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The EU Offer for Service Trade Liberalization in the Doha Round. Evidence for a Not-Yet- Perfect Customs Union*

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The Issue

In the early eighties, the EU was once labelled "the not-so-perfect customs union" (Donges, 1981, p.11). The reason was that until the completion of the single market in 1992, EU member states still enjoyed national sovereignties in trade policies against non-member states, i.e., the right to temporarily waive the commitments of the common external trade policy under Art 115 EEC Treaty and to operate national quotas. These rights were gradually abandoned after 1992 when remaining national quotas for imports of bananas, Japanese cars and textiles and clothing were converted into community-wide regulations. However, the transition to a "perfect customs union" was limited to the industrial sector, in principle also to agriculture, because the EU Treaty in Art. 9 defines the customs union as a tariff union with common tariffs and tariff-equivalent charges against non-member states. As tariffs are mostly irrelevant for trade in services, there is no legal analogy in the Treaty between non-services and services concerning the customs union. An analogy, however, exists between the pre-1992 not-so-perfect customs union and the post-1992 internal market for some services, in particular professional services. Pelkmans (1997, p. 108) labels this market "uncommon" due to a large number of EU member state-specific regulations concerning recognition of professional qualifications, the rights of establishment and of cross-border supply. This suggests that the EU is still on the way of completing the stage of a free trade area in services. For the time being, it is neither a full free trade area nor a customs union. In Art. 133 of the consolidated version of the Treaty on the European Union and on the Treaty Establishing the European Community amended by the Nice Treaty (EU Official Journal 2002, C 325/01), it is specified that the same principle of the customs union in goods applies to services (Art. 133.5). Yet, there is shared competence of the Community and the member states in some services such as cultural and audiovisual services, in education services, as well as in social and human health. Therefore, national policies toward trade in services differ not only vis-à-vis non-member states but also between member states.

While the EU Treaty draws a distinction between the customs union in goods and in services because of these specific services still under national competence, there is also a difference between the treatment of regional integration schemes in goods trade (Art. XXIV GATT) and in service trade (Art. V GATS). Coverage in goods trade should comprise virtually all trade whereas in service trade only „substantial sectoral coverage" is needed. The latter requirement is far less binding and enables countries to enter into regional agreements which provide different degrees of policy discrimination between members and non-members. Policy discrimination in goods trade is stronger than in service trade. Even more striking are differences between GATT and GATS in opening markets (market access) and in the provision that foreign products (goods or services) should not be treated less favorable than domestically produced "like" products (national treatment). Commitments to concessions in market access in GATS can be subject to six limitations (Art XVI GATS) which do not have

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an analogy in goods trade. Likewise, national treatment is not a general principle in GATS (Art. XVII) to specific horizontal (valid for all service sectors) and sector-specific concessions.

To what extent and in which sectors the customs union objective has been missed up to now escapes comprehensive quantification. This is because services can be supplied through different modes (via trade or factor movement) which are mostly not subject to border charges but to domestic legally defined non-price barriers, for instance, through denial of rights of establishment (capital movement) or obstacles against migrant inflows (labour movement). Therefore, next to market access, conditions for national treatment are at least as important as determinants for service trade. Even if foreign suppliers have access to foreign markets they can easily be discriminated against competing domestic suppliers. The heterogeneity of both service sub-sectors and policy measures makes quantification of barriers equivalent to goods trade virtually impossible. Furthermore, even if the extent of deviations of national policies from a common policy against non-member countries could be quantified, this does not yet allow a conclusion on its political relevance. The reason is that horizontal commitments relevant for all service sectors may be identical over EU member states and that these commitments cover the relevant part of the service supply. Sector-specific vertical commitments may differ among member states but are in service „niches“ where the public interest is not sensitive. For instance, all EU member states limit market access for services provided by commercial presence in the consumer country which are considered as public utilities being subject to public monopolies or to exclusive rights granted to private operators. Such a monopoly exists in primary school education. Private operators (for instance, schools operated by the churches) must comply with specific obligations fixed by the public monopolies. „Niche“ services can be special private education services subject to country-specific special commitments. There are also horizontal commitments which are specific to individual EU member states, such as limits for non-residents to purchase real estate in Denmark. Therefore, sector-specific commitments have to be seen in conjunction with horizontal commitments and the weight of these specific sectors in all sectors.

