THE 1997 GATS AGREEMENT ON BASIC TELECOMMUNICATIONS: A TRIUMPH FOR MULTILATERALISM, OR THE MARKET?

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INTRODUCTION

On February 15, 1997, sixty-nine governments signed an agreement seeking to liberalize the world telecommunications market - a market, according to Renato Ruggiero, the Director-General of the World Trade Organization (WTO), worth “well over half a trillion dollars per year.” According to Ruggiero, these sixty-nine countries making commitments account for more than 90% of telecommunications revenue worldwide. In a statement issued February 17, 1997, Ruggerio congratulated the governments for their “determination and foresight in bringing this negotiation to a successful conclusion.” Perhaps in acknowledgment of the many delays in concluding the agreement, Ruggiero said that not all the decisions had been easy. “But in the end,” he concluded, “member governments have put their faith in the multilateral process of the WTO, and the WTO has delivered.” [1]

Is that, however, truly the case? Is the WTO Agreement on Basic Telecommunications an agreement which the ever sober Economist said “[i]n scope alone ... is the most ambitious yet [of the WTO]” [2] really a triumph for the WTO, the General Agreement on Trade in Services and the multilateral process as a whole?

At first glance, the agreement does seem to be rather a triumph. The services covered under the agreement extend broadly to almost every sector of the telecommunications market: voice telephony, data transmission, telex, telegraph, facsimile, private leased circuit services (resale), fixed and mobile satellite systems and services, cellular telephony, mobile data services, paging, and personal communications services (PCS). The liberalization of the services in these market sectors will occur not only in cross-border supply of telecommunications, but also allows for services to be provided through the establishment of foreign firms, or commercial presence in foreign countries, including “the ability to own and operate independent telecom network infrastructure.” [3] In other words, when the agreement is fully implemented, AT&T or MCI could be selling long-distance in Sweden and building a new fibre-optic network in El Salvador, while Telia (Sweden's formerly national telecommunications carrier) could be selling network service to U.S. businesses, while building a new digital cellular network in Bulgaria with a joint venture partner such as Ericsson.

The agreement not only offers nearly comprehensive telecommunications sector coverage, but it offers extensive national market coverage as well. The sixty-nine countries signing the agreement include all the world's industrialized countries, as well as forty developing countries from all regions of the world. The developing countries include large nations such as India, small nations such as Belize, as well as economies in transition from the former Warsaw Pact such as the Czech Republic. [4]

On the surface, therefore, the agreement does seem to be a victory for the WTO, and a reaffirmation the principle of multilateralism enshrined in the GATT. When one begins to look a bit deeper, however, and compares the actual legal text of the General Agreement on Trade in Services (born in 1994 with the GATT Uruguay Round Agreement), with the various incentives for countries to avoid liberalization, and recent developments in the world telecommunications market, a different picture emerges. It is a picture of the triumph of technology and market forces rather than a triumph of multilateralism; a picture in which the agreement seems to have come about not due to, but rather in spite of the GATS itself. In his statement, perhaps without even realizing, Director-General Ruggiero acknowledged this triumph:

Perhaps most importantly of all from a longer-term perspective, this deal goes beyond trade and economics. It makes access to knowledge easier. It gives nations large and small, rich and poor, better
opportunities to prepare for the challenges of the twenty-first century. Information and knowledge, after all, are the raw material of growth and development in our globalized world. [5]

In the final analysis, the real triumph of this agreement belongs not to the WTO, but to the force of the information economy itself.

**CHALLENGES TO THE GENERAL AGREEMENT ON TRADE IN SERVICES**

When the member countries of the General Agreement on Tariffs and Trade finally reached agreement on the Uruguay Round on December 15, 1993, they also agreed to the completion of negotiations that had progressed coincident to the Uruguay Round - the Group of Negotiations in Services (GNS). While completion of the Uruguay Round - including an agreement to establish a World Trade Organization that would finally give the institution governing world trade a structure and enforcement powers - was undoubtedly a remarkable success, the result of the GNS was less remarkable. The General Agreement on Trade in Services (GATS) was born with many of the defects of the original GATT which, combined with the unique nature of the trade it was born to liberalize, create challenges surpassing even those of the GATT itself. [6]

**THE IMPORTANCE AND UNIQUE CHARACTER OF SERVICES**

Up until the completion of the Uruguay Round, the GATT had only concerned itself with trade in goods, not with services. In the late 1970's, the U.S. began to pressure the GATT to pay more attention to services due to their increasingly important role in global trade. More recent statistics indicate the size of this role. A 1991 Congressional report then estimated that trade in services accounted for 25% of all world trade, for 60% of total U.S. gross national product ($90 billion of which was exported), and for 90% of U.S. post-1980 employment growth. [7] Perhaps most importantly, services were estimated to have created a trade surplus of more than $60 billion for the U.S. in 1992. [8]

Telecommunications services make up one of the largest and fastest growing sectors in this service economy. In 1995, the WTO estimates that global telecommunications services revenue was $601.9 billion, or 2.1% of all the world's gross domestic product. Telecommunications revenue in 1995 grew at a rate of 7%, on top of an average annual growth rate of 5.2% since 1980. Outgoing international telecommunication traffic grew at an even faster rate, increasing by 13% in 1995, after five years of growth averaging 12% per year. This growth was not only limited to the developed countries of the world. In the developing world, the increase in main telephone lines from 1990 to 1995 outpaced the developed world, growing at a 13.8% average rate against 3.5%; while overall telecommunications revenues also outgrew the developed world by a rate of 9.7% to 4.2%. [9] This growth allowed Director-General Ruggiero to claim that the world's firms today “in the aggregate spend more on telecommunications services than they do on oil.” [10]

These numbers therefore beg the question: If services make up such a large and fast-growing part of the world's economies, why did it take the GATT signatories so long to agree to the GATS? The answer lies in the nature of a service itself. Services are unlike goods, which can be built by a company in one part of the world one day, shipped on a boat from another part of the world another day, only to arrive and be stored to await sale in a warehouse in a third country the next day. In contrast, services require direct and simultaneous interaction between the service producer and the service consumer. [11] This is especially true for telecommunications, as a recent Organization for Economic Co-operation and Development report stated, because the provision of such

... services depends on infrastructure which is not mobile across borders. Therefore, foreign direct investment is required or, alternatively, access to existing infrastructure on a fair and non-discriminatory basis. [12]

