

## The Treatment of Electricity in the Free Trade Area of the Americas

By Pierre-Olivier Pineau\*

### Introduction

International trade agreements are reshaping the economic context of the world by allowing freer flow of investments, goods and services. Energy and electricity products have this particular characteristic of ranging over both good and service classifications. How is electricity, in particular, treated within these trade agreements, which clearly distinguish between goods and service sectors? How can the electricity sector be affected by new agreements? We answer these questions with a specific focus on the Free Trade Area of the Americas (FTAA). We start by setting the international trade context and then study how electricity is considered in the General Agreement on Trade in Services (GATS), in the North American Free Trade Agreement (NAFTA) and in the FTAA. An analysis on the probable consequences of the FTAA on the electricity sector is then made.

### The International Trade Context

The FTAA negotiations bring together the 34 democratic countries of the Western Hemisphere that all agreed in the 1994 Summit of the Americas to unite their economies in a single free trade agreement. They are all members of the World Trade Organization (WTO). Because the FTAA will mostly prevail over previous local trade and integration agreements, we focus our attention on it. But before presenting the FTAA, we provide in the following sections some background information on the WTO's GATT and GATS and on the NAFTA, because they set an important context for the FTAA.

#### *The WTO: GATT and GATS*

As international trade increased after the 1947 GATT, and expanded beyond goods, for which the GATT was designed, the need for an international body overseeing all trade issues (negotiations and disputes in all sectors) was being felt worldwide. The Uruguay Round of Multilateral Trade Negotiations (usually simply referred to as the "Uruguay Round") took place between 1986 and 1994 among signatories of the original GATT. It led to the creation of the WTO, in 1995, the institution dealing with international trade issues. Along with the creation of the WTO, the results of the Uruguay Round were an update of the GATT<sup>1</sup> and the creation of the GATS,

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<sup>1</sup> See footnotes at end of text.

to set the ground for trade in services and well as for further liberalization in these sectors. Other agreements reached at the end of the Uruguay Round deal with Trade-Related Aspects of Intellectual Property Rights (TRIPS), dispute settlement, trade policy review mechanism and plurilateral agreements. A new "round" of WTO negotiations started in 2001 after a conference in Doha, with many trade issues on the agenda, such as agriculture, services and electronic commerce, among others (see WTO, 2001a, for all areas and more details on the content of the negotiations).

The GATS is built on the same principles used in the GATT, but applied to service sectors. It represents an international effort to develop a global *multilateral trading system* in services, as opposed to specific *regional agreements* among different countries, leading to regional free trade integration, but also to differently integrated groups of countries, such as the European Union, Mercosur or NAFTA.<sup>2</sup> The GATS does not dictate liberalization in services, but sets a framework on how liberalization of trade in services should be done, with a schedule of commitments each country submits and has to follow.<sup>3</sup> Hence, the GATS only applies to sectors in which member countries make commitments. Three important principles in the GATS define the backbone of this framework:<sup>4</sup> (1) Most Favored Nation (MFN) treatment; (2) Market Access and (3) National treatment. Transparency in regulation and information is also an important principle (article III of the GATS).

The MFN treatment principle (article II) compels member countries to treat service providers from all countries as well as the foreign service provider that has the most favored treatment. This means that if a country has specific rules that favor a service provider from another country, then these rules should apply to all service providers, without discrimination with respect to their country of origin. However, to limit the scope of MFN, a list of exemptions can be submitted by each country, to exclude some sectors from the MFN requirement (see article II.2 and Annex on article II Exemptions).

The two other principles, market access (article XVI) and national treatment (article XVII), apply only to sectors that countries voluntarily want to liberalize. In such a case, they list the liberalization commitments they want to make for each sector of their choice. This list is called the "Schedule of Specific Commitments" and is defined in article XX.

The market access principle spells out six different types of limitations that a country cannot use to prevent a service supplier to operate in its territory (article XVI, 2a to 2f). The six forbidden types of limitations are limitations on:

- the number of suppliers in the market (in any possible manner);
- the value of transactions or asset values of the supplier;
- the quantity of services offered by suppliers;
- the number of employees of the suppliers;
- the legal status of suppliers that can provide services;
- the amount of foreign ownership in the supplier's capital.

