

Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

## SUMMARY AND OVERVIEW

JUAN A. MARCHETTI AND MARTIN ROY

The Uruguay Round of trade negotiations, from 1986 to 1994, marked, to a great extent, the debut of services in trade negotiations. Since then, trade in services has become an indispensable element of such endeavors, be they bilateral, regional, or multilateral. Over time, what used to be an arcane issue, whose secrets were to be revealed only to a few initiates, has been attracting an increasing attention on the part not only of policy-makers and trade negotiators but also of businesspeople, researchers, and civil society. Why this increasing interest? There are several reasons for this. For one, services play a central role in economic activity in virtually all countries of the world. Their participation in gross domestic product (GDP) ranges, on average, from 50 percent in low-income countries to 54 percent in middle-income economies, and to 72 percent in rich countries.<sup>1</sup> The importance of employment in services activities is no less impressive, averaging 72 percent of total employment in high-income economies.

Another reason for this increasing interest in services trade is its rising share in investment and trade. In 2006 commercial services exports, measured by traditional balance of payments standards, reached almost \$2.8 trillion. In spite of this highly significant increase in absolute value, trade in services still accounts for about 20 percent of world trade. These figures highly underestimate the importance of services for world trade, however. Indeed, ‘trade in services,’ as understood nowadays by both researchers and negotiators, encompasses not just the transactions recorded in the balance of payments but also the sales of services by local companies that establish a presence abroad – the so-called foreign affiliates trade. According to the WTO Secretariat, data available for the foreign affiliates of Organisation for Economic Co-operation and Development

<sup>1</sup> World Bank Development Indicators online.

Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

(OECD) countries in services-producing activities suggest that these global sales are approximately one and a half times larger than conventional cross-border trade flows measured through the balance of payments.<sup>2</sup> The increase in services sales through the presence of companies abroad is driven, not surprisingly, by increasing flows of foreign investment in services activities. In fact, services represented almost two-thirds (61 percent) of the global FDI stock in 2005, compared to 49 percent in 1990.<sup>3</sup> Services also remain the dominant sector in cross-border merger and acquisition (M&A) deals.

The inclusion of services in the multilateral trade agenda coincided – or perhaps followed – the regulatory reform trend launched in the early 1980s, which resulted in the removal or loosening of substantial restrictions to competition in services industries, thereby focusing new attention on the possibilities of international competition and the enhancement of trade and investment opportunities. Over time, the multilateral trading system – or, more specifically, the WTO – came to share its almost exclusive role with an increasing number of preferential trade agreements, in which services also became one major focus of attention.

This book presents nineteen contributions, listed as individual chapters, analyzing trade in services. Together, they highlight key challenges, opportunities, and experiences for services sectors and countries in bilateral and multilateral negotiations. Some of the chapters adopt a general approach to discuss the economics of services reform and the political economy of trade negotiations. Others analyze the situation in various sectors and policy areas, such as the movement of natural persons or cross-border trade. Some chapters examine specific country experiences with liberalization and negotiations. They all shed light on the many factors involved in the liberalization of trade in services, be it autonomously or through trade negotiations.

While each of the chapters can be read independently, they also complement each other. In what follows, we attempt to discern the main messages arising not only from each chapter but also from the whole project.

<sup>2</sup> WTO *International Trade Statistics 2007*.

<sup>3</sup> UNCTAD (United Nations Conference on Trade and Development) *World Investment Report 2007*.

Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

## 1 From policy to negotiations

The ultimate objective of trade liberalization is to raise people's standards of living through productivity gains. Services play an essential role in economic development and growth insofar as modern economies have become more services-intensive. Although the expanding importance of services in the economy has certainly been noticed, Hoekman and Mattoo remind us that research on the interaction between services trade, services-related policies, and economic performance has not been as prominent as it ought to be. Their chapter provides a review of some of the recent literature on these topics, and discusses the policy implications arising from the extant research. As such, their contribution constitutes a natural point of departure for the book, and provides solid background for the rest of the chapters.

Although we know intuitively that services should have a powerful influence on growth, growth theory used to accord no special role for services activities, apart from finance. Recent research, however, as documented by Hoekman and Mattoo, shows that services have a significant productivity-enhancing role, which contrasts with a long-standing concern in the economic literature that a steadily expanding services sector is associated with declining overall productivity and therefore with declining growth rates in an economy. Noting that the productivity performance of services industries differs significantly between countries, Hoekman and Mattoo ask to what extent regulation and trade restrictions affect services performance. The studies available, which due to data limitations have focused on certain services sectors, such as finance, distribution/transport, and telecommunications, show that trade openness is a key channel for improving services performance.