Therefore if AT&T wants to sell long-distance telephone service to consumers in Poland, it must either build the network linking the two parties who want to talk to each other, or buy access to the network already established. For AT&T to be able to make a sale, they must be able to provide access to such a network twenty-four hours a day, seven days a week. Service cannot be produced and then warehoused for later use; it requires a constant capacity so that caller, receiver and supplier can simultaneously interact, allowing the call to go through.
Thus, the unique character of services create exceptional challenges to their liberalization. By their nature, services often require the transfer across borders of capital assets - such as construction equipment or telecommunications networks - and individuals. Such activity logically invites government regulation. “The cross border projections of capital assets and individuals that international trade in services usually entails often raise political concerns of national autonomy and sovereignty,” Stahl points out, “which in turn engender a high degree of trade-inhibiting government regulation.” [13] An equally challenging aspect of services is their difficulty to be accurately measured. Since services are less tangible than goods, and “do not necessarily enter and exit countries as discrete, quantifiable units at convenient customs ports,” they are more difficult to measure, which in turn makes negotiating the removal of trade barriers more difficult. “When the values of reciprocal concessions cannot be quantified or compared,” Stahl argues, “negotiations may degenerate into irrational political exercises not conducive to reciprocal reductions of comparable trade barriers.” [14]

As a result of these and other differences between services and goods, liberalization of international services trade required a separate framework from the GATT, which was designed to liberalize merchandise trade. While the framework of GATS is separate from the GATT structure, it owes much of its composition to the ideas born at Bretton Woods.

**MULTILATERAL IDEALS IN THE GATS**

Like the GATT, the GATS is built upon the ideals of multilateralism: most-favored-nation (MFN) treatment, national treatment, and institutionalized procedural dispute resolution. In Article II, the GATS incorporates MFN language similar to that of the GATT:

1. With respect to any measure covered by this Agreement, each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country. [15]

The idea behind MFN treatment is not that any one country is given treatment as the most-favored nation (which the name seemingly implies), but rather that the government lowering the barrier will give the same benefit to all Member nations of the WTO, as they do to any single nation. The key word in Article II, paragraph 1 of the GATS is “unconditionally.” This means that if the U.S. and Germany agree to permit AT&T and Deutsche Telekom to service each other’s markets, they must grant such rights to all other WTO Member nations without asking for reciprocal reductions in barriers by those nations. Thus, a nation could refuse to participate in the negotiations, but then receive the benefits of the barriers reduced in other countries by those negotiations.

This is generally known as the “free-rider” problem. In his critique of the GATS, Stahl identifies three major “consequences” to the problem of free-riders. First, the states that conclude successful negotiations cannot use trade concessions that were made during the negotiations as leverage to open the markets of free-riders, because free-riders already receive these benefits as a result of unconditional MFN. [16] Once the U.S. decides to permit Deutsche Telekom to sell long-distance in the U.S. market, that market access is lost as a bargaining chip to all other nations. The value of entrance in the U.S. market is so great that the U.S. has refused to sign agreements concerning financial services, and delayed finalization of the agreement on telecommunications because not enough nations had tabled concessions. [17]

Second, the free-rider problem creates a disincentive to trade liberalization. [18] Companies like AT&T are not going to support an agreement that opens the U.S. market to competition, while leaving other large or growing markets closed to their business. No company will support an agreement (or more importantly, refrain from lobbying actively against it) where their risks of exposure to greater competition will not be outweighed by the opening of greater opportunities in new markets; and, without the support of American companies in that sector, the U.S. government has little reason to open access to such markets. Finally, as countries attempt to avoid giving such benefits to free-riding nations, Stahl argues, “agreements may be reduced to the lowest common denominator set by those least willing to eliminate trade restrictions.” [19] One of the “fundamental” difficulties with multilateral agreements as broad as the GATT, Stahl concludes, “is that it does not permit distinctions among countries with
radically different economic and foreign trade policies.” [20]

In a departure from the model of the GATT, the GATS included language in Article II giving signatories the possibility of an exemption from such unconditional MFN for certain sectors that each nation must list out in advance:

2. A Member may maintain a measure inconsistent with paragraph 1 provided that such a measure is listed in, and meets the conditions of, the Annex on Article II Exemptions. [21]

The “conditions” of the Annex, however, are not terribly severe. They call for the review of all exemptions lasting more than 5 years, and state that “[i]n principle, such exemptions shall not exceed a period of 10 years.” [22] The language of the Annex is problematic for the same reason that the original GATT was problematic prior to the Uruguay Round it is phrased in permissive, not mandatory terms, allowing nations to maintain such exemptions indefinitely without penalty.

The original purpose behind the Article II exemptions was that countries would be able to claim an exemption from MFN only to offer a level of commitments to trading partners that was higher than the minimum level offered in its concession schedule. [23] In other words, Members would only be able to get an exemption to raise the level of concessions given to some members (such as fellow members of a free-trade-area), not keep it lower for other members. As Professor Footer argues, this has not been the case:

Many countries, particularly developing ones, have chosen to include extensive limitations and conditions with regard to market access and national treatment in their offers submitted during the negotiations on commitments. Some of these offers have been prefaced with reservations concerning a right to modify the contents in the light of a number of offers made by other parties to the negotiations and the degree to which they are equivalent and mutually acceptable. [24]

The problems of free-riders and exemptions are not the only challenges facing the GATS; however, they are the challenges that most threaten the successful completion of commenced negotiations.

Other challenges facing the GATS can affect implementation of a completed agreement as well as the negotiations. In the GATT, the second pillar of the multilateral system is national treatment. Due to the fact, however, that the character of services requires some sort of simultaneous interaction between the service provider and consumer, before national treatment can even be considered in the GATS, market access must be guaranteed. Without the ability to invest in the building or acquisition of a foreign telecommunications network, or access to that network through resale, it would not matter how MCI was treated by Italian regulators because it would not be in the market in the first place. In Article XVI, the GATS attempts to guarantee such access by treating as unrestricted any sector listed in its schedule of concessions. [25] The GATS, however, again qualifies this obligation by requiring that the market access be “no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.” [26] While Article XVI seems to prohibit quantitative restrictions from the permitted limitations and conditions, we shall see later in the Agreement on Basic Telecommunications that such restrictions do arise. [27]

A further challenge to implementation comes from the ideal of national treatment as applied to services. Article XVII of the GATS sets out this principle:

1. ... each Member shall accord to services and services suppliers of any other Member, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers. [28]

