THE PRUDENTIAL CARVE-OUT FOR FINANCIAL SERVICES

The World Trade Organization's (WTO's) General Agreement on Trade in Services (GATS) sets out a framework and rules for the liberalisation of international trade in services. Paragraph 2(a) of the GATS Annex on Financial Services is generally known as the Prudential Carve-Out (PCO). Notwithstanding GATS obligations, it allows WTO Members to pursue prudential regulatory objectives. This book studies the GATS PCO in light of its negotiating history and economic rationale as well as PCOs in all preferential trade agreements notified to the WTO Secretariat up to the summer of 2017. The author clarifies the state of play of international cooperation on financial services regulation, provides a current understanding of the GATS PCO, analyses how PCOs are drafted in preferential trade agreements and, finally, seeks to understand whether alternative approaches to the mainstream understanding of the PCO are possible and suggests options for reform.

CARLO MARIA CANTORE is a lecturer in International Trade and Investment Law at the University of Antwerp.
As the processes of regionalisation and globalisation have intensified, there have been accompanying increases in the regulations of international trade and economic law at the levels of international, regional and national laws. The subject matter of this series is international economic law. Its core is the regulation of international trade, investment and cognate areas such as intellectual property and competition policy. The series publishes books on related regulatory areas, in particular human rights, labour, environment and culture, as well as sustainable development. These areas are vertically linked at the international, regional and national level, and the series extends to the implementation of these rules at these different levels. The series also includes works on governance, dealing with the structure and operation of related international organisations in the field of international economic law, and the way they interact with other subjects of international and national law.

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Rationale and Practice in the GATS and Preferential Trade Agreements

CARLO MARIA CANTORE

University of Antwerp
The Prudential Carve-Out for Financial Services
Carlo Maria Cantore

Cambridge University Press, 2018

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First published 2018

Printed in the United Kingdom by Clays, St Ives plc

A catalogue record for this publication is available from the British Library

Library of Congress Cataloging-in-Publication data

Names: Cantore, Carlo Maria, 1986–, author.

Title: The prudential carve-out for financial services : rationale and practice in the GATS and preferential trade agreements / Carlo Maria Cantore, University of Antwerp.


Identifiers: LCCN 2018000410 | ISBN 9781108415767


LC record available at https://lccn.loc.gov/2018000410


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A Mamma e Papà
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ACKNOWLEDGEMENTS

Kim Hughes, Abigail Neale, Elizabeth Budd, Bhawna Batra and the staff of Cambridge University Press made the birth of this book possible, and I will be forever grateful for their patience and support.

This book is a revised version of my PhD thesis, which I wrote and defended at the European University Institute (EUI) of Florence. The manuscript was submitted on 30 October 2017, and covers developments that took place at that date. Whilst I am the sole responsible party for any errors and shortcomings the reader might find in it, this book would not have seen the light of day without the precious help and support I received from several people and institutions.

I need to thank the Italian Ministry of Foreign Affairs and the European University Institute for granting me a full PhD scholarship.

Not a single word would have been written without the tireless help of my supervisor Petros Mavroidis. I had the privilege of being his research assistant in Florence over four years and to share with him the most random and hilarious moments. I owe him everything I know about law (which is still much too little), and I hope he will keep forgiving me for the many (many) things that I still do not know after all this time by his side. Although I miss our endless afternoons in his office, discussing law and life, things have not really changed. He has been and will always be my one and only mentor, a role model and one of my best friends.

The core idea of this work took shape in endless discussions with Juan Marchetti, when I was an intern at the Trade in Services Division of the WTO. He is one of the most knowledgeable and generous people I have ever met, and I am glad he accepted the request to serve as jury member for my PhD defence. Bernard Hoekman and Jean-François Bellis (the other two members of the jury) gave me very useful comments, which I tried to fully incorporate in the final version of the manuscript.

Gustavo Luengo Hernández de Madrid and Bart De Meester gave me invaluable feedback on my ideas and earlier drafts. Cristiano Cantore, my brother, helped me understand the economics behind what I was writing.

Giuseppe Martinico, as always, has been a great guide and prevented me from making wrong decisions. I owe immense gratitude to him and to Prof. Paolo Carrozza, my supervisor at Sant’Anna School, who supported me even when I chose to leave my first academic nest.

I warmly thank the administrative staff of the institutions that hosted me during the stops of my journey: the EUI (in particular, Eleonora Masella and Laurence Duranel), the WTO and the European Commission.

The personnel of the libraries of the EUI (especially Machteld Nijsten and Alberto Caselli), Sant’Anna, the WTO, the European Commission and Columbia Law School made my path much smoother than it would have otherwise been.

At Van Bael & Bellis, the law firm where I was working at the time of finalising this book, I had the luck of sharing my journey with some of my favourite trade lawyers in the world: Gabriele Coppo, Sidonie Descheemaeker, Kornel Olsthoorn, Francesco Pili, Aldo Scalini, Benoît Servais, Andrea Tel and Isabelle Van Damme. My discussions with them are somewhat reflected in the volume.

I am also indebted to many more people for what they have given me over the years. James, in addition to being my wingman during my Florentine period, pointed out the many flaws in my arguments. I believe his path towards sanctity has become much shorter since he met me. All I can say is that I am a much more relaxed person since I met him. Together he, Benedita and Luisa have been my Florentine family. They were always there for me, and I will always keep every moment of our long hours in via dei Rustici and Santo Spirito in my heart. Pasquale and Elena were amazing house-mates and keep being amazing friends.