After surveying the literature on trade and growth, the authors home in on two important policy implications: first, how to enhance comparative advantage in the production and export of services; and, second, how to design policy reforms to open services markets to greater foreign participation. Focusing on India, whose emergence as a services powerhouse is nowadays beyond doubt, they show that the main determinants of services production and exports are endowments, institutions, and infrastructure. Therefore, services exports depend not only on what a country inherited but also on institutions, regulation, and the development of critical infrastructure-supporting services activities. In other

Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

words, policy matters – and, if that is the case, then the design of policy reforms becomes of critical importance. Services regulation is generally motivated by a mix of efficiency and equity considerations. The prime challenge for policy-makers is to strengthen such regulation without making it inappropriately restrictive. Furthermore, such regulation need not discriminate against foreign suppliers. Maximizing competition on the domestic market is generally a good rule of thumb from efficiency and equity perspectives alike, though there is also likely to be a need for complementary policies, such as combating anticompetitive practices and guaranteeing universal access to services, in order to ensure that the benefits of competition are widely enjoyed by society.

## 2 Multilateral and bilateral negotiations on services: Overall perspectives

The chapters by Marchetti and Roy and by Fink complement each other. While the former presents an overview of the multilateral and preferential liberalization of services, including a quantitative assessment of GATS+ liberalization achieved in recent PTAs, the latter considers the experience of services PTAs negotiated so far and discusses the political economy of regional integration. Both chapters analyze the nature of preferential liberalization in services and its consequences for the multilateral trading system.

Conducting a thorough overview of the current multilateral commitments and the offers submitted in the Doha Development Agenda, Marchetti and Roy remind us not only how little had been achieved in the Uruguay Round but also how disappointing the services negotiations in the DDA have been so far.<sup>4</sup> Most WTO members seem to have chosen an alternative route to services trade liberalization in the form of bilateral PTAs. The achievements of PTAs, at least in terms of market access commitments, are quite impressive. Building on a database covering forty PTAs involving thirty-seven countries, the authors construct liberalization indices for the GATS commitments, Doha offers, and PTAs covered, and provide a full assessment of the added value of bilateral negotiations over multilateral commitments and negotiations.

<sup>4</sup> This summary and overview, like the rest of the book, was finalized in mid-2008. For an overview of the Doha negotiations on services, see the appendix to this volume.

Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

Of course, concerns about PTAs would be lessened if they did not lead – or had the potential to lead – to discrimination against non-parties. This is a crucial question: as shown by both Fink and Marchetti and Roy, evidence in this regard is not conclusive. The way services are traded (through four modes of supply), the way services are protected (through regulations instead of border measures), the rules of origin applicable to services trade, and the most-favored-nation (MFN) clauses that some of these agreements include are all factors that come into play. At the end of the day, however, it is an empirical question; and, as reminded by Hoekman and Mattoo, the empirics regarding services trade present enormous challenges.

Related to the previous question, a major concern on the shores of Lake Geneva is the impact of PTAs on the multilateral trading system. In other words, how do bilateral deals affect multilateral negotiations on services trade? Are these PTAs stepping stones or stumbling blocks for the multilateral liberalization of trade in services? Although it may be a little too early to reach final conclusions, both Fink and Marchetti and Roy have tried to identify the main forces at work – or, in other words, the main incentives arising from bilateral negotiations that could help or hinder the multilateral liberalization of trade in services.

### 3 Challenges, issues and opportunities in services sectors

The title of this part is slightly misleading, since it includes not only sectors but also other – non-sectoral – trade areas, such as cross-border trade in services, the temporary movement of natural persons (mode 4), and government procurement of services.

It would have been impossible to include all services sectors in this volume. We have preferred to focus on important – albeit very different – ones. Some of them are part of the key infrastructure of any economy, such as distribution, finance, and telecommunications. Others, in spite of their economic importance, are “newcomers” to trade negotiations, such as energy and postal-courier services. Others have proven difficult to liberalize at the multilateral level, such as audiovisual services and air transport. Exports of services on a cross-border basis or through the movement of natural persons have appeared as two of the main areas of comparative advantage for developing countries. Finally, the importance of government procurement for many services sectors aroused our

Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

curiosity to see how much PTAs had achieved in this area, in comparison with the multilateral arena, where the issue shines largely by its absence.

Our motivating questions were simple. How much liberalization has been achieved in these sectors and areas at the WTO and in bilateral PTAs? What are the key negotiating issues and challenges faced? Further, can we draw lessons from the bilateral negotiations that could be used in pursuing liberalization objectives at the WTO? In replying to these questions, however, we wanted the chapters of this book to provide not just an analysis of negotiating issues but also an overview of the different industries. As far as possible, then, all the chapters share a similar structure: they review the major trends in these industries, highlighting both the evolution of regulatory practices and the underlying market forces; they discuss trade policy in these sectors, identifying the main barriers and actors; and they discuss, of course, trade negotiations, analyzing market access achievements in both multilateral and bilateral fora.