Finally, the national treatment principle simply states that foreign suppliers should be treated exactly as national

suppliers.

To sum up, it can be said that rather than directly opening the service sectors to international competition, the GATS sets a common backdrop for future liberalization in the service industries. With its “positive listing” approach (a sector has to be explicitly mentioned as a country commitment to liberalization to be subject to international trade), rather than mandatory liberalization, it leaves room for various speeds of progress to signatory countries.

#### *The NAFTA*

The NAFTA was signed in 1994 between Mexico, the United States of America and Canada to create a free-trade area for goods and services covering the three member countries.<sup>5</sup> It differs from the GATS in the way sectors are subject to liberalization, removal of trade barriers and absence of governmental favorable treatment. Under NAFTA, all goods and services from the member countries are subject to international competition without restrictions. Countries do not have to “commit” themselves in the sectors of their choice. The same principles of MFN, market access and national treatment are found in this agreement.

However, although NAFTA may first appear to be all-inclusive, its structure conveys a lot of distinctions between sectors. This limits the scope of influence of NAFTA to some sectors, and excludes some strategic sectors from international competition. Also, in some instances, it avoids the need to introduce regulatory reforms to eliminate protections provided by national laws. The main sectors benefiting from a special treatment under NAFTA, and for which a specific chapter has been written to exclude them from the general rules defined otherwise, are Energy (Chapter 6), Agriculture (Chapter 7), Telecommunications (Chapter 13), Financial services (Chapter 14) and Cultural industries (Chapter 21, Annex 2106).

Other less important reservations exist, as specified in the Canadian, U.S. and Mexican schedules of Annex I, but also in other chapters and annexes. These reservations specify special treatment under NAFTA for sectors such as fisheries, transportation (especially air transportation) and others.

Furthermore, Annex III contains some limits of the applicability of NAFTA in some sectors, with a list of “Activities Reserved to the State”. Although this annex is presented as relevant to the three member countries, only Mexico has a schedule of activities that are under the exclusive power of the State. For instance, the government of Mexico has retained the right to provide all energy goods and services to the population (petroleum, electricity, nuclear power), as well as for some other sectors, such as postal service or railroads. Canada and the U.S. do not have such power under NAFTA.

NAFTA is, therefore, a significant step forward in terms of trade liberalization of goods and services for the three member countries. It goes beyond the GATT and the GATS, because it automatically includes almost all sectors in the created free-trade area, which is the world’s largest one. However, with numerous chapters on specific sectors and

many annexes spelling out restrictions to free markets and international trade, NAFTA is far from being the ultimate stage of liberalization.

#### *The FTAA*

The negotiations for the Free Trade Area of the Americas (FTAA) started in December 1994 with the First Summit of the Americas in Miami.<sup>6</sup> The goal of the negotiations is to sign an agreement by January 2005, in order to have a free trade area into force by December 2005. This regional agreement builds from the GATT, GATS and NAFTA in the sense that it is consistent with both WTO agreements, but without a generalized positive listing approach. A negative listing approach is used in the FTAA, as in NAFTA: sectors have to be excluded to avoid coverage by the agreement. It also takes into considerations other regional agreements.<sup>7</sup>

However, a slightly different negotiation approach is adopted in the FTAA, compared to NAFTA. Goods and services are dealt with in a very inclusive manner, with little mention of specific sectors and exclusions to the agreement. Exceptions are mainly limited to agriculture (the only specific sector for which a chapter is devoted), air transport (that is simply not affected by the FTAA) and governmental activities and services. This being said, the same principles found in the GATS and NAFTA are again found: MFN treatment, market access and national treatment. In chapter 8 on services, however, the possibility for countries to have a “list of specific commitments” is introduced.<sup>8</sup> This would lead to an approach similar to the GATS “positive listing” approach in the service sector if the countries agree in the negotiations on this principle. However, this concept of a list of commitments, as spelled out in the current draft agreement (FTAA, 2002), is introduced much less formally than in the GATS, where the third part is specifically devoted to commitments (articles XVI to XVIII of the GATS). In the FTAA, the mention of this list of commitments is relegated to a section that is not even an article in the current version, and which has an unclear interpretation.