The rationale behind national treatment is that once one nation grants another market access, it should not frustrate that access by treating it differently than its domestic producers through dissimilar legal, regulatory, or tax treatment, thereby creating an internal barrier to trade in place of the external barrier. The difficulty with services, however, is that regulations treating a foreign firm exactly the same as a domestic firm can in themselves create a barrier to trade. For example, if the Federal Communications Commission (FCC) treated the dominant carrier from a vastly smaller market such as New Zealand the same way it treats the dominant carrier in the U.S. market, it could...
effectively prevent that company from entering the market by holding them to conditions they could never hope to satisfy. The GATS addresses this by permitting Member nations to treat foreign firms differently to meet the requirements of national treatment; any treatment, however, whether identical or different, that favors domestic suppliers is not permitted. [29] The problem with national treatment, as with market access and MFN, is that the language of the GATS is qualified to permit nations to set out limits to national treatment in its concession Schedule. [30]

This type of qualified language is most conspicuous in the GATS dispute settlement provisions set out in Article XXIII, whose approach is more that of the old consensus-oriented GATT dispute resolution system characterized by a Member nation's unilateral power to delay and prevent the adoption of dispute panel reports than the stronger approach of WTO dispute settlement. [31] Throughout this article, the drafters chose to avoid the word “shall,” and use the more permissive language of “may.” The single use of “shall” merely entitles the aggrieved party to a “mutually satisfactory adjustment” of the offending measure. [32]

Finally, while the GATS does address the problem of monopolies and exclusive service providers (especially important in telecommunications where most providers are present or former monopolies), and sixty-five Member nations agreed to pro-competitive regulatory principles, this problem will be solved by implementation of the agreement by individual countries, not by the agreement itself. As the Economist pointed out, such implementation will take time, and “[m]ost of the countries that have signed the pact do not have independent regulators; training people to prevent wily telecoms companies from manipulating the system will not be easy.” [33]

The challenges created by the limitations of the GATS structure have not gone unnoticed by Member nations. Indeed, in a report of the U.S. President's Advisory Committee for Trade Policy and Negotiations, the Committee recommended the development and proposal to the WTO of an alternate model for service negotiations. The report argued:

There are drawbacks to both the broad-based request/offer negotiations used as the main structure for market access negotiations during the Uruguay Round and to the sector-by-sector approach used for the post-Uruguay Round negotiations for financial services, basic telecommunications, and maritime services. The broad-based approach often fails to address important, sector-specific issues necessary for meaningful liberalization. The sector-by-sector negotiations provide very little scope for tradeoffs among sectors. Neither has resulted in broad coverage of services sectors, especially among developing countries, nor has significant liberalization been achieved to date. [34]

The date of this report is significant. It was sent to the President 11 March 1996, and reflects the difficulties then facing the ongoing service negotiations. The interesting question is: what caused many countries to move from the position of protecting telecommunications service monopolies, and to embrace liberalization, in less than one year?

**MOTIVES TO PROTECT MONOPOLIES AND AVOID LIBERALIZATION**

The old model of the Post, Telephone and Telegraph (PTT) that has existed in most countries since the invention of the telephone combines the United States' public monopoly of the U.S. Postal Service with the private monopoly of the former Bell System. In this old model, revenues from providing telephone service are used not only to subsidize the postal service (whose shortfall in the U.S. is made up by taxpayers, rather than telecommunications consumers), but are also used to achieve a number of social policy goals such as: universal service; affordable rates for citizens in either rural or urban areas; subsidized services for the poor, elderly or the handicapped; and even the placation of members of public-service telecommunication workers unions. [35] Further, the PTT model (especially where the PTT is state-owned) often does not separate the service provider from the regulator the state performs both functions. In many countries, telecommunications are “not merely a technical system, but a social, political and economic institution.” [36]

Telecommunications are not merely a social, political and economic institution, but a very profitable social, political and economic institution. In many developing countries, in fact, revenues from the state PTT are “an attractive source of hard currency.” [37] PTT revenues often go directly into the national treasury or to subsidize
other services. [38] In this model, less-profitable (or even loss-making) services such as universal access to local calling and postal service are subsidized by more-profitable domestic and international long-distance service.

International long-distance service terminating in the PTT's country is one of the most profitable of PTT services. In theory, the “accounting rate” between two nations' carriers is set to cover the total cost to complete an international phone call. In reality, however, accounting rates “historically have been fixed by administrations at levels far above cost, resulting in international service becoming a substantial revenue source.” [39] This variance is magnified by the asymmetry between international calls terminating in the U.S. and the rest of the world. The high rates of a PTT monopoly, compared to other countries and particularly the U.S., act to discourage the outbound calls that it must pay another PTT to complete, while encouraging the inbound calls that provide it revenue. Due to this asymmetry in rates, the United States has become a net debtor in telecommunications settlements, with a deficit in 1991 of $3.4 billion. [40] These settlements are a valuable source of revenue to fund the building of a nationwide network providing universal service, or insuring that local telephone service remains affordable. “In many countries,” Propp states, “these revenues subsidize local telecommunications service or are diverted to other non-telecommunications uses.” [41]

THE SUCCESS OF THE AGREEMENT ON BASIC TELECOMMUNICATIONS

Despite the unique nature of services, the fundamental weaknesses of the GATS, and the various incentives to protect the status quo of PTT monopolies, the Group on Basic Telecommunications (GBT) reached “the successful conclusion of one of the most important trade agreements for the 21st century,” as the U.S. Trade Representative put it. Before discussing how and why a successful agreement was reached, it is important first to analyze what the agreement actually did, both overall, and by region and country.

As discussed earlier, the sixty-nine countries from all regions of the world (see map next page) that submitted offers accounted for 91% of global telecommunications revenues in 1995, and 82% of the world's telephone main lines. [42] While all sixty-nine countries made offers, however, not all offers were the same, or covered all the same areas. In the area of voice telephony, sixty-one of the sixty-nine governments committed to some kind of competitive supply (defined as permitting two or more suppliers) in at least one of the following market segments: local service, domestic long-distance, international service, or non-public voice services (large, dedicated business networks, also called closed-user groups). [43] Fifty-five of these governments committed to allowing competition in the supply of local service, fifty-two committed to allowing domestic long-distance competition and fifty-six committed to allowing international service competition, while only two governments limited the commitment to open their market to closed-user groups. [44] In a move which will further increase competition in voice telephone markets, forty-two governments also committed to the resale of public voice telephone capacity. [45]

Faring nearly as well, and in some cases better, were services other than voice telephone. Sixty-three out of the sixty-nine governments submitting offers committed to market access for data transmission services, sixty grant access for entrants into mobile/cellular telephone markets, fifty-nine included commitments for market access in other mobile services, such as PCS, mobile data or paging, and fifty-five committed to competition in leased circuit services, which is the supply of transmission capacity. [46] Satellite services did not realize quite the same success, but came close. Fifty-one governments committed to permit some or all types of mobile satellite services or transport capacity, while with fixed satellite services or transport capacity, fifty made commitments. [47]

As not all governments agreed to the same liberalization, neither did all governments agree to liberalization at the same pace. The formal date of entry into force of the Agreement on Basic Telecommunications is January 1, 1998. [48] Of the sixty-one nations making commitments on voice telephony services, however, twenty-five of these governments make these commitments conditioned on phase-ins postponing final entry into force, some until as late as 2013. [49] Perhaps the best that can be said of this is that late liberalization is better than none at all.

