

IMMIGRATION AND ASYLUM LAW AND POLICY IN EUROPE

Service Provision and Migration

EU and WTO Service Trade
Liberalization and Their Impact on
Dutch and UK Immigration Rules

Simon Tans

Service Provision and Migration

*EU and WTO Service Trade Liberalization and Their
Impact on Dutch and UK Immigration Rules*

By

Simon Tans



BRILL
NIJHOFF

LEIDEN | BOSTON

The research presented in this publication was made possible by a grant of the Nederlandse Organisatie voor Wetenschappelijk Onderzoek (NWO).

Library of Congress Cataloging-in-Publication Data

Names: Tans, Simon J., author.

Title: Service provision and migration : EU and WTO service trade liberalization and their impact on Dutch and UK immigration rules / by Simon J. Tans.

Description: Leiden ; Boston : Brill/Nijhoff, 2017. | Series: Immigration and asylum law and policy in Europe ; v. 41 | Includes bibliographical references and index.

Identifiers: LCCN 2017012441 (print) | LCCN 2017012701 (ebook) | ISBN 9789004336803 (E-book) | ISBN 9789004336797 (hardback : alk. paper)

Subjects: LCSH: General Agreement on Trade in Services (1994 April 15) | Freedom of movement--European Union countries. | Labor mobility--European Union countries. | Trade regulation--European Union countries. | Free trade--European Union countries. | World Trade Organization. | Service industries--Government policy--Netherlands. | Service industries--Government policy--Great Britain. | Netherlands--Emigration and immigration--Government policy. | Great Britain--Emigration and immigration--Government policy.

Classification: LCC KJE5170 (ebook) | LCC KJE5170 .T36 2017 (print) | DDC 344.2401/12791--dc23

LC record available at <https://lcn.loc.gov/2017012441>

Typeface for the Latin, Greek, and Cyrillic scripts: "Brill". See and download: brill.com/brill-typeface.

ISSN 1568-2749

ISBN 978-90-04-33679-7 (hardback)

ISBN 978-90-04-33680-3 (e-book)

Copyright 2017 by Koninklijke Brill NV, Leiden, The Netherlands.

Koninklijke Brill NV incorporates the imprints Brill, Brill Hes & De Graaf, Brill Nijhoff, Brill Rodopi and Hotei Publishing.

All rights reserved. No part of this publication may be reproduced, translated, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission from the publisher.

Authorization to photocopy items for internal or personal use is granted by Koninklijke Brill NV provided that the appropriate fees are paid directly to The Copyright Clearance Center, 222 Rosewood Drive, Suite 910, Danvers, MA 01923, USA. Fees are subject to change.

This book is printed on acid-free paper and produced in a sustainable manner.

Printed by Printforce, the Netherlands

Service Provision and Migration

Immigration and Asylum Law and Policy in Europe

Edited by

Elspeth Guild
Valsamis Mitsilegas

VOLUME 41

The titles published in this series are listed at *brill.com/ialp*

Acknowledgements

The idea to research the implementation of service trade mobility into national migration law is not my idea; it belongs to my PhD supervisors, professor Elspeth Guild and doctor Paul Minderhoud. I am very grateful that I had the chance to develop this idea, as it has proven to be a highly interesting, important and actual topic which will likely allow me to pursue this line of research for a long time. Additionally, extensive research of WTO- and EU service trade liberalization, as well as Dutch- and UK migration law proved to be challenging indeed. Getting to grips with these legal orders was not possible without my supervisors knowledge, support and patience. Their role in the process of writing this book is therefore hard to overestimate.

Furthermore, I wish to express my gratitude to professor Jürgen Bast, professor Johan van de Gronden and professor Henri de Waele. Their feedback improved various arguments as well as the clarity of the conclusions drawn in this book. The same holds true for professor Kees Groenendijk, whose input on EU- and Dutch migration law proved key to the structure of the national chapters, as well as in relation to the understanding of the EU Directives on legal migration. Acknowledgement is also due to the Dutch Organization for Scientific Research (NWO). Its grant made the original PhD research possible, without which this commercial edition would not exist.

Two departments of the Radboud University have played a central role in the process of writing my dissertation: The Centre for Migration Law, and the Department of International and European Law. The Centre for Migration Law provided an excellent research environment which has greatly contributed to this work. My colleagues at the Department of International and European Law deserve similar praise. Not only did they contribute to the completion of my dissertation, but also to my development as a lecturer. I am happy to work at a department and university where the quality of lecturing is considered very important.