The purpose of this paper is to shed some light on the degree to which the EU still deviates from a customs union in services. The empirical tools for this endeavour are frequency indices based on the list of sector-specific concessions which the EU in February 2003 has offered in the context of the multilateral trade negotiations of the WTO, the so-called Doha Round (GATS 2003). The principle underlying these negotiations in services is the existence of a positive list of sectors which each WTO member state is prepared to open to foreign trade and a negative list of measures which the member state is determined to maintain in these sectors. Concessions vary by the four modes of supply which the General Agreement for Trade in Services (GATS) has introduced (cross-border trade (1), consumption abroad (2), commercial presence (3) and temporary presence of natural persons(4)) and by market access and national treatment. Therefore, the GATS structure differs substantially from the GATT structure, not only with respect to the distinction between pricing and non-pricing measures but also with respect to the absence of liberalisation formulas or protection dismantling "across the board".

To convert qualitative information into a numerical assessment of the degree of trade restrictions, there has been a number of approaches ranging from frequency indices to price equivalents which have been applied in the literature. Given that the quality of indicators seems to rise with the homogeneity of service sectors and given that this paper addresses the entire range of service sectors negotiated in the WTO, it is proposed to apply the traditional Hoekman approach (1996) which encompasses all sectors. Yet, it is proposed to modify this approach in order to take account of differences in in-between commitments concerning the various modes of supply. Section II applies a modified frequency indices approach to the EU purpose for sector-specific concessions in the Doha Round. Section III introduces three basic national policy measures which are responsible for the deviation of the EU from a customs union. Section IV concludes on the preliminary results and addresses the need for further research concerning impact analyses of barriers to trade in services.

I. The Measurement of Trade Restrictions in Services: The Role of Frequency Indices

Frequency indices for assessing the importance of non-tariff barriers to trade have a long tradition in trade barrier inventories. In the realm of goods, they were first introduced during the Tokyo Round and became a standard workhorse for the GATT Secretariat and other institutions (Nogués, Olechowski, Winters, 1986). Hoekman (1996) and later Poveda and Droege (1997)) using the Hoekman approach applied the frequency indices approach to services by developing a three-level weighting approach. To each of the 155 service categories categorised in the GATS differentiated by the four modes of supply and the two areas of commitments (market access and national treatment) Hoekman allocates a number which proxies the degree of restrictiveness. The GATS differentiates between commitments where a member, on the one hand, agrees to bind a measure without any qualification (entry "none") as the least restrictive option and, on the other hand, exempts the service from any binding commitment (entry "unbound") or does not make a commitment at all as the most restrictive option. Consequently, Hoekman gives weights of 1 for the former and 0 for the latter option. In between are commitments which are bound but where either specific restrictions are maintained or where specific reference is made to restrictions holding for all services listed as horizontal commitments. These commitments range between 1 and 0 and, as they cannot be further quantified, are given the weight of 0.5. It is this in-between category which can be particularly questioned as there is no distinction between a negligible restriction which has a minor impact on trade and a restriction which comes close to a trade restrictive "unbound" entry (Warren, Findlay 2000, p. 63). Furthermore, as the index interpretes the entry „unbound“ as highest restriction it cannot account for the possibility that a country is not prepared to make any commitment though there a no restrictions on trade in that service sector or because this sector does not exist in the economy. While many researchers have nevertheless continuously applied the Hoekman index (see McGuire, 2003: 40 and the literature cited there), in-depth studies on individual sectors have tried to cluster restrictions of a similar impact. Based on such similarities of different measures, either indices of trade restrictiveness or trade openness have been calculated. Such endeavours prove to be the more fruitful the more homogenous the service sectors are. The banking sector has been the prefered sector to improve the index calculation for two reasons. First, one mode of supply, commercial presence, can directly be linked to the two criteria of GATS, market access and national treatment, in the sense that governments can either restrict market access by limiting the issue of banking licences in total irrespective whether or not banks are owned by non-residents or residents. Alternatively, the number of foreign banks allowed to set up subsidiaries can be restricted thus affecting national treatment. Second, the three other modes of supply (cross-border supply, consumption abroad and movement of natural persons) affect the operational part of banking business, for instance, whether foreign banks are allowed to provide services in local currency or from which services they are excluded compared to local banks. Again, it is easily possible to distinguish between restrictions in the operational part imposed on all banks (market access) and restrictions imposed on foreign banks only (national treatment) and thus to disaggregate trade policy measures by these clusters (McGuire, Schuele 2000).

