
manuales

Manual for completing the
questionnaire on measures
affecting services trade in the
hemisphere



NACIONES UNIDAS



**International Trade and Development Finance
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Summary

This Manual is part of the teaching material prepared especially for the use of training workshops dealing with techniques for collecting information, country by country, on all measures pertaining to trade in services in the countries of the western hemisphere. The Manual is designed to be updated as the training workshops progress, to take account of the suggestions and improvements that come out of these.

The Manual includes basic background material on quantitative aspects of services trade in the world and in the countries of the hemisphere (**Section I**). Next, information is given about the World Trade Organization (WTO) (**Section II**) along with more detailed information on the rules and results arrived at by the General Agreement on Trade in Services (GATS) of WTO (**Section III**). This section emphasizes the basic principles on which progressive liberalization of services rests, and which will be used to organize and classify the information collected.

Section IV explains the logic used to structure services negotiations. Since measures pertaining to services are at the heart of the negotiating process, the objective of this Section is to emphasize how important it is for negotiators to have the fullest possible information about measures affecting trade in services in their own countries and about the reasons for these measures in terms of national policy objectives.

Section V stresses the importance of modes of supply in services trade, while **Section VI** identifies some practical steps for organizing the tracking of measures nationally. The rest of the Manual contains practical examples to assist in completing the Questionnaire designed for collecting information on measures, and a typology of the measures most commonly used by countries to regulate their services.

The Manual contains an **Annex** that profiles the main service industries, including an abundance of information about their trading activities and relevant details about their international operations. The purpose of this section is to assist in the analysis that the countries will have to carry out when they come to assess the trade implications of their services commitments.

Introduction

At the Cartagena Ministerial Meeting, the Free Trade Area of the Americas (FTAA) Working Group on Services was set up. Among the different tasks with which this Group was entrusted was that of collecting information on measures affecting trade in services among the countries participating in this process. The countries accepted responsibility for compiling this information with the support of the Tripartite Committee composed of the Inter-American Development Bank (IDB), the Organization of American States (OAS) and ECLAC. To make it easier to collect this information, the Chairman of the Working Group drew up a Questionnaire to guide the work of the countries. This Questionnaire was approved by the Working Group at its second meeting. The main object of this exercise was to promote greater transparency among participating countries and to provide an input that is essential to the future development of the negotiating process whose aim is the creation of a Free Trade Area of the Americas.

The structure of the Questionnaire drawn up by the Working Group is extremely simple, to avoid any unnecessary difficulty in completing it, and its purpose is to identify measures that may affect the international provision of services in some way. To this end, the categories used to organize the information to be collected were based on the principles commonly employed in the General Agreement on Trade in Services, i.e. Measures Affecting Market Access, including Non-Discriminatory Quantitative Restrictions; Measures Affecting National Treatment; and Measures Affecting Most-Favoured-Nation Treatment.

In addition, the countries were asked to identify, to the best of their ability, the legal, regulatory and prescriptive sources that contained the measures identified. The idea behind this is to illustrate how services are traded and regulated in the countries of the hemisphere.

It is essential that full information on these aspects be available for a large number of countries to provide a basis for evaluating the effect of domestic policies and the prospects for acceptance of international agreements covering services transactions, and for analysing the potential impact of commitments entailing stricter rules and further-reaching liberalization of measures affecting such trade. Again, we believe that this exercise will play a vital role in facilitating commercial transactions by providing private agents with full information on the conditions under which their services can be marketed in the countries of the hemisphere. It needs to be noted that, by contrast with trade in goods, which is subject to relatively uniform instruments (i.e. tariffs), trade in services is affected by a panoply of regulations that lack transparency, including “laws, formal and informal ordinances and subordinate provisions enacted by all the different levels of government (federal, subfederal and local) and regulations enacted by non-governmental or self-regulatory bodies to which Governments have delegated regulatory powers”.¹ Making this information available to companies will also provide them with a valuable tool to assist in planning, particularly in their international marketing activities.

¹ “International Regulatory Initiatives in Services”, Background Note by the Secretariat. Doc. S/C/W/97. 1 March 1999. WTO.

I. The importance of trade in services

In spite of considerable flaws in the measuring of international trade in services,² partial and incomplete data indicate that for several years now services have been a growing component of international trade. They are also a significant and growing part of the trade of the countries of the western hemisphere.

A. Services in the world economy

According to WTO figures, exports of commercial services amounted to US\$ 1.2 trillion in 1996 while merchandise exports were US\$ 5.1 trillion. Thus, services account for over one fifth of total world trade and have done so for more than a decade now.

It should be noted that WTO figures only reflect cross-border trade in services, hence they exclude an important component of such trade which is composed of sales through foreign affiliates. Even though complete records on such trade do not exist, it should be noted that in the case of the United States, the United States International Trade Commission estimated that cross-border exports of services amounted to US\$ 151 billion in 1994 while sales through United States majority-owned affiliates amounted to nearly the same, US\$ 143 billion, during that same year.

² Services Balance of Payments statistics do not include sales through foreign affiliates (an important mode of supply for many services). Thus they are usually underestimated because of under-reporting, and also fail to indicate origin and destination of trade. In many cases, data are stated in net rather than gross terms (exports minus imports).

Furthermore, fully 60% of all foreign investment flows in the world economy are now directed to the service sector.³

Country concentration is somewhat lower in services than in merchandise trade. While the 30 leading exporters of world trade in commercial services accounted for 88.8 per cent of total exports in 1996, the 30 leading exporters in world merchandise trade accounted for 92.2 per cent of total goods exports.

The relative importance of services trade varies substantially among the leading exporters of commercial services. While service exports represent 132% of domestic merchandise exports for Hong Kong, 66% for Turkey and 55% for Austria, they represent only 15% for Japan, 12% for China and 8.8% for Mexico. Furthermore, while countries such as Greece, the Philippines, Poland, Egypt and Portugal appear among the 30 leading exporters of services, they are not in the list of the 30 leading exporters of goods.

The distribution of exports of services by region reveals the overwhelming importance of the European Union, which accounts for 40% of total world exports of services and includes three out of the five (France, Italy and the United Kingdom) largest exporters in the world. The western hemisphere (Canada, the United States, Latin America and the Caribbean) accounts for 24% of total world exports of services, with the United States alone accounting for 16% of these. Asia is the region which has shown the fastest growth rate of both exports and imports of services over the past decade. It also accounts for the largest number of developing countries included in the 30 leading exporters of commercial services in the world, i.e. Hong Kong, China, Singapore, Republic of Korea, Peoples' Republic of China, Taiwan (Province of China), Thailand and the Philippines. Asia now represents 23% of world exports of services.

In spite of a deceleration in the growth rate of services exports during the 1990s and especially in 1996, the value of world service exports has been growing faster than merchandise exports during the last decade.

B. Services in the western hemisphere

The 34 countries participating in the FTAA process accounted for 23.5% of total world exports of services in 1994, and 22.8% of world trade in merchandise goods (see Table I.A). Similar to what was observed at the global level, trade concentration is less acute in services than in merchandise. While the 10 leading service exporters in the hemisphere account for 94.8% of total hemispheric service exports, the 10 leading merchandise exporters account for 98.1% of the hemispheric total. Furthermore, the list of countries included among the ten leading service exporters shows seven countries in common with those on the list of leading merchandise exporters.

Although the ratio of hemispheric service exports to merchandise exports is roughly the same as the world average (27% versus 26%), this ratio varies substantially among the member countries of the FTAA process. (Tables I.B, I.C and I.D rank their exports in relation to their merchandise exports). A note of warning should be sounded regarding the ranking criteria, the relative position of countries in this ranking and the quality of the data. For example, the United States ranks close to average in the hemisphere in terms of its services specialization. Yet, if sales through affiliates were included in these statistics, both the United States and Canada would probably rank higher. The same may be said about countries such as Mexico and Chile, both having made quite large investments in service industries abroad in recent years.

³ WTO Secretariat (1996), Trade and Foreign Direct Investment, Geneva. WTO.

Underestimation and under-recording of service exports is even greater for the developing countries of the hemisphere, which may compensate to a certain extent for the insufficiencies referred to in the cases of Canada and the United States.

Three groups of countries can be identified in terms of their relative specialization in service exports. The first group comprises countries with a revealed “high specialization” in services in their external trade. These are countries for which exports of services are equal to or greater than their merchandise exports. In the western hemisphere there are twelve countries for which service exports figure more prominently than merchandise exports. At the top of the list are countries like Antigua and Barbuda, Barbados and Grenada whose service exports amounted to 705%, 481% and 353% of their merchandise exports, in 1994, respectively. (Table I.B).

A second group comprises countries with a “moderate to average specialization” in services exports. Ratios of service exports to merchandise exports for these countries range from 27% to 97%. Six countries fall in this category: Belize, Costa Rica, Guatemala, El Salvador, Uruguay and the United States. (Table I.C).

The third group of countries, those with “low to below average specialization” in services in their foreign trade shows ratios of service to merchandise exports below 27%. At the lower end of this list are Brazil, Canada and Venezuela with 13%, 11% and 8% respectively. (Table I.D).

All countries falling in the categories of “high” to “moderate and average” specialization in services (with the exceptions of the United States, Paraguay and Panama) rely on tourism (and in a few cases “maquiladora” or inbond assembly operations) as their single most important service export. Also, with the exception of Paraguay and the United States, all the top exporters are found in the Caribbean and Central America region, and are relatively small economies.

Although in absolute terms the value of trade in services ranks highest for the larger countries of the hemisphere (United States, Canada, Mexico, Brazil, Chile and Argentina), in terms of its proportion to gross domestic product (GDP), trade in services is actually most important for the smaller countries of Central America and the Caribbean. Trade in services constituted an average of 21% of their GDP (in 1995), while this same figure is around 5% for the larger countries of North America and Latin America. Moreover, the increase in importance of services for the Central American and Caribbean regions has been much more pronounced over the past decade than for the other two regions of the hemisphere. Thus the smaller countries would seem to have a greater stake in the liberalization of service markets.

Somewhat perplexing is the relative stagnation in the growth (or rather lack of it) in trade in services on the part of countries of the western hemisphere, as shown in Chart 1. While trade in goods has increased by over two and a half times in value during the period 1986-1995, trade in services has shown only a very modest increase. This phenomenon could be due to several factors, including the dramatic response of trade in merchandise following the unilateral reduction in tariff barriers by countries of Latin and Central America since the mid-1980s, while services markets have not been the object of equivalent liberalizing zeal. Thus, they remain fairly closed for most countries of the hemisphere in comparison to the market for goods. Some of the difference in growth rates may also result from the fact that many services are embodied in the export of goods and are not captured on their own, thus artificially increasing the value of the traded goods category and lowering the value of the traded services category. Lastly, service statistics are notoriously poor, and much of what is traded is not recorded, which also imparts a downward bias to the statistics. However, the market for service exports is clearly one which holds considerable potential for the countries of the hemisphere.