The key innovation of FTAA is, therefore, to include almost all sectors in the liberalization process, leading –if negotiations are successful– to an immense region of free trade where almost all economic activities will have to be opened to international competition, in a level playing field in each country with respect to MFN treatment, market access and national treatment.

#### **Electricity in Trade Agreements: a Good or a Service?**

To see how Western Hemisphere electricity sectors could be affected by the FTAA, it is important to understand how the different products involved in the electricity supply are defined in the different trade agreements in terms of *goods* or *services*. We first present how electricity is classified in the main international product classification systems, covering different types of goods (commodities) and services. In the following sections, we analyze how NAFTA, the GATS and the FTAA treat electricity.

### *International Classification Systems*

The Statistics Division of the Department of Economics and Social Affairs of the United Nations maintains a list of international family of economic and social classifications.<sup>9</sup> Among the different types of classifications, the different product classifications help understand how different products are included in trade agreements. For instance, the 1947 GATT is an international agreement on goods, not explicitly including—nor excluding—electricity. This is paralleled by the fact that the Harmonized Commodity Description and Coding System (HS)<sup>10</sup> does not strictly include electrical energy as a good (it is *optionally* considered as such in this system). Indeed, as reported in WTO (1998), the GATT was never comprehensively applied as a framework for international electricity trade, simply because the non-storable nature of electricity did not lead to its inclusion in the commodity category. As an illustration of the little relevance of the GATT to the electricity sector, one can see Plourde (1990) where energy implications of the GATT and the 1987 Canada-United States Free-Trade Agreement are discussed, with very little impact on the electricity sector (access to transmission lines being an exception).

The place of electricity in different service classification systems is also unsatisfactory. Indeed, the WTO Services Sectoral Classification List (referred to as “W/120” see WTO, 1991) does not include electricity. Only “services incidental to energy distribution” are considered as services, and this would exclude most of the electricity sector (from production to distribution). The complexity of the nature of electricity and of its sector, involving a vast range of different intermediate products, is probably well demonstrated by the four different sections and many subclasses in which electricity-related products are listed in the Central Product Classification (CPC, Version 1.1 2002).

#### *Electricity in the GATS*

The text of the GATS specifies that this agreement covers “any service in any sector except services supplied in the exercise of governmental authority” (Article I, 3b). Governmental services are further restricted to “any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers” (Article I, 3c). However, electricity supply and the electricity sector in general, are not considered to be subject to the GATS. This comes from the ambiguity mentioned previously on the nature of the “electricity product” and is formalized in the GATS structure by the absence of almost all energy services from the W/120 list. This explains why there is only a limited literature on how the GATS could affect the electricity sector. The only contribution found was Griffin Cohen (2001), which provides a Canadian perspective on the issue. In this section, beyond reporting on the position of electricity in the GATS, we review how negotiations that have followed the signature of the GATS in 1994 could lead to the inclusion of the electricity sector.

In a Background Note on Energy Services (WTO, 1998), a general portrait of energy services in the GATS is provided.

It describes how liberalization could take place in a GATS framework, with some indications on how energy is treated in other free trade agreements. It points to the need of clarifying how energy and electricity services are classified, as goods and/or services. Consequently, this theme is part of the new Doha round of GATS negotiations that started in 2000.<sup>11</sup> The energy sector is indeed included as a specific sector in which countries want to be able to make specific commitments. Chile, the U.S. and other countries have explicitly expressed their desire to see the energy sector included. In their position, stated in WTO (2000a and b), the U.S. ask to explicitly include energy services in the W/120 list, to allow all countries to reap the benefits of liberalization, as it is argued. For its part, Chile in WTO (2001b) calls for a much broader inclusion of types of services in the GATS, including energy services, but also air transport services. Other proposals by the European Union (WTO, 2001c), Japan (WTO, 2001d) and Venezuela (WTO, 2001e) also support the inclusion of energy services in the GATS negotiation agenda and a renewed classification for energy products.