If choosing the sectors was difficult, summarizing the content of all these chapters is no less daunting. Therefore, we limit ourselves to the main thrust of each chapter – a sort of “*avant-gôût*”.

As explained by Roy, technological advances are exerting an increasingly strong influence on the way **audiovisual services** are consumed, distributed, and traded. These services have long been a sensitive issue in the WTO, where key members have traditionally held very divergent views. It is therefore not surprising that this sector has failed to attract either a significant number of commitments under the GATS or offers in the Doha Round. In comparison, PTAs have provided for significant advances. Indeed, the audiovisual industry is one of the sectors where the contrast between multilateral and preferential commitments is the greatest. These advances may not transpose so easily to the multilateral arena, however. On the one hand, discussions are more polarized at the WTO, especially as regards the cultural aspects. On the other hand, larger countries do not exert the same kind of negotiating pressure on their trading partners in a multilateral context. Paradoxically, these difficulties, probably inherent to any multilateral discussion on these matters, might further encourage the pursuit of audiovisual commitments on a bilateral basis, even though the multilateral arena should be the optimal one for considering fully both the commercial and cultural aspects involved.

**Air transport services** have been even less lucky than audiovisual services, as Latrille explains. Indeed, the sector has been excluded – for

Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

the most part – from multilateral and bilateral trade agreements, and commitments on the few activities included in the GATS and PTAs have not been extensive. This situation is a clear reflection of the myriad of regulatory controls applied to this sector in the post-World-War-II era, including the management of trade through a multitude of bilateral reciprocal aviation agreements. In this context, the chapter undertakes a comprehensive review of air services agreements, including “open skies agreements”, and maps out their key features and the resulting state of play in terms of liberalization. This raises the question of how best to capture and extend the openness achieved in the bilateral and plurilateral contexts. Overall, the future may not be so bleak, as market forces continue to unfold almost everywhere.

Despite being an essential infrastructure service in any economy, as explained by Roy, **distribution** services have not attracted significant multilateral commitments. Preferential trade agreements, however, have provided for a number of advances, especially as regards the market access commitments of developing countries. With the use of an index that illustrates the extent to which governments restrict competition in the sector, the chapter shows that many countries that have avoided liberalization commitments in this sector apply in fact few or no restrictions to trade in this area, at least under mode 3 (trade through commercial presence). That said, a number of developing countries continue to maintain important restrictions, but the experience of a number of governments over the past decades suggests that trade negotiations – whether bilateral or multilateral – can help encourage and consolidate reforms in the sector.

Some sectors have been “winners” in past multilateral negotiations. Cases in point are telecommunication and financial services, where post-Uruguay Round negotiations provided in both cases for significant commitments. As explained by Tuthill and Sherman, governments all over the world have now generally embraced competition in **telecommunications** as a means of achieving national policy objectives in both the sector itself and the economy as a whole. The willingness of governments to lock in their telecom reforms in international commitments has been impressive. Today, over 100 WTO members have WTO commitments that allow new entrants to compete in some or all segments of the industry. The situation is still brighter in PTAs, where the majority of agreements provide for further improvements over GATS commitments,

Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

by covering more services, decreasing foreign ownership caps, and, in some cases, eliminating them entirely. Countries have even gone a step further in bilateral PTAs by enhancing disciplines on regulatory matters beyond the WTO Reference Paper, in order to deal more effectively with new technologies and services, as well as convergence. The advances in PTAs may be a question of timing, as some countries continued to liberalize well after the previous WTO negotiations were concluded in 1997, and decided to lock in those reforms in the first available trade negotiation, which happened to be bilateral. While the stumbling blocks faced by WTO negotiations have never been telecom-specific, it remains to be seen whether these PTA commitments can be “multilateralized” once other WTO negotiating issues are resolved.

As explained by Marchetti, the **financial services** sector has been going through a dramatic process of change for the last two decades. Technological innovation, deregulation, and the opening up of financial systems to international competition, amongst other factors, have reshaped the financial landscape for ever. Against this background, trade in financial services has expanded at a rapid pace, prompting a deeper integration of markets worldwide. In parallel to these developments, countries have negotiated international agreements at the bilateral and multilateral levels in order to consolidate and foster the expansion of cross-border competition in financial services. PTA negotiations have indeed provided for significant advances compared to the WTO, but barriers remain, particularly in developing countries. After the analysis of bilateral and multilateral negotiations, the author points to two forward-looking ideas. On the one hand, the WTO appears as the most appropriate forum for binding liberalization, providing a true global platform for financial services. On the other hand, the negotiating model, at both the multilateral and bilateral levels, may need to be updated, by giving higher priority to the liberalization of cross-border trade in financial services in line with the evolving best practices around the world. That would not only reflect the global nature of the financial business, but would also provide an incentive to countries to continually modernize their regulatory regimes.