Table I.A

WESTERN HEMISPHERE: TRADE IN GOODS AND SERVICES, 1994
(MILLIONS OF DOLLARS)

Country	Exports of Services	Exports of Merchandise
United States	195500	568000
Canada	18999	185400
Mexico	8687	60799
Brazil	4817	43558
Chile	2770	11604
Argentina	2375	13118
Colombia	2005	8399
Dominican Republic	1887	633
Bahamas	1466	1350
Curacao	1382	1250
Jamaica	1271	1192
Paraguay	1252	817
Uruguay	1237	1931
Venezuela	1192	15756
Panama	1153	583
Costa Rica	1142	2215
Peru	1016	4555
Ecuador	709	3820
Guatemala	659	1522
Barbados	631	179
Aruba	604	N/A
Antigua and Barbuda	395	56
El Salvador	337	844
Trinidad and Tobago	317	1960
St. Lucia	225	105
Honduras	198	814
Bolivia	173	1032
Belize	116	119
Grenada	101	21
St. Kitts and Nevis	91	30
Nicaragua	80	351
Surinam	69	305
Guyana	59	439
St. Vincent	45	43
Dominica	N/A	50
Haiti	N/A	82
WESTERN HEMISPHERE	252960	932714
WORLD TOTAL	1077000	4090000
WESTERN HEMISPHERE AS % OF WORLD TOTAL	23.5%	22.8%

Source: UN-ECLAC "América Latina y El Caribe: Series estadísticas sobre comercio de servicios 1980-1997"

Table I.B
COUNTRIES WITH HIGH SPECIALIZATION IN SERVICES, 1994

COUNTRIES	Exports of Services (value, millions of US\$)	Ratio of Services to Merchandise(%)
Antigua and Barbuda	395	705%
Grenada	101	481%
Barbados	631	353%
St. Kitts and Nevis	91	303%
Dominican Republic	1887	298%
St. Lucia	225	214%
Panama	1153	198%
Paraguay	1252	153%
Curacao	1382	111%
Bahamas	1466	109%
Jamaica	1271	107%
St. Vincent	45	105%

Source: UN-ECLAC "América Latina y El Caribe: Series estadísticas sobre comercio de servicios 1980-1997"

Table I.C
**COUNTRIES WITH MODERATE TO AVERAGE SPECIALIZATION
IN SERVICES, 1994**

COUNTRIES	Exports of Services (value, millions of US\$)	Ratio of Services to Merchandise(%)
Belize	116	97%
Uruguay	1237	64%
Costa Rica	1142	52%
Guatemala	659	43%
El Salvador	337	40%
United States	195500	34%

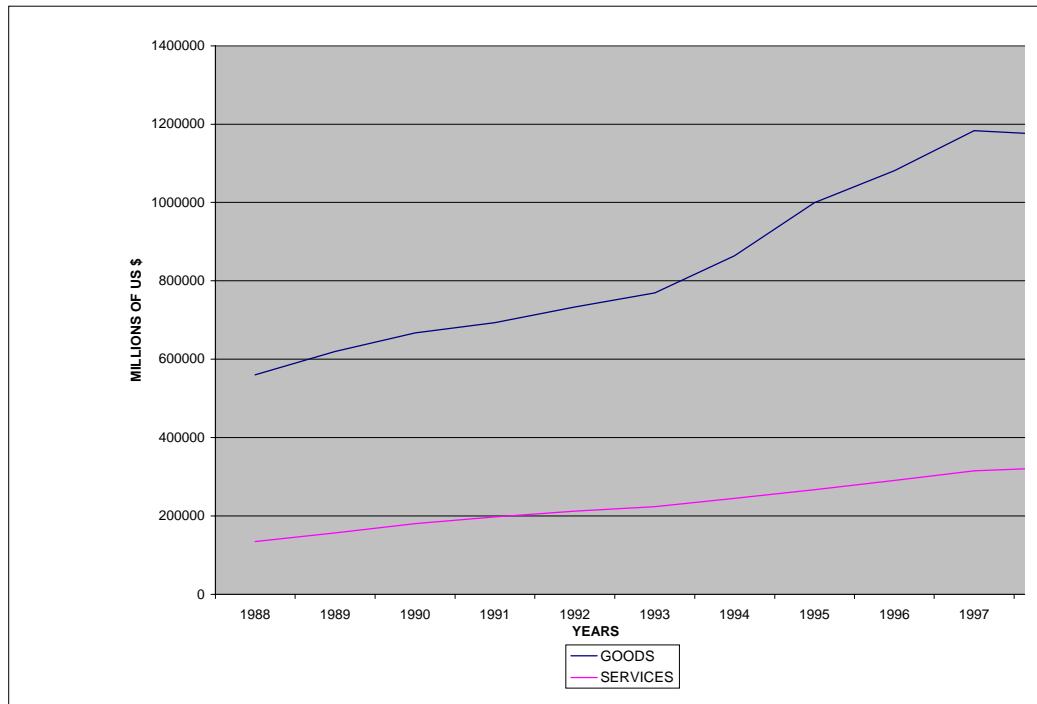
Source: UN-ECLAC. "América Latina y El Caribe: Series estadísticas sobre comercio de servicios 1980-1997"

Table I.D
COUNTRIES WITH LOW SPECIALIZATION IN SERVICES, 1994

COUNTRIES	Exports of Services (value, millions of US\$)	Ratio of Services to Merchandise(%)
Honduras	198	24%
Colombia	2005	24%
Chile	2770	24%
Nicaragua	80	23%
Surinam	69	23%
Peru	1016	22%
Ecuador	709	19%
Argentina	2375	18%
Bolivia	173	17%
Trinidad and Tobago	317	16%
Mexico	8687	14%
Guyana	59	13%
Brazil	4817	11%
Canada	18999	10%
Venezuela	1192	8%

Source: UN-ECLAC. "América Latina y El Caribe: Series estadísticas sobre comercio de servicios 1980-1997"

Chart 1
**GROWTH IN GOODS AND SERVICES TRADE
IN THE WESTERN HEMISPHERE, 1988-1998**



Source: WTO 1999. Annual Report, Special chapter: Globalization and Trade

II. World Trade Organization (WTO)

A. Origins of WTO

WTO is the successor to GATT, the General Agreement on Tariffs and Trade, which was set up in 1947 with just 23 countries participating.

GATT was set up on a provisional basis at the end of the Second World War, together with the Bretton Woods Institutions (World Bank and IMF), and was a manifestation of the urge to liberalize trade in order to reduce the enormous dead weight of the innumerable protectionist measures that had been in force since the crisis of the 1930s.

This Agreement was a partial solution to the failure of the attempt to create an International Trade Organization (ITO) under the Havana Charter, as a new specialized United Nations body.

It was hoped that ITO would not only regulate world trade but would also contain provisions relating to employment and agreements on basic products, restrictive trading practices, international investment and trade in services. Failure by the legislatures of a number of countries to ratify this instrument, and in particular the announcement by the United States in 1950 that Congress would not be asked to carry out ratification, meant that ITO ceased to exist.

All that was left were the “provisional” agreements reached in the first round of tariff negotiations held in 1946, containing concessions exchanged by 23 countries which affected barely 20% of world trade. The fact is that the 1947 GATT is no more than the Trade Policy Chapter of the Havana Charter, which was adopted as a Provisional Application Protocol establishing that the provisions of GATT would be applicable only insofar as they did not conflict with any national legislation (grandfather clause).

In its 47 years of existence, the basic text of GATT remained almost as it was in 1948, and provided the basis for efforts to reduce tariffs. These reductions were achieved in the course of eight multilateral trade negotiating rounds., which succeeded in bringing down average tariffs in the world from 38% in 1947, when GATT was set up, to just over 4% after the 1994 Uruguay Round.

The first five negotiating rounds were restricted to reducing tariffs on a product by product basis. Only during the Kennedy Round (1964-1967) did linear tariff reductions begin to be negotiated. Although all rounds negotiated progressive tariff reductions, at the Tokyo Round (1973) rules began to be developed for other areas such as non-tariff measures (quantitative restrictions, subsidies, licensing procedures, government procurement, etc.) and agreements on legal frameworks. At the Uruguay Round the subject areas were extended to include services, intellectual property, dispute resolution, textiles and clothing, agriculture and other issues, which made it essential to create an “umbrella” organization capable of administering all these complex agreements. As the world economy was liberalized, it became plainer that there was a need to widen the scope of international agreements to include more and more domestic policies, which had to be approached on a multilateral basis, so that attention was no longer concentrated solely on problems at borders. The Uruguay Round extended the international trade debate to take in issues such as labour rights, environmental policies and competition policy. All these issues will probably be addressed in the first round of negotiations to be held under the auspices of WTO, whose agenda may be defined at the Ministerial Meeting in Seattle (November 1999). Under the new agreements, there is provision for a WTO ministerial meeting every two years. At these meetings, ministers will come together with the objective of giving a political impetus to the work of WTO and considering the new challenges facing trade. These are the purposes of the Seattle Meeting.

B. What is WTO?

- Created on 1 January 1995, it enshrines the results of the Uruguay Round of Multilateral Trade Negotiations, which were given political approval in the Final Act adopted in the Marrakesh Declaration (15 April 1994).
- Legal and Institutional Basis of the Multilateral Trading System.
- From it stem contractual principles and obligations that determine how Governments frame and apply national trade laws and regulations.
- It has a potential membership of 152 countries and territories, as against the 128 that GATT had at the end of 1994.

1. Six main functions of WTO

1.1 To administer and supervise the 29 legal texts contained in the multilateral and plurilateral agreements that make up the WTO treaty. These texts are supplemented by more than 25 understandings, rulings and ministerial declarations specifying additional obligations and commitments to be met by WTO Members.

- 1.2 To provide a forum for multilateral trade negotiations.
- 1.3 To provide a rapid and effective mechanism for resolving trade disputes between its members.
- 1.4 To examine and evaluate trade policies among its membership.
- 1.5 To cooperate with other international organizations (mainly the World Bank and IMF) in managing the world economy.
- 1.6 To help developing and economic transition countries to take advantage of the benefits of the multilateral trading system.

2. Basic principles of WTO

They are the same simple, fundamental principles that inspired GATT:

2.1 Non-discriminatory trade between its members and between imported and domestically produced goods.

Art. I enshrines the “**most-favoured-nation clause**” whereby members are obliged to treat the products of other members no less favourably than those from any other country.

Exceptions: the most important is the one that protects customs unions and free trade zones (Art. XXIV).

Art. III deals with “**national treatment**”, which means that once goods have entered a market, they must be treated no less favourably than equivalent goods produced within the country.

A number of other WTO agreements enshrine these fundamental principles: the Agreement on Trade-Related Aspects of Intellectual Property Rights, the General Agreement on Trade in Services, agreements on rules of origin, those on technical barriers, customs valuation rules, trade-related investment measures and the application of sanitary and phytosanitary measures.

2.2 Predictable and increasing access to markets

Better and more predictable access is achieved by reducing tariff and para-tariff barriers and consolidating these liberalization measures. At the end of the Uruguay Round, there were 22,500 pages of consolidated national tariff lists. This raised consolidated product lines from 78% to 99% in the case of developed countries and from 21% to 73% in the case of developing countries.

This provides exporters and investors with a degree of security in markets that is vital to them.

2.3 Promotion of fair competition

The rules on dumping and subsidies were extended and clarified in the WTO agreements so as to establish clearly on what basis Governments can apply antidumping measures and countervailing duties in the face of these two types of “**unfair**” competition.

2.4 Support for development and economic reform

Three quarters of WTO members are developing countries or transition economies. Between 1986 and 1993 more than 60 of these countries applied economic reforms aimed at strengthening the market system and applying trade liberalization programmes. Part IV of GATT, and particularly the “**enabling clause**”, encourages concern for developing countries and allows market access concessions to be granted in the framework of Generalized Systems of Preferences (GSP).