Other friends in Potenza, Florence, Pisa, Geneva and Brussels deserve credit as well. It would take too many pages to thank them all one by one, but they clearly know whom I am referring to.

I owe Chiara more than can be expressed in words. I cannot promise her that our post-book life will be more relaxing, but she can rest assured that we will make the best out of it, together.
ACKNOWLEDGEMENTS

My debt to all the aforementioned people is enormous, as is the debt to my parents and to my brother. They have done and continue doing anything in their power to support me, and I thank them from the bottom of my heart. This book, like everything else, is for them.

Bruxelles, 30 October 2017
## ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>AA</td>
<td>Articles of Agreement of the International Monetary Fund</td>
</tr>
<tr>
<td>AB</td>
<td>Appellate Body</td>
</tr>
<tr>
<td>ALOP</td>
<td>adequate level of protection</td>
</tr>
<tr>
<td>ANZCERTA</td>
<td>Australia New Zealand Closer Economic Agreement</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of South-East Asian Nations</td>
</tr>
<tr>
<td>BCBS</td>
<td>Basel Committee on Banking Supervision</td>
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<tr>
<td>BIS</td>
<td>Bank for International Settlement</td>
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<tr>
<td>BRRD</td>
<td>Bank Recovery and Resolution Directive</td>
</tr>
<tr>
<td>CA</td>
<td>Agreement on Civil Aircraft</td>
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<tr>
<td>CCP</td>
<td>central counterparty</td>
</tr>
<tr>
<td>CETA</td>
<td>EU–Canada Comprehensive Economic and Trade Agreement</td>
</tr>
<tr>
<td>CRD</td>
<td>Capital Requirements Directive</td>
</tr>
<tr>
<td>CRTA</td>
<td>Committee on Regional Trade Agreements</td>
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<tr>
<td>CSDs</td>
<td>central securities depositories</td>
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<tr>
<td>CSI</td>
<td>Coalition of Services Industry</td>
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<td>CTFS</td>
<td>Committee on Trade in Financial Services</td>
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<td>EAC</td>
<td>East African Community</td>
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<tr>
<td>EEA</td>
<td>European Economic Area</td>
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<tr>
<td>EFTA</td>
<td>European Free Trade Association</td>
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<td>EMIR</td>
<td>European Markets and Infrastructure Regulation</td>
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<tr>
<td>FSB</td>
<td>Financial Stability Board</td>
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<tr>
<td>FSOC</td>
<td>Financial Stability Oversight Council</td>
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<tr>
<td>GATT 1947 and GATT 1994</td>
<td>General Agreement on Tariffs and Trade</td>
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<td>GATS</td>
<td>General Agreement on Trade in Services</td>
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<td>GDP</td>
<td>gross domestic product</td>
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<tr>
<td>GNS</td>
<td>Group Negotiations on Services</td>
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<td>GPA</td>
<td>Agreement on Government Procurement</td>
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<tr>
<td>G-SIBs</td>
<td>Global Systemically Important Banks</td>
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<tr>
<td>G-7</td>
<td>Group of Seven</td>
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<tr>
<td>G-10</td>
<td>Group of Ten</td>
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<td>G-20</td>
<td>Group of Twenty</td>
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<tr>
<td>HFT</td>
<td>high-frequency trading</td>
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LIST OF ABBREVIATIONS

HQLA  high-quality liquid assets
IAIS  International Association of Insurance Supervisors
IBM  International Bovine Meat Agreement
IC  Inuit community
IDA  International Dairy Agreement
IMF  International Monetary Fund
IOSCO  International Organization of Securities
        Commissions
LCR  liquidity coverage ratio
LoI  Letter of Intent
LTV  loan-to-value
MERCOSUR  Mercado Común del Sur (in Spanish)
MFN  Most Favoured Nation
MiFID  Markets in Financial Instruments Directive
MiFIR  Markets in Financial Instruments Regulation
MoU  Memorandum of Understanding
MRA  mutual recognition agreement
NAFTA  North American Free Trade Agreement
NT  National Treatment
OECD  Organization for Economic Cooperation and Development
OTC  over-the-counter
PCO  prudential carve-out
PTA  preferential trade agreement
RCEP  Regional Comprehensive Economic Partnership
RGFS  Really Good Friends of Services
SEACEN  South East Asian Central Banking and Monetary Authorities
SIFIs  systemically important financial institutions
SPS  Agreement on the Application of Sanitary and Phytosanitary Measures
TBT  Agreement on Technical Barriers to Trade
TED  Turtles Excluder Device
TiSA  Trade in Services Agreement
TNC  Trade Negotiations Committee
TPP  Trans-Pacific Partnership
TPRM  Trade Policy Review Mechanism
TTIP  Trans-Atlantic Trade and Investment Partnership
UN  United Nations
URR  Unremunerated Reserve Requirements
USTR  United States Trade Representative
VCLT  Vienna Convention on the Law of Treaties
CITED PANEL AND APPELLATE BODY REPORTS

<table>
<thead>
<tr>
<th>Country – Services</th>
<th>Description</th>
<th>Reference</th>
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LIST OF CITED PANEL AND APPELLATE BODY REPORTS

EC – Sardines  

EC – Seal Products  

India – Quantitative Restrictions  

Mexico – Telecoms  

Turkey – Textiles  

US – Clove Cigarettes  

US – Gambling  

US – Gambling  

US – Gasoline  

US – Offset Act (Byrd Amendment)  
LIST OF CITED PANEL AND APPELLATE BODY REPORTS

**US – Shrimp (Article 21.5 – Malaysia)**


**US – Shrimp**
