



GATS 2000 and IT



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GATS 2000 and IT

- GATS negotiations: the story so far
- Possible pressure points
- Key issues for IT in the negotiations
- OECD work on services

The story so far...

- Negotiations commenced 1 January 2000
- Negotiating guidelines agreed 28 March 2001, confirmed in Doha
- Doha set deadlines for:
 - initial requests - 30 June 2002
 - initial offers - 31 March 2003
 - end date for all negotiations - 1 January 2005

The story so far...

- To date, about 25 WTO Members have submitted requests
 - some, but not many, developing countries (India, Brazil, Egypt, ASEANs)
 - requests are not public (except for Canada - US, Australia, EC prepared summaries)
 - developing countries active and positive in the negotiations
- Progress slow but steady

What are the pressure points?

- Internal
 - emergency safeguard negotiations
 - credit for autonomous liberalisation
 - assessment of trade in services
 - Article VI.4 disciplines
- External
 - linkages to other issues (agriculture, implementation)
 - anti-GATS campaigns
 - business interest?
 - capacity of WTO Members to negotiate

Internal pressure points

- Emergency safeguard negotiations
 - seen by some - but not all - developing countries as essential for them to make quality commitments
 - but 7 years of negotiations have yielded little progress
 - some (US,EC) don't believe it desirable; others (including some developing countries) doubt that it is feasible.
- Credit for autonomous liberalisation
 - how measure? must it be bound?

Internal pressure points

- Assessment of trade in services
 - negotiating mandate Article XIX
 - problems with statistics, causality, politics
- Negotiations on Article VI.4
 - progress very slow - difficult and sensitive
 - what types of measures covered?
 - necessity test?
 - increased transparency?

Article VI.4

- There might be particular issues for e-commerce given that most licensing and qualification requirements and procedures and technical standards were not developed with e-commerce in mind.
 - Are there any special considerations in avoiding unnecessary barriers to e-trade?
 - E.g., How easily can qualification requirements be met by non-resident suppliers? How easily can licenses be obtained for e-banking?

External pressure points

- Lack of progress on other issues could rebound on services negotiations
 - single undertaking
- Services negotiations vast and technically complex for all WTO Members
 - especially demanding on limited resources of developing countries

External pressure points

- Negotiations facing loud public campaigns by some groups concerned about e.g.,
 - the right to regulate and public services
- While business is relatively quiet
 - negotiations are long and business cycles short
 - unilateral liberalisation ongoing in any event
- BUT bound market access under WTO rules offers real security of access.

GATS 2000 - what's in it for you?

- Market access
 - greater liberalisation of infrastructure services for e-commerce - telecoms, computer and related services
 - more commitments in modes 1 and 2 for services which can be traded electronically
 - mode 4
- Related issues
 - new services
 - goods vs services
 - mode 1 or mode 2?

Market access

- E-commerce is:
 - customer sits down at computer - *computer services*
 - logs onto Internet - *communication services*
 - orders products - *distribution services*
 - pays for it - *financial services*
 - downloads the product or has it mailed to home address - *delivery services*
 - (Source - WTO)

Market access

- All services covered by the GATS negotiations and subject of general negotiating proposals
 - over 140 proposals
 - over 42 WTO Members (EU counted as 1)



Market access

- Not just developed countries, developing countries see real interests here
 - 8 negotiating proposals on telecoms: Canada, Chile, Colombia, Cuba, EC, Japan, Korea, Mexico, Norway, Switzerland, US.
 - 5 proposals on computer and related services: Canada, Costa Rica, EC, India, MERCOSUR.

Market access

- Telecoms
 - 79 governments committed to open markets for telecoms services
 - over 40 developing countries
 - 91% global telecoms market
 - Reference Paper on Basic Telecoms - for a regulatory framework to underpin and safeguard market access commitments
 - 63/69 governments committed to regulatory disciplines; 59 to the whole or most of Reference Paper.

Market access

- In some countries Internet access services are liberalised; in others they are only available from a monopoly telecom operator.
 - 10 WTO Members made commitments explicitly on Internet access services. Many did not, considering it to be covered by other listed services.
 - issues remain regarding the relation between Internet access and telecoms commitments
 - and the Telecom Annex obligations in relation to access to and use of internet access services.

