

NEGOTIATIONS OF TRADE IN SERVICES: COUNTRIES OF MERCOSUR AND NAFTA

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I. INTRODUCTION

International trade in services became today one of the new and relevant subjects.

After considering services as non tradables, it has been emphasized that the principle of comparative advantage could be applied.

Potential contribution to the economy of efficient services.

Higher weight of services among the sectors leading economic growth.

Domestic deregulation as a necessary complement to offer new opportunities to trade and investments.

Restrictions are given by international commitments and the asymmetry of domestic regulations.

The problem of empirical treatment of services trade is the lack of information on prices and quantities. Available data (subsidies or regulations) do not reveal the degree of protection.

II. INITIAL CONDITIONS FOR NEGOTIATIONS OF MERCOSUR AND NAFTA COUNTRIES

1. The framework of the general agreement of trade in services

GATS main characteristics:

- i) rules, principles and general agreements;
- ii) specific commitments on Market Access and National Treatment;
- iii) commitment of periodic negotiations to progressively liberalize trade in services;
- iv) accessories taking into account some particularities of the sectors.

GATS included four modes of supply among members:

- i) from the territory of one to the territory of another (Cross Border Supply);
- ii) in the territory of one to a consumer of another (Consumption Abroad);
- iii) commercial presence of a provider in the territory of another member (Commercial Presence);
- iv) physical presence of persons of one member in a territory of another (Presence of Natural Persons).

The Balance of Payments measurement of trade in services uses the residence criterion, then the importance of services according to the modes of supply defined in GATS is underestimated. Especially concerning factor services, where the mode “Commercial Presence” mainly results in transactions among residents.

Trade in services is not restricted to a large extent by tariffs, this makes liberalizing services difficult. The complexity of identification and quantification of trade in services required introduction of rules. National Treatment and the Most Favored Nation (MFN) clauses have helped identifying restrictions and reciprocity relations. The only way of departing from MFN is the Annex on exceptions to MFN treatment.

GATS introduced the concept of Market Access, which together with National Treatment, are specific commitments only applied to the positive list and subject to the qualifications and indicated conditions. Market Access refers to non discrimination of suppliers entering the market (either domestic or foreign). National Treatment refers to non discrimination between domestic and foreign suppliers.

2. GATS commitments of MERCOSUR and NAFTA countries in 1994

**Table 1. MERCOSUR countries: Market Access negotiations in GATS.
Commitments by country, 1994.**

	Argentina	Brazil	Paraguay	Uruguay	Average Latin America
1) Number of commitments negotiated	208	156	36	96	119
2) N° of commitments negotiated without restrictions	136	19	18	67	49.1
3) Number of commitments negotiated / Total list of GATS (620), (%)	33.5	25.2	5.8	15.5	19.2
4) Number of commitments negotiated without restrictions / Number of commitments negotiated ((2) / (1) * 100)	65.4	12.2	50.0	69.8	41.3

Source: Own elaboration based on data provided by Hoekman; some results appear in his 1995 paper.

**Table 2. NAFTA countries: Market Access negotiations in GATS.
Commitments by country, 1994.**

	Canada	Mexico	USA	Average OECD
1) Number of commitments negotiated	352	252	384	330.4
2) N° of commitments negotiated without restrictions	186	79	221	188.9
3) Number of commitments negotiated / Total list of GATS (620), (%)	56.8	40.6	61.9	53.3
4) Number of commitments negotiated without restrictions / Number of commitments negotiated ((2) / (1) * 100)	52.8	31.3	57.6	57.2

Source: Own elaboration based on data provided by Hoekman; some results appear in his 1995 paper.

**Table 3. MERCOSUR countries: GATS Market Access commitments.
Averages negotiated by sector, 1994.**

Type of Service	Argentina	Brazil	Paraguay	Uruguay	Average Latin America
1. Business Services	34.8	23.9	-	32.6	21.1
2. Communication Services	37.5	4.2	-	4.2	16.9
3. Construction and related Engineering Services	80.0	100.0	-	-	26.3
4. Distribution Services	60.0	60.0	-	-	10.0
5. Educational Services	-	-	-	-	3.8
6. Environmental Services	-	-	-	-	1.6
7. Financial Services	94.1	76.5	35.3	17.6	44.5
8. Health Related and Social Services (Other than those listed under 1A)	-	-	-	-	7.8
9. Tourism and Travel Related Services	100.0	25.0	75.0	75.0	67.2
10. Recreational, Cultural and Sporting Services (other than Audiovisual Services)	-	-	-	20.0	8.8
11. Transport Services	-	14.3	-	2.9	8.4
12. Other Services not included Elsewhere	-	-	-	-	-
Mean	33.5	25.2	5.8	15.5	18.0

Source: Own elaboration based on data provided by Hoekman, some of them published in his 1995 paper.