Further improvements in measuring trade restrictions in services would be to see indices as proxies for taxes imposed either on factor flows through measures against commercial presence and movements of natural persons or on service flows through measures against cross-border trade or consumption abroad. To quantify such taxes, it is required to convert indices into tariff equivalents by means of conversion factors to be developed from sector-specific information. Finally, trade restriction indices enter the most sophisticated approach of using them as input into econometric models estimating price and cost effects of restrictions based on assessing determinants of performance in the sectors. This approach has been used again for few relatively homogenous sectors including banking, telecommunications and engineering (cf see Bosworth 2000 and Warren 2000).

Given the heterogeneity of the 155 different WTO standardised service sectors, we first rely on the initial Hoekman frequency indicator with the three-category weighting method. Table 1 shows weighted shares of concessions offered by the EU (including special requests

Table 1 — Specific Concessions of EU and EU Member States in Services Offered in the Doha Round, by Modes of Supply, February 2003[a]

	Limitations on Market Access (MA)				Limitations on National Treatment (NT)				MA + NT			
	1	2	3	4	1	2	3	4	1	2	3	4
Belgium	57.1	89.4	84.5	0.4	56.6	90.3	86.7	2.2	56.9	89.8	85.6	1.3
Denmark	60.2	89.4	85.8	2.7	59.3	90.3	84.5	4.4	59.7	89.8	85.2	3.5
Germany	56.6	87.6	81.9	1.8	55.3	88.5	85.0	2.2	56.0	88.1	83.4	2.0
Greece	55.8	89.4	83.6	4.9	54.9	90.3	85.8	0.9	55.3	89.8	84.7	2.9
Spain	57.5	89.8	78.3	1.3	57.5	90.3	86.7	1.3	57.5	90.0	82.5	1.3
France	51.8	88.5	79.2	9.7	54.0	90.3	84.5	2.7	52.9	89.4	81.9	6.2
Ireland	56.6	89.8	85.8	0.0	55.8	90.3	86.7	0.9	56.2	90.0	86.3	0.4
Italy	50.4	88.9	77.0	5.3	49.1	90.3	85.4	9.3	49.8	89.6	81.2	7.3
Luxembourg	61.5	89.8	86.7	0.4	60.2	90.3	86.7	0.9	60.8	90.0	86.7	0.7
Netherlands	59.7	89.8	86.7	0.0	58.4	90.3	86.7	0.9	59.1	90.0	86.7	0.4
Austria	65.5	87.2	82.3	6.2	62.4	88.1	85.0	1.8	63.9	87.6	83.6	4.0
Portugal	54.0	89.8	74.8	2.7	53.1	90.3	84.1	6.6	53.5	90.0	79.4	4.6
Finland	58.8	77.0	74.3	0.9	58.8	78.3	75.2	57.1	58.8	77.7	74.8	29.0
Sweden	57.5	80.5	74.3	1.3	56.6	81.4	74.8	3.1	57.1	81.0	74.6	2.2
United Kingdom	60.6	89.8	86.7	3.5	59.3	90.3	86.7	0.9	60.0	90.0	86.7	2.2
Unweighted Average	57.6	87.8	81.5	2.7	56.8	88.6	84.3	6.3	57.2	88.2	82.9	4.5
Coefficient of variation	0.3	0.3	0.3	0.2	0.2	0.2	0.3	0.9	0.2	0.2	0.3	0.5
EU[b]	56.2	88.4	81.4	3.9	55.6	89.4	85.1	3.8	55.9	88.9	83.3	3.8