In spite of their economic importance, some sectors such as energy and postal-courier services are “newcomers” to the trade arena. In her chapter, Zhang explains that the **postal** sector was traditionally characterized by state-owned monopolies providing basic mail services and privately owned



Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

courier companies handling parcels and providing expedited mails services. Since the 1990s, however, market reforms have prompted significant changes in the industry, in many cases blurring the old boundary between public and private operators. The reforms have cut both ways, moreover, with private operators venturing into areas that were formerly monopolized, and public operators competing in the express/courier segment of the market. Commitments in this sector at the WTO are minimal. Countries have bound higher levels of liberalization in bilateral PTAs, although trade negotiations have not been the main force leading liberalization in the sector. As emphasized by Zhang, liberalization of the sector is at such a historic juncture that policy and regulatory matters deserve further attention.

**Energy services**, as becomes evident in Cossy's chapter, were one of the "forgotten" sectors during the Uruguay Round, not only because of the low level of liberalization commitments but also because its actual classification among other service sectors is not absolutely clear. PTAs have provided for market access advances compared to the GATS. The question is not, as explained by the author, whether PTAs go further than the GATS, but to what extent they go further. The situation varies considerably from one PTA to another, and significant differences are found between negative- and positive-list PTAs. What is clear, thinking about the DDA negotiations, where energy services have been given a clear focus, is that most WTO members have scope – and sometimes significant scope – for improving their GATS commitments and DDA offers.

As stated earlier, this book also deals with important negotiating issues, such as the liberalization of cross-border trade in services, the temporary movement of natural persons, and government procurement of services.

For different reasons, the liberalization of cross-border trade and the movement of natural persons have been addressed as "horizontal" matters in the WTO. As explained by Carzaniga, **mode 4** has always had a unique status in the GATS. Undeniably, various developing countries have a comparative advantage in the supply of many services through the temporary movement of natural persons. Nevertheless, governments' concerns, in developed and developing countries alike, about temporary migration turning into permanent presence, as well as other sensitivities, have always haunted negotiations on this matter. Moreover, negotiations on this issue typically get mixed up with migration-related aspects. It should not be a surprise, then, that multilateral negotiations during the

Cambridge University Press

978-0-521-73591-9 - Opening Markets for Trade in Services: Countries and Sectors in Bilateral and WTO Negotiations

Edited by Juan A. Marchetti and Martin Roy

Excerpt

[More information](#)

Uruguay Round, and so far in the Doha Round, have not yielded satisfactory outcomes, particularly in the eyes of the main *demandeurs*. Assessing progress in this area in the bilateral context is not straightforward. On the one hand, bilateral negotiations do not seem to have escaped the political sensitivities surrounding the movement of natural persons, and commitments in PTAs on categories of natural persons of most interest for developing countries are far from reaching their full potential. On the other hand, mode 4 commitments in PTAs provide for a number of advances, especially when compared with the shallow state of existing GATS commitments and modest progress in Doha offers. That said, the WTO, where power relationships are not as asymmetrical as in bilateral negotiations, probably presents a better forum for developing countries to obtain concessions in this area.

One of the notable trends in recent years has been the increasing importance of the **cross-border supply of services**, through such activities as business process offshoring (BPO). Developing countries are quickly taking advantage of these developments by exploiting their natural comparative advantage in labor-intensive services, and by putting in place appropriate policies to develop the necessary infrastructure. India is the paradigmatic case, but others are joining the bandwagon. Mindful of these trends, and aware of the big economic stakes involved, developing countries have turned the expansion of the cross-border supply of services into one of their workhorses – together with mode 4 – in the current Doha Development Agenda.

The chapter by Chaudhuri and Karmakar explains these trends and provides, as do other chapters, a comparison of bilateral and multilateral negotiations. While the issue of cross-border supply has been specifically identified in the WTO as a unique negotiating issue, amenable to a “formula type” of negotiation whereby all countries could undertake similar commitments in a cluster of many services sectors, it does not seem to have acquired such a status in bilateral negotiations. Nonetheless, the analysis shows that PTAs have in general led to substantial improvements in binding commitments. Developing countries, for example, have undertaken very significant commitments in PTAs, which have not been reflected thus far in their offers at the WTO. On the other hand, in spite of improvements, significant gaps remain in the bilateral commitments undertaken by developed countries. In the authors’ view, the WTO may be the only forum where a “grand trade-off” in this area can be attempted