REGION-BY-REGION ANALYSIS

While every region of the earth was represented by some nation in the agreement, some regions had greater
representation than others, and some regions committed to progress further on liberalization than others. The region providing the greatest representation, and offering some of the most progressive commitments on liberalization, was Western Europe. The universality of Europe's participation, however, was insured by the fact that the states of the European Union (EU) acted in concert at the GBT negotiations, with the EU committing to one concessions schedule for its fifteen member states. [50] In addition, the commitments of the EU are perhaps as much a result of its own telecommunications liberalization process begun before the completion of the Uruguay Round, as of the GBT negotiations. [51] Indeed, as one commentator noted in 1995, “the main footdragger in negotiations on basic telecommunications has been the European Community, which is still in the process of liberalizing its own telecommunications market, a task that it does not anticipate completing until 1998.” [52]

Still, with the exception of broadcasting which is excluded, the offer by the EU is one of the most comprehensive. In basic telecommunications services, the EU committed to complete liberalization for local, long-distance, and international services (permitting both facilities-based services and resale) throughout all member nations of the Union. [53] The only member-states for which this will not go into effect on January 1, 1998 are those considered to be less-developed Union members. Full liberalization for Spain will come into effect December 1998, for Portugal in July 1999 (facilities-based services) and 2000 (public voice telephone service), for Ireland in 2000, and for Greece in 2003. [54] Other services, such as satellite networks and services, as well as all PCS and mobile systems are included; however, for Ireland and Portugal, international interconnection of mobile networks will be delayed until 1999. [55] France maintains its foreign shareholding cap of 20% in radio-based infrastructure, but foreign equity restrictions in Spain (formerly 25%) and Belgium (49%) were removed, and will be partially removed (above the present 25% cap) in Portugal if approved by the parliament in 1999. [56] Two of Europe's non-EU members Iceland and Norway - completely opened their markets, committing to full liberalization without phase-in. [57]

The nations that make up the North American Free Trade Area the U.S., Canada, and Mexico also committed to substantial liberalization. The U.S., following up on the liberalization begun by the Telecommunications Reform Act of 1996, committed to open markets in all sectors with two exceptions: Comsat is given exclusive right to link with Intelsat and Inmarsat; and on common-carrier radio licenses, which cannot be owned by a foreign government, corporation or citizen, and U.S. corporations with foreign equity of more than 20%. [58] Further, the U.S. listed an indefinite MFN exemption for one way satellite transmission or DTH and DBS television services and of digital audio services. [59] Mexico committed to competition in all areas of public telecommunications service (permitting both facilities-based services and resale), and ends the regional duopolies in cellular telephone service. [60] The foreign-equity restriction for telecommunications service suppliers is raised to 49%, and greater than 49% foreign equity is permitted in cellular telephone services, with prior regulatory authorization. [61]

Of the three North American nations, Canada maintains the greatest variety of restrictions to telecommunications service, perhaps due in part to its unique federal/provincial structure. Canada places limits on foreign ownership of all facilities-based suppliers of 20% direct equity and 46.7% combined direct/indirect foreign equity. [62] While offering a “liberalized regime for resale-based competition in local telephone services and most other basic telecoms services,” Canada also “[m]aintains a few limitations on market access for telephone service in certain cities or Provinces.” [63] Canada will also maintain exclusive-rights agreements on satellite facilities serving the U.S./Canada market until March 1998, and maintain Teleglobe's monopoly on overseas (non-U.S.) facilities-based service until October 1998. [64]

Central and South American nations that signed the agreement offered concessions which for the most part opened markets to near full competition, which in some cases is phased-in. What is striking is that two of the most under-developed countries of the region - El Salvador and Guatemala - led the region by permitting full competition without phase-in. [65] Chile offered nearly complete liberalization (with the exception of local telephone service), and commitments approaching fully open telecommunications markets will be phased-in in Peru (1999), Argentina (by November 2000), Venezuela (2000), Bolivia (2001), and Grenada (2006). [66] Other South American nations made more mixed offers, with Brazil and Colombia still reserving some services to monopoly providers, and Belize making few concessions whatsoever. [67] What is remarkable about this region, aside from the majority of its nations participating, is that some of its least-developed nations made offers with the fewest restrictions.
Asia is most notable for the lack of participation of most of the nations in the region; and, with the exception of Australia and New Zealand (two of the world's fastest liberalizing nations), the paucity of their offers. The Indian sub-continent contains two of the least liberalizing offers. India maintains a number of restrictions on the provision of basic telecommunications services, limits foreign ownership to 25%, and merely offers commitments to review the further opening of domestic long-distance in 1999, and international in 2004. [68] India also maintains an indefinite MFN exemption permitting it to apply differential accounting rates from bilateral agreements signed by its international service provider. [69] Pakistan's offer is only slightly better. It does not commit to permit foreign commercial presence, protects its telecommunications monopoly from competition, while committing only to open markets in data transmission, e-mail, internet and intranet, video-conference services (including telemedicine and tele-education), and private-leased circuit services (only as of 2004). [70] Only Bangladesh, with the lowest teledensity in the world at two lines per 1000 inhabitants, [71] can really be said to have opened up its market somewhat, by granting licenses to two new operators in wire-telecommunication services, four licenses to new cellular service operators, and permitting full competition in voice and data transmission over closed-user groups and in internet access. [72]

The countries of the archipelago north of Australia made offers equally slight. Indonesia protected its various exclusive-rights suppliers in public voice telephone services by committing only to review to determine to admit new suppliers, after the expiration of those exclusive rights which run as late as 2006. [73] While it does offer competition in domestic mobile cellular, paging, and public payphone service, it conditions service in other areas such as internet access upon use of state-owned satellite facilities for international traffic. [74] Finally, it limits foreign ownership in all services at 35%, with the exception of PCS which requires a joint-venture agreement with the state-owned company. [75] Papua New Guinea is even more efficient in protecting the status quo. It reserves all telecommunications services to an exclusive service provider until 2002, with only the promise of further review in 2000. [76]