3. Differences between GATT and WTO

GATT was a set of regulations without any institutional basis. WTO is a permanent institution, with its own Secretariat.

GATT applied on a provisional basis, there being a provisional application protocol and a so-called **grandfather clause** enabling non-compliant measures to be retained indefinitely. The WTO commitments are absolute and permanent.

The GATT rules applied to trade in goods. WTO also covers services, intellectual property and, in part, investment.

Although GATT was a multilateral instrument, many plurilateral and thus selective agreements were added to it. The WTO agreements are multilateral, and therefore involve commitments for all members.

The integrated dispute settlement system of WTO is faster, more automatic and less vulnerable to blocking tactics than that of GATT. It covers all agreements that come under the WTO umbrella and allows for cross-retaliation. A system of monitoring and compensation has been set up, with short fixed deadlines for each stage of the process. Decisions are taken by consensus on the basis of what is known as **negative consensus**, meaning that a decision will be adopted unless there is a consensus **not to adopt it**.

The 1947 GATT, however, survives in its amended and updated GATT 1994 version, and forms an integral part of the WTO Agreement. GATT 1994 still lays down the fundamental rules governing international trade in merchandise.

III. The General Agreement on Trade in Services (GATS)

A. Structure and basic principles of GATS⁴

GATS is the first multilateral agreement to establish legally enforceable rights in respect of trade in all services. It incorporates a commitment to continue with liberalization through periodic negotiations, and is the first world multilateral agreement on investment, since it covers not only cross-border trade but also all possible means of providing a service, including the right to establish a commercial presence in the export market.

GATS has three basic principles: firstly, it covers all services except those supplied in the exercise of governmental authority; secondly, it states that there must be no discrimination in favour of national suppliers, this being the principle of National Treatment; and thirdly, it states that there must be no discrimination against other Members of the Agreement, this being the Most-Favoured-Nation (MFN) Principle. These principles are very powerful. No tariffs or any other generalized protection mechanisms are applied to services, but there is provision for major exceptions to the three principles alluded to above.

⁴ Taken from information prepared by the WTO Secretariat.

Firstly, Governments can choose the services for which they are going to enter into market access and national treatment commitments; secondly, they can limit the degree of market access and national treatment that they provide; and thirdly, they can establish exceptions, even in respect of the MFN obligation, in principle only for 10 years, in order to give some countries more favourable treatment than is given on the whole.

B. Services – rules for growth and investment

The General Agreement on Trade in Services (GATS) is the first ever set of multilateral, legally enforceable rules covering international trade in services. It was negotiated at the Uruguay Round. Like the agreements on goods, GATS operates on three levels: the main text containing general principles and obligations; annexes dealing with rules for specific sectors; and individual countries' specific commitments to provide access to their markets. Unlike the agreements on goods, however, GATS has a fourth special feature: schedules showing where countries are temporarily not applying the "most-favoured-nation" principle of non-discrimination. These commitments – like tariff schedules under GATT – are an integral part of the agreement. So are the temporary withdrawals of most-favoured-nation treatment.

A WTO Council for Trade in Services oversees the operation of the agreement. Negotiations on commitments in four areas have taken place since the Uruguay Round. A full new services round will start no later than 2000.

C. The framework: the GATS articles

1. Basic principles

- All services are covered by GATS.
- Most-favoured-nation treatment applies to all services, except the one-off temporary exemptions.
- National treatment applies in the areas where commitments are made.
- Transparency in regulations, inquiry points.
- Regulations have to be objective and reasonable.
- International payments: normally unrestricted.
- Individual countries' commitments: negotiated and bound.
- Progressive liberalization: through further negotiations

GATS's 29 articles cover all services sectors. They contain the general obligations that all members have to apply. (See also Principles of the trading system).

2. Total coverage

The agreement covers all internationally traded services. This includes all the different ways of providing an international service; GATS defines four:

- services supplied from one country to another (e.g. international telephone calls), officially known as "cross-border supply"

- consumers or firms making use of a service in another country (e.g. tourism), officially known as “consumption abroad”
- a foreign company setting up subsidiaries or branches to provide services in another country (e.g. foreign banks setting up operations in a country), officially “commercial presence”
- individuals travelling from their own country to supply services in another (e.g. fashion models or consultants), officially “presence of natural persons”

3. Most-favoured-nation (MFN) treatment

Favour one, favour all. MFN means treating one’s trading partners equally. Under GATS, if a country allows foreign competition in a sector, equal opportunities in that sector should be given to service providers from all other WTO members. (This applies even if the country has made no specific commitment to give foreign companies access to its markets under WTO).

MFN applies to all services, but some special temporary exemptions have been allowed (see below).

4. What about national treatment?

National treatment – equal treatment for foreigners and one’s own nationals – is treated differently for services. For goods (GATT) and intellectual property (TRIPS) it is a general principle. In GATS it only applies where a country has made a specific commitment, and exemptions are allowed. (See below).

5. Transparency

GATS says Governments must publish all relevant laws and regulations. Within two years (by the end of 1997) they have to set up inquiry points within their bureaucracies. Foreign companies and Governments can then use these inquiry points to obtain information about regulations in any service sector. And they have to notify the WTO of any changes in regulations that apply to the services that come under specific commitments.

6. Regulations: objective and reasonable

Since domestic regulations are the most significant means of exercising influence or control over services trade, the agreement says Governments should regulate services reasonably, objectively and impartially. When a Government makes an administrative decision that affects a service, it should also provide an impartial means for reviewing the decision (for example a tribunal).

7. Recognition

When two (or more) Governments have agreements recognizing each other’s qualifications (for example, the licensing or certification of service suppliers), GATS says other members must also be given a chance to negotiate comparable pacts. The recognition of other countries’ qualifications must not be discriminatory, and it must not amount to protectionism in disguise. These recognition agreements have to be notified to WTO.

8. International payments and transfers

Once a Government has made a commitment to open a service sector to foreign competition, it must not normally restrict money being transferred out of the country as payment for services supplied (“current transactions”) in that sector. The only exception is when there are balance of payments difficulties, and even then the restrictions must be temporary and subject to other limits and conditions.

9. Specific commitments

Individual countries’ commitments to open markets in specific sectors – and how open those markets will be – are the outcome of negotiations. The commitments appear in “schedules” that list the sectors being opened, the extent of market access being given in those sectors (e.g. whether there are any restrictions on foreign ownership), and any limitations on national treatment (whether some rights granted to local companies will not be granted to foreign companies).

These commitments are “bound”: like bound tariffs, they can only be modified or withdrawn after negotiations with affected countries – which would probably lead to compensation. Because “unbinding” is difficult, the commitments are virtually guaranteed conditions for foreign exporters and importers of services and investors in the sector to do business.

10. Progressive liberalization

The Uruguay Round was only the beginning. GATS requires more negotiations, the first to begin within five years. The goal is to take the liberalization process further by increasing the level of commitments in schedules.

11. The annexes: services are not all the same

International trade in goods is a relatively simple idea to grasp: a product is transported from one country to another. Trade in services is much more diverse. Telephone companies, banks, airlines and accountancy firms provide their services in quite different ways. The GATS annexes reflect some of the diversity.

12. Movement of natural persons

This annex deals with negotiations on individuals’ rights to stay temporarily in a country for the purpose of providing a service. It specifies that the agreement does not apply to people seeking permanent employment or to conditions for obtaining citizenship, permanent residency or permanent employment.

13. Financial services

Instability in the banking system affects the whole economy. The financial services annex says Governments have the right to take prudential measures, such as those for the protection of investors, depositors and insurance policy holders, and to ensure the integrity and stability of the financial system. It also excludes from the agreement services provided when a Government exercises its authority over the financial system, for example central banks’ services. Negotiations on specific commitments in financial services continued after the end of the Uruguay Round and ended in late 1997.

14. Telecommunications

The telecommunications sector has a dual role: it is a distinct sector of economic activity; and it is an underlying means of supplying other economic activities (for example electronic money transfers). The annex says Governments must ensure that foreign service suppliers are given access to the public telecommunications networks without discrimination. Negotiations on specific commitments in telecommunications resumed after the end of the Uruguay Round. This led to a new liberalization package agreed in February 1997.

15. Air transport services

Under this annex, traffic rights and directly related activities are excluded from the coverage of GATS. They are handled by other bilateral agreements. However, the annex establishes that GATS will apply to aircraft repair and maintenance services, marketing of air transport services and computer reservation services.

16. Countries' commitments: on market-opening

Each country lists specific commitments on service sectors and on activities within those sectors. The commitments guarantee access to the country's market in the listed sectors, and they spell out any limitations on market access and national treatment.

As an example; if a Government commits itself to allow foreign banks to operate in its domestic market, that is a market access commitment. And if the Government limits the number of licences it will issue, then that is a market access limitation. If it also says foreign banks are only allowed one branch while domestic banks are allowed numerous branches, that is an exception to the national treatment principle.

17. Market access

The schedules of market access commitments (along with any limitations and exemptions from national treatment) are negotiated as multilateral packages, although bilateral bargaining sessions are needed to develop the packages. The commitments therefore contain the negotiated and guaranteed conditions for conducting international trade in services. If a recorded condition is to be changed for the worse, then the Government has to give at least three months' notice and it has to negotiate compensation with affected countries. But the commitments can be improved at any time. They will be subject to further liberalization through the future negotiations already committed under GATS. The first of these must start no later than 2000.

18. National treatment

National treatment means treating one's own nationals and foreigners equally. In services, it means that once a foreign company has been allowed to supply a service in one's country there should be no discrimination between the foreign and local companies.

Under GATS, a country only has to apply this principle when it has made a specific commitment to provide foreigners with access to its services market. It does not have to apply national treatment in sectors where it has made no commitment. Even in the commitments, GATS does allow some limits on national treatment.

This contrasts with the way the national treatment principle is applied for goods – in that case, once a product has crossed a border and been cleared by customs it has to be given national treatment even if the importing country has not made any commitment under WTO to bind the tariff rate.

19. MFN exemptions: temporary and one-off

WTO members have also made separate schedules of exceptions to the MFN principle of non-discrimination. When GATS came into force, a number of countries already had preferential agreements in services that they had signed with trading partners, either bilaterally or in small groups. WTO members felt it was necessary to maintain these preferences temporarily. They gave themselves the right to continue giving more favourable treatment to particular countries in particular service activities by listing “MFN exemptions” alongside their first sets of commitments. In order to protect the general MFN principle, the exemptions could only be made once; nothing can be added to the schedules. They will be reviewed after five years (in 2000), and will normally last no more than 10 years. The exemption schedules are also part of the GATS agreement.

20. Ongoing work: even before the next round

At the end of the Uruguay Round Governments agreed to continue negotiations in four areas: basic telecommunications, maritime transport, movement of natural persons, and financial services. Some commitments in some of these sectors had been made in the Uruguay Round agreements. The objective of continuing with the negotiations was to improve the package.

21. Basic telecommunications

This was an area where Governments did not offer commitments during the Uruguay Round essentially because the privatization of government monopolies was a complex issue in many countries. Sophisticated value-added telecommunications services, which are more commonly provided on a private basis, were, however, included in many of the original GATS schedules. The negotiations on basic telecommunications ended in February 1997 with new national commitments due to take effect from January 1998.