[a] Sectors - modes as a share of maximum possible. weighted by openness or binding factors (0; 0.5; 1).
[b] Average weighted with member state share in EU Gross National Income in 2000.
Modes of supply:
1 Cross-border supply; 2 Consumption abroad; 3 Commercial presence; 4 Presence of natural persons

Source: GATS (2003). Own calculations.

of EU member states) as a share of maximum possible for all modes. Concessions cover 113 of 155 sectors possible for which the EU list of offers contains entries. The last line shows the EU average in which EU member states' regulations are weighted with the share of the states in the EU gross national income. Concessions in both market access and national treatment are added to a maximum of 1240 commitments (155 x 4 x 2; see Hoekman op. cit:101). In general, there are more differences between modes of supply in each country than between countries in each mode of supply. By far the lowest concessions in terms of would have been the maximum are offered in mode 4 both in market access as well in national treatment (the latter with the notable exception of Finland). This is not surprising as the EU together with other WTO member states sees mode 4 as a possible entry gate for the inflow of low-skilled migrants and thus as a potential circumvention of restrictive migration regulations in the member states. It is more surprising that concessions are smaller in cross-border flows than in the two other modes where concessions approach the 90 per cent level of the maximum. This is probably due to the fact that the EU is not prepared to bind concessions in cross-border exchange of services where consumer protection is seen as a sensitive issue and where such protection is not assumed to be secured by mode 1 supply. Without disaggregating between service sectors, the average level of commitments does not differ much between EU member states thus explaining relatively low coefficients of variation[1]. Overall, the coefficient is

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[1] The structure of offers of EU member states disaggregated by eleven out of twelve sectors (at the one-digit level) is available from the author upon request. Construction services were disregarded because the EU restricted its offer to one activity only. In general, the conclusion holds that both in restrictive and less restrictive offers there is a solid ground of uniformity in EU member states' offers, including restrictiveness toward mode 4 concessions. Mode 2 concessions show the highest amount of similarity of concessions and thus the closed proximity to a customs union. Country-specific regulations are the highest in Sweden and Finland if concessions in market access and national treatment are summed up. Special "outliers" deserve attention, for instance, the high degree of restrictiveness of French offers in distribution services or Austrian few offers in transport services supplied through mode 2.

higher in mode 4. This is where one can therefore expect the largest deviation from the customs union principle (like in migration policies).

II. A Modified Frequency Indices Approach to EU Sector-Specific Concessions in Services

The following approach aims at identifying such differences between sector-specific concessions of individual EU member states in order to substantiate (or reject) the hypothesis of a complete or incomplete customs union. Given this purpose and the heterogeneity of the 155 different WTO standardised service sectors, we retreat to the initial Hoekman approach introduced above but modify and expand it with respect to the in-between category 0.5 (ranging between „unbound“ and „none“).[2] We depart from the empirical experience that among the four modes of supply, cross-border trade and especially consumption abroad, are the least restricted relative to other two modes (cf Brown, Stern 2001; Maurer, Chauvet 2002). This holds because technological innovations in the IT-industry make policy-induced segmentation of national markets from the world market difficult if not impossible and because many services for technical reasons cannot be supplied through the consumption abroad mode. It is for this reason why consumption abroad is estimated to account for only about 20 per cent of world trade in services, particularly in travel and tourism (ibid: 242). As a rule of thumb, services supplied by cross-border factor flows (mode 3 for capital and mode 4 for labor) are more restrictively treated than services supplied by direct exchange between suppliers and consumers (modes 1 and 2). As concerns labor flows, Table 1 clearly highlights the restrictive stance of the EU towards concessions in mode 4.