The common Asian theme of foreign ownership restrictions is repeated by the remaining East Asian nations that participated in the negotiations. While Japan committed to open market access in all basic telecommunications services markets through both facilities-based service and resale, it retained foreign equity limits of 20% in the dominant domestic (NTT) and international (KDD) service providers. [77] South Korea opens up some of its previously-closed market in wire-based services, and permits resale of all telecommunications services except for voice with further resale opening up by 2001, but retains in each case foreign equity restrictions never rising above 49%. [78] Malaysia merely offers foreigners the ability to acquire equity in its existing telecommunications service providers, and then limits that equity to 30% of the total enterprise. [79] Its neighbor Thailand does not even go this far, offering only to revise its commitments in 2006, subject to the passage of a new telecommunications law and the commitment's consistency with that law. [80]

Unsurprisingly, Africa trails the rest of the world, both in terms of participation and liberalization on the part of those nations that participated. In North Africa, Tunisia led the continent in liberalization, permitting telex and data transmission competition from 1999, mobile telephone and paging, frame relay, and teleconferencing from 2000, and local telephone competition in 2003. [81] For all services, however, foreign ownership is capped at 49%, and foreign ownership of the state PTO is only permitted to 10% beginning in 2002. [82] Morocco opens market access for data transmission and frame relay services, and permits phased-in foreign supply over the fixed infrastructure, but limits foreign ownership to an unspecified amount, and reserves mobile data, PCS and paging services for unspecified operators not yet licensed. [83]

The market is even less open in the few areas of Western and South Africa that signed the agreement. The most liberal of the lot is South Africa, which committed to end its telecommunication services monopoly and review need for new suppliers by the end of 2003, and places no limits on the supply of personal radio communication and trunked radio systems, or paging services. However, it does limit foreign equity in telecommunications suppliers to 30%. [84] Senegal commits only to review its policy on licensing new telecommunication service suppliers when existing monopoly rights expire between 2003 and 2006. [85] The Ivory Coast maintains monopoly telecommunication services for 10 years, but then opens all areas to unrestricted competition. [86] While Ghana does not maintain a monopoly, and does open its data transmission, internet, internet access, and teleconferencing markets to competition, it protects its duopoly in most services by forbidding by-pass of such operators in basic
voice services, and requiring commercial arrangements with duopoly operators for mobile and satellite services. [87]

The only region of the world less represented in the GBT than Africa was the Middle East. With the exception of Israel, no Middle-Eastern nation participated in the negotiations. Israel's commitment was highlighted by competitive market access in cellular and paging services, data transmission, and non-public domestic and international circuits, but also notable for the maintenance of monopoly in voice telecommunications services until at least 2002, and foreign equity limits of 74% on all services other than wireless (for which the limit was 80%). [88]

A surprising bright spot for liberalization, however, is found in the economies in transition of Eastern Europe. With the exception of Turkey which maintains a monopoly in most services until 2006, and submitted two MFN exemptions - most of the former nations of the Ottoman and Austro-Hungarian Empires participated in the negotiations and committed to significant liberalization, albeit with some phase-in period. The Czech Republic took the greatest steps toward full competition, by opening markets in data transmission, voice in closed-user groups, various mobile services, frame relay, and video transport immediately, while completely opening all other service markets by 2000. [89] Its former compatriot nation, the Slovak Republic, committed to immediate opening in its closed-user group voice and data transmission markets, while opening all other markets by 2003. [90] Liberalization in Romania and Bulgaria for voice telephone services also commences by 2003, with immediate opening in both countries for data transmission, telex, telegraph, facsimile, paging services, as well as services to non-public users. [91] Poland and Hungary also open some markets immediately, while completing liberalization by 2003 and 2004 respectively; however, in both countries foreign equity is limited - to 49% in Poland, and in Hungary to maintain a minimum 25% of domestic equity in all sectors of voice telephone service. [92]

**WHAT REASON THEN, FOR THE SUCCESS OF THE AGREEMENT?**

While the results of the Agreement on Basic Telecommunications were not uniform across all regions of the world, or even among the nations found within them, it would be difficult to deny the success that WTO Director-General Ruggiero and other world leaders proclaimed. What then, caused the nations of the world to turn away from the status quo - from the ability to act as free-riders, benefiting from unconditional MFN and other weaknesses in the GATS structure, to protect the PTT monopolies that have been the source of seemingly limitless streams of revenue?

For developed nations, such as the U.S. and the Members of the European Union, the choice was clear - liberalization compensated the risk of increased competition in home markets with the perhaps greater opportunity to expand into various new markets. These nations' companies (especially those of the U.S., such as AT&T, MCI and Sprint), are arguably the most competitive in the world, and therefore in the best position to benefit from the widespread opening of markets.

What then, was the incentive for less-developed countries to agree? Indeed, what was the incentive for the least-developed countries, whose companies are in no position to enter new markets, only to lose revenue from increased competition? These countries had other options. They could have acted as free-riders, protecting their PTT monopolies, and the revenues from them which serve as such an important source of hard currency. They also could have claimed MFN exemptions to protect their monopolies, and tried to preserve accounting rate and other revenue that had historically been used to further goals such as universal service, granting large pay increases to public telecommunications employees to maintain labor support, or even to raise revenues for the general treasury. What is interesting is that many developing countries (though not all) - and especially some of the least developed - committed to significant liberalization and market access. Is this the result of the talents or the drafters of the GATS and the negotiators of the telecommunications agreement? Arguably no.

Something larger seems to be happening. An array of forces - both technological and market - seem to be converging at the same time to change the status quo through changing attitudes. The consensus seems to be shifting from seeing telecommunications liberalization as a threat to needed revenues, to a necessary precondition to be competitive in the new global economy. The irony is that the Agreement on Basic Telecommunications may not only be the first great victory of the transformation of the world economy from manufacturing to information, but a
victory that may also speed that transformation.