22. Maritime transport

Maritime transport negotiations were originally scheduled to end in June 1996, but participants failed to agree on a package of commitments. The talks will resume with the new services round due to start no later than 2000. Some commitments are already included in some countries’ schedules covering the three main areas in this sector: access to and use of port facilities; auxiliary services; and ocean transport.

23. After the Uruguay Round

- GATS talks that resumed after the round. A full new services round will start in 2000 at the latest.
- Basic telecommunications completed February 1997.
- Financial services to end late 1997.
- Maritime transport suspended.
- Movement of natural persons completed July 1995.
- Other issues for future negotiation:
- Subsidies, government procurement, safeguards, qualifications, technical standards, licensing.

24. Movement of natural persons

“Movement of natural persons” refers to the entry and temporary stay of persons for the purpose of providing a service. It does not relate to persons seeking permanent employment or permanent residency in a country. Some commitments are already included in the schedules but it was agreed that negotiations to improve commitments would take place in the six months after the WTO came into force. These only achieved modest results.

25. Financial services

Financial services is another area where further negotiations were scheduled to improve on the commitments included in the initial Uruguay Round schedules. Officially the first set of talks ended in July 1995, but the Governments decided that more could be achieved if further talks could be held. These latest negotiations ended in December 1997.

26. Other issues

GATS identifies several more issues for future negotiation. One set of negotiations would create rules that are not yet included in GATS: rules dealing with subsidies, government procurement and safeguard measures.

Another set of negotiations would seek rules on the requirements foreign service providers have to meet in order to operate in a market. The objective is to prevent these requirements being used as unnecessary barriers to trade. The focus is on: qualification requirements and procedures, technical standards and licensing requirements.

As part of this task, a working party on professional services has been set up. It is tackling the accountancy sector first, a priority set by ministers, but eventually all professional services should be covered. The first result of these discussions emerged in May 1997 when the Services Council adopted new guidelines for countries to use when negotiating agreements to recognize each others’ professional qualifications in accountancy. The guidelines are not binding.

D. The trade implications of the GATS commitments

The General Agreement on Trade in Services is a multilateral agreement containing a number of provisions that apply to all services, both present and future, and it is defined as a “framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries”. GATS is an integral part of all the WTO agreements adopted at Marrakesh in 1994, when the Uruguay Round of Multilateral Trade Negotiations ended. The degree of liberalization to be offered by each country under the Agreement, however, was not established immediately, but was left for negotiation. While some rules such as the obligations of *Most-Favoured-Nation Treatment* and *Transparency* apply to all service sectors, as they are “**General Obligations**”, “**Market Access**” and “**National Treatment**” provisions affect only those countries that have signed up to particular obligations in a specific sector (“**Specific Commitments**”).

The *Most-Favoured-Nation Treatment* commitment basically means “Favour one, favour all”; in other words, if a country permits outside competition in a given sector, it must provide equal opportunities to service providers from all the other members of WTO. The *Transparency* provision obliges Governments to make public all major laws and regulations affecting trade in services. By the end of 1997, the countries should also have established inquiry points or focal

points within their bureaucracies, and these should be open to all companies, be they domestic or foreign, that are interested in obtaining information on regulations in any services sector. Furthermore, members must notify WTO of any change in laws, rules or regulations applying to sectors that fall within their Specific Commitments (see below).

Besides the general obligations, each member must adopt what are known as *Specific Commitments* by drawing up a “*Schedule of Specific Commitments*”. In the process of drawing up Schedules of Commitments, members first identify the service sectors or subsectors in which they are prepared to enter into commitments. Then, each member lays down the conditions and limitations under which it will allow access to its domestic markets for services and service providers. These conditions must be applied on the basis of Most-Favoured-Nation Treatment, unless exemption from this is specifically stipulated in the list of exemptions to Art. II included in the relevant national commitments. When the sectoral coverage of GATS members is reviewed, it is found that there are substantial differences between member countries in terms of the number of sectors included and the quantity and quality of the limitations and conditions established in the national Schedules. No country has adopted commitments in all service sectors. Furthermore, many of the national Schedules represent consolidations of measures embodying a higher level of protection (consolidation of a regulatory “ceiling”) than what is actually in force, actual practice being more liberal than the measures listed.

When considering the “*Schedules of Specific Commitments*”, a number of steps need to be taken to enable the trade implications of GATS commitments to be evaluated.

E. Steps to be followed in evaluating the trade implications of a country’s schedule of commitments in GATS⁵

- Examine and assess the importance to trade of the sectors and subsectors **covered** in the Schedule of Commitments. It should be recalled that not all countries use the same system for classifying activities.
- Examine and assess the importance to trade of “**Horizontal Commitments**”, identifying the **conditions and limitations** for the different modes of supply which affect all the consolidated sectors included in the Schedule of Commitments.
- In relation to a specific sector or subsector, examine and assess the importance to trade of the **conditions and limitations** established for each mode of supply, in the “**Market Access**” column.
- In relation to a specific sector or subsector, examine and assess the importance to trade of the **conditions and limitations** established for each mode of supply, in the “**Additional Commitments**” column.
- Examine and assess the importance to trade of the **Schedule of Exceptions to MFN Treatment** for activities of particular commercial interest.

All entries in the Schedule of Specific Commitments represent a consolidation of the measures registered, and this constitutes a legal obligation which determines whether or not there are any limitations on market access and national treatment in relation to each mode of supply, for the sector or subsector identified. These limitations may be described as a “**ceiling**” type consolidation (when the measures in force are more liberal than those stipulated) or a “**freezing**” or

⁵ The information in Annex 2 of this Manual, which contains 21 profiles for the main service industries, will be found helpful for evaluating the trade implications of commitments in any agreement.

“**status quo**” type consolidation (when the measures in forces are the same as the ones registered as a commitment). In both cases, the legal undertaking is that the level of access and treatment registered among the conditions listed there will not be worsened. When the entry is **NONE**, this means that there are no limitations on Market Access or National Treatment in a given sector or subsector in respect of a given mode of supply. When a sector or subsector is not listed or one of its modes of supply is marked with the word **UNBOUND**, this means that the Member wishes to remain free to introduce or maintain whatever measures it considers necessary, even when these are inconsistent with Market Access and/or National Treatment obligations.

A written description of the limitations and conditions on *Market Access* and *National Treatment* may be of one of two kinds: 1) A brief description of the nature of the limitation, with emphasis on the features that make it inconsistent with these two obligations, and/or 2) A description of what the country wishes to offer in terms of access and treatment, plus a description of the limitations and conditions being maintained.

The list of exceptions to the *Most-Favoured-Nation Treatment* obligation is simpler, as five types of information are provided for each exception: 1) Description of the sector affected by the measure, 2) Description of the measure, explaining why it is inconsistent with MFN, 3) Country or countries to which the measures are being applied, 4) Approximate duration of the exception and 5) The conditions that created the need for the exception.

IV. What services negotiations deal with, how and why

Given that it is considered vital for an inventory of measures affecting trade in services to be compiled if a process of negotiation aimed at creating a Free Trade Area in the hemisphere is to be initiated, it is important to be aware of the special significance taken on by negotiations in this area. Although all trade negotiations have many features in common when it comes to the “what, how and why”, the specific characteristics of services mean that the responses to each of these questions will be somewhat different to what they would be in the case of conventional negotiations over trade in goods.

A. What do services negotiations deal with?

Given that trade in services is not generally speaking affected by tariff measures, except in the case of services incorporated into physical goods such as films, videos, music recordings and computer software on diskette, negotiations over services generally focus on examining the trade impact of those rules, laws and regulations that might directly affect trading opportunities and the ability of services and service providers from outside a country to compete in its domestic market.

What negotiations centre upon, therefore, are not just those rules, laws and regulations that affect foreign services, but also those that affect the ability of foreign service providers to do business with residents of the importing country. In short, negotiations over services are not negotiations over tariffs but negotiations over the discriminatory features that may be incorporated into national laws, rules and regulations affecting the services and service providers of other parties in terms of their ability to participate in the domestic market.

Nonetheless, what the right degree of regulatory harmonization might be will depend on the decisions and agreements reached on subjects such as sectoral coverage and the modes of supply that the negotiations will deal with. Similarly, it is essential to take account of the type of provisions that reservations will provide for as regards the treatment of sensitive sectors to which certain parts of the agreement may apply only partially or not at all.

B. How are services negotiated?

Like any trade negotiations, services negotiations involve mutual concessions among the parties involved with the objective of securing greater transparency, greater legal certainty and better treatment for the products and services of the countries negotiating. Thus, services negotiations essentially involve swapping concessions over measures that affect trade in services. Ultimately, the object of negotiation is to obtain and trade concessions in relation to the treatment given to services and service providers. This is the fundamental reason why it is vital for the countries involved in negotiations over services to have full knowledge not only of their own services regulations but also of measures that affect the provision of services of domestic origin in the other markets involved in the trade agreement. Among other things, this process of trading concessions involves each member country deciding on the service sectors and subsectors and the modes of supply for which it is prepared to “*to bind*” a given level of treatment, including progressive liberalization, i.e. withdrawal or dismantling of measures that are incompatible with the liberalization obligations that might exist in the legal and regulatory system, especially those elements that relate to the degree of discrimination with which services and service providers from the other party or parties to the agreement are treated. What is normally meant by “consolidation” is that the conditions stipulated cannot be modified in such a way that the conditions of access and treatment granted to services and service providers from the other party or parties change for the worse. Agreements also tend to contain rules on matters such as dispute resolution, denial of benefits, the treatment of reservations and exceptions, safeguard measures and other things.

C. Why are services negotiated?

The primary objective of services negotiations is to widen the economic space in which international traders act, under conditions of transparency and greater legal certainty. The supposition underlying these efforts is the conviction that widening economic spaces enables better use to be made of the comparative advantages of the countries involved, greater benefits to be derived from economies of scale and of scope in the case of companies providing services, greater efficiency in the allocation of resources and greater availability of more varied and better-quality services at a lower price for consumers in the importing country.

V. The importance of modes of supply

The special characteristics of services, particularly those associated with their intangibility and the fact that many of them cannot be stored, have obliged those operating in these markets to develop new ways of carrying out international services transactions that provide a better response to the challenge that the provision of a service raises, i.e. direct contact between consumers and providers.

This issue was the subject of much discussion during the drafting of the WTO General Agreement on Trade in Services, according to Art. I of which **“trade in services is defined as the supply of a service:**

- a) from the territory of one Member into the territory of any other Member;
- b) in the territory of one Member to the service consumer of any other Member;
- c) by a service supplier of one Member, through commercial presence in the territory of any other Member;
- d) by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member”⁶

⁶ Annex 1B of the General Agreement on Trade in Services. The Results of the Uruguay Round, WTO.

To avoid duplicating the work being done by other Groups participating in the FTAA process, the Questionnaire prepared by the Working Group on Services is concerned only with the identification of measures affecting trade in services when this is carried out using the modes of supply marked as a), b) and d). It is understood that mode of supply c), through a commercial presence, has been included in the Inventory of Measures drawn up by the Working Group on Investment.

VI. Tracking national services regulations: steps to be followed

A real effort to identify regulations affecting services in a country can prove to be a tedious and expensive task if it is not properly organized. For this to be done most effectively, it is necessary to form a properly structured and coherent working group that can both avoid duplication of effort and information and ensure that important measures are not overlooked.