This research has greatly benefited from my time working for the Services Programme and the Dispute Settlement Programme at the International Centre for Trade and Sustainable Development in Geneva. In specific, praise is due to Sheila Sabune for her guidance and for providing the opportunity to participate in various meetings and trainings related to the World Trade Organization. I also had the opportunity to conduct research as a visiting scholar at

the Graduate Institute of International and Development Studies in Geneva. I would like to express my gratitude to both professor Joost Pauwelyn and professor Vincent Chetail for that opportunity, and for their influence on publications which are now part of this book.

Nijmegen

9 January 2017

List of Abbreviations

AA	Dutch Aliens Act (Vw 2000)
ACP	African Caribbean and Pacific countries
AD	Dutch Aliens Decree (Vb 2000)
AEA	Aliens Employment Act
Annex MNP	Annex on Movement of Natural Persons Supplying Services Under the General Agreement on Trade in Services
ASEAN	Association of South-East Asian Nations
BV	Business Visitors
CFI	Court of First Instance
CoS	Certificate of Sponsorship
CPC	Central Product Classification
CRD	Citizens Rights Directive (Dir. 2004/38)
CSS	Contractual Service Suppliers
CTS	Council for Trade in Services
DEAEA	Decree Effectuating Aliens Employment Act
DSB	Dispute Settlement Body
DSS	Dispute Settlement System
DSU	Understanding on Rules and Procedures Governing the Settlement of Disputes
ECHR	European Convention for the protection of Human Rights and fundamental freedoms
ECSC	European Coal and Steel Community
EEA	European Economic Area
EEC	Treaty establishing the European Economic Community
ECJ	European Court of Justice
EFTA	European Free Trade Association
ESD	Electronic Service Delivery
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
ICT	Intra-Corporate Transferee / Intra-Company Transferee
ILO	International Labour Organization
IMF	International Monetary Fund
IND	Immigratie- en Naturalisatiedienst

ITO	International Trade Organization
LDCs	Least Developing Countries
MFN	Most-Favoured-Nation
MVV	machtiging tot voorlopig verblijf
OECD	Organization for Economic Co-operation and Development
OEEC	Organization for European Economic Cooperation
OTC	Organization for Trade Cooperation
PBS	UK Points-Based System
PPA	Protocol of Provisional Application of the GATT 1947
PSC	Point of Single Contact
PWD	Posted Workers Directive (Dir. 96/71)
QTL	qualification requirements and procedures, technical standards and licensing requirements
REAEA	Regulation Effectuating Aliens Employment Act
RoA	Regulations on Aliens
RTA	Regional Trade Agreement
SEA	Single European Act
S&D	Special and Differential treatment
SD	Services Directive (Dir. 2006/123)
SPS	WTO Agreement on Sanitary and Phytosanitary Measures
TBT	WTO Agreement on Technical Barriers to Trade
TEC	Treaty establishing the Economic Community
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TiSA	Trade in Services Agreement
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
UK	United Kingdom
UKBA	United Kingdom Border Agency
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
US	United States
UWV	Uitvoeringsinstituut Werknemersverzekeringen
VCLT	Vienna Convention on the Law of Treaties
WPDR	Working Party on Domestic Regulation
WPGR	Working Party on GATS Rules
WPPS	Working Party on Professional Services
World Bank	International Bank for Reconstruction and Development
WTO	World Trade Organization

Contents

Acknowledgements VII

List of Abbreviations IX

- 1 Introduction 1
 - 1.1 The Consequences of Service Trade Liberalization – Problem Setting 1
 - 1.2 The Background of Service Mobility 4
 - 1.3 Research Questions 19
 - 1.4 Methodology and Explanation of Research Choices 20
 - 1.5 Structure 22
- 2 The World Trade Organization and the General Agreement on Trade in Services 24
 - 2.1 Introduction 24
 - 2.2 A Brief Account of the Events Leading to Multilateral Trade Cooperation 24
 - 2.3 The System of the WTO and the GATS 43
 - 2.4 Movement of Persons, GATS Mode 4 69
 - 2.5 Obligations of WTO Members in Respect of Mode 4 Service Suppliers 84
 - 2.6 Enforcement of WTO Law 126
 - 2.7 Analysis and Conclusions 134
- 3 EU Law and the Freedom of Movement of Service Providers 139
 - 3.1 Introduction 139
 - 3.2 European Economic Integration 139
 - 3.3 The Scope of the Freedom to Provide Services 155
 - 3.4 Categories of Persons Enjoying the Freedom to Provide Services 170
 - 3.5 EU Rights Provided to Service Suppliers 195
 - 3.6 Enforcement of EU Law 224
 - 3.7 Analysis and Conclusions 231
- 4 The WTO and the EU, Similarities and Differences in Services Mobility Liberalization 233
 - 4.1 Introduction 233
 - 4.2 Aim 236