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[2] I owe this proposal to one of the referees who argued in favor on three instead of only one intermediate value.

Therefore, in the modified Hoekman approach we allocate the highest degree of openness (value 1) if in all four modes there are no restrictions (entry „none“). The degree which is the closest to this corner point is when either and/or in modes 3 and 4 no restrictions are imposed irrespective of whether there are commitments given in modes 1 and/or 2. In these cases, we allocate a value of 0.75. Departing from the other corner point (all modes of supply show „unbound“ commitments thus leading to a zero value), we allocate a value of 0.25 if commitments in modes 1 and 2 are unbound while either in mode 3 and/or in mode 4 there are sector-specific commitments. We regard this combination as a relatively low degree of openness close to the complete denial of any binding of commitments because of the importance of service trade enabled by factor flows. All remaining in-between sector-specific commitments are given 0.5. This modification of the Hoekman index is motivated by the need to identify differences in the sectors-modes structure of concessions between member states. The larger the differences the more one can assume deviations from a customs union to exist. So far the coefficients of variation based on the unweighted averages of EU member states in Table 1 suggest differences between member states to be relatively small in all modes but larger in mode 4. It is not clear, however, whether this result still holds if factor-flow modes are given a higher weight in the assessment of openness to service trade as the modified Hoekman index is aiming at. For that purpose we add the five category weights for each service sector separately for market access and national treatment over all modes for each member state and for each pair of member states calculate the so-called overlap or similarity index which has been frequently in trade structure analyses (Finger, Kreinin 1979). In our case, it is asked which proportion of a EU member state a’s concession is ‘matched’ by concessions of member state b in the same service sector. The index ranges between 0 (no overlap) and 100 (total overlap). A total overlap would point to identical concessions towards non-member countries and thus would indicate a complete customs union.

Based on all 113 sectors in which the EU offered concessions Table 2 lists all combinations of similarities between pair of EU member states. The breakdown confirms earlier findings from Table 1. Generally, similarity is high, between 90 and 100 per cent. Hence, the EU appears close to a customs union with some elements of national “specialities” of trade policy sovereignty, especially in three member states (Austria, Finland and Sweden).

Table 2 - Similarity Index (SI) for Sector-Specific Concessions[a] of the EU and EU Member States in Services

a) on Market Access (MA)

	Belgium	Denmark	Germany	Greece	Spain	France	Ireland	Italy	Luxem-bourg	Nether-lands	Austria	Portugal	Finland	Sweden	United Kingdom
Belgium		98.1	98.3	97.2	94.1	95.0	98.1	93.3	98.5	98.5	93.7	93.1	92.9	91.5	97.7
Denmark			98.5	96.7	93.6	93.9	98.9	92.6	98.9	98.9	93.0	92.4	91.7	90.6	98.9
Germany				97.0	93.7	94.5	99.1	93.1	98.5	98.5	93.6	92.6	92.5	90.8	98.9
Greece					93.8	93.0	96.6	92.8	97.1	97.1	93.4	92.1	92.4	90.9	96.7
Spain						94.9	93.8	97.3	93.5	93.5	91.5	96.6	93.3	92.2	93.5
France							94.3	94.7	94.0	94.0	91.8	94.8	93.5	91.3	94.0
Ireland								93.0	98.5	98.5	93.4	92.7	92.2	90.9	99.4
Italy									92.5	92.5	90.8	97.7	93.2	92.3	92.5
Luxembourg										100.0	93.5	92.2	92.4	91.0	99.1
Netherlands											93.5	92.2	92.4	91.0	99.1
Austria												90.0	91.2	91.3	93.0
Portugal													94.2	92.2	92.2
Finland														95.8	91.9
Sweden															90.5
United Kingdom															

b) on National Treatment (NT)