With this background, a Negotiating Proposal on Energy Services (WTO, 2002) has been put forth, setting a basis for the new round of negotiations. The global goal is, of course, to fully bring this sector under the GATS in order to favor more liberalization, but some willingness to “guarantee the right of developing countries to regulate and handle the supply of energy services in their territories in order to meet their domestic policy objectives” is also mentioned (paragraph 5 of WTO, 2002). As developments in negotiations occur, the extent to which the energy sector, and electricity supply, will be fully and clearly included in the GATS should be determined by January 2005, the scheduled deadline of these negotiations.

#### *Electricity in the NAFTA*

Electricity, as an energy product, receives in NAFTA a similar treatment to the one it had in the 1987 Canada-U.S. Free Trade Agreement (FTA), in the case of Canada and the U.S. Mexico, however, has reserved for itself a very different treatment. This section provides a presentation of the place of electricity in NAFTA, using the text of the agreement (Government of Canada et al., 1994) and research papers on NAFTA and the energy sector (Plourde, 1993, Horlick, Schuchhardt and Mann, 2002, and Bradley and Watkins, 2003).

The characterization of electricity as a good in NAFTA draws on the Canada-U.S. FTA, GATT and HS classification of goods. This treatment of electricity as a good tends however to exclude from the agreements the service sub-sectors associated to electricity supply. Indeed, NAFTA essentially acts as a trade and investment promotion tool for goods in this sector, leaving all energy service sectors free of direct pressure to be further liberalized. What follows describes the situation for Canada and the U.S., as Mexico excluded itself from these provisions through annexes 602.3 and III. In the case of Mexico, the State remains the dominant market regulator and actor, even if some private investment and energy

trade are partially authorized.

Under normal circumstances,<sup>12</sup> no quantitative or price restrictions in trade in energy can be imposed by the countries, but a system of import and export licenses can, however, be used (article 603) to regulate –to some extent– energy exchanges. In practice, however, these licenses have never been binding. Trade and investment in electricity are therefore open to U.S. and Canadian companies in both countries, but serious de facto limitations characterize the electricity sector through the presence of State monopolies in many American States and Canadian Provinces. Articles 1502 and 1503 on Monopolies and State Enterprises indeed maintain the right of governments to establish, designate and authorize monopolies and State enterprises in any sector, as long as other NAFTA requirements are respected. In the case of electricity, this allowance of State enterprises and monopolies leaves all States and provinces with the possibility to heavily regulate the electricity sector, granted that electricity trade with other jurisdictions and investment are conducted according to NAFTA rules.

In effect, NAFTA has changed little of the electricity sector, first because no new obligation was introduced from the Canadian-U.S. FTA and, second, because Mexico excluded itself from a similar agreement. A few jurisdictions have, however, taken the initiative to liberalize their electricity sector, the infamous examples being the State of California, and to a lesser extent the Canadian provinces of Alberta and Ontario.

#### *Electricity in the FTAA*

As the FTAA is still under negotiations, any analysis is limited by the fact that no definitive document is available. However, a second draft of the agreement is available (FTAA, 2002) and initial principles have been laid out, where consistency with the “rules and disciplines of the WTO”<sup>13</sup> is stated.

The general approach of the FTAA is to make no a priori exclusions in services in the negotiations. The excellent background paper on services made by

CEPAL (1998) has been used in the preparation of the FTAA. This document presents the complexity of defining services through an academic literature review of the definitions of service, reviews the principles on which liberalization can be introduced in this sector and the possible impediments to market access.

Following this broad, inclusive, sectorial approach, no explicit mention of electricity and energy products, as goods or services, is made in the second draft of the FTAA. This means that, a priori, all electricity goods and services will be treated exactly as any other goods and services, with the implication that no barriers to trade and investment could be maintained in the electricity sector. Enforcement of MFN treatment, market access and national treatment would be guaranteed for all service providers of all signatory nations. This has, however, to be mitigated by some different ways of defining exemptions, which are now reviewed.