4.3	The Method of the EU and the WTO to Reach a Level Playing Field	240
4.4	The Scope of WTO and EU Freedom to Provide Services	259
4.5	Facilitation of Implementation through European Law	260
4.6	Conclusions	267
5	Implementation of Service Trade Liberalization in Dutch Law and Policy	270
5.1	Introduction	270
5.2	Dutch Immigration and Labour Market Rules for Third-country Nationals	274
5.3	The Dutch GATS Mode 4 Commitments and Implementation	295
5.4	Implementation of EU Obligations in Dutch Law and Practice	311
5.5	Conclusions	325
6	Implementation of Service Trade Liberalization in UK Law and Policy	329
6.1	Introduction	329
6.2	UK Immigration and Labour Market Rules for Third-country Nationals	331
6.3	The UK GATS Mode 4 Commitments and Implementation	344
6.4	Implementation of EU Obligations in UK Law and Practice	366
6.5	Conclusions	374
7	Conclusion and Analysis	376
7.1	Overview	376
7.2	Main Conclusions WTO Law and the GATS	378
7.3	Main Conclusions EU Law and the Freedom of Movement of Service Providers	384
7.4	Comparing Goals and Methods, WTO and EU Service Trade Liberalization	387
7.5	Implementation of Service Mobility Obligations in the National Legal Order	391
7.6	Concluding Analysis	409
	References	415
	Legislation and Policy Documents	443
	Case Law	455
	Index	470

Introduction

1.1 The Consequences of Service Trade Liberalization – Problem Setting

The aim of this research is to examine the tension between service trade liberalization, the inclusion of movement rights for natural persons to provide services, and the implementation of such obligations into national law. The research centres on service trade liberalization resulting from the World Trade Organization (WTO) and the European Union (EU) and two Member States of both legal orders, the Netherlands and the United Kingdom (UK). Service trade liberalization as provided by the WTO, in specific the General Agreement on Trade in Services (GATS), and the EU includes the right of natural persons to cross borders to provide their economic activity in the host state, in this study referred to as service mobility. The obligations derived from these international legal orders therefore have an impact on the policy area of immigration, influencing the national conditions that determine entry and residence. In addition, the manner in which individuals participate to the economy has changed drastically. While in the 1980s work was primarily understood as a relationship between an employer and an employee, this model has become the exception in many EU Member States.¹ In modern societies, self-employment and service provision are common forms of economic activities. In essence, legal orders are struggling to demarcate employment from self-employment, a problem that becomes particularly evident in relation to hiring-out and the posting of workers. Tensions over security of employment become expressed as part of a discourse regarding disguised employment and the lack of transparency in economic conditions. This tension is exacerbated as workers tend to be nationals of a particular state, whereas mobility related to cross-border service provision primarily concerns nationals from another state. Consequently, international liberalization of trade in service impacts, or in any case is perceived to impact, on domestic labour market policies. Service trade liberalization therefore has entered the domains of immigration policies and domestic labour market policies. An important function of a sovereign state is the task to determine which foreign citizens may enter its territory.

¹ B Hepple, *Social and Labour Rights in a Global Context: International and Comparative Law Perspectives* (Cambridge University Press Cambridge 2002).

The wider function of immigration law is additionally concerned with the issues that move beyond transit and tourism. 'Immigration control systems' determine access of foreigners to the labour market and the welfare state.² These policy areas belong to the core of a state's interests, as they are directly related to the question who belong to one of its constituent elements, its population.³ Migration law and policy in general is a field of law that is strongly used to find solutions for politically formulated problems. In a sense, the situation in the UK in 2016 provides the culmination of the strained relationship between politics and migration, leading to the UK referendum to leave the EU. Though many reasons may be referred to, it is without question that the perception of uncontrolled migration flows featured centrally. The sensitivity regarding these topics has moreover increased since the emergence of the importance of trade in services in the 1980s, in particular during the first decade of the new millennium.⁴ Consequently, societal developments, which determine political aims, have a heavy influence on migration law. Immigrants are perceived as profiting from welfare systems and competing for employment with nationals. The media and politicians more often have a negative than a positive influence on this image.⁵ The image itself is certainly debatable;⁶ it is also much

2 C Roos *The EU and Immigration Policies. Cracks in the Walls of Fortress Europe?* (Palgrave Macmillan, London 2013), p. 1.