	Belgium	Denmark	Germany	Greece	Spain	France	Ireland	Italy	Luxem-bourg	Nether-lands	Austria	Portugal	Finland	Sweden	United Kingdom
Belgium		99.0	99.2	99.2	99.6	98.8	99.6	97.2	99.6	99.6	94.7	99.2	91.3	89.5	99.6
Denmark			99.2	99.0	99.2	98.4	99.4	96.5	99.4	99.4	94.6	98.8	90.9	89.4	99.4
Germany				99.4	99.6	98.8	99.6	96.7	99.6	99.6	95.2	99.2	91.2	89.5	99.6
Greece					99.6	99.0	99.6	96.9	99.6	99.6	95.0	98.8	91.3	90.0	99.6
Spain						99.2	99.8	97.1	99.8	99.8	95.0	99.2	91.1	89.7	99.8
France							99.0	97.3	99.0	99.0	95.2	98.4	90.6	89.8	99.0
Ireland								97.0	100.0	100.0	95.0	99.2	91.2	89.7	100.0
Italy									97.0	97.0	92.9	97.0	90.0	90.1	97.0
Luxembourg										100.0	95.0	99.2	91.2	89.7	100.0
Netherlands											95.0	99.2	91.2	89.7	100.0
Austria												94.5	88.7	89.6	95.0
Portugal													91.2	89.2	99.2
Finland														89.3	91.2
Sweden															89.7
United Kingdom															

[a]SI = Σ_i Minimum [TC_a, TC_b] 100, where TC_a (TC_b) is the share of trade concessions of EU member state a (EU member state b) for each sector i in total trade concessions over all service sectors. Concessions are defined as the sum of the five category weights over all modes in each sector.

Source: See Table 1.

III. Characteristics of EU Member States Specific Concessions in Service Trade

Principally, EU member states use three major instruments to enforce national policy guidelines.

One instrument of national policy occasionally used by member states is the economic needs test. In the GATS, Art. XVI:2 permits resort to economic needs tests. Through such a test, governments of Belgium, Denmark, France, Italy and Portugal, in wholesale and retail service trade, for instance, set a limit to the number of department stores in order to prevent "ruinous" competition, to facilitate transport infrastructure planning and to regulate the spatial distribution of stores. Similar restrictions exist for hospital services where some of the member states submit liberalization of trade in hospital services to health plans regulating the number of beds. The shortcomings of such needs tests are well known (Low, Mattoo, 2000). They create uncertainty about the stability of market accessibility. Furthermore, they tend to be more trade-restrictive than is necessary to meet those domestic political and social targets which governments fear to be endangered in the absence of regulation. Unavoidably, such needs test are based on ex post data and underrate the speed of structural change, incentives and market-based responses. As concerns EU external trade, economic needs tests in wholesale and retail trade services can be instrumental to inhibit the traditional mode of delivery (commercial presence) and to give incentives to explore new modes (such as internet pharmacies) which again would meet restrictive measures by member states because of consumer protection purposes. New entrants, for instance, retail chains from the US, would either be deterred to supply services at all or invest in these new modes. Such response to barriers is not exclusive to the economic needs tests but given its unspecified nature it might trigger higher economic costs than a clearly specified price measure or a quantitative restriction. In short, the economic needs test can be instrumental to accelerate search for new modes of supply if a traditional mode would no longer be accessible for non-EU entrants. Since some EU member states do no insist on such tests, intra-EU trade in services is also impeded as the supply of services via less restrictive member states through other modes would also face constraints as it has been the case with internet pharmacies.

