, sector arrangements or even company-level rules.

### **3) PROGRESSIVE LIBERALISATION (ART XIX)**

A central obligation of the Agreement is the requirement under Art. XIX for Members to participate in subsequent future rounds. This on-going process makes it imperative for government officials to devote time and effort to familiarising themselves with the logic and main features of the GATS rules, and to prepare national and sub-regional negotiating positions.

It is in the interest of developing countries to consolidate a "positive agenda" reflecting their negotiating objectives.

#### **➤ The main ideas of the Positive agenda<sup>3</sup>:**

50% of the 250 "communications" submitted to the WTO before the 3<sup>rd</sup> Ministerial Conference at Seattle were introduced by developing countries. After agriculture, services was the main area of interest for developing countries. The key issues raised by these proposals focused on the following ideas:

#### **Key features of the proposals *on services* made in the framework of the positive agenda:**

- To improve the **implementation of Art. IV** to liberalise market access in the sectors and the modes that are of interest for developing countries, through monitoring and measures in favor of developing countries.
- To give a specific attention to the liberalisation of **mode 4** (related with movement of persons).
- To maintain the «positive list» **structure** of the GATS (i.e. schedules of commitments).
- To introduce **safeguard** provisions in the GATS before starting the negotiations on other topics.

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<sup>3</sup> See UNCTAD, "*A Positive Agenda for Developing Countries: Issues for Future Trade Negotiations*". The "positive agenda" refers to the technical support given by UNCTAD to the formulation of developing countries' proposals in the WTO pre-negotiating process. The objectives were:

- To analyse the implications of the Uruguay Round agreements from the development perspective;
- To identify trade opportunities generated by liberalisation;
- To support developing countries in the formulation of their own negotiating strategies and proposals;
- To understand the negotiating positions of industrialised countries.

See in the Annex to this module, Commercial Diplomacy Programme, Proposals submitted by WTO member states in the framework of the "positive agenda" during the preparatory process of the 3rd Ministerial Conference (1999), UNCTAD/DITC, Commercial Diplomacy Programme.



- To review the provisions on subsidies and government procurement should take into account the distortions due to **developed countries' subsidies** to their exports in services.
- Article IX should be reinforced to ensure **competition** in the international markets of services.
- To give credit to the "**autonomous liberalization**" initiated by developing countries.



## **C.- IMPORTANT ISSUES FROM THE PRIVATE SECTOR PERSPECTIVE**

The purpose of this section is to identify the key points in the forthcoming GATS negotiations **that may be of interest from the point of view of the business community**. Due to the wide diversity of business sector interests, it is not possible to address issues of special interest to particular sections of the business community in any great detail. What is provided below is intended to help business leaders to identify some of the broader issues involved in trade in services in the multilateral context :

- **Schedule Strategies:** The schedules of commitments are the documents by which a government identifies the service sectors to which it will bind the open market access and national treatment obligations of the GATS and any exceptions from those obligations it wishes to maintain. It is important that each business identifies the areas in which they hold a competitive advantage and then to lobby the appropriate governmental agencies for the appropriate commitments and limitations to be entered in the country schedule.
- **Competition Policy:** There is a need for businesses to be aware of respective national competition policy laws. Whereas some countries have not advanced very much in this area, other countries have very sophisticated laws. Businesses need to understand national competition policies in order to evaluate the business opportunities and risks that may arise from the liberalisation of specific sectors.
- **Level of technology:** Businesses should consider the extent to which there is a need to open specific sectors in order to have access to new technology which will allow them to compete more effectively. It may be possible that they already have access to the technology they need through other bilateral arrangements and therefore there may be less need to prioritise this area.
- **Article IV of GATS:** The GATS recognises that the pace of liberalisation by any country may reflect its level of development and national policy objectives. In this context, article IV promotes the increasing participation of developing countries in trade in services. The business community needs to consider what to propose to their executive branch in this respect with regards to their specific sector needs. They need to identify issues and ways to get them across to their governments.
- **Regional Agreements:** Businesses need to ask themselves whether they will follow a regional strategy or whether they are willing to expand them into the multilateral framework.
- **Importance of technical and specific issues:** Business need to communicate to their executive branches very specific requests. Governments may be aware of the general needs of their different services sectors, but they need to feed from the business community the specificity and technicalities of the issues to negotiate, including the barriers of restrictions they face when exporting their services.