**Table 4. NAFTA countries: GATS Market Access Negotiations.
Averages negotiated by sector and country, 1994**

Type of Service	Canada	Mexico	USA	Average OECD
1. Business Services	73.9	50.0	73.9	68.1
2. Communication Services	33.3	16.7	58.3	36.6
3. Construction and related Engineering Services	100.0	80.0	100.0	82.2
4. Distribution Services	100.0	40.0	80.0	65.6
5. Educational Services	-	80.0	40.0	44.4
6. Environmental Services	100.0	-	100.0	70.8
7. Financial Services	94.1	94.1	94.1	88.9
8. Health Related and Social Services (Other than those listed under 1.A)	-	50.0	25.0	15.3
9. Tourism and Travel Related Services	50.0	75.0	100.0	72.2
10. Recreational, Cultural and Sporting Services (other than Audiovisual Services)	-	-	80.0	37.8
11. Transport Services	40.0	11.4	22.9	27.0
12. Other Services not included Elsewhere	-	1.0	-	0.1
Mean	56.8	40.6	61.9	50.8

Source: Own elaboration based on data provided by Hoekman, some of them published in his 1995 paper.

3.Liberalization signals of GATS commitments in 1994 and effect of the Protocols of Telecommunications and Financial Services (MERCOSUR and NAFTA countries)

The indices of relative coverage provided an openness measure of negotiated commitments (items 7 and 8 of the next tables). The Hoekman (1995) method was used assigning values to each commitment in three categories:

- i)"None": the country does not have any measure violating market access for a certain mode of supply, assigning them a value of "one";
- ii) "Unbound": the country does not negotiate commitments for a certain mode of supply, a "zero" value was assigned to it;
- iii) "Other": a country introduces some restriction in a mode of supply, in the measurement a value of "0.5" was computed.

Table 5a. MERCOSUR countries: Commitments by mode of supply. Market Access in the Uruguay Round and the adjustment due to the Protocols of Telecommunications and Financial Services

Market Access (MA)	Argentina					Brazil				
	CBS	CA	CP	PNP	Total	CBS	CA	CP	PNP	Total
- GATS 1994										
(1) Total Possible items	155	155	155	155	620	155	155	155	155	620
(2) Negotiated commitments	52	52	52	52	208	39	39	39	39	156
(3) "No Restriction" commitments	39	49	48	0	136	2	0	17	0	19
(4) = (2) / (1) x 100	33.5	33.5	33.5	33.5	33.5	25.2	25.2	25.2	25.2	25.2
(5) = (3) / (2) x 100	75.0	94.2	92.3	0.0	65.4	5.1	0.0	43.6	0.0	12.2
(6) = (3) / (1) x 100	25.2	31.6	31.0	0.0	21.9	1.3	0.0	11.0	0.0	3.1
(7) Average sectoral coverage (%)	25.2	31.6	31.9	16.8	26.4	2.3	0.3	14.8	12.6	7.5
(8) = (7) / (4) x 100	75.0	94.2	95.2	50.0	78.6	9.0	1.3	59.0	50.0	29.8
- GATS 1994 and protocols										
(1) Total Possible items	155	155	155	155	620	155	155	155	155	620
(2) Negotiated commitments	58	58	58	58	232	56	56	56	56	224
(3) "No Restriction" commitments	41	55	48	0	144	9	15	26	0	50
(4) = (2) / (1) x 100	37.4	37.4	37.4	37.4	37.4	36.1	36.1	36.1	36.1	36.1
(5) = (3) / (2) x 100	70.7	94.8	82.8	0.0	62.1	16.1	26.8	46.4	0.0	22.3
(6) = (3) / (1) x 100	26.5	35.5	31.0	0.0	23.2	5.8	9.7	16.8	0.0	8.1
(7) Average sectoral coverage (%)	27.7	35.5	33.9	18.7	29.0	9.2	10.0	28.4	18.1	16.4
(8) = (7) / (4) x 100	74.1	94.8	90.5	50.0	77.4	25.4	27.7	78.6	50.0	45.4

Source: Own estimates of the effects of the protocols of Telecommunications and Financial Services added to the data provided by Hoekman (1995) for the outcome of the Uruguay Round. CBS: Cross border supply; CA: Consumption abroad; CP: Commercial presence; PNP: Presence of natural persons.

