

GATT deal - what it means

Jock Given outlines the practical consequences of the concluded

Uruguay Round

In December, the 115 members of the General Agreement on Tariffs and Trade ("GATT") finally settled on a package of agreements aimed at liberalising world trade. These countries account for 90% of world merchandise trade.

The Industry Commission estimates that the long-term effects of the Uruguay Round will be an increase in Australia's exports over \$A5 billion, and an increase in Australia's GDP of around \$A3.7 billion.

The deal came some seven years after the Uruguay Round was launched at Punta del Este in 1986. It represents a major achievement by negotiators and Ministers from Australia and all other countries. A formal ceremony at which the agreements - some 6,500 pages of them - are signed by relevant Ministers and will be held in Morocco in mid April.

For the film and television industries in Australia, there are two key agreements:

- Services - the General Agreement on Trade in Services ("GATS"); and
- Intellectual Property - Trade Related aspects of Intellectual Property Rights ("TRIPS").

The services agreement will have minimal immediate effect on Australia. The Intellectual property agreement will require some changes to Australia's copyright legislation and substantial changes to copyright laws in some other countries which are not currently members of the major international copyright agreements.

Services

Last minute negotiations between the US and the EC about the audiovisual sector proved highly contentious. It was widely reported that audiovisual services were "excluded" from the final agreement. This is not the case.

Audiovisual services are covered by the agreement. However, this does not mean the countries are obliged to remove all forms of assistance arrangements in the sector.

It means, firstly, that some general obligations like "transparency" (the requirement that information about assistance arrangements and regulatory

measures be made publicly available) will apply in the audiovisual sector.

Secondly, another general obligation - "most favoured nation" (also known as "non-discrimination" - the obligation to treat each nation's services or service providers as favourably as the "most favoured nation's" services or service providers) - will apply, but countries may take out specific exemptions to it in particular sectors.

Australia has taken out an exemption to the MFN obligation in relation to film and television co-production treaties. These would otherwise infringe the MFN obligation, because they treat co-producers from countries with whom Australia has co-production arrangements more favourably than those with whom Australia does not. The exemption will ensure that such arrangements can be maintained.

Thirdly, other obligations - like market access and national treatment (treating foreign services and service providers as favourably as domestic ones) - will apply only to the extent that individual countries offer to make them apply. This means, in particular, that domestic content quotas will only have to be removed or reduced if individual countries offer to do so.

The US has made an extensive offer in relation to audiovisual services. That is, it has committed itself not to introduce many forms of assistance measures common in other countries.

Australia and the EC have made no offers in this area. This means they have left themselves with the flexibility to introduce new measures or adapt existing measures to assist their audiovisual industries.

However, all members are committed to entering into successive rounds of negotiations beginning within five years of the signing of the agreement, "with a view to achieving a progressively higher level of liberalisation".

Overall, the services agreement is crucial in establishing legally enforceable multi-lateral rules for trade and investment in the services sector. It will act as a discipline on unilateral action being taken by countries who believe their trade interests are adversely affected by the actions of other countries. Once the agreement is signed, countries will be

forced to pursue liberalisation through multilateral disputes settlements procedures set out in it. Nevertheless, the obligation to seek higher levels of liberalisation in the future means that external pressure on Australia's domestic assistance arrangements is likely to continue in some form.

Intellectual Property

The three major implications of this agreement are:

- Australia and those signatories which do not already have such a right will be required to introduce a "rental right" to give copyright control over rental of computer programs and sound recordings. This does not extend to cinematographic films. (The agreement actually obliges members to introduce a rental right for films, but allows them to avoid the obligation if rental activity in their countries has not created problems).
- Signatories will have to establish effective procedures for enforcing copyright and other intellectual property rights. The lack of such enforcement procedures has been a major deficiency in the existing international copyright conventions such as Berne. It has meant that countries could introduce copyright laws, but take little action to ensure they were enforced.
- GATT members who are not currently signatories to the major copyright conventions will be required to introduce copyright laws. Such countries include Indonesia and Singapore. However, developing countries will have four years in which to comply.
- The term of performers protection (a limited form of copyright which currently applies for 20 years under Australian Copyright Law) will need to be extended in all member countries to 50 years.

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