**The business community should consider ways and means of making the national schedules of commitments more user-friendly to the small and medium enterprise community.** Member countries might also explore various presentational devices for organising the information on a more consumer-friendly basis. The WTO is working on computer programs that might aid users in identifying the national commitments in particular sectors, and this might go part of the way towards providing greater transparency of national commitments for the business community.

## **D.- IMPORTANT ISSUES CONCERNING TRADE IN SERVICES FROM CONGRESSMEN'S PERSPECTIVE**

### **1) TRADE IN SERVICES, ECONOMIC POLICIES AND DOMESTIC REGULATIONS:**

➤ **A wide range of activities:**

The term "services" covers a wide range of activities. The GATS includes 12 sectors:

- business /including professional and computer/ services
- communication services
- construction and engineering services
- distribution services
- educational services
- environmental services
- financial /insurance and banking/ services
- health services
- tourism and travel
- recreational, tourism and sporting /publishing, advertising, mass media/
- transport services
- other services not included elsewhere (research and development; trading, accounting; legal services).

For the purposes of the GATS, the term "services" includes any service in any sector, except services supplied in the exercise of governmental authority – the latter meaning any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers (Art. I, par. 3b,c).

➤ **The economic importance of services:**

Services are clearly important for a country's economy and society in terms of:

- growth and development;
- competitiveness and integration in the world trade system;
- implementing macroeconomic policies;
- shaping behaviour and consumption patterns and trends.

For information on major trends in international trade in services and basic economic data see Section A:1 of this Module

➤ **Domestic regulations:**

Until recently, services have been highly regulated activities in both developed and developing countries. Regulations are spelt out in general policy measures and in numerous specific laws, government regulations and administrative guidelines at





**central and local levels.** These instruments usually encompass the following types of requirements:

1. quantity restrictions on the volume or the value of imports of a given service (for a period of time) OR on the number of firms allowed to contest a market OR on the nature of their operations;
2. price-based measures that discriminate user charges (port taxes, airline landing fees);
3. limitations on the right of establishment or on market presence for foreign companies to reside and engage in service activities;
4. standards, certification requirements and industry-specific regulations (e.g. licensing);
5. requirements based on nationality or on professional qualifications.

➤ **Barriers to trade liberalisation in services:**

The obstacles to trade in services are also quite different. Whereas for goods the barriers are customs tariffs and non-tariff obstacles imposed as a rule on the border, quotas, technical barriers, etc., in the case of services **domestic regulations and policies act as an obstacle to the export or import of a service by one of the four modes.**

The term *liberalisation of trade in services*, therefore, stands for something quite different from the liberalisation of trade in goods. While for goods it means lowering or abolishing customs tariffs, for services it signifies the **elimination or modification of domestic regulations and policies** that may represent an obstacle to a service export.

➤ **Bilateral and regional Trade Agreements:**

It is worth noting that numerous bilateral and regional agreements on services were reached prior to the negotiation and conclusion of the GATS. These cover either specific sectors such as transportation, communications, etc. or set out more general terms for co-operation.<sup>3</sup>

Certain countries had therefore already granted each other preferential concessions in the context of their broader economic and overall relations. These agreements constituted the achievement of a certain degree of liberalisation of trade in services between the respective countries.

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<sup>3</sup> See section G on regional agreements related to services.



## **2) PURSUING THE NATIONAL INTEREST BALANCING COSTS AND BENEFITS: THE ROLE OF PARLIAMENT:**

### **➤ *National Parliaments have broad responsibilities regarding service activities:***

1. directly when they adopt or amend laws on services;
2. when ratifying bilateral, regional or multilateral agreements dealing with or having effects on services;
3. indirectly when they exercise parliamentary control over the executive branch of government on the issues of service regulations and guidelines that it adopts and applies.

### **➤ *The central issues confronting Congressmen with regard to services are how to:***

1. achieve the best combination of multilateral disciplines , regional or bilateral agreements, and domestic regulation from the point of view of development, and
2. work with the Executive and the domestic private sector in order to achieve the national policy objectives of increasing service capacities and exports.

Thus the third set of issues that congressmen should consider among their priorities has to do with the actual ways in which the rules operate and the opportunities they offer to maximise advantages and minimise burdens for the national economy and society – i.e. to achieve the most favourable **COST/BENEFITS outcome**.

## **3) THE ROLE OF CONGRESSMEN IN THE NEGOTIATING PROCESS:**

The GATS and the main technical and political features of trade in services from the developing and economies in transition perspectives are explained in Section A of this Module.