TECHNOLOGICAL THREATS TO THE STATUS QUO

The shift from analog to digital technology in telecommunications services is one of the greatest threats to the status quo. Digitalization has created the potential for the same number of lines to have exponentially more capacity. “Innovations in data compression technology, coupled with digital transmission and deployment of broadband fiber-optic cable facilities, make massive increases in bandwidth and throughput feasible.” [93] The OECD asserts that facility supply has increased “significantly” in recent years. “Capacity utilisation of submarine fibre-optic cables was less than 20 per cent in 1994,” an OECD report argues, citing International Telecommunications Union figures. “Furthermore, it is projected that this ratio could decrease in the near future with technological innovations.” [94]

One way to fill this unused capacity is through “resale.” Rob Friedan defines resale in this context as the “acquisition of bulk transmission capacity and other services for subsequent resale to individual users who singularly do not generate the demand for large-capacity offerings.” [95] More simply put, the owner of a telecommunications network sells chunks of space on that network to other companies who market it to individual consumers. “Facility providers today find that it is more profitable to provide excess capacity to resellers and allow them to find customers and market this capacity,” the OECD report stated, “rather than marketing this capacity themselves.” [96]

Although resale provided an effective means to address the recent growth in excess capacity for service providers, and was seen as “a useful tool to increase efficiency, particularly in the transition to a fully competitive market” for regulators, international simple resale (ISR) had been permitted by only a few nations prior to the telecommunications agreement. [97] One possible reason for this hesitation is the effect that resale can have on the revenues from accounting rates. Due to the fact that it by-passes the international charging and settlement system, resale “places significant pressure on accounting rates.” As the OECD report argues, however,

[The impact of ISR is not limited to those countries where it is allowed. The ability to refile traffic means that ISR can be used to bypass expensive transit countries, or to re-route traffic to avoid paying high accounting rates for particular relations. [98]

Telecommunications network operators could either accept resale and the revenue it provides, or risk being by-passed altogether and losing much of the revenue from accounting rates. Perhaps recognizing that attempts to avoid resale and preserve accounting rates revenues were futile, forty-two governments committed to permit resale of public voice telephone capacity in the telecommunications agreement. [99]

Digitalization and the excess capacity it brings are not the only technological advances placing downward pressure on accounting rates. As any international tourist is aware, U.S. telephone service rates are generally lower than those of other countries, often substantially lower. Beginning in the early 1990's, providers of “call-back” services used the new technology of the “boomerang box” to allow callers to obtain a U.S. dial tone (and, therefore, a U.S. rate) by calling a number in the U.S., and hanging up as the connection is made; the call-back service's equipment then identifies the number from which the caller is dialing, and calls back that number with the U.S. dial tone, subsequently connecting the caller with the party she ultimately intended to call. [100] Call-back services effectively allow U.S. telecommunications service consumers overseas to by-pass foreign service providers (and their higher rates), and connect to the U.S. system. The demand for this service has created a market that began with six companies in 1990, and grew nearly ten-fold by 1994. [101] According to one estimate cited by the OECD, the call-back market in 1995 was nearing $500 million. [102]

As a result of the by-passing of the domestic telephone system, and the consequent loss of revenues, call-back is not popular with many foreign governments. “As call-back has grown in scale and geographic scope, it has begun to erode substantially the revenues of incumbent facilities-based foreign carriers from international switched voice traffic,” Propp states. “The impact has been particularly serious in developing countries where these hard-currency revenues are used to fund telecommunications infrastructure and other development needs.” [103] Numerous countries have tried to make the provision of call-back services illegal domestically, and have filed diplomatic
protests with the U.S., as well as petitions with the ITU and the U.S. FCC; Kenya went so far as to compare call-back to “telecommunications smuggling.” [104]

The OECD report on new technologies such as call-back concluded that “[i]t is unlikely that prohibition of call-back services will be successful.” As the report points out, it is difficult to distinguish call-back traffic from other traffic, such as calls that were attempted and not completed. Moreover, not all call-back providers use the same technology, and a number of different variations of the method used to complete the circuit have developed, further complicating the ability to distinguish what is a permitted use and what is forbidden. Finally, as the market for call-back has grown, so has the technology advanced. With improved auto-dialers and the use of packet-switching technology, call-back providers can more efficiently connect callers without multiple attempts, which not only alerted operators to its use, but placed a strain on their network. The advancement in technology, combined with the scheduled liberalization of the EU telecommunication market in 1998, the OECD report argues, makes it so that call-back operators can “easily target” the European market, increasing competitive pressures. “Countries maintaining their monopolies until the year 2003 or later will have difficulty preventing this form of ‘indirect’ call-back operators can “easily target” the European market, increasing competitive pressures. “Countries maintaining their monopolies until the year 2003 or later will have difficulty preventing this form of ‘indirect' market entry,” the report stated. “The impact on their operators will be more severe through call-back than it would be if they allowed infrastructure competition.” [105]

Ironically, as the OECD report discusses, the existing accounting-rate structure gives operators incentives to welcome call-back, rather than outlaw it. As discussed earlier, the inflated nature of accounting rates provide an important source of hard-currency for the countries with which the U.S. runs a deficit, but only when the share of calls coming into the country exceeds the calls exiting. Domestic operators have an incentive to permit call-back, because “call-back traffic stimulates profitable inbound traffic.” Rather than fighting call-back operators for the revenue lost from the outgoing call, operators could collect at least some of the lost revenue from the incoming traffic. “In effect,” the OECD report contends, “the revenue from inbound accounting rates compensates for any reduction in profit margins on outbound calls or on capacity being used for outbound calls.” [106]

The technological advances of digitalization and call-back are not even the greatest potential threats to the global telecommunications status quo. Due to their potential to by-pass existing networks completely, the recent explosion in the Internet and its surrounding technology, as well as the planned deployment of networks of low-earth-orbit satellites, provide perhaps the greatest potential competitive challenge to traditional telecommunications service providers. Although the technology is not yet highly refined, Internet telephony uses packet switching technology rather than conventional switching technology found in telephone networks. [107] Packet-switching is a “transmission technology that reduces messages and data into individually routed packets and reassembles them before reaching the final destination.” [108] Conversations essentially are sent back and forth like data as in e-mail messages, with software on either end turning the data into the sound of the other voice. While present technology simply permits such telephone conversations computer to computer, new technology is being developed to allow computer to telephone communication; a further advantage of packet-switched networks is that since everything is converted into digital data, it has the ability to transmit and integrate voice, data and video, creating the potential for video phones and conference calls. [109]

Aside from the potential technological advantages of Internet telephony, the main driving force behind its development is price. In an understatement, the OECD report on new technologies stated that the “fact that there are no international usage charges and only the price of a local call is paid is evidently providing an impetus to Internet telephony.” Technology such as Internet telephony, the report asserts, “threatens the viability of the existing accounting rate system.” The policy of present telecommunications service operators to maintain support for collection charges and accounting rates far above cost, the report concludes, “is in fact accelerating the development of new technologies which help by-pass the existing payments system.” The report recommends as a long-term strategy “lower, more-competitive prices” for telecommunications service, which would slow the development and spread of such technologies that by-pass the existing networks altogether. [110]

A longer-term threat to existing telecommunications service networks comes from the development of the technology of satellites. This technology also holds the potential to by-pass the existing network system. Recent developments in technology involving the maintenance of low-earth orbits (LEO) and station-keeping, the transmission of signals between satellites, and the reduction in the cost of launching satellites have made the...
possibility of satellite-based wireless communication viable enough commercially that at least five ventures, one of which plans to orbit 840 individual satellites have been formed. [111] The ambition of these ventures includes everything from wireless telephone communication and other services, to rapid data transmission for the Internet and corporate intranets. [112] Such “proposals to develop new global mobile satellite systems could,” the OECD reported, “once implemented, completely by-pass the existing collection charge and accounting rate mechanism.” [113]

THE MARKET FORCE THREAT TO THE STATUS QUO

Notwithstanding the onslaught against the status quo coming from various new technologies, the single greatest factor pressing nations towards liberalization may be market force itself. As has been repeated by WTO Director-General Ruggiéro, U.S. Trade Representative Charlene Barshefsky and other leaders, the world's businesses spend more on telecommunications services today than they do on oil. [114] The agreement is estimated to save billions of dollars over the next several years, reducing the average cost of international phone calls by 80%. [115] The reduction of up to 80% of the single largest input for a nation's businesses could swiftly create substantial competitive gains for any nation that liberalizes.