**Table 1**

#### **Draft FTAA Articles Leading to Possible Exemptions in the Electricity Sector**

<b>FTAA Chapter</b>	<b>Article</b>	<b>Description</b>
1. General and Institutional Issues	13.1	Some special sector treatment could be permitted due to differences in the levels of development between countries
4. Investment	1.3	Economic activities reserved by countries on Annex XX (unfound in the draft) or for national securities reasons.
	a) to c)	
	1.3	Parties may exclude investment in certain sector (easier to do for smaller economics)
	12.1	Some exempted sectors may be listed in this article
	12.2	Some principles [national treatment, MFN, performance requirements...] may not apply so some sectors listed in an annex.
	12.3	MFN does not apply to some sectors listed.
	12.9	Smaller/developing economies can maintain reservations in sensitive sectors.
5. Market Access (for goods)	4.10	(page 5.3) Smaller/developing economies can benefit from more favorable tariff elimination conditions.
	page 5.16-5.17...	Temporary safeguard measures.
8. Services	1.7	For smaller/developing economies there shall be flexibility in meeting the commitments of this chapter.
	1.8	Comprehensiveness of the coverage shall be linked to the extend and rate at which the modes of supply for this provision of services are liberalized.
	1.9	No provision of this Chapter shall be construed to prevent a Party from having the right to regulate and to introduce new regulations to achieve domestic policy objectives.
	2.3	Smaller/developing economies can list exceptions to MFN treatments.
	5.1	Positive/negative listing has to be decided for national treatment.
	5.6	Smaller/developing economies can list exemptions to national treatments.
	8	Definition of service exclude “other activities conducted by a public entity for the account of or with the guarantee or using financial resources of the government.”
	page 8.17	“sectors in which commitments re undertaken”: this leaves the door open for countries to <i>not</i> commit some sectors to MFN treatment, market access and national treatment.
	page 8.24	List of specific commitments (for market access and national treatment).
	page 8.24	Reservations of MFN treatments/Non-conforming measures.
10. Competition Policy	2.2	Monopolies are protected as a right for Parties to designate and maintain a monopoly

The *non*-distinct treatment of the electricity (and energy) sector is at variance with the GATS (that currently does not cover most of the energy sector) and with NAFTA (that excludes it from the full scope of the agreement through a dedicated chapter). It can, however, be noticed that some other sectors receive a distinct treatment in the FTAA: agriculture, many social services, financial services, air transport services and some other smaller sectors (which are excluded from the coverage of chapter 8 on services in article 1.2).

However, beyond these sectors, the FTAA will most probably also contain different provisions to protect specific sectors that some countries may not want to see open to international trade and investments, with full MFN treatment, market access and national treatment. Table 1 presents the draft FTAA articles that could directly be applied to the electricity sector to exempt it from FTAA coverage.

The analysis of Table 1 leads to a few conclusions:

- Developing countries will benefit from more acceptance to *not* open some sectors to trade and investment (chapter 1, 13.1; chapter 4, 12.9; chapter 5, 4.10; chapter 8, 1.7, 2.7, 5.6).
- Monopolies will not have to be terminated (chapter 8, 1.9; chapter 10, 2.2).
- Countries will be able to exempt some sectors without having to use a smaller/developing economies-type provision or having to create a monopoly (chapter 4, 1.3, 12.1-3; chapter 8, 5.1, 8, paragraphs on page 8.17 and 8.24).
- Coverage of the FTAA for services will depend on the level of liberalization (chapter 8, 1.8).

These articles should allow the signatory countries to exempt parts of the electricity sector from the FTAA, even if no particular treatment for electricity and energy has been included in the design of the agreement.