A. Characteristics of the team responsible for itemizing measures

The number of specialists working on the team responsible for itemizing measures will depend on the resources available in each country. It is advisable, however, for the team to have a coordinator with wide-ranging knowledge of national and international institutional arrangements in the services sector, who can head the work and allocate tasks and responsibilities to fellow workers. It is also important for there to be support from one or more legal advisers or lawyers who can help identify the legal and regulatory sources that will provide the basis for the collection of information on measures.

One good recruiting ground for suitable staff to form the working team are university Economics and Law faculties, which provide high-quality, low-cost human resources that are easy to train.

B. Organizing the itemization of measures on the basis of groups of service sectors

Although there is no multilaterally agreed classification of service sectors, a number of efforts to produce classifications are being made by different institutions. Perhaps the most complete is the one drawn up by the Statistics office of the United Nations, known as the Central Product Classification (CPC) Rev. 1 of 1998. This classification breaks down services sub-activities to a high degree, with five major divisions coming under section numbers 5 to 9. This classification also includes an annex that explains the specific definition for each item contained in it. Notwithstanding all this, the negotiations held within GATS have mainly used a simplified document produced by the GATT Secretariat during the Uruguay Round negotiations. This simplified document, generally referred to as document MTN.GNS/W/120 (Service Sectorial Classification List), defines twelve main categories or groups of service activities, each of which is then broken down into subsectors.

- The twelve main groups included in this document are as follows:
- Business services;
- Communications services;
- Construction and engineering services;
- Distribution services;
- Teaching services;
- Environment-related services;
- Financial services;
- Health services;
- Tourism and travel services;
- Leisure, cultural and sporting services;
- Transport services; and
- Other services.

Each of these categories or groups of services contains a varying number of additional subcategories and breakdowns. All in all, there is a total of 156 individual services.

The group that contains the largest number of subcategories and the greatest breakdown of activities is the one called **Business Services**. This group contains a total of six subgroups, some of which are then broken down into as many as twenty different individual services industries. Next in order of the degree of breakdown are the categories of **Financial Services** and **Transport Services**.

Depending on the number of staff available, it would be desirable to assign at least three researchers to tracking measures relating to the Business Services category: one to deal with Professional Services, another with Other Business Services, and a third with the remaining subcategories in this group. Most of the measures affecting trade in the services included in the other groups could be tracked by a single researcher.

It is essential for all the countries involved in the exercise to adopt a single Classification List to ensure that the information collected by them is comparable. It is therefore highly desirable for the order of sectors given in document MTN.GNS/W/120 to be followed and for the codes provided for each activity to be used.

It is important to stress that all the services classifications available must be mutually exclusive as regards the activities they contain. Only in this way is it possible to be certain that the measure identified affects one and just one service activity. (The document MTN.GNS/W/120 was sent out with the Questionnaire on Measures Affecting Trade in Services that was circulated among the countries participating in the Working Group).

C. Qualitative information on services in a national market

Generally speaking, services are among the most highly regulated areas of economic activity. Whether services are provided in the home market or traded internationally, there is a particular and unavoidable need to take account of special considerations relating to issues as important as consumer protection, market stability, the level of specialization, the technical capabilities and professional responsibility of service providers, national security, protection for health, the preservation of public order and the prevention of fraudulent practices. Concern to see that all these issues are attended to makes it necessary to intervene and impose order on the spontaneous workings of markets by means of complex regulatory systems and supervision, oversight and inspection bodies. Knowledge of the criteria, basis and justification for the measures making up the services regulation system is a critical part of the process of analysing and reflecting on the coherence and consistency of these measures, and is no less important when it comes to evaluating the scope for negotiating and identifying arguments that can ensure reservations are defended or protective measures maintained.

Generally speaking, the rules, laws and regulations affecting the provision of services are applied in two ways.

A first group of measures, of a **horizontal nature**, is composed of measures that are common to a wide range of services. By and large, these measures are to be found in legal documents such as national constitutions, specific legal codes such as the labour code, or currency exchange and tax measures of more general application.

A second group of measures, of a **sectoral nature**, generally has a more restricted field of application in specific service sectors or industries, examples being general banking laws, the regulations of supervisory bodies responsible for overseeing and inspecting specific industries, or regulations drawn up by professional bodies or associations.

Thus, allocation of the tasks involved in itemizing measures needs to be organized in a way that takes account of these two different categories of regulation.

1. Horizontal regulations

There will have to be complete identification of all legal or regulatory norms and provisions that affect the provision of a large range of services by foreign suppliers, e.g. legal requirements relating to employment of a minimum quota of nationals and to the acquisition of land and real estate by foreigners. It is possible that some countries might have a set of legal and regulatory provisions that apply to the services sector in general and that constitute a unified body of law whose purpose is to implement measures aimed at putting into effect a development plan for the sector and at stimulating such activities.

2. Sectoral regulations

These are all those legal and regulatory norms and provisions that specifically affect the operations of a particular sector, e.g. the Banks and Financial Companies Act, rules, laws and regulations covering the telecommunications sector, etc.

When it comes to evaluating the consistency, coherence and compatibility of existing measures with a process whose objective is progressive liberalization of the regulatory system, account needs to be taken of the following aspects, which can provide justification for existing measures:

- Impact and links with related public policies (policy on foreign investment, competition policy, privatization policy, consumer protection rules, policies and regulations designed to preserve the cultural heritage and the environment).
- Impact of the activity concerned on issues such as the protection of national security and the preservation of given levels of autonomy.
- Identification of the main public policies relating to regulation in the sector, and the prospects for their future development.
- Detailed knowledge of trade agreements dealing with services (sectoral agreements and broad agreements) that have been signed by the country. Review and obtain detailed knowledge about agreements applicable in the country under GATS-WTO and under bilateral or plurilateral agreements currently in force or being negotiated.
- Detailed knowledge of the “public debate” (opinions expressed by large groups of consumers and users and by the business sector involved) about services in general and about specific activities.
- Perception that the user market has of the effectiveness and efficiency of policies followed in relation to specific industries and services.
- Social and geographical coverage of services, particularly services used by the public such as energy, drinking water, telecommunications, health, education and other social services such as social security and welfare.

Annex 1 includes a list of specific measures that usually affect the provision of services in different countries. In drafting this typology of services, particular account was taken of the measures identified in the Schedules of Specific Commitments registered by the member countries of GATS.

Box 1

GLOSSARY OF TERMS RELATING TO INTERNATIONAL TRADE IN SERVICES

For the purpose of identifying measures affecting trade in services, the following terms and concepts need to be borne in mind:

Transparency: This means making full, clear and accurate information available about the nature and scope of all legal, regulatory and prescriptive measures that have a positive or negative effect on foreign services or service providers.

Measure: Any law, regulation, rule, procedure, ruling or administrative action that has a positive or negative effect on trade in services. Measures may relate to: a) the purchasing of, payment for or use of a service, b) access to and use of a service by foreign service providers, when the service is available to the general public, and c) the ability of a foreign service provider to establish a presence in the market of the importing country.

Measures affecting most-favoured-nation treatment: these are all measures that mean that the commercial terms and conditions applied to one country's services or service providers are not as favourable as those granted to any other country.

Measures affecting market access: these are all measures that affect the ability to provide services in a national market in a particular area of activity or sub-activity, whatever the origin of the service or service provider.

Measures affecting national treatment: these are all measures that lead to foreign services and service providers receiving treatment different from that given to national services and service providers.

VII. Issues to be considered when answering the questionnaire

When they come to deal with the different sectors in list W/120, representatives are advised not only to consider carefully the way the indicative questions in the questionnaire are formulated, but to take account of the following issues:

A. In relation to Part I of the questionnaire:

Nationally and subnationally, which regulatory authorities are competent to regulate this activity, and by virtue of which laws, rules and regulations, both governmental and non-governmental? Please identify them explicitly. If there is no specific authority, please identify the institution or institutions whose general rules affect operations in this activity.

B. In relation to Part II of the questionnaire:

1. Non-discriminatory quantitative restrictions

These restrictions are bound up with the concept of “market access”, which includes cases such as: operating licences and other forms of authorization, quotas or other types of restrictions on the number of providers and/or type of services they can supply, or some proof of economic need.

The concept of “market access” is deemed to mean a set of rules and obligations that, in principle, are the same for all competitors in a market, and give all participants the same opportunity to compete. Thus, the concept of market access refers to the opportunities open to producers to sell a service in a particular market, when this service is subject to entry barriers and/or special requirements related to the selling of services. Its main characteristic is its general – i.e. non-discriminatory – application.

2. Measures affecting national treatment

The basic principle of “national treatment” is the prevention of discrimination between foreign services and service providers and domestic ones. This means that, under the laws, rules and regulations affecting service provision within the borders of the country, foreign services and service providers must receive no less favourable treatment than is given to nationals in similar circumstances. The effect of measures that affect national treatment, however, will vary depending on the service sector involved.

Secondly, different types of measures affecting national treatment in each sector should be listed. What discriminatory taxes are there? Are there nationality requirements? Are there local presence requirements for the sector? Are there restrictions on access to foreign currency or limits on the value of services transactions? Are there other measures that lead to discrimination in the treatment given to foreign services and/or service providers?

3. Other non-discriminatory measures

The third group of questions refers to other measures which affect trade in services but which are justified primarily by reference to issues such as consumer protection, market stability or prudential and supervisory measures, and which do not explicitly have a trade protection purpose. These measures include licensing procedures, technical standards, procedures and requirements relating to qualifications and professional certification, etc.

4. Measures affecting most-favoured-nation treatment

Lastly, when each sector or activity is considered, the following question also needs to be answered: in the application of the most-favoured-nation principle, is there some special or common problem that leads to discrimination in the treatment given to service providers of different national origins? For example, are there trade preference treaties or reciprocity requirements applying to trade in services?

VIII. A typology of measures

On the basis of the information contained in Annex 1 of this Manual, the following summary tables have been drawn up. They show the measures most frequently used to regulate specific services, and they can facilitate the work of the research team by providing them with examples of the types of measures affecting trade in services that they are likely to meet with in the regulations governing them.

Each of the tables contains information on a number of service subsectors, grouped in accordance with the categories identified in document MTN/W/120 (classification of service activities).

The measures most commonly used have been listed under each of the organizing criteria (Market Access, National Treatment and Most-Favoured-Nation Treatment). For each of these measures, an X has been used to mark the specific service and the mode or modes of supply which it is most likely to affect.