### **➤ *In the Pre-Negotiation Stage:***

WTO Members are at present preparing their positions for the multilateral negotiations on Trade in Services in compliance with Article XIX of the GATS (“the WTO built-in agenda”). At this stage, congressmen should devote attention to a number of specific issues:

**A.** Parliament should ask the Executive branch to present an **assessment** of the benefits and the costs that the country has derived from the implementation of GATS' multilateral rules, and its existing Schedule of National Commitments. Such an evaluation should be based upon **qualitative and quantitative criteria**, such as:

- share of services provided by domestic firms in terms of exports and imports (including their evolution and competitiveness);



- share of imports in the domestic markets of services which are the most important for the country's economy and society;
- an assessment of the national services capacity, its efficiency and competitiveness and the possibilities (both utilised so far and potential) of expanding it ;
- an analysis of services exports from the point of view of their growth – identifying sectors of main export interest and the barriers in prospective markets;
- an evaluation of the impact of trade in services on the country's Balance of Payments;
- an assessment of foreign direct investments attracted by the service sector.

**B.** At the same time Parliaments should undertake their own thorough examination of the status of domestic legislation and regulations from several points of view:

- in general terms – what specialised domestic legislation on trade in services exists; what are the main bilateral and regional agreements ratified by Parliament so far and their implications ; what other significant legislation may have an impact on services;
- in particular:
  - (i) the legislation and regulations covered by the already existing Schedule of Commitments (if such is the case);
  - (ii) any domestic proposals for deregulation in given sectors;
  - (iii) the advantages of negotiating such liberalisation as part of bargaining with trading partners in the course of future negotiations;
- in light of the “built-in agenda” for the future negotiations:
  - (i) the objectives of the GATS Articles and Annexes and Related Instruments. i.e.- general liberalisation;
  - (ii) the commitments to issue-specific negotiations to define rules and disciplines on Domestic Regulation (Art. VI), Competition (Art. IX), Emergency Safeguards (Art. X) Government Procurement (Art. XIII), and Subsidies (Art. XV);
- in connection with the elaboration of a “positive agenda” of national proposals favouring the domestic priorities.

**C.** On the basis of the above preparations, and consultations with trade officials, and private sector experts, congressmen could give a **negotiating mandate** to the government for the forthcoming WTO negotiations. This would greatly strengthen the negotiating position of the country. Maybe even more important - it would make future implementation smoother and better able to achieve the objectives of liberalisation.



➤ ***In the Course of the WTO Negotiations on the built-in agenda:***

The current multilateral trade negotiations in services will continue for a number of years and will probably be linked to or influenced by other issues, such as the negotiations on agriculture, which are also part of the "built-in agenda" of the WTO. This means that negotiating positions and compromise formulae will constantly evolve. There also will be changes in the composition of Parliaments. A certain amount of continuity in the negotiating position will be expected in so far as the national position should be based on a careful assessment of the domestic services sector and the implementation of a development strategy. Yet, at the same time, flexibility and a regular review of the national position will be required in order to ensure, for instance, the adoption of new technologies that improve national competitiveness, or to respond to new factors stemming from other trade negotiations.

Likewise during the preparatory stage and in the course of negotiations, it is of vital importance for a country to pool its interests with as many "like-minded" countries as is feasible. Parliaments can significantly contribute to this end through purpose-oriented programmes of inter-parliamentary contacts and through the monitoring of bilateral and regional agreements.

A crucial issue will be the task of devising a Schedule of specific commitments that best answers the needs and objectives of economic and social development.



## **E.- IMPORTANT ISSUES FOR RESEARCH AND ACADEMIC INSTITUTIONS**

In order to provide policy makers and trade negotiators with effective support, national research and academic institutions should identify the areas where their input is required. This should serve, in the short-term, to enhance the nation's negotiating capacity and, in the long-term, to improve the capacity of local institutions to train new generations of negotiators.

In the area of trade in services, the role of research and academic institutions could focus on issues, such as:

➤ **Support to the training of negotiators:**

The **syllabuses** of graduate and, in particular, post graduate programmes dealing with international economics, international trade and development policies should pay particular attention to the topic of services.

A key feature of post graduate training on the role of services in national and international economies should be the provision of **interdisciplinary links**. This is especially important in so far as trade negotiators need to have a balanced picture of competition, technological and sustainable development issues in order to develop a suitable strategy. The study of regulatory frameworks and legal aspects of domestic and international rules dealing with services are usually missing from academic programmes.

