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TO: The Commercial Counsellors
of the Twelve Member States.

FROM: Richard C. Wright *RCW*

DATE: 16 January 1991

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Special file*

PLEASE COPY TO:

SUBJECT: GATT Uruguay Round-Services.

Please find attached a letter sent by Ambassador van Agt to Congressman Levin on EC and US positions on Services in the Uruguay Round. This letter succinctly summarises the EC position.

Separately, as mentioned during the Commercial Counsellors meeting, I can confirm that bilateral negotiations with the US on initial commitments in services will go ahead with the US on 24/25 January in Geneva.

Andreas van Agt

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14 January, 1991

The Honorable
Sander M. Levin
U.S. House of Representatives
323 Cannon Building
Washington, D.C. 20515

Dear Mr. Levin,

I enjoyed meeting you at the seminar on the Uruguay Round hosted by the Institute of International Economics on 18 December 1990 and although we approach matters from a different perspective I found your remarks of considerable interest. I would like however to set the record straight on the respective positions of the EC and the US on the services negotiations in the Round since there are substantive differences between us (and indeed between the US and virtually all other participants in the negotiations) on this issue.

To begin on where we agree the EC shares with the US the need to get a services agreement encompassing a framework of rules and disciplines, sectoral annexes which deal with the peculiarities of those sectors, including some derogations for specific sub-sectors where these are unavoidable, and meaningful initial liberalisation commitments. The principal differences relate to the approach taken by the US towards applying the results of the negotiation on a most favoured nation basis and the scale and duration of derogations from the "mfn" principle for certain sectors.

Prior to the Brussels Ministerial Conference the US had made a direct link between the granting of mfn in the framework and initial commitments. This linkage was rejected out of hand by all the other participants in the negotiations. Why? Because the US approach was tantamount to imposing a mirror-image reciprocal approach to the negotiations destined to encourage the use of unilateral tools of US trade policy and thus hinder rather than facilitate the liberalisation of services markets.

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In Brussels the US modified its position somewhat but more in terms of presentation than substance. The US approach is now to tie the acceptance of mfn to a political commitment on the outcome of negotiations on initial commitments. Acceptance of mfn as a working hypothesis - the US approach - is not the same thing as giving an up-front unconditional commitment to mfn and then negotiating limited sectoral derogations where necessary plus a package of liberalisation commitments before assessing whether the package as a whole is acceptable. The latter approach, which is that of the EC and of most other countries, addresses the "free rider" problem which all developed countries are concerned about but does not hold the mfn principle as hostage to reciprocal liberalisation commitments by sector. We should be absolutely clear on this: an agreement which does not give mfn as a right to all parties is no genuine multilateral agreement.

A second and equally important difference between the EC and the US concerns mfn derogations for certain sectors. The US is demanding nothing less than a total mfn derogation for the air and maritime transport sectors. The EC does see the need for some derogations on mfn in the transport sector - including air and maritime - but these should be limited to specific activities where this is strictly necessary, be linked to international obligations and be degressive, the aim being ultimately the full incorporation of these sectors in the agreement. The US has so far not accepted this principle of degressivity in these negotiations thereby setting itself apart from its trading partners.

Other EC-US differences are in the area of basic telecommunications services - where the US has predicated its willingness to give mfn in basic telecommunications on a readiness by other developed countries to make commitments now to eliminate their monopolies in this area, a demand which is patently non-negotiable, particularly as substantial portions of basic telecommunications in the US remain subject to effective monopoly. Finally, the EC, with the support of virtually all other participants, is seeking a limited derogation on cultural grounds for audiovisual services; this is contested by the US.

The upshot of all this is that the US - initially the champion of liberalisation of services - has become the most recalcitrant partner in a number of areas of the services negotiations whilst in others pursuing a mirror-image approach to market liberalisation based on sectoral reciprocity, in direct

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contradiction with the original goal of exchanging trade concessions on a multilateral basis across the universe of service sectors. It is thus very important that in the next few weeks the US reflect further on its approach to the services negotiations which are a key component of the Uruguay Round as a whole.

S. Shirley Jones,

Andreas van Agt

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