In a global economy that is undeniably becoming more integrated and dependent on information, an advanced telecommunications services infrastructure is being considered more and more fundamental to economic development and national competitiveness. “Policy makers increasingly recognize,” Friedan states, “how an efficient and ubiquitous telecommunications infrastructure can stimulate a national economy, and the fact that a global enterprise requires fast, efficient, and reliable telecommunications.” [116] The existence of an advanced telecommunications services infrastructure is especially important in less-developed nations, where such infrastructure is vital to making the country an attractive location for foreign investment. [117] The lack of such infrastructure “reduces efficiency throughout the economy, diminishes the effectiveness of investments in priority sectors and development programs, causes a comparative disadvantage in trade and attracting investment, and lowers the quality of life in terms of personal access to emergency services and communication with kin and friends.” [118]

The key to attracting such foreign investment lies in the economic term “comparative advantage.” Simply put, comparative advantage is the ability of one nation to produce something more efficiently than other nations. Comparative advantage can be produced in many ways; for example, it can be produced by a nation's workers' willingness to work for lower wages than other nations', or by a nation's workers' ability to work more efficiently than others. An advanced telecommunications infrastructure can also produce a comparative advantage, as Friedan points out, in two ways:

1. It distinguishes the nation as an attractive location for conducting business, particularly for enterprises that require instantaneous, reliable, feature-rich, and inexpensive telecommunications;
2. It stimulates the efficiency, nimbleness, and skillfulness necessary to win global, one-stop shopping tenders for turnkey (ready-to-use) global or regional networks. [119]

Liberalization of telecommunications services markets provides a expeditious way to create and enhance the infrastructure to attract foreign investment.

Nations are feeling pressure to liberalize their telecommunications services markets not only to become more attractive to foreign investment, but also so they do not fall behind neighboring nations which may be liberalizing even more rapidly. “The failure or delay in seeking to capture the perceived benefits of competition can generate the risk that other nations in the region will do so,” Friedan argues. “Technological innovations have created a greater premium on timely action.” [120] The lack of such an infrastructure can lead to the loss of opportunities even where comparative advantage already exists. For example, the lack of an advanced telecommunications services infrastructure obstructs industries “like the software industry in India that has a comparative advantage internationally [due to the inexpensiveness of its software engineering labor in comparison to programmers in the U.S. or Europe] but no access to a high-speed data network to download the product to foreign points.” [121] In light of this, and the fact that India's teledensity is the second lowest in the entire world (with only 9 lines per 1000

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inhabitants), it is perhaps unfortunate that India chose to commit to such limited liberalization in the telecommunications agreement. [122]

Not all developing countries, however, followed India's example. Its neighbor, Bangladesh, with the lowest teledensity in the world, undertook to open its market to services that are most often used by business with a commitment to full competition in voice and data transmission over closed-user groups, and internet access services. [123] While not fully opening its market to competition, Bangladesh may have been opening its market in areas most vital to business that its existing monopoly does not have the ability to service. Other countries adopting this strategy of opening selected areas important to business include: Bolivia (immediate opening of all services to closed-user groups, as well as all mobile services), Venezuela (immediate, full competition in mobile telephony, paging, data transmission, and teleconferencing), Bulgaria and Romania (immediate opening in both countries for data transmission, telex, telegraph, facsimile, paging services, as well as services to non-public users), the Slovak Republic (immediate opening in closed-user group voice and data transmission), Poland (immediate access for local public voice and facilities, voice over closed-user groups and data transmission), and Ghana (full competition in data transmission, internet and internet access, as well as teleconferencing). [124]

The benefits of full competition are not limited, however, to only the attraction of foreign investment. Competition may also serve to further other goals, such as universal service, affordable access, and even increase employment in telecommunications service industries. According to a statement derestricted by the OECD in March 1994 on “The Benefits of Telecommunications Infrastructure Competition” (based on a Secretariat background report), the OECD found that in regards to universal service

... the evidence shows that as the telecommunications sector grows the national cost of an important aspect of universal service - unmet demand - is declining relative to overall telecommunications revenues. Not only can the benefits of liberalization be sought for economic development without any adverse impact on existing achievements, but also competition can be applied as a force to deal with unmet demand and bring down the cost of existing and future universal service goals. [125]

The OECD statement asserted that telephone penetration had not declined in any Member country that liberalized its market. “On the contrary, access to the telephone has steadily improved in liberal markets,” the statement argued. “This is part of the foundation for the growing consensus among Member countries that competitive telecommunication markets can increase efficiency.” [126]

The OECD also found evidence that competition could help bring telephones to rural areas, and even increase the number of payphones. In OECD countries, “... facilities competition has been used to extend services to under-served regions in several Member countries.” [127] Developing countries have “built on these experiences” by inviting telecommunications service providers from OECD nations to “develop facilities in under-served regions and an increasing number of these countries are ending the state monopolies with the aim of attracting foreign investment and expertise to provide telecommunication to new industrial estates and rural areas poorly served by present utilities.” [128] Universal access also includes the wide availability of public payphones. As the statement points out, competition has generally coincided with higher penetration rates and improved services; indeed, the three countries with the longest experience with liberalization and competition Japan, the U.S., and the UK are all in the top five of payphone density. “Clearly the advent of facilities competition,” the statement asserts, “has extended an important aspect of universal service.” [129]

Finally, while employment in PTO monopolies has been declining in most OECD countries, the statement maintains that this would occur “whether they are monopolies or operating in a competitive environment.” The OECD statement argues that liberalized markets are the best able to generate job growth. “In those Member countries with the longest experience in liberalization, Japan, New Zealand, the UK and U.S.,” the OECD found, “it is demonstrable that telecommunications employment by new services suppliers and users, has largely offset jobs shed by incumbent PTOs.” Moreover, it was found that employment seems to be growing fastest in those market segments that are most competitive. “In the U.S. employment in the long distance market has grown 18 per cent since 1987 and mobile communication has experience [sic] compound annual growth of more than 50 per cent over the past decade,” the statement concluded. “On the other hand jobs are being shed in the provision of local services which remain a virtual monopoly.” [130]
A number of developing nations and economies in transition seem to have agreed with the conclusions drawn by the OECD, and chosen to liberalize their telecommunications services markets completely, and in most cases, immediately. Nations committing to such liberalization include: El Salvador, the Dominican Republic, Guatemala, Chile, Argentina (by 2000), and the Czech Republic (by 2000). [131] Combined with those lesser-developed nations and economies in transition which permitted immediate liberalization for services vital to business, fourteen of these nations committed to immediate, full liberalization throughout the telecommunications services market, or specifically targeted to business.