Comparison with trade in goods should stress **the application of trade concepts**, such as most-favoured nation and market access to services. The **role of domestic regulations** should be illustrated by the use of practical examples that are relevant for the national importers and exporters of services.

**Methodological difficulties**, such as access to reliable and relevant information for the analytical work on services, should be included in the understanding of the nature of services. In the same context, it is important to explain, at all levels of academic training and with different kinds of practical examples, the implications of the globalisation process as far as trade in services is concerned.

Students should be encouraged to look at the **evolving functioning of specific sectors** of services in the national economy and the changes introduced by technological innovations, trade and investment flows, multilateral and regional agreements, electronic commerce etc. Other techniques of training could focus, for instance, on specific GATS provisions, as well as the use of the proposals made for WTO negotiations as basic training materials.



➤ **Further national and regional or sub-regional research should focus on topics such as:**

- ❖ The **multilateral rules** provided for in the GATS i.e. the implementation of national treatment in a specific sector of services and its implications from the development perspective. Likewise, it may be important to initiate new analytical work on subsidies, government procurement, safeguards or dumping from the point of view of trade in services.
- ❖ More **interdisciplinary studies** on certain services that are a priority in national development strategies should improve the understanding of links with competition, intellectual property rights, electronic commerce etc. These kinds of studies should provide policy makers and trade negotiators with comprehensive diagnosis and strategies.
- ❖ In many developing countries, sectoral studies on "new" service issues not covered by the existing GATS Annexes could provide useful insights for both government officials and businessmen. For instance, more attention should be devoted at the national level to trade aspects of health services<sup>4</sup>, energy services, audio-visual products, education and environmental services.
- ❖ The **legal framework** to be adopted in accordance with the GATS rules and the results of the on-going WTO negotiations on services should be analysed from the economic, social and trade and investment perspectives. Comparisons with regulatory provisions existing in other developing countries and their implementation may also be useful.
- ❖ The role of **transnational** corporations in trade in services and the implications for development may need further analysis from the domestic perspective, particularly focusing on developing countries' prospects of increasing and diversifying their exports of services.
- ❖ The vulnerability of some developing countries to the contagion of financial crises underlines the need to follow an **appropriate sequence** of measures leading to liberalisation. There needs to be sound supervision of the domestic banking sector in place before the financial sector is opened up to foreign players. National studies should identify the domestic weaknesses that could be exacerbated by a hasty or unprepared liberalisation.
- ❖ **The role of regional or subregional trade commitments** and their articulation with multilateral disciplines on services is usually missing from the analytical work on regionalism. Inter-regional exchanges among researchers of developing countries should be fostered as a way to improve available information on the role of services and the formulation of the negotiating positions of developing countries.

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<sup>4</sup> See UNCTAD, Health Services (book) and UNCTAD, Trade and Energy.



## **F.- IMPORTANT ISSUES FOR THE MEDIA**

The current WTO negotiations on the “built-in agenda” may provide an opportunity to review the implementation of the GATS agreement, its implications at the domestic, regional and international levels, and the importance of trade in services for developing countries.

The media play a key role in the understanding and dissemination of the issues raised by these negotiations (see parts A and B for more details)

### **SOME QUESTIONS TO BE ASKED BY THE MEDIA TO POLICY-MAKERS, TRADE NEGOTIATORS AND PRIVATE SECTOR REPRESENTATIVES:**

- What are the objectives of the national negotiators in the on-going WTO negotiations on services?
- What are the service sectors included in the national schedules of commitments?
- What kind of domestic service firms are most competitive in the regional and global markets?
- What domestic regulations should be adopted or improved in accordance with the GATS provisions and integration in the global economy?
- What are the prospects for inter-regional trade in services?
- What kind of foreign investments have been attracted by the liberalisation of trade in services?
- What are the conditions to be fulfilled in order achieve a beneficial liberalisation regarding trade in services?
- What are the domestic policies that could be put in place to support the export of services?