3 For a description of population being one of the constituting elements of a state as a person of international law, see: M Craven 'Statehood, self-determination, and recognition' in MD Evans *International Law* (Oxford University Press, Oxford 2014), pp. 218–219.

4 Services was considered as an option for multilateral trade during this decade, leading to the creation of the GATS. In parallel, at the end of the 1980s the Single European Act initiated the start of the process towards completion of the EU internal market, culminating in the attempt to horizontally liberalize service provision through the Services Directive.

5 Roos 2013, pp. 1–2; C Dustmann and I Preston *Racial and Economic Factors in Attitudes to Immigration* (2000) 190 IZA Institute for the Study of Labor Discussion Paper, p. 1 and 3–4, available online: <www.iza.org> (last visited 1 December 2016); MJ Trebilcock, R Howse and A Eliason *The Regulation of International Trade* (Routledge London 2013), pp. 783–784; J Hainmueller and MJ Hiscox 'Educated Preferences: Explaining Attitudes Toward Immigration in Europe' (2007) 61 *International Organization*, p. 400.

6 As clearly stated in D Bräuniger 'Debate on Free Movement. Does the EU Need New Rules on Social Security Co-ordination?' (2015) Deutsche Bank Research Briefing European Integration. In the literature, of which only a fraction is listed here, there is clear disagreement: Hainmueller and Hiscox 2007 pp. 400–402; AM Mayda 'Who is Against Immigration? A Cross-Country Investigation of Individual Attitudes toward Immigrants' (2006) 88:3 *The Review of Economics and Statistics*, pp. 510–511 and 526; Trebilcock, Howse and Eliason 2013, p. 784; GJ Borjas 'The Labor Demand Curve is Downwards Sloping: Re-examining the Impact of Migration on the Labour Market' (2003) 118:4 *The Quarterly Journal of Economics*, pp. 1335–1374; Dustmann and Preston 2000, pp. 2–3, 6 and 32–33; N Gaston and D Nelson

less relevant in relation to service mobility, which is temporary in nature. In particular in relation to third-country nationals, the influence of such images on the implementation of obligations relating to service trade liberalization is very clear. However, this perception is not limited to third-country nationals. In relation to EU nationals, in particular those whose home states have joined the EU since 2004, similar sentiments influence politics, and even the legislator of the EU Member States that were included in this study. Dutch and United Kingdom migration law and policy have a tendency to adopt international commitments relating to service mobility within the general framework applying to labour migration. This may be logical from a national perspective for a policy area considered sensitive in the political arena, however, international obligations have an interesting role to play as they restrict the possibilities to unilaterally tighten existing rules.⁷ As such, they form a minimum level of guarantees against these changes. There is a clear tension between the interest to liberalize trade in services and the related necessity to address service mobility on the one hand, and the impact service mobility has on immigration and labour market policies. The investigated states demonstrate a strong reluctance to accept binding international commitments in these fields. The adoption of service trade liberalization and the consequential rights of service mobility becomes irreconcilable with the incentive to retain sovereignty over immigration and labour market access, as demonstrated by the EU Member States investigated in this research. The question then is, why do these states involve themselves with trade liberalization involving service mobility.

Providing services is the primary economic activity within the EU. It accounts for the majority of employment opportunities and it is the main driving factor for economic growth. European economies are essentially service-based economies. The core of the European integration project is the creation of an internal market; in relation to services, service providers should be able to provide their services under the same competitive circumstances anywhere within the EU. To ensure competitive equality, or a level playing field, freedom

'Immigration and Labour-Market Outcomes in the United States: A Political-Economy Puzzle' (2000) 16:3 *Oxford Review of Economic Policy*, p. 108; T Hayter *Open Borders: The Case Against Immigration Control* (Pluto Press, London 2000) p. 158; RM Friedberg and J Hunt 'The Impact of Immigration on Host Country Wages, Employment and Growth' (1995) 9:2 *Journal of Economic Perspectives*, p. 42; GJ Borjas, RB Freeman and L Katz 'How Much do Immigration and Trade affect Labor Market Outcomes' (1997) 1 *Brookings Papers on Economic Activity*, pp. 62–63; Dustmann and Preston 2000, pp. 2–3.