Market access

- But there is also scope to do more on services which can be delivered electronically
- GATS is technologically neutral - i.e., it does not contain provisions which distinguish between the different technological means through which a service may be supplied
 - GATS commitments permit the electronic supply of the service unless otherwise specified
 - all modes are relevant, but cross border supply (modes 1 and 2) most commonly associated with e-commerce.

Market access

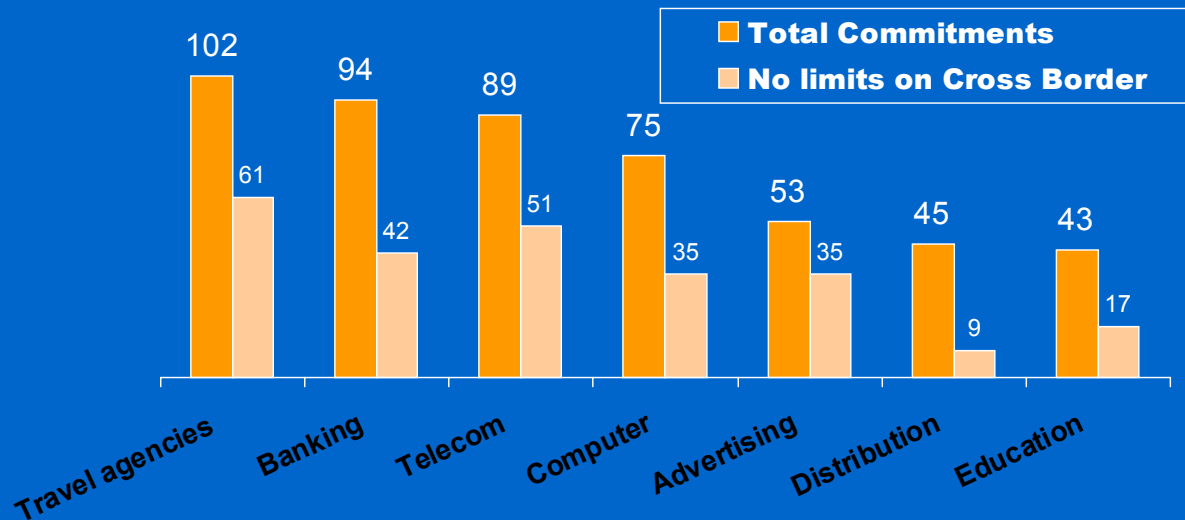
- According to the WTO, over 70% of developed country WTO Members have commitments to barrier free cross border supply of:
 - data processing, software implementation and other computer-related services
 - travel agency, tour operator and tourist guide services
 - professional services such as advertising, architecture and engineering
 - management consulting and market research

Market access

- The picture is different for developing country Members:
 - many have made commitments in tourism services - 25% list no barriers for cross border market access for travel agencies and tour operators
 - in most computer services, around 30% have taken commitments; between 10-13% list no barriers to cross border supply
 - between 25-35% commitment on professional services, such as management consulting, engineering, architecture and accounting - only 6-7% offer free cross border access.

