CHAPTER SEVEN

RULES FOR TRADE IN SERVICES


I. The General Agreement on Trade in Services (GATS) – development and overview

1. History

537 With the introduction of the General Agreement on Trade in Services, which entered into force on 1 January 1995, trade in services was added to the world trade order, which had previously been applicable only to goods. With this new agreement, the steady growth in trade in services, its significant volume\(^1\) and the lack of international regulation up to that point were addressed.

538 The inclusion of trade in services in the negotiations at the Uruguay Round was not without controversy. The initiative for an enlargement of the GATT system came from the United States,\(^2\) and was later supported by other industrialized countries.\(^3\) In contrast, the developing countries saw dangers for the development of their own economies through substantial liberalization and feared the erosion of state control in this sector. This controversy led to the fact that the negotiations on trade in services were not commenced as part of the negotiation of the eighth GATT Round in Punta del Este, later named the Uruguay Round. Rather, negotiations were triggered by a separate Ministerial Decision, which set out a special and individual basis for negotiation on trade in services. Differences of opinion also existed regarding the form, content and scope of the new rules. Trade in services had, hitherto, not been regulated internationally. Many important service sectors, such as telecommunications, energy provision and transport were subject to strong national

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\(^1\) In 2003, commercial services at a value of 1,795 billion US$ were exported, of which 823 billion US$ were exported to the EU, 330 billion US$ to North America, and 352 billion US$ to Asia, WTO International Trade Statistics, 2004, 18; <http://www.wto.org/english/res_e/statis_e/its2004_e/its2004_e.pdf>.

\(^2\) The US Trade Act 1974, which was signed in conjunction with the Tokyo Round, included trade in services. In the Tariff Act 1984 the inclusion of trade barriers and distortions with reference to trade in services was named as an aim of bilateral and multilateral trade negotiations; detailed information on the origin of the GATS is provided by Croome, Reshaping the world trading system, 2nd ed., 1999, 102, 243 et seq.

\(^3\) In April 1985 the OECD-States agreed with the US-position and furthered the inclusion of services in the negotiations; compare also the OECD Codes of Liberalisation of Capital Movements and of Current Invisible Operations, <http://www.oecd.org/dataoecd/14/13/1935919.pdf>.