Table 5b. MERCOSUR countries: Commitments by mode of supply. Market Access in the Uruguay Round and the adjustment due to the Protocols of Telecommunications and Financial Services

Market Access (MA)	Paraguay					Uruguay				
	CBS	CA	CP	PNP	Total	CBS	CA	CP	PNP	Total
- GATS 1994										
(1) Total Possible items	155	155	155	155	620	155	155	155	155	620
(2) Negotiated commitments	9	9	9	9	36	24	24	24	24	96
(3) "No Restriction" commitments	5	5	8	0	18	23	24	20	0	67
(4) = (2) / (1) x 100	5.8	5.8	5.8	5.8	5.8	15.5	15.5	15.5	15.5	15.5
(5) = (3) / (2) x 100	55.6	55.6	88.9	0.0	50.0	95.8	100	83.3	0.0	69.8
(6) = (3) / (1) x 100	3.2	3.2	5.2	0.0	2.9	14.8	15.5	12.9	0.0	10.8
(7) Average sectoral coverage (%)	3.2	3.2	5.5	2.9	3.7	15.2	15.5	14.2	7.7	13.1
(8) = (7) / (4) x 100	55.6	55.6	94.4	50.0	63.9	97.9	100	91.7	50.0	84.9
- GATS 1994 and protocols										
(1) Total Possible items	155	155	155	155	620	155	155	155	155	620
(2) Negotiated commitments	9	9	9	9	36	27	27	27	27	108
(3) "No Restriction" commitments	5	5	8	0	18	25	26	21	0	72
(4) = (2) / (1) x 100	5.8	5.8	5.8	5.8	5.8	17.4	17.4	17.4	17.4	17.4
(5) = (3) / (2) x 100	55.6	55.6	88.9	0.0	50.0	92.6	96.3	77.8	0.0	66.7
(6) = (3) / (1) x 100	3.2	3.2	5.2	0.0	2.9	16.1	16.8	13.5	0.0	11.6
(7) Average sectoral coverage (%)	3.2	3.2	5.5	2.9	3.7	16.5	16.8	15.5	8.7	14.4
(8) = (7) / (4) x 100	55.6	55.6	94.4	50.0	63.9	94.4	96.3	88.9	50.0	82.4

Source: Own estimates of the effects of the protocols of Telecommunications and Financial Services added to the data provided by Hoekman (1995) for the outcome of the Uruguay Round.. CBS: Cross border supply; CA: Consumption abroad; CP: Commercial presence; PNP: Presence of natural persons.

Table 6. NAFTA countries GATS Commitments by mode of supply. Market Access in the Uruguay Round and after the adjustment due to protocols of Telecommunications and Financial Services.

Market Access (MA)	Canada					Mexico					USA				
	GATS 1994	CBS	CA	CP	PNP	Total	CBS	CA	CP	PNP	Total	CBS	CA	CP	PNP
(1) Total Possible items	155	155	155	155	620	155	155	155	155	620	155	155	155	155	620
(2) Negotiated commitments	88	88	88	88	352	63	63	63	63	252	96	96	96	96	384
(3) "No Restriction" commitments	59	70	57	0	186	32	47	0	0	79	77	82	62	0	221
(4) = (2) / (1) x 100	56.8	56.8	56.8	56.8	56.8	40.6	40.6	40.6	40.6	40.6	61.9	61.9	61.9	61.9	61.9
(5) = (3) / (2) x 100	67.0	79.5	64.8	0.0	52.8	50.8	74.6	0.0	0.0	31.3	80.2	85.4	64.6	0.0	57.6
(6) = (3) / (1) x 100	38.1	45.2	36.8	0.0	30.0	20.6	30.3	0.0	0.0	12.7	49.7	52.9	40.0	0.0	35.6
(7) Average sectoral coverage (%)	47.4	50.6	46.8	28.4	43.3	21.3	30.3	19.0	15.2	21.5	55.8	57.4	51.0	31.0	48.8
(8) = (7) / (4) x 100	83.5	89.2	82.4	50.0	76.3	52.4	74.6	46.8	37.3	52.8	90.1	92.7	82.3	50.0	78.8
- GATS 1994 and protocols	CBS	CA	CP	PNP	Total	CBS	CA	CP	PNP	Total	CBS	CA	CP	PNP	Total
(1) Total Possible items	155	155	155	155	620	155	155	155	155	620	155	155	155	155	620
(2) Negotiated commitments	96	96	96	96	384	69	69	69	69	276	104	104	104	104	416
(3) "No Restriction" commitments	59	78	57	0	194	32	52	0	0	84	84	89	62	0	235
(4) = (2) / (1) x 100	61.9	61.9	61.9	61.9	61.9	44.5	44.5	44.5	44.5	44.5	67.1	67.1	67.1	67.1	67.1
(5) = (3) / (2) x 100	61.5	81.3	59.4	0.0	50.5	46.4	75.4	0.0	0.0	30.4	80.8	85.6	59.6	0.0	56.5
(6) = (3) / (1) x 100	38.1	50.3	36.8	0.0	31.3	20.6	33.5	0.0	0.0	13.5	54.2	57.4	40.0	0.0	37.9
(7) Average sectoral coverage (%)	50.0	55.8	49.4	31.0	46.5	22.9	33.5	21.0	16.8	23.5	60.3	61.9	53.5	33.2	52.3
(8) = (7) / (4) x 100	80.7	90.1	79.7	50.0	75.1	51.4	75.4	47.1	37.7	52.9	89.9	92.3	79.8	49.5	77.9

Source: Own estimates of the effects of the protocols of Telecommunications and Financial Services added to the data provided by Hoekman (1995) for the outcome of the Uruguay Round. CBS: Cross border supply; CA: Consumption abroad; CP: Commercial presence; PNP: Presence of natural persons.