7 GG Lodder *Vreemdelingenrecht in Vogelvlucht. Over Toelating en Verblijf van Vreemdelingen in Nederland* (Sdu Uitgevers, The Hague 2011), p. 15; EJA Franssen *Wet Arbeid Vreemdelingen* (Kluwer, Deventer 2013), pp. 10–11; G Clayton, C Sawyer, H Toner, G Firth and H Wray *Textbook on Immigration and Asylum Law* (Oxford University Press, Oxford 2014), p. 31.

of movement of service receivers is important as well. In parallel, service receivers benefit from the internal market as they have more choice and intra EU-competition should lead to higher quality of services or lower prices. The internal market results in an obligation directed at the Member States. Hindrances to a level playing field, over which Member States exercise influence, should be removed. In the 1990s the liberalization of service trade entered the domain of the WTO. The GATS aims to achieve a similar opening up of service provision at a multilateral level. Consequently, the EU and its Member States participate to intra-state liberalization of service trade both at a regional and the multilateral level. Many services cannot be traded across borders without some form of movement of natural persons. Modern communication technologies provide the possibility to trade in services in a cross-border sense, yet various services still require proximity between supplier and producer. Any international framework dealing with trade in services will have to incorporate ways to accommodate movement of either supplier or consumer across borders.⁸ The GATS and EU law therefore include service mobility, the right to travel to, and reside on, the territory of other states party to that international framework. This background demonstrates the inherent tension between service trade liberalization and the reluctance to accept loss of sovereignty over the indicated policy areas which has led to the central question of this research: how do states implement obligations to liberalize service mobility undertaken in a beyond state sovereignty context and how does this influence a state's interest to maintain control over its immigration and labour market policies?

1.2 The Background of Service Mobility

This study addresses the interaction between two international, and two national legal orders. The topics addressed are trade in services, immigration law and access to the labour market regimes. The interaction between these topics and legal frameworks is highly complex and involves trade related, as well as (international) political and social concepts. However, the core of this investigation is based on a legal comparison between the international obligations and the national implementation of these obligations. Before commencing an in-depth analysis of each of these legal orders, this chapter will provide an overview of various relevant topics which set the stage for the research conducted.

8 J Bast 'Annex on Movement of Natural Persons Supplying Services Under the Agreement' in R Wolfrum, PT Stoll and C Feinäugle (eds) *Max Planck Commentaries on World Trade Law, WTO – Trade in Services* (Martinus Nijhoff Publishers, Leiden 2008), pp. 574–575.

1.2.1 *The Importance of Services Trade*

It is hard to overestimate the importance of trade in services from an economic perspective. Since the 1950s modern economies have changed fundamentally from industry based to service-based economies. This is not to say that services had a small role to play before, yet services were only recognized as a distinct economic category around that time. Services were described as the tertiary sector, agriculture and industry being the first two, which simply covered everything the first two did not.⁹ The idea of trade in relation to services on an international level was only picked up by trade economists around the 1980s.¹⁰ Before that time, services were mostly considered non-tradable.¹¹ In the years since then trade in services has achieved a significant amount of trade flows. In 2002 services was calculated to account for 72 percent of the Global Domestic Product (GDP) in developed countries and 49 percent in developing countries.¹² In 2005 the services sector accounted for 2.4 trillion of the total 12.5 trillion in world exports, turning services exports into the fastest growing sector of trade exports.¹³ In 2005 Foreign Direct Investment (FDI) in services had surpassed FDI in manufacturing.¹⁴ Moreover, gains from services liberalization are expected to provide higher gains than liberalization in goods. Protection levels are currently higher regarding trade in services which suggests higher potential for gains.¹⁵ An estimation made in the 1980s on gains from eliminating global restrictions on labour mobility indicates results in a doubling of worldwide annual GNP, and even less optimistic assumptions

9 V Hatzopoulos *Regulating Services in the European Union* (Oxford University Press, Oxford 2012), pp. 3–4.

10 Note that this applies to *trade* economists; services had certainly not escaped the interest of economists in general, JN Bhagwati 'Splintering and Disembodiment of Services and Developing Nations' (1984) 7 *The World Economy*, p. 133.

