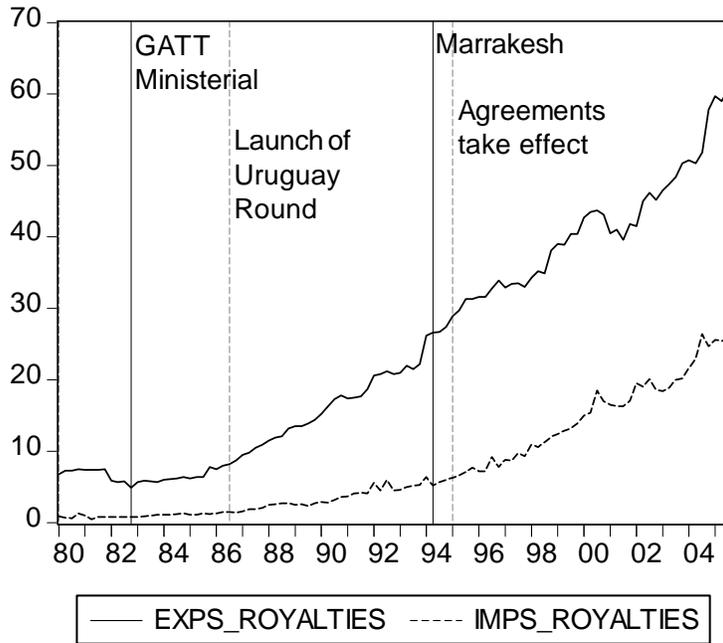
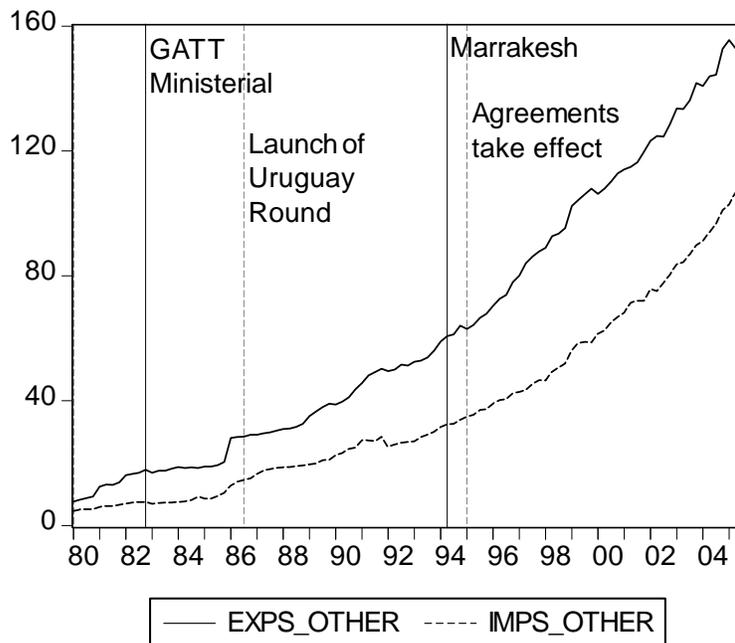


Data for TRIPS and GATS



U.S. Exports and Imports of Royalties. Source: BEA



U.S. Exports and Imports of Other Services. Source: BEA

General obligations and disciplines

Total coverage: The agreement covers all internationally-traded services — for example, banking, telecommunications, tourism, professional services, etc. It also defines four ways (or “modes”) of trading services:

- services supplied from one country to another (e.g. international telephone calls), officially known as “cross-border supply” (in WTO jargon, “mode 1”)
- consumers or firms making use of a service in another country (e.g. tourism), officially “consumption abroad” (“mode 2”)
- a foreign company setting up subsidiaries or branches to provide services in another country (e.g. foreign banks setting up operations in a country), officially “commercial presence” (“mode 3”)
- individuals travelling from their own country to supply services in another (e.g. fashion models or consultants), officially “presence of natural persons” (“mode 4”)

Most-favoured-nation (MFN) treatment Under GATS, if a country allows foreign competition in a sector, equal opportunities in that sector should be given to service providers from all other WTO members. (This applies even if the country has made no specific commitment to provide foreign companies access to its markets under the WTO.)

MFN applies to all services, but some special temporary exemptions have been allowed. When GATS came into force, a number of countries already had preferential agreements in services that they had signed with trading partners, either bilaterally or in small groups.

Commitments on market access and national treatment Individual countries’ commitments to open markets in specific sectors — and how open those markets will be — are the outcome of negotiations. The commitments appear in “schedules” that list the sectors being opened, the extent of market access being given in those sectors (e.g. whether there are any restrictions on foreign ownership), and any limitations on national treatment (whether some rights granted to local companies will not be granted to foreign companies).

Governmental services are explicitly carved out of the agreement and there is nothing in GATS that forces a government to privatize service industries. In fact the word “privatize” does not even appear in GATS. Nor does it outlaw government or even private monopolies.

Transparency GATS says governments must publish all relevant laws and regulations, and set up enquiry points within their bureaucracies. Foreign companies and governments can then use these inquiry points to obtain information about regulations in any service sector. And they have to notify the WTO of any changes in regulations that apply to the services that come under specific commitments.

Regulations objective and reasonable Since domestic regulations are the most

significant means of exercising influence or control over services trade, the agreement says governments should regulate services reasonably, objectively and impartially. When a government makes an administrative decision that affects a service, it should also provide an impartial means for reviewing the decision (for example a tribunal).

GATS does not require any service to be deregulated. Commitments to liberalize do not affect governments' right to set levels of quality, safety, or price, or to introduce regulations to pursue any other policy objective they see fit.

Recognition When two (or more) governments have agreements recognizing each other's qualifications (for example, the licensing or certification of service suppliers), GATS says other members must also be given a chance to negotiate comparable pacts. The recognition of other countries' qualifications must not be discriminatory, and it must not amount to protectionism in disguise. These recognition agreements have to be notified to the WTO.

International payments and transfers Once a government has made a commitment to open a service sector to foreign competition, it must not normally restrict money being transferred out of the country as payment for services supplied ("current transactions") in that sector. The only exception is when there are balance-of-payments difficulties, and even then the restrictions must be temporary and subject to other limits and conditions.

Progressive liberalization The Uruguay Round was only the beginning. GATS requires more negotiations, which began in early 2000 and are now part of the Doha Development Agenda. The goal is to take the liberalization process further by increasing the level of commitments in schedules.

The annexes: services are not all the same back to top

Movement of natural persons This annex deals with negotiations on individuals' rights to stay temporarily in a country for the purpose of providing a service. It specifies that the agreement does not apply to people seeking permanent employment or to conditions for obtaining citizenship, permanent residence or permanent employment.

Financial services The financial services annex gives governments very wide latitude to take prudential measures, such as those for the protection of investors, depositors and insurance policy holders, and to ensure the integrity and stability of the financial system. The annex also excludes from the agreement services provided when a government is exercising its authority over the financial system, for example central banks' services.

Telecommunications The telecommunications sector has a dual role: it is a distinct sector of economic activity; and it is an underlying means of supplying other economic activities (for example electronic money transfers). The annex says governments must ensure that foreign service suppliers are given access to the public telecommunications

networks without discrimination.

Air transport services Under this annex, traffic rights and directly related activities are excluded from GATS's coverage. They are handled by other bilateral agreements. However, the annex establishes that the GATS will apply to aircraft repair and maintenance services, marketing of air transport services and computer-reservation services. Members are currently reviewing the annex.