III. SOME BUILDING BLOCKS

1. The aggregates

GATS had different results: making commitments at the statu quo level, signing below the statu quo and promising future liberalization. A number of countries were of the statu quo type. Others committed themselves below statu quo, due to transaction costs of reversals, or being part of an association.

Evaluation of openness in GATS liberalization commitments showed an asymmetry among modes of supply for some countries of MERCOSUR, with higher liberalization signals for Commercial Presence (CP) than for Cross Border Supply (CBS). Confirmation of them requires an analysis of domestic regulations. Dispersion of commitments among countries would require regional negotiations towards a convergence of national positions.

Countries of NAFTA showed higher liberalization commitments in negotiations. Additional effect of Protocols of Telecommunications and Financial Services was small, with higher shares of items without restrictions of USA and Canada compared with Mexico.

2. Selected sectoral issues

a. Telecommunications

The number of commitments negotiated by Argentina and Brazil was important with no bias towards Commercial Presence, and the number of “no restriction” commitments was also important. The liberalizing signals in NAFTA countries were more important for Canada and the USA, with Mexico showing lower commitments than Argentina and Brazil.

b. Insurance Services

Analysis of negotiations showed a more protective attitude of Brazil compared with Argentina. Higher commitments for CP compared with CBS were clear for MERCOSUR countries, with a larger gap for Brazil and Paraguay.

In NAFTA countries, Canada and the USA showed the highest coverage of concessions corresponding to Consumption Abroad, Mexico showed higher commitments for Commercial Presence than for Cross Border Supply. In the USA, the regulations of the States were an important source of heterogeneity.

c. The “Reference Paper” and the “Understanding” as guidelines of commitments in Telecommunications and Financial Services

The “Reference paper” and the “Understanding” are basic guidelines for negotiations in the WTO. The first includes disciplines for non discrimination regarding access to public networks, securing universal service and independence of regulators. The “Understanding” establishes measures a member could not adopt (maintain), or about widening obligations of members committing some sector. But, in Insurance Services, direct insurance is excluded.

d. Regional Integration Agreements

Article V for services is similar to Article XXIV of GATT. To profit from the exception of Article II the agreements should: cover substantially all trade, all discrimination be removed, and the overall level of barriers not being increased. While liberalization of services at the multilateral level has been modest, at the regional level it has increased rapidly in NAFTA, the EU and APEC.

Approaches: GATS establishes gradual liberalization in successive rounds of commitments with a positive list. In NAFTA, CBS or CP modes of supply are liberalized of all restrictions, unless specified on the negative list. In APEC only ASEAN follows GATS rules, the others opted for a negative list approach.

3. Trade perspectives

Trade patterns of MERCOSUR: in the past intra-industry trade was important due to dismantling regional tariff barriers allowing market access; in the future a higher intra-industry trade may be due to the removal of non-tariff restrictions. Concerning NAFTA countries, the factor content of trade between them and MERCOSUR reveals that trade adjustment will be biased towards an inter-industry pattern.

Services embodied in inter-industry trade of goods will generate asymmetric flows of services, with higher services content in imports based on technology and skilled labor compared with exports based on natural resources. This could result in net import content of services, which may be changed by trade fragmentation of goods, replacing by Commercial Presence expensive non-traded services from the exporting countries.

4. Negotiation issues

Negotiating the FTAA would imply for the countries of MERCOSUR some itinerary related to perfecting the agreement, which would have effects in future investments. The important negotiation issues are:

- Type of agreement and negotiation methods.
- Coverage of commitments regarding their present asymmetry and the different constitutional organization of the countries.
- Exceptions to the MFN principle and the treatment of pre-existing commitments.
- Restrictions imposed by domestic regulation and the possibility of regulatory cooperation.
- Characteristics of the services regarding their specific use.
- Intensity of commitments for different modes of supply.
- Interaction between the negotiation of goods and services.
- Size of firms engaged in the provision of services and market power.

The road ahead is related to:

- Studying further the effect of liberalization and deregulation of services on the competitiveness of trade in goods.
- Identifying specific services before using general rules which might be desirable for simplicity.
- Identifying detailed information of specific domestic regulations which would be important for the negotiating agenda.