CONCLUSION

Considering the weaknesses of the GATS structure the ability to free-ride on other's concessions and claim indefinite MFN exemptions to protect incumbent monopolies - and the long standing incentives and local bias to protect telecommunications service monopolies, it is extraordinary that any less-developed nations or transition economies participated in the agreement. What is more extraordinary is that a large number of them recognized the benefits of liberalization, and either fully opened their telecommunications services markets or opened them in those areas most necessary to business. This achievement, combined with the general recognition in the developed world (as reflected in the various OECD reports and statements cited) that liberalization's benefits outweigh its risks, is noteworthy. So long as the regulatory issues that will arise in implementation are addressed - such as not-to-be-underestimated global antitrust issues (so that AT&T, for example, does not replace individual monopolies on a multinational basis) - the Agreement on Basic Telecommunications will be a triumph.

A triumph, however, for whom? Those most connected to the ideals of multilateralism, in particular the WTO, may claim that this is a victory for the GATS system, and for multilateralism in general. A closer analysis of the legal text of the GATS, as well as a look at the forces driving the development of telecommunications services in general, indicate that this agreement perhaps was not a true test of the GATS. Indeed, taking into consideration the onslaught of technological developments that are pushing and even threatening to by-pass the status quo such as digitalization, call-back, Internet telephony, and the possible development of global satellite systems, the fight against liberalization seems to have become a losing battle. This is even more the case when one takes into account that telecommunications services are not only the largest single input and cost for the world's businesses, but that an advanced telecommunications infrastructure is fundamental to competitiveness in a world economy ever more dependent on the flow of information. Faced with such odds, liberalization was less a matter of “if” than “when” (or at least it may seem so in retrospect).

To their credit, most policy makers in the developed world, and a number in the developing world, recognized that telecommunications monopolies must be looked upon not as revenue sources, but rather as the cost-centers with the single greatest effect on the bottom line of all the other businesses under their jurisdiction. If information is truly the “raw material of growth” in the economy of the 21st century, those who have recognized this and acted upon it with substantial liberalization will likely have placed their economies in a better position for future growth than those who have not. In addition, they will have unleashed technological and market forces pushing the old status quo to aid in the explosion of the new. It would be difficult to consider this anything but a triumph. It is a triumph, however, not of the World Trade Organization, but of the inevitability of the information economy itself.

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[3]. Background Document, *The WTO Negotiations on Basic Telecommunications*, World Trade Organization, 17 February 1997. While not official WTO legal documents, these documents provided a valuable overview of the agreement and the industry. Included in the background documents is the disclaimer, “The following is informal background for information purposes only. It should not be cited or quoted as an official document of the WTO.”

[4]. Id.


[10]. WTO Press Release, *supra* note 1


[13]. Stahl, *supra* note 6, at 411

[14]. Id. at 412-13


[19]. Id.

[20]. Id. at 418.


[24]. *Id.*

[25]. *Id.* at 472.


[34]. See, Office of the U.S. Trade Representative, Report on WTO Implementation from The President's Advisory Committee for Trade Policy and Negotiations: Cementing and Improving Existing Agreements (March 11, 1996) Section 2.


[36]. *Id.* at 30.

[37]. *Id.* at 29.

[38]. *Id.*


[44]. See id.

[45]. See id.

[46]. See id.

[47]. See id.


[50]. See WTO Document 97-1526, European Communities and their Member States: Schedule of Specific Commitments, derestricted by the WTO April 11, 1997.


[52]. Footer, supra note 6, at 478.


[54]. See id. Luxembourg has also requested that its liberalization be delayed until 2000; this decision is still pending before the EC (fn2, WTO Document 97-1526)

[55]. See id.

[56]. See WTO Background Document, supra note 43, at 3. Not all individual country schedules were immediately available on the WTO web site or translated into English. In those places, the Background Document provided the source for the summary. In all others, the actual country schedule is cited.

[57]. See id. at 4-5.


[61]. See id.

[62]. See id. at 2.

[63]. Id. at 2-3.

[64]. See id. at 2-3.

[65]. See id. at 3-4.
[66]. See id. at 2-7.

[67]. See id. at 2-3.


[71]. Friedan, supra note 35, at 374.


[73]. See id. at 4.

[74]. See id.

[75]. See id.

[76]. See id. at 5.

[77]. See id. at 4-5.


[80]. See id. at 6.

[81]. See id. at 7.

[82]. See id.

[83]. See id. at 5.

[84]. See id. at 6.

[85]. See id.

[86]. See id. at 3.


[91]. See id. at 2, 6.

[92]. See id. at 4-5.

[93]. Friedan, supra note 35, at 353.


[95]. Friedan, supra note 35, at 399.


[97]. Those nations were: Australia, Canada, Sweden, the UK, and the U.S.. See id. at 36, 38.

[98]. Id. at 38.


[100]. See Friedan, supra note 35, at 49-50. See also, Propp, supra note 39; OECD CICCP Report, supra note 94, Section 3.

[101]. See Propp, supra note 39, at 498.


[103]. Propp, supra note 39, at 498.

[104]. See id. at 495-501; OECD CICCP Report, supra note 94, at 25.


[106]. See id. at 27-32.

[107]. See id. at 39.

[108]. Friedan, supra note 35, at 397.


[110]. See id. at 39.


[115]. See USTR Press Release, id.


[117]. See id. at 177-79.


[119]. Id. at 35.

[120]. Id. at 36.


[122]. See Friedan, supra note 35, at 374; WTO Document 97-1391, supra note 68.


[124]. See id. at 2-7.


[126]. Id. at paragraph 17.

[127]. Id. at paragraph 18.

[128]. Id. at paragraph 19.

[129]. Id. at paragraph 22.

[130]. Id. at paragraph 24.


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