Another set of member state-specific measures which prevail in professional services are a nationality condition for all modes of supply, the ban against services supplied under specific company laws under mode 3 and the exclusive supply of person-related services by natural persons only under the same mode. This group of measures creates different conditions of establishment among EU member states and prevents options for non-EU-originating suppliers to use one EU member state market as a stepping stone for access to another one without the need to change the legal status of the supplier.

Thirdly, EU member states differ in their concessions offered by residence criteria. Such criteria hold for natural persons as well as for companies. The latter, for instance, are restricted in supplying specific insurance services through mode 1 only if the head office is based in the EU or the European Economic Area, respectively. Alternatively, member states like Germany or Sweden authorize branches established and licensed in the member state as sole supplier of that service rather than other branches of a company. The underlying motive seems to protect consumers by creating a home bias of supply close to the consumer. Residence criteria are also applied to natural persons if they act in a responsible position on behalf of the company (founder, CEO, board of directors, supervisory council). Such restrictions are frequently found in offers for trade in financial services other than insurance services.

To what extent EU member state-specific restrictions raise transaction costs of supplying the EU market for non-EU members relative to EU members is the essential indicator of discrimination and trade diversion. Given the lack of data, this indicator cannot be quantified. Unlike in trade in goods where interested third parties such as the US Trade Representative can easily commission studies to approximate nullification or impairment of WTO benefits due to EU policies, such impact studies mostly escape quantification in services especially in trade through factor movements (modes 3 and 4). In the EU case, quantification even proves more difficult because of the non-fulfillment of the customs union principle.

IV. Implications for the Doha Negotiation Process and Issues for Further Research

EU member states' specifics in trade in services make the coordination process within the EU time-consuming and cumbersome. This process runs parallel to the negotiations of the EU Commisssion in the Doha Round. The February 2003 offer is a first step which will be revised time and again. Interestingly, prior to that date, the pressure to improve the EU offer beyond what had already been discussed with WTO member states since year 2000, has led already to the dismantling of many EU member state-specific restrictions. As a result, by February 2003, the EU has already been closer to the status of a customs union in services than before. This process will continue as of EU Commission urges upon member states to comply with the commitments to remove any trade barrier within the EU. Opening the access for German consumers to internet pharmacies located in the Netherlands in early 2004, has been part of this process. It is therefore likely that some if not many of the still existing national restrictions will be dismantled in the course of the negotiations so that the process toward a customs union for services is likely to be driven both by the multilateral negotiations and the permanent process of integration deepening and completing the Single Market. This is not a new phenomenon. A similar process occurred when between 1958 and 1968, the EEC became a free trade area in industrial goods and when this process coincided with the GATT negotiations (the Dillon Round and the Kennedy Round) promoting the formation of the EEC as a customs union in these goods.

A major barrier against a rapid conclusion of the customs union, however, is the average standard of restrictions to be maintained. Unlike in goods, tariff levels are not available to fix this average for services. Moreover, many of the national measures are deeply rooted in the history, culture and other pecularities of the member states, for instance, in different degrees of fiscal federalism with different competences for services supplied either under federal or sub-federal responsibility. The fear that labor-intensive services could face adjustment pressure from foreign suppliers once more restrictions are dropped seems to be as unevenly distributed among member states as the inflows of migrants. Another disintegrating element is the discrepancy between EU member state governments concerning the perception of Anglosaxon dominance in some services, e.g. in audiovisual services. Where this dominance is not seen as a challenge to cultural identity, a customs union will be seen less as a threat than elsewhere. A helpful principle for agreeing to a customs union would be to extend the famous principle of the Cassis de Dijon Case (mutual recognition of national standards once the good or service has been orderly supplied on the home market for long time) to selected third countries, preferably other OECD countries. Further research must concentrate on going beyond frequency indices to quantify the impact of restrictions in trade in services in general and on finding an appropriate quantitative benchmark for an EU customs union which is truly complete.

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