## **G.- SERVICES IN THE CONTEXT OF REGIONAL AND SUB-REGIONAL TRADE AGREEMENTS : OVERVIEW OF EXISTING PROVISIONS**

Following the precedent set at the multilateral level, many regional and subregional trade agreements include disciplines aimed at liberalising trade in services among the members of the agreements. **The GATS (Article V) provides the multilateral framework that allows preferential treatment for trade in services among members of these regional agreements.**

<b>REGIONAL &amp; SUB-REGIONAL AGREEMENTS</b>	<b>PROVISIONS REGARDING TRADE IN SERVICES</b>	<b>WEB SITES</b>
EU (European Union)	Within the framework of the Single Market, the EU has developed comprehensive regulations related to the freedom to provide services and the right of establishment in various services sectors. A recent example can be found in the Official Journal (2000/c 43/03), regarding the establishment of a Single Market in the insurance sector.	<a href="http://eur-op.eu.int/keypub/en/smrpagez.htm">Http://eur-op.eu.int/keypub/en/smrpagez.htm</a>
<b>NAFTA</b> (North American Free Trade Agreement: Canada, Mexico and USA).	The final goal of the Agreement in relation to services is to eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties. Chapter Twelve, Article 1201, contains measures to liberalise cross-border trade in services by service providers of another Party. It covers all traded sectors with some exceptions such as financial services and air transport.	<a href="http://www.nafta.net/naftagre.htm">http://www.nafta.net/naftagre.htm</a>
<b>ANZCERTA</b> (Australia New Zealand Closer Economic Trade Agreement).	The Protocol on Trade in Services signed in 1998 stated the objective of liberalise trade in services between the Member States. The agreement provides for National Treatment and Commercial Presence for all services sectors except for those included in the Member States' lists of exemptions.	<a href="http://www.dfta.gov.au/geo/pacific/nz/anz_cer/anz_cer_services.htm">http://www.dfta.gov.au/geo/pacific/nz/anz_cer/anz_cer_services.htm</a>
<b>MERCOSUR</b> (Argentina, Brazil, Paraguay and Uruguay).	The Services Agreement has been in effect since December 1997. It is modelled on the GATS in terms of its structure, general obligations, progressive liberalisation of trade in services, specific sectoral commitments on Market Access and National Treatment. Like GATS, it covers all sectors and modes of supply. It exempts Government Procurement..	<a href="http://www.americasnet.com/mauritz/mercosur/">http://www.americasnet.com/mauritz/mercosur/</a>  <a href="http://www.americasnet.com/mauritz/mercosur/english/page04.html">http://www.americasnet.com/mauritz/mercosur/english/page04.html</a>
<b>CAN</b> (Andean Community: Bolivia, Colombia, Ecuador, Peru)	The Principal objective of Decision 439 adopted on 11 June 1998 is the creation of a common market in services among the countries of the	<a href="http://www.comunidadandina.org/DEC/D439.htm">http://www.comunidadandina.org/DEC/D439.htm</a>





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REGIONAL & SUB-REGIONAL AGREEMENTS	PROVISIONS REGARDING TRADE IN SERVICES	WEB SITES
and Venezuela)	Andean Community through the elimination of restrictive barriers to trade in services. The Decision covers all service sectors with the exception of air transport and government procurement.	
<b>ALADI</b> (Association of Latin-American Integration: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela)	Resolution 34 on trade in services was approved on 30 November 1992 by the Council of Ministers. It envisages progressive liberalisation in trade in services among all ALADI Members.	<a href="http://www.aladi.org/">http://www.aladi.org/</a> <a href="http://www.aladi.org/cgi-win/juridica.exe?titulo=servicios&amp;incluye=alguna&amp;organo=&amp;tipo=&amp;submit=Consultar">http://www.aladi.org/cgi-win/juridica.exe?titulo=servicios&amp;incluye=alguna&amp;organo=&amp;tipo=&amp;submit=Consultar</a>
<b>CARICOM</b> (Caribbean Community: For members - see the web page)	Sub-programme 7.5 of 1997 promotes the liberalisation of trade in services and the start of an integral programme to develop and facilitate trade in services in the region	<a href="http://www.caricom.org/expframes2.htm">http://www.caricom.org/expframes2.htm</a>
<b>The Group of Three</b> (Colombia, Mexico, Venezuela).	<i>IN THIS FREE TRADE AGREEMENT, CHAPTER X, 1991, PROVIDES FOR LIBERALISATION IN ALL SECTORS OF SERVICES WITH THE EXCEPTION OF TRANSPORT SERVICES.</i>	<a href="http://www.sice.oas.org/trade/go3/G3C10.STM">http://www.sice.oas.org/trade/go3/G3C10.STM</a>
<b>APEC</b> (Asian Pacific Economic Cooperation)	The Committee on Trade and Investment (CTI) was established by the <i>Declaration on an APEC Trade and Investment Framework</i> in November 1993. The Group on Services (GOS) is an informal subgroup of the CTI mandated by the Committee to address the Trade and Investment Liberalisation and Facilitation (TILF) tasks in the area of services. Its aim is to create a free trade area in goods, services and capital no later than the year 2020 (2010 for developed countries).	<a href="http://www.apecsec.org.sg/cti/cti98/rpt2mins98a12.html">http://www.apecsec.org.sg/cti/cti98/rpt2mins98a12.html</a>
<b>FTAA</b> (Free Trade Area of the Americas)	The 1998 Ministerial Declaration of San José of Costa Rica established the Negotiating Group in Services for the progressive liberalisation of trade in services with the aim of creating a free trade area in the hemisphere.	<a href="http://www.alca-ftaa.org/VIEW_E.asp">http://www.alca-ftaa.org/VIEW_E.asp</a> <a href="http://alca-ftaa.org/ngroups/ngserv_e.asp">http://alca-ftaa.org/ngroups/ngserv_e.asp</a>