Table 1

TYPOLOGY OF MEASURES AFFECTING TRADE IN PROFESSIONAL SERVICES

Sectors and subsectors ^{a b}	A				B				C				D				E				F				G			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Market access																												
Existence of monopolies							X																					
Access to government work													X	X	X													
Set tariffs for services							X	X	X	X	X	X																
Restrictive regulations on consumer protection, health and safety													X	X	X													
Quantitative restrictions on service provision							X	X	X												X	X	X	X	X	X	X	X
Restrictions on the movement of professional, technical and administrative personnel	X	X	X				X	X			X	X			X													
Ban on foreigners advertising													X	X	X													
Restrictions on type of legal entity			X				X						X			X					X					X		
Commercial presence requirements			X				X				X																	
Limitations on the type of services that foreigners can supply	X	X	X				X					X	X	X														
Restrictions on capital participation			X				X				X				X			X									X	
Authorization by local authorities required									X	X	X									X	X	X						
Proof of economic need	X	X	X									X	X	X		X	X	X		X	X	X						
Permanent establishment prohibited													X			X					X					X		
Policies for validation of qualifications			X	X								X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Recognition requirements for professional qualifications			X	X	X		X	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Licence requirements				X		X	X	X	X	X	X	X	X	X	X	X	X	X	X				X	X	X	X	X	X
Previous experience requirements								X	X	X				X	X	X												
Supervision by local professionals required			X	X																								
Residency or nationality requirements			X	X				X	X	X				X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
No public health insurance coverage															X	X	X	X					X	X	X	X	X	X
Enrolment in national associations required			X	X				X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
National treatment																												
Currency exchange restrictions	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Obstacles to the transfer of technology or information				X		X	X																					
Technology transfer requirements												X	X	X														
Domestic procurement policy							X	X	X	X			X	X	X													
Compartmentalization of the area of activities							X	X	X																			
Approval by a national professional association			X	X								X	X	X														
Partnership with local professionals obligatory or prohibited			X	X	X		X	X																				
Restrictions on the use of foreign names or trademarks	X	X	X																									
Nationality requirements			X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Requirement for previous residency, including permanent residency			X	X		X	X		X	X				X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Aptitude tests			X	X								X	X	X						X	X	X						

Table 1 (concl.)

Sectors and subsectors ^{a b}	A				B				C				D				E				F				G							
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4				
Obligatory waiting and practice periods for foreigners			X	X			X	X	X	X							X	X	X													
Restrictions on the number of foreigners on Boards									X	X																						
Registration requirements	X		X	X	X	X					X	X	X	X																		
Performance requirements: local content, training requirements			X								X	X	X	X					X	X	X	X										
Licensing, standards and qualification requirements	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Requirement to obtain legal residency							X	X																								
Local graduation requirements			X	X																					X	X		X				
Language requirements			X	X											X	X	X	X	X	X	X	X										
Adoption of ethical standards			X	X																												
Authorization requirements			X	X							X	X	X	X	X	X	X	X														
Restrictions on the sending of remittances abroad	X	X	X	X	X	X	X	X																								
Restrictions on the advertising of services offered by foreigners	X	X	X	X	X	X	X	X																								
Proof of economic need																									X	X		X				
Subsidies to local firms					X	X	X	X			X	X	X	X	X	X	X	X	X	X												
Double taxation									X	X																						
Discriminatory taxes	X	X	X	X	X	X	X	X			X	X																				
Most-favoured-nation																																
Reciprocity requirements			X	X	X	X	X	X	X	X																						
Mutual recognition agreements for qualifications and certificates			X	X	X	X					X	X	X	X	X	X	X	X														
Reciprocity agreements enabling foreign professionals to practise			X	X	X	X					X	X	X	X	X	X	X	X														

^a **Sectors and subsectors:** A: Legal services; B: Accounting, auditing and book-keeping; C: Tax consultancy services; D: Architectural and engineering services; E: Medical and dental services; F: Veterinary services; G: Midwives, nurses.

^b **Mode of supply:** 1: Cross-border provision; 2: Consumption abroad; 3: Commercial presence; 4: Movement of physiotherapy practitioners and paramedical personnel.

Table 2 (concl.)

Sectors and subsectors ^{a b}	A				B				C				D				E				F				G			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Nationality requirements																			X	X			X	X				
Requirement for previous residency, including permanent residency																			X	X			X	X				
Limitations on movement of natural persons			X	X			X	X																				
Previous professional experience requirements	X		X	X																								
Registration requirements					X		X	X	X	X	X	X	X	X														
Legal representation requirements							X	X																				
Performance requirements: local content, training requirements	X		X	X											X	X												
Licensing, standards and qualification requirements	X		X	X	X	X	X							X	X													
Restrictions on international movement of data									X		X	X																
Authorization requirements													X		X	X												
Restrictions on the sending of remittances abroad																			X	X	X	X						
Discriminatory charges for the awarding of licences													X		X	X			X		X	X						
Double taxation									X	X	X	X							X		X	X						
Discriminatory taxes																			X		X	X						
Most-favoured-nation																												
Reciprocity requirements																												
Mutual recognition agreements for qualifications and certificates															X	X	X	X										
Reciprocity agreements enabling foreign professionals to practise															X	X	X	X										

^a **Sectors and subsectors:** A: Advertising services; B: Opinion surveys and market research services; C: Management consultancy and related services; D: Technical testing and analysis services; E: Services related to agriculture, hunting and forestry; F: Services related to mining; G: Services related to manufacturing.

^b **Modes of supply:** 1: Cross-border provision; 2: Consumption abroad; 3: Commercial presence; 4: Movement of providers.

Table 3

TYOLOGY OF MEASURES AFFECTING TRADE IN COMMUNICATIONS SERVICES

Sectors and subsectors ^{a b}	A				B				C				D				E				F				G			
	1	2	3	4	1	2	3	4	1	2	3	4	A	2	3	4	1	2	3	4	1	2	3	4	A	2	3	4
Market access																												
Commercial practices that place restrictions on transmission and distribution companies																												
Ban on advertising products harmful to consumers or the environment																												
Restrictions on the weight of objects	X		X	X																								
Restrictions on Board positions												X																
Restrictions on categories of staff that can be employed																												
Price controls																												
Screen quotas										X	X	X																
Ban on data transmission by foreigners					X	X	X																					
Taxes on data transmission, to and from					X	X	X																					
Existence of monopolies		X																										
Treatment of intellectual property rights									X	X	X																	
Cultural obligations									X	X	X																	
Access to government work					X	X	X																					
Tax treatment of the sector																												
Restrictive regulations on consumer protection, health and safety												X	X															
Restrictions on the movement of professional, technical and administrative personnel																												
Ban on importing materials										X	X	X																
Restrictions on the number of providers					X	X	X																					
Requirement to work in partnership with local firms																												
Obligation to obtain concession contract																												
Restrictions on access to public networks					X	X	X																					
Domestic content restrictions									X	X	X																	
Ban on foreigners advertising																												
Restrictions on type of legal entity							X																					
Censorship bodies									X	X	X																	
Requirement to establish a commercial presence																												
Limitations on the type of services that foreigners can supply	X	X	X						X	X	X																	
Restrictions on capital participation							X			X																		
Authorization by local authorities required																												
Proof of economic need																												
Restrictions on handling of own correspondence	X	X	X																									
Restrictions on access to transport for correspondence	X	X	X																									
Policies for validation of qualifications																												
Interconnection policies	X	X	X																									
Customs regulations	X	X	X																									
Set standards	X	X	X	X	X	X																						
Recognition requirements for professional qualifications																												

Table 3 (cont.)

Sectors and subsectors ^{a b}	A				B				C				D				E				F				G			
	1	2	3	4	1	2	3	4	1	2	3	4	A	2	3	4	1	2	3	4	1	2	3	4	A	2	3	4
Licence requirements	X		X	X	X		X	X																				
Access only for natural persons																												
Restricted number of licences																												
Previous experience requirements																												
Supervision by local professionals required																												
Residency or nationality requirements																												
Government approval requirements																												
Special work permit or visa requirements																												
No public health insurance coverage																												
Enrolment in national associations required																												
National treatment																												
Currency exchange restrictions										X	X	X																
Concession requirements for data processed abroad																												
Tariffs imposed on foreign firms	X		X	X	X		X	X	X		X	X																
Public responsibilities and controls	X		X	X																								
Domestic procurement policy					X		X	X																				
Restrictions on access to transport and communications media	X		X	X																								
Restrictions on imports of equipment							X	X																				
Discriminatory charges for incoming calls					X		X	X																				
Citizenship, residency or nationality requirements																												
Restrictions on the number of foreigners on Boards																												
Compartmentalization of the area of activities	X		X	X	X		X	X																				
Approval by a national professional association																												
Restrictions on distribution										X	X	X																
Government discrimination in awarding contracts					X		X	X																				
Customs regulations	X		X	X																								
Local qualification requirements																												
Partnership with local professionals obligatory or prohibited																												
Predatory pricing and abuse of monopoly position by the State	X		X	X																								
Accreditation requirements																												
Authorization requirements					X		X	X																				
Limitations on movement of natural persons												X	X															
Previous professional experience requirements																												
Registration requirements																												
Legal representation requirements																												

Table 3 (concl.)

Sectors and subsectors ^{a b}	A				B				C				D				E				F				G			
	1	2	3	4	1	2	3	4	1	2	3	4	A	2	3	4	1	2	3	4	1	2	3	4	A	2	3	4
Performance requirements: local content, training requirements					X		X	X																				
Discriminatory access to subsidies									X		X	X																
Restrictions on international movement of data																												
Existence of cross-subsidies	X		X	X																								
Restrictions on the sending of remittances abroad																												
Discriminatory charges for the awarding of licences	X		X	X																								
Double taxation																												
Discriminatory taxes	X		X	X					X		X	X																
Most-favoured-nation																												
Reciprocity requirements					X		X	X																				
Coproduction agreements (financial aid, import facilities)									X		X	X																
Reciprocity agreements enabling foreign professionals to practise																												
Agreements with neighbouring countries to supply distributors (reciprocity)																												

^a **Sectors and subsectors:** A: Postal and courier services; B: Telecommunications services; C: Audio-visual services.

^b **Modes of supply:** 1: Cross-border provision; 2: Consumption abroad; 3: Commercial presence; 4: Movement of providers.

Table 4

**TYPOLGY OF MEASURES AFFECTING TRADE IN CONSTRUCTION AND ENGINEERING,
DISTRIBUTION, EDUCATIONAL AND ENVIRONMENTAL SERVICES**

Sectors and subsectors ^a ^b	A				B				C				D			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Market access																
Commercial practices that place restrictions on transmission and distribution companies																
Ban on advertising products harmful to consumers or the environment																
Restrictions on the weight of objects																
Restrictions on Board positions																
Restrictions on categories of staff that can be employed	X		X	X												
Limitations on the purchase of real estate										X					X	
Price controls																
Screen quotas																
Ban on data transmission by foreigners																
Taxes on data transmission, to and from																
Existence of monopolies						X				X					X	
Treatment of intellectual property rights									X	X	X					
Cultural obligations																
Access to government work																
Tax treatment of the sector																
Restrictive regulations on consumer protection, health and safety																
Restrictions on the movement of professional, technical and administrative personnel										X	X	X			X	X
Restrictions on the value of transactions and assets			X	X		X										
Limits on type of contracts that can be entered into	X		X	X								X		X	X	X
Ban on importing materials			X	X												
Restrictions on the number of providers	X		X	X								X		X	X	X
Requirement to work in partnership with local firms															X	
Obligation to obtain concession contract																
Restrictions on access to public networks																
Domestic content restrictions																
Ban on foreigners advertising																
Restrictions on type of legal entity			X			X										
Censorship bodies																
Requirement to establish a commercial presence						X										
Limitations on the type of services that foreigners can supply	X		X	X					X	X	X	X			X	X
Restrictions on capital participation			X			X									X	
Authorization by local authorities required						X										
Proof of economic need			X	X		X				X	X		X	X	X	X
Restrictions on handling of own correspondence																
Restrictions on access to transport for correspondence																
Policies for validation of qualifications										X	X					
Interconnection policies																
Customs regulations																
Set standards																

Table 4 (cont.)