However, the main trend in trade agreements is to not treat differently the energy/electricity sector from other goods and services sectors. This introduces difficulties for countries not to open this sector to international trade and investment. Even in the presence of some provisions allowing exemptions to be defined and specific commitments to be made, in the long run, the same coverage is very likely to apply to all sectors. Exemptions will have to be regularly justified to be maintained, and are presented only as temporary measures, until “further liberalization” is made. Indeed, specific commitments have to be broadened over the years, and this will have to include all electricity sector goods and services, at least if the objectives adopted in the FTAA and GATS negotiations are kept the same: “to enhance competition and improve market access” (FTAA, chapter 1, article 2.c) and reaching “the early achievement of progressively higher levels of liberalization of trade”.<sup>14</sup>

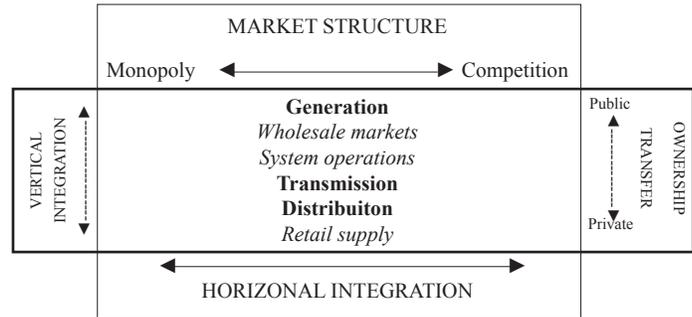
#### Impact on the Electricity Sector

The electricity sector is a multiplayer industry with many different sub-sectors. Figure 1 displays these sub-sectors, along with the four types of reforms that can be undertaken:

- (1) Ownership transfer (between different types of public and private ownerships);
- (2) Market structure change (from monopoly to competition or vice-versa);
- (3) Vertical integration or de-integration (or unbundling) and
- (4) Horizontal integration or de-integration.

Objectives of the GATS and FTAA are to foster trade and international investment in all sectors, preferably in a competitive environment, to support economic growth and pros-

**Figure 1**  
**The Electricity Sub-sectors and the Four Types of Reforms**



perity. The main tools used to reach these goals are the three principles we have previously presented: MFN treatment, market access and national treatment. To these, transparency and competitiveness should also be added because they are central elements of these agreements (FTAA, chapter 1, article 2.c for competition).

As definitive electricity sector classification has not yet been agreed on, some ambiguity on how to treat different sub-sectors could be encountered in the application of FTAA. However, as the agreement is very inclusive and does not separately consider the electricity sector, the assumption should be that the whole sector will be covered by the agreement. Consequently, the six sectors presented in Figure 1 should not receive any a priori exemption from FTAA coverage, and could only be excluded if it is authorized to exclude them from the application of the three guiding principles. Furthermore, if retail supply of electricity is considered to be a distinct sub-sector from distribution in the sector classification (as in Figure 1), then pressure to apply the principles distinctively in the two sectors (distribution and retail supply) will be felt, opening the way to more unbundling of the sector.

The FTAA, and the underlying GATS, cannot directly dictate changes in the competition level of a sector, but rather prompt the implementation of the three principles, depending on the extent to which the sector is covered by the agreement. They can also make pressure to increase the level of transparency and competitiveness in the different sectors covered. We analyze in Table 2 how each principle can affect the electricity sector.

#### Other Considerations

There are also two other aspects where inconsistencies between the current legislation and the FTAA might raise some issues:

- Hydropower concessions and their ownership. The use

**Table 2**  
**The Electricity Sector and FTAA: Matrix of Possible Consequences**

Sub-sectors	MFN Treatment	Market Access	National Treatment	Transparency	Competitiveness
Generation		No restrictions			No subsidies (tax exemptions, fast depreciation, water rights, etc.)
Wholesale markets		Public wholesale market			Spot Market
Systems operations	No country specific restrictions in	Regular tenders for concessions	No national	All information public (contracts, systems use, water levels, etc.)	Competitive tenders for the concession
Transmission	rights to operate	Regular tenders for concessions Open access to lines	privilege		Competitive tenders for the concession
Distribution					Competitive tenders for concessions

Retail supply

Choice of retailer  
No price control

of water is not always priced according to market principles. This problem could lead to the creation of tradable water permits, where a “market price” would be set. These ideas are explored by organizations such as the World Bank (see Thobani, 1995). The owners, usually the government (mostly federal utilities in the U.S. or provincial in Canada), do not always behave according to profit maximization objectives.