Market access

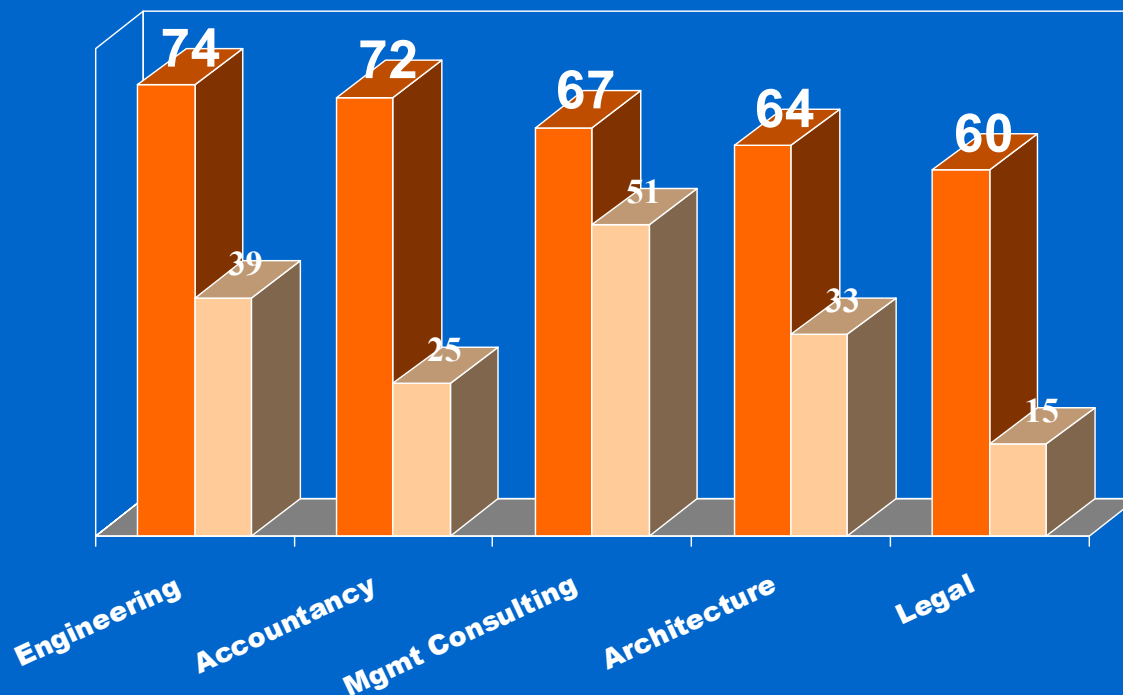
Cross border commitments (by number of governments)



By number of governments - Source: WTO

Market access:

Commitments enabling professional services to be supplied on-line (by number of governments)



Source: WTO

Market access

- Mode 4 - temporary movement of service suppliers
 - good prospects for some movement
 - improve transparency of commitments and procedures
 - streamline administrative procedures
 - But a GATS visa may be some way off
 - emerging dialogue with labour and immigration regulators

Other issues

- E-commerce raises some new issues for multilateral trade rules
- How should new “e-commerce services” be classified?
 - web-hosting, web-site design, electronic authentication services are examples of new services created in response to e-commerce
 - should these services be slotted into existing classifications? (if so, how?)
 - should new categories be developed?

Other issues

- Are “products” delivered electronically goods or services?
 - these are products ordered, bought and delivered on-line but which are also tradable in physical form.
 - whether they are goods or services matters because of the different rules of the GATT and GATS
 - e.g, national treatment, quantitative restrictions

Other issues

- Vast majority is trade in services. At issue is a narrow range of media products which may be currently imported as goods (HS classification) or downloaded on-line.
 - videos, software, recorded music, books, magazines, newspapers.
 - WTO estimates this at 1% total merchandise trade
- No agreement amongst WTO Members

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Goods or services (print media, software, videos, music)?

Source WTO

- GATT covers

- physical carrier medium
 - including content?
 - irrespective of content?
- ??new forms of “carriage”??
- ??content itself??

- GATS covers

- development & production of
- distribution of
- live performance of
- adaptation of
- radio/TV broadcast transmission of
- ??new forms of transmission??
- ??content itself??

Other issues

- No final agreement yet amongst WTO Members whether on-line trade is best captured by mode 1 (the service crosses the border) or mode 2 (the consumer crosses the border).
 - in on-line supply, does the virtual service cross the border or is the virtual consumer deemed to be consuming in the territory of the supplier?
- GATS modes were developed as a tool for making commitments, not as a means of delineating regulatory jurisdiction

OECD work on services

- Regulation of services traded electronically
 - are some barriers more burdensome for on-line than off-line supply?
 - discriminatory MA and NT restrictions
 - non-discriminatory regulations
- Mode 4 movement of service suppliers
 - what are the issues and solutions?
 - economic impact, MRAs
- Advocacy - “The Case for Open Services Markets”

OECD work on services

- Managing request-offer negotiations under the GATS + follow up
 - survey of WTO Members' preparations
 - development of sectoral checklists (insurance, legal, construction, energy)
- OECD-World Bank Services Experts Meeting 2003
 - testing principles for disciplines on domestic regulation (transparency, necessity) against experience of liberalisation in certain sectors - insurance, legal and energy.

OECD work on services

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Thank you