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REGIONAL & SUB-REGIONAL AGREEMENTS	PROVISIONS REGARDING TRADE IN SERVICES	WEB SITES
<b>ASEAN</b> (Association of South East Asian Nations)	Preliminary steps towards the inclusion of services and investments in the area were made in December 1995. Negotiations are still under way.	<a href="http://is.eunet.ch/astarte/pbo/afta/afta0.htm">http://is.eunet.ch/astarte/pbo/afta/afta0.htm</a>
Decision No. 1 of the Joint Council of the Agreement on Partnership, Economic cooperation and Political coordination between the EU and Mexico	Adopted in February 2000. Covers all service sectors with few exceptions, and includes rules on investment and related payments, intellectual property and a dispute settlement mechanism.	
<b>AEC</b> (African Economic Community)	The treaty establishing the AEC provides for services in the form of Specialized Technical Committees that deal with the services sector, namely, the Committee on: <ul style="list-style-type: none"> <li>▪ Monetary and Financial Affairs</li> <li>▪ Transport, Communication and Tourism</li> <li>▪ Health and, Labour and Social Affairs</li> <li>▪ Education, Culture and Human Resources</li> </ul> In order to boost intra-Community trade in services, the AEC envisages cooperation in monetary and financial fields and also in the area of transport and communications.	
<b>COMESA</b> (Common Market for Eastern and Southern Africa)	Like the AEC, services in the COMESA treaty is dealt with under the technical committees, of which the services covered are: <ul style="list-style-type: none"> <li>▪ Comprehensive Information Systems</li> <li>▪ Finance and Monetary Affairs</li> <li>▪ Labour, Human Resources and Social Affairs</li> <li>▪ Legal Affairs</li> <li>▪ Natural resources and Environment</li> <li>▪ Tourism and Wildlife</li> </ul> Transport and Communications	
<b>EAC</b> (East African Cooperation)	In the EAC treaty, provisions for services are found in Articles 114 transport and communications, Article 115 meteorological services, Article 117 development of human resources, science and technology, Article 124 tourism and wildlife management and Article 125 health, social and cultural activities.	
<b>ECOWAS</b> (Economic Community of West African States)	The principle objective of the treaty is the creation of an economic and monetary union. To this end, the community in terms of services has been pursuing the physical integration of its Member States through the development and modernization of regional highways and	



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<b>REGIONAL &amp; SUB-REGIONAL AGREEMENTS</b>	<b>PROVISIONS REGARDING TRADE IN SERVICES</b>	<b>WEB SITES</b>
	telecommunication networks. They are also implementing a regional pipeline for the distribution of natural gas, cooperation in health matters and also harmonization of financial policies.	
<b>SADC</b> (Southern Africa Development Community)	Services in the SADC trade Protocol is covered under Part six Article 23. It states in part that, "Member States recognize the importance of trade in services for the development of the economies of SADC Countries". It also states that members shall adopt policies and implement measures according to their obligations in the World Trade Organization (WTO)'s General Agreement on Trade in Services (GATS), with a view of liberalizing their services sector within the Community.	
<b>UEMOA</b> (West African Economic and Monetary Union)	One of the main objectives of the Union that covers services is the goal to create a common market among Member States based on the free circulation of the people, goods, services and capital.	



<b>ANNEX</b>
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1. [REGIONAL LIBERALIZATION ON SERVICES IN ACCORDANCE WITH MULTILATERAL DISCIPLINES](#)
  
2. [GUIDELINES FOR THE IDENTIFICATION OF NATIONAL AND SUBREGIONAL INTERESTS IN NEGOTIATIONS ON SERVICES](#)