Sectors and subsectors ^a ^b	A				B				C				D				
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	
Recognition requirements for professional qualifications																	
Licence requirements						X							X	X	X		
Access only for natural persons																	
Restricted number of licences													X	X	X		
Previous experience requirements																	
Supervision by local professionals required																	
Residency or nationality requirements											X	X					
Government approval requirements																	
Special work permit or visa requirements										X	X	X					
No public health insurance coverage																	
Enrolment in national associations required																	
National treatment																	
Currency exchange restrictions	X	X	X	X	X	X	X	X	X					X	X	X	X
Concession requirements for data processed abroad																	
Restrictions on the categories of staff that can be employed			X	X													
Product exclusions					X		X	X									
Migration policies		X	X													X	X
Discriminatory access to travel passes and financial assistance											X	X					
Tariffs imposed on foreign firms																	
Public responsibilities and controls																	
Domestic procurement policy	X		X	X													
Restrictions on access to transport and communications media																	
Restrictions on imports of equipment			X	X													
Discriminatory charges for incoming calls																	
Citizenship, residency or nationality requirements	X		X	X			X	X			X	X			X	X	
Restrictions on the number of foreigners on Boards							X	X			X				X		
Compartmentalization of the area of activities							X				X	X		X	X		
Approval by a national professional association	X		X	X													
Restrictions on distribution																	
Government discrimination in awarding contracts	X		X	X													
Customs regulations																	
Local qualification requirements	X		X	X							X	X					
Partnership with local professionals obligatory or prohibited	X		X	X													
Nationality requirements	X		X	X													
Requirement for previous residency, including permanent residency	X		X	X												X	X
Restrictions on land purchases			X														
Discriminatory taxes on goods sent by post					X												
Predatory pricing and abuse of monopoly position by the State																	
Accreditation requirements	X		X	X							X	X			X	X	
Authorization requirements	X		X	X							X	X					
Limitations on movement of natural persons			X	X			X	X			X	X					

Table 4 (concl.)

Sectors and subsectors ^{a b}	A				B				C				D			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Previous professional experience requirements																
Proof of economic need																
Limitations on the purchase of real estate			X			X				X						
Registration requirements	X	X	X													
Difficulty in issuing degrees and diplomas to foreign institutions										X	X					
Legal representation requirements																
Restrictions on the recruitment of foreign teachers										X	X					
Performance requirements: local content, training requirements	X	X	X													
Licensing, standards and qualification requirements	X	X	X						X	X	X	X		X	X	
Discriminatory access to subsidies	X	X	X													
Restrictions on international movement of data																
Authorization requirements																
Existence of cross-subsidies																
Restrictions on the sending of remittances abroad						X									X	X
Discriminatory charges for the awarding of licences																
Subsidies for local institutions										X	X			X	X	
Double taxation																
Discriminatory taxes	X	X	X			X				X	X			X	X	
Most-favoured-nation																
Preferences deriving from free trade agreements						X	X	X	X							
Reciprocity agreements enabling foreign professionals to practise	X	X	X													

^a **Sectors and subsectors:** A: Construction and engineering services; B: Distribution services (wholesale and retail); C: Education services; D: Environmental services

^b **Modes of supply:** 1: Cross-border provision; 2: Consumption abroad; 3: Commercial presence; 4: Movement of providers.

Table 5

TPOLOGY OF MEASURES AFFECTING TRADE IN ENERGY SERVICES AND OTHER SERVICES

Sectors and subsectors ^{a b}	A				B				C				D				E				F				G			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Market access																												
Restrictions on categories of staff that can be employed							X	X																				
Price controls		X																										
Existence of monopolies		X					X																					
Restrictive regulations on consumer protection, health and safety											X																	
Restrictions on the movement of professional, technical and administrative personnel																										X	X	
Requirement to work in partnership with local firms		X					X				X			X			X									X		
Obligation to obtain concession contract		X																										
Domestic content restrictions															X		X	X										
Restrictions on type of legal entity		X					X				X			X			X			X						X		
Requirement to establish a commercial presence										X			X			X										X		
Limitations on the type of services that foreigners can supply		X																			X							
Restrictions on capital participation		X					X				X			X			X			X						X		
Authorization by local authorities required							X				X		X	X	X		X	X										
Policies for validation of qualifications											X		X	X														
Licence requirements							X																					
Access only for natural persons														X														
Restricted number of licences							X																					
Supervision by local professionals required																	X	X										
Residency or nationality requirements							X				X	X		X	X		X	X			X	X			X	X		
National treatment																												
Currency exchange restrictions	X	X	X	X	X	X	X	X	X	X	X	X	X												X	X	X	
Concession requirements for data processed abroad																												
Restrictions on the categories of staff that can be employed						X		X	X																			
Tariffs imposed on foreign firms												X		X	X													
National procurement policy																												
Citizenship, residency or nationality requirements							X	X			X	X		X	X		X	X			X	X			X	X		
Restrictions on the number of foreigners on Boards		X								X																		
Compartmentalization of the area of activities							X														X	X						
Government discrimination in awarding contracts		X					X																					
Local qualification requirements											X		X	X														
Partnership with local professionals obligatory or prohibited																												
Practice or training requirements													X	X														
Nationality requirements							X	X																				
Requirement for previous residency, including permanent residency							X	X																				

Table 5 (concl.)

Sectors and subsectors ^{a b}	A				B				C				D				E				F				G			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Accreditation requirements												X	X	X														
Authorization requirements								X	X	X	X	X	X	X	X	X												
Limitations on movement of natural persons																												
Previous professional experience requirements												X	X	X														
Proof of economic need					X	X	X																					
Registration requirements															X	X	X											
Legal representation requirements																												
Performance requirements: local content, training requirements																												
Licensing, standards and qualification requirements					X	X	X																					
Restrictions on international movement of data																												
Authorization requirements					X	X	X																					
Restrictions on the sending of remittances abroad		X							X			X			X				X									
Discriminatory charges for the awarding of licences																												
Double taxation					X	X	X																					
Discriminatory taxes					X	X	X					X	X	X												X	X	
Most-favoured-nation																												
Agreements with neighbouring countries to supply distributors (reciprocity)		X																										

^a **Sectors and subsectors:** A: Energy services; B: Placement and supply of staff; C: Investigation and security services; D: Science and technology consultancy services; E: Plant maintenance and repair services; F: Publishing and printing services; G: Conference or convention services.

^b **Modes of supply:** 1: Cross-border provision; 2: Consumption abroad; 3: Commercial presence; 4: Movement of providers.

Table 6

TYPOLOGY OF MEASURES AFFECTING TRADE IN FINANCIAL SERVICES

Sectors and subsectors ^a ^b	A				B			
	1	2	3	4	1	2	3	4
Market access								
Restrictions on categories of staff that can be employed			X	X			X	X
Non-discriminatory restrictions on data flows	X		X	X				
Limitations on the purchase of real estate			X				X	
Existence of monopolies			X					
Restrictions on the movement of professional, technical and administrative personnel				X			X	X
Powers of the country's Central Bank	X		X	X				
Restrictions on the value of transactions and assets			X				X	
Restrictions on capital participation in banks by others							X	
Access prohibited to foreign companies			X				X	
No guarantee of historical treatment for existing companies			X				X	
Restrictions on acquisition of domestic companies							X	
Restrictions on the number of providers							X	
Requirement to work in partnership with local firms			X					
Restrictions on type of legal entity			X				X	
Requirement to establish a commercial presence			X				X	
Limitations on the type of services that foreigners can supply			X		X		X	X
Restrictions on capital participation			X				X	
Authorization by local authorities required			X					
Proof of economic need			X		X		X	X
Licence requirements			X					
Obligation to reinsure with local companies			X					
Restricted number of licences			X					
Special work permit or visa requirements				X				X
National treatment								
Currency exchange restrictions	X		X	X	X		X	X
Discriminatory reserve requirements							X	
Restrictions on government procurement			X					
Domestic procurement policies			X					
Restrictions on the transfer of data and information	X		X		X		X	X
Interest rate discrimination					X		X	X
Discrimination in charges and commission					X		X	X
Requirements to employ nationals			X					
Limits on government deposits							X	
Restrictions on imports of equipment			X					
Restrictions on the number of foreigners on Boards							X	
Compartmentalization of the area of activities	X		X	X	X		X	X

Table 6 (concl.)

Sectors and subsectors ^{a b}	A				B			
	1	2	3	4	1	2	3	4
Restrictions on purchases of shares or other assets							X	
Restrictions on the location of branches							X	
Restrictions on the number of branches							X	
Restrictions on purchases of real estate			X				X	
Discriminatory deposit and capital requirements			X					
Access to Central Bank discounts prohibited							X	
Requirements for time capital has to be left in the country			X				X	
Authorization requirements	X		X	X	X		X	X
Limitations on movement of natural persons								X
Licensing requirements	X		X	X				
Limitations on the purchase of real estate							X	
Registration requirements	X		X	X	X		X	X
Performance requirements: local content, training requirements			X					
Restrictions on the sending of remittances abroad	X		X	X			X	X
Discriminatory taxes	X		X	X	X		X	X
Most-favoured-nation								
Preferential access to the capital, money or currency markets							X	
Reciprocity over foreign capital participation							X	
Reciprocity over prudential measures and licences							X	
Bilateral preference agreements			X					

^a **Sectors and subsectors:** A: Insurance and related services; B: Banking and other services.

^b **Modes of supply:** 1: Cross-border provision; 2: Consumption abroad; 3: Commercial presence; 4: Movement of providers.

Table 7

TPOLOGY OF MEASURES AFFECTING TRADE IN COMPUTER SERVICES

Sectors and subsectors ^a ^b	A			
	1	2	3	4
Market access				
Restrictions on the establishment of a commercial presence			X	
Restrictions on the movement of professional, technical and administrative personnel			X	X
Domestic content restrictions	X		X	X
Restrictions on type of legal entity			X	
Restrictions on capital participation			X	
Special work permit or visa requirements			X	X
National treatment				
Discrimination in access to distribution networks	X		X	X
Discriminatory taxes	X		X	X
Most-favoured-nation				

^a Sectors and subsectors: A: Computer services

^b Modes of supply: 1: Cross-border provision; 2: Consumption abroad; 3: Commercial presence; 4: Movement of providers

Table 8
TYPOLOGY OF MEASURES AFFECTING TRADE IN RESEARCH AND DEVELOPMENT SERVICES

Sectors and subsectors ^{a b}	A			
	1	2	3	4
Market access				
Proof of economic need	X		X	X
Requirements for contracting by research bodies				X
Registration and licensing requirements	X		X	X
Restrictions on type of legal entity			X	
Restrictions on capital participation			X	
Special work permit or visa requirements			X	X
National treatment				
Requirements for membership of local associations	X		X	X
Ban on the export of archaeological finds			X	X
Licensing requirements for equipment imports			X	X
Permanent residency requirements			X	X
Nationality requirements			X	X
Special permits or licences required	X		X	X
Currency exchange restrictions	X	X	X	X
Restrictions on the movement of remittances	X	X	X	X
Discrimination in access to distribution networks	X		X	X
Most-favoured-nation				

^a **Sectors and subsectors:** A: Research and development services.

^b **Modes of supply:** 1: Cross-border supply; 2: Consumption abroad; 3: Commercial presence; 4: Movement of providers.