- The second problematic aspect is the definition of some segments of the electricity supply as a “public service”. The notions of “public service” and “public utility” are not recognized in the FTAA. The FTAA only defines “service supplied in the exercise of governmental authority” (services not supplied on a commercial basis and by more than one competing suppliers, see FTAA, chapter 8, article 1.6) and excludes some sectors from the FTAA (e.g., public education, health, see previous sections of this article), but not electricity service. However, many jurisdictions still see some electricity sub-sectors as an important public service.

**Conclusion**

Although still not finalized nor endorsed, the FTAA could lead to important changes in the electricity sector, especially if the electricity sector is fully included in the GATS. These changes could only lead to more unbundling and more market-based policies, because they are the only ones consistent with the MFN treatment, market access and national treatment principles. There is not, however, unanimity in the economics and energy policy community on the necessity to have reforms in this direction, and even less agreement on the consumer’s side. Furthermore, local jurisdictions (States and Provinces) would lose some of their powers in the electricity

sector, as policies based on international agreements will prevail over local policies. Decision makers and citizens should be fully aware of this and its consequences before endorsing the FTAA.

**Footnotes**

<sup>1</sup> There is now a “GATT 1994” that is the updated version of the “GATT 1947”. See the Annex 1A of WTO (1994).

<sup>2</sup> See OECD (1995) for more on the distinctions between multilateral trading system and regional agreements.

<sup>3</sup> Commitments are made for specific sectors and for different *modes of supply*. Services are categorized into four different modes of supply (GATS, article I.2). The supply of a service from a *provider* in one country to a *consumer* in another country can be made through: Mode 1 - Cross-border (only the service “travels”); Mode 2 - Consumption abroad (the consumer travels); Mode 3 - Commercial presence in the consuming country (the provider has a permanent commercial presence abroad); or Mode 4 - Presence of natural persons (staff of the provider travels to the point of consumption).

<sup>4</sup> See WTO (1999) for a complete introduction to the GATS.

<sup>5</sup> The text of NAFTA and more information on the agreement can be found at the NAFTA Secretariat’s web site: [www.nafta-sec-alena.org](http://www.nafta-sec-alena.org)

<sup>6</sup> The Second Summit of the Americas was in April 1998 in Santiago (Chile), the Third was held in Quebec City (Canada) in April 2001. Many other Ministerial meetings and Negotiating Group meetings (from the 9 different negotiating groups) have been held more frequently (see FTAA, 2003, for more details).

<sup>7</sup> FTAA’s chapter 1, article 4 on Application and Scope of Coverage of Obligations establishes that the FTAA “shall co-exist with bilateral and subregional agreements, and does not adversely affect the rights and obligations that one or more Parties may have under such agreements, to the extent that such rights and obligations imply a greater degree of integration than provided for [in the FTAA]” (4.3).

<sup>8</sup> For the specific paragraphs on this list of specific commitments, see the Section on other issues related to the above (“the above” being the eight articles of the chapter 8 on services), page 8.24 of FTAA (2002).

<sup>9</sup> See the paragraph *International Economic and Social Classifications* at the web site <http://unstats.un.org/unsd/methods.htm>

<sup>10</sup> The Harmonized Commodity Description and Coding System (HS) is maintained by the World Customs Organization. A 6-digit code is attributed to about 5,000 commodity groups. HS was agreed on in 1983 and is a modification of the 1950 Convention on Nomenclature for the Classification of Goods in Customs Tariffs. The goal of HS is to facilitate the identifications of internationally traded commodities for customs tariffs and statistical purposes.

<sup>11</sup> Although the Doha round only started in 2001, sector negotiations had already begun and were included in the Doha declaration (WTO, 2001a).

<sup>12</sup> Extraordinary circumstances, defined in article 607 of NAFTA, are essentially national security measures. They allow countries to restrict exports.

<sup>13</sup> The principles of negotiation can be found in the yearly Ministerial Declaration of the 34 participating countries, since 1995, at [www.ftaa-alca.org](http://www.ftaa-alca.org) or in chapter 1, article 3 on Principles, in FTAA (2002).

<sup>14</sup> Introduction to the GATS, in the Annex 1B of WTO (1994).

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