11 US based multinationals convinced the US government of the importance of services trade, Trebilcock, Howse and Eliason 2013, pp. 472–473; A Sapir 'The General Agreement on Trade in Services: From 1994 to the Year 2000' (1999) 33 *Journal of World Trade*, p. 52; WJ Drake and K Nicolaïdis 'Ideas, Interests and Institutionalization: "Trade in Services" and the Uruguay Round' (1992) 46 *International Organization*, p. 41.

12 UNCTAD *Trade in Services and its Development Implications* Secretariat Note 20 December 2002 TD/B/COM.1/55.

13 D Fernandes 'Twins, Siblings or Friends: The Conceptual Case of Goods and Services, Where Do We Stand and Where Could We be Headed to?' in K Alexander and M Andenas (eds) *The World Trade Organization and Trade in Services* (Martinus Nijhoff Publishers, Leiden 2008), p. 105.

14 *OECD International Investment Perspectives 2005* (OECD, Paris 2005), p. 60.

15 P Delimatsis 'Don't Gamble with GATS – The Interaction between Articles VI, XVI, XVII and XVIII GATS in the Light of the *US – Gambling Case*' (2006) 40 *Journal of World Trade*, pp. 1059–1060.

are still higher than gains from further trade liberalization relating to goods.¹⁶ More recently, studies suggest that liberalization in services in general could contribute to over \$300 billion growth in world GDP.¹⁷ Winters states that if developed countries would allow entry of migrants equal to three per cent of the current work population, this would lead to a growth of \$150 billion in global GDP.¹⁸ Lifting restrictions would also lead to a much more equitable distribution of wealth.¹⁹ Another important aspect of services, is the significant part they play in the economy.²⁰ Furthermore liberalization relating to intermediate services leads to positive effects for downstream manufacturing industries.²¹ It should be emphasized that services play an important role in human societies and human development as well. Affordable and universal access to education, water, health and electricity are crucial factors for equal development in societies.²²

-
- 16 C Hamilton and J Whalley 'Efficiency and Distributional Implications of Global Restrictions on Labour Mobility: Calculations and Policy Implications' (1984) 14(1-2) *Journal of Development Economics*, pp. 61-75; The Economist 'The Longest Journey' 2 November 2002, p. 3 available online: <www.economist.com> (last visited 1 December 2016).
 - 17 A Winters, J Whalley, Z Wang and R Grynberg 'Liberalising Temporary Movement of Natural Persons: An Agenda for the Development Round' (2003) 26 *The World Economy*, p. 1140; The Economist 'The Longest Journey' 2 November 2002, p. 3 available online: <www.economist.com> (last visited 1 December 2016).
 - 18 A Winters, 'The Economic Implications of Liberalizing Mode 4 Trade', in A Mattoo and A Carzaniga (eds) *Moving People to Deliver Services* (World Bank, Washington DC 2003), p. 59 and 73; see also B Hoekman and A Mattoo *Liberalizing Trade in Services: Lessons from Regional and WTO Negotiations* (2012) Research Paper Global Trade and Financial Architecture Project, p. 28, available online: <<http://globalgovernanceprogramme.eui.eu>> (last visited 1 December 2016).
 - 19 Trebilcock, Howse and Eliason 2013, pp. 781-782; Hamilton and Whalley 1984, pp. 73-74.
 - 20 See for an account on the significance of services in lower and higher developed economies, Fernandes 2008, pp. 107-108.
 - 21 Examples of service sectors in which spillover effects can be significant are transport, banking and insurances, IT services, advertising and wholesale and retail trading. See for an interesting account on the effect barriers to trade in services have on manufacturing, R Langhammer 'Services Trade Liberalization as a Handmaiden of Competitiveness in Manufacturing: an Industrialized or Developing Country Issue?' (2007) 41 *Journal of World Trade*. See also Fernandes 2008, pp. 108-109.
 - 22 Fernandes 2008, p. 109. These service sectors play a major role in the fierce debate between critics and proponents of liberalization in general and the GATS in specific. Examples of the many publications relating to this debate are: J Woodroffe *GATS: a Dis-service to the Poor* (World Development Movement, London 2002), pp. 34-35; S Sinclair and J Grieshaber-Otto *Facing the Facts: A Guide to the GATS Debate* (Canadian Centre for Policy Alternatives, Ottawa 2002); M Barlow 'The Last Frontier: GATS' (2001) *Review of*