Table 9

TYPOLOGY OF MEASURES AFFECTING TRADE IN REAL ESTATE AND RENTAL SERVICES

Sectors and subsectors ^{a b}	A				B				C				D				E				F			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Market access																								
Requirements for deposits or insurance to cover losses			X	X			X	X																
Restrictions on type of legal entity			X				X						X				X					X		
Requirement to establish a commercial presence			X				X						X				X					X		
Limitations on the type of services that foreigners can supply											X													
Restrictions on capital participation										X			X									X		
Authorization by local authorities required							X	X																
Licence requirements			X	X			X	X									X	X						
Residency or nationality requirements			X	X			X	X		X	X		X	X		X	X							
Government approval requirements										X	X													
Enrolment in national associations required	X		X	X			X	X		X	X		X	X										
National treatment																								
Currency exchange restrictions	X	X	X	X									X	X	X	X	X	X	X	X				
Compartmentalization of the area of activities							X	X																
Nationality requirements			X	X			X	X		X	X		X	X										
Requirement for previous residency, including permanent residency			X	X									X	X										
Registration requirements										X	X		X	X										
Aircraft certification requirements												X		X	X									
Licensing, standards and qualification requirements							X	X																
Restrictions on the sending of remittances abroad					X	X	X	X		X	X													
Discriminatory charges for the awarding of licences																	X	X						
Discriminatory taxes										X	X													
Most-favoured-nation																								
Reciprocity requirements																								
Mutual recognition agreements for qualifications and certificates																								
Reciprocity agreements enabling foreign professionals to practise																								

^a **Sectors and subsectors:** A: Services relating to owned or rented real estate; B: Commission or contract property services; C: Uncrewed boat hiring or rental services; D: Uncrewed aircraft hiring or rental services; E: Other uncrewed transport rental services; F: Services involved in the rental of other types of machinery and equipment without operators.

^b **Modes of supply:** 1: Cross-border provision; 2: Consumption abroad; 3: Commercial presence; 4: Movement of providers.

Table 10 (concl.)

Sectors and subsectors ^{a b}	A				B				C				D				E				F				G				H				I				J			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Authorization requirements					X	X	X	X	X	X																														
Restrictions on the sending of remittances abroad									X																															
Discriminatory taxes	X	X	X	X	X	X	X	X	X	X							X	X																						
Most-favoured-nation																																								
Reciprocity agreements for charges and tax treatment	X	X	X	X	X	X	X	X	X	X	X	X																												
Preferential tax treatment, bilateral cargo reservation, specifications													X	X	X	X	X	X	X	X																				

^a **Sectors and subsectors:** A: Maritime transport; B: Transport by inland waterways; C: Air transport services; D: Land transport services: generalities and road transport; E: Rail transport.

^b **Modes of supply:** 1: Cross-border provision; 2: Consumption abroad; 3: Commercial presence; 4: Movement of providers.

IX. Further information

Representatives are informed that, for the purposes of the Council for Trade in Services, the Secretariat of WTO has drafted individual documentary notes on services sectors, these being based on readily available information and on analysis of the specific commitments accepted under GATS. These notes contain data on the economic importance of the service, the main ways in which services are traded internationally, and the sources from which further information can be obtained. All member Governments of WTO have access to this documentation, which is restricted. Please contact the Council for Trade in Services of WTO.

X. Help in answering the questionnaire

As part of its programme to support the FTAA negotiating process, ECLAC is at the disposal of participating countries to clear up any doubts concerning the answers to be given in the Questionnaire. Please send your queries to Sra. Vivianne Ventura Dias, Director of the International Trade and Development Finance Division of ECLAC.

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Annexes

Annex 1: Typology of measures affecting trade in services

1. Business services

1.1. Professional services

a. *Legal services*⁷ (861)

Measures affecting market access

- Restrictions on movement of professionals and technical and administrative personnel
- Restrictions on type of legal entity
- Commercial presence requirements
- Limitations on the type of legal services authorized for foreigners
- Restrictions on capital participation
- Evidence of economic need
- Policies for validation of qualifications
- Recognition requirements for professional qualifications
- Requirements for oversight by local professionals
- Residency and/or citizenship requirements
- Enrolment in the national professional association required

Measures affecting national treatment

- Currency exchange restrictions
- Approval by the national professional association
- Partnership with locally licensed professionals obligatory or forbidden
- Restrictions on hiring of locally licensed professionals
- Restrictions on use of international names or those of foreign firms
- Nationality requirements
- Previous residency required, including permanent residency
- Aptitude tests
- Obligatory waiting and practice periods for foreigners
- Registration requirements
- Performance requirements: local content, training requirements
- Licensing, standards and qualification requirements
- Local graduation requirements
- Language requirements
- Adoption of ethical standards
- Authorization requirements
- Restrictions on the sending of remittances abroad
- Discriminatory taxes
- Restrictions on advertising of services offered by foreign companies or individuals

⁷ Legal Services: Background Note by the Secretariat, WTO Doc. S/G/W/43.

Measures affecting most-favoured-nation treatment

Description of the Measure: Reciprocity requirements relating to measures pertaining to the provision of legal services.

Agreements on mutual recognition of licences and certificates; reciprocity agreements enabling foreign professionals to practise.

Justification of the Measure.

b. Accountancy services (accounting, auditing and book-keeping)⁸ (862)

Measures affecting market access

Restrictions on the type of business structure

Commercial presence restrictions

Restrictions on foreign capital participation

Restrictions on type of legal entity

Evidence of economic need

Use of foreign company names prohibited

Limitations on movement of natural persons

Recognition requirements for professional qualifications

Quantitative restrictions on service provision

Existence of monopolies

Set tariffs for auditing services

Licensing requirements

Measures affecting national treatment

Restrictions on the international movement of payments and remittances

Obstacles to the transfer of technology and information

“National Procurement” policies

Different taxation for foreigners and double taxation

Subsidies for local firms

Compartmentalization of the area of activities

Incompatibilities

Differences in accountancy and auditing methods and other standards

Restrictions on advertising and on the setting of professional tariffs

Residency and/or citizenship requirements

Qualification requirements

Requirements for practice and experience in the country

Nationality requirements

Recognition requirements for professional qualifications

Registration with the relevant professional associations

Requirement for legal domicile to be obtained

Restrictions on foreign professionals working in partnership with local ones

Measures affecting most-favoured-nation treatment

Description of the Measure: Reciprocity requirements relating to measures required for the provision of accountancy services. Preferential access for business people of particular origins. Agreements providing for mutual recognition of diplomas.

Justification for the Measure

⁸ Accountancy Services: Note by the Secretariat, WTO Doc. S/G/W/73.

c. *Tax advisory services (863)*

Measures affecting market access

- Requirements for registration with local associations
- Licensing requirements
- Authorization by local authorities required
- Commercial presence requirements
- Limitations on foreign capital participation
- Restrictions on the type of professionals who can provide these services
- Partnership requirements
- Local country registration requirements
- Academic degree requirements
- Experience requirements
- Access restricted to natural persons
- Nationality and/or residency requirements

Measures affecting national treatment

- Experience requirements
- Qualification requirements
- Double taxation
- Restrictions on the movement of remittances
- Nationality and/or residency requirements

Measures affecting most-favoured-nation treatment

Description of the Measure: Reciprocity requirements relating to measures required for the provision of tax advisory services.

d. *Architectural and engineering services⁹ (8671, 8672, 8673, 8674)*

Measures affecting market access

- Restrictions on type of legal entity authorized to have a commercial presence or offer these services
- Limitations on foreign capital participation
- Limits on the total value of transactions or assets
- Limits on the number of natural persons
- Evidence of economic need
- Restrictive regulations on consumer protection, public health and safety
- Requirements for membership of professional associations
- Restrictions on the area of activities
- Ban on foreigners advertising
- Need to practice with qualifications or licences
- Requirements for validation of qualifications
- Access to government work
- Permanent establishment prohibited

Measures affecting national treatment

- Currency exchange restrictions
- Taxes, subsidies, financial aid and other domestic support measures

⁹ Architectural and Engineering Services: Background Note by the Secretariat, WTO Doc. S/G/W/44.

- Nationality and/or residency requirements
- Restrictions on the number of foreigners on Boards
- Obligation to use local services or employ local professionals
- Licensing, standards and qualification requirements
- Qualifying examinations
- Registration requirements
- Authorization requirements
- Performance requirements
- Technology transfer requirements

Measures affecting most-favoured-nation treatment

Description of the Measure: Mutual recognition agreements for licences and certificates, Reciprocity agreements enabling foreign professionals to practise
Justification for the Measure

e. Medical and dental services (9312)

Measures affecting market access

- Access allowed only for natural persons
- Limitations on foreign capital participation
- Restrictions on type of legal entity
- Licensing requirements
- Recognition requirements for professional qualifications
- Examination requirements
- Experience requirements
- Entry visas and/or residency permits required for invalids who travel
- Permission from or membership of local associations required
- Evidence of economic need
- Nationality and/or residency requirements
- Registration and certification requirements
- Public health insurance coverage

Measures affecting national treatment

- Obstacles to foreign professionals obtaining licences
- Restrictions on movement of remittances
- Subsidies for local firms
- Excessive obligations
- Practice requirements for foreign professionals
- Language requirements
- Permission from or membership of local associations required
- Nationality and/or residency requirements

Measures affecting most-favoured-nation treatment

Description of the Measure: Agreements for mutual recognition of licences based on the principle of reciprocity.

f. Veterinary services (932)

Measures affecting market access

- Access permitted only to natural persons
- Partnership with local professionals required
- Nationality and/or citizenship requirements
- Requirements for qualifications to be held and validated
- Restriction on the number of vets in certain areas
- Restrictions on type of legal entity
- Requirements for approval or authorization by local authorities
- Evidence of economic need
- Registration and certification requirements

Measures affecting national treatment

- Nationality and/or citizenship requirements
- Language requirements
- Examination requirements
- Qualification requirements
- Requirements for special training programmes to be maintained

Measures affecting most-favoured-nation treatment

g. Services provided by midwives, nurses, physiotherapists and paramedical staff (93191)

Measures affecting market access

- Access permitted only to natural persons
- Registration requirements
- Licensing requirements
- Limitations on foreign capital participation
- Restrictions on type of legal entity
- Requirements for qualifications to be held and validated
- Partnership with local professionals required
- Nationality and/or residency requirements
- Public health insurance coverage
- Restrictions on the number of foreign professionals who can offer certain of these services

Measures affecting national treatment

- Qualification requirements
- Examination requirements
- Licensing requirements
- Nationality and/or residency requirements
- Evidence of economic need

Measures affecting most-favoured-nation treatment

1.2 Computer and related services¹⁰ (841, 842, 843, 844, 849)

Measures affecting market access

- Restrictions on the establishment of a commercial presence
- Restrictions on type of legal entity
- Limitations on foreign capital participation
- Imposition of numerical quotas on the presence of natural persons
- Immigration policies; visas, residency and work permits
- Local content restrictions

Measures affecting national treatment

- Discriminatory taxes or subsidies
- Discrimination in access to distribution networks

Measures affecting most-favoured-nation treatment

Others

- Government demand policies for foreign services
- Intellectual property
- Telecommunications regulations

1.3 Research and development services (851, 852, 853)

Measures affecting market access

- Special work permits, visas and residency permits required
- Requirements for hiring by research bodies (mode 4)
- Evidence of economic need
- Limitations on foreign capital participation
- Restrictions on type of legal entity
- Registration and licensing requirements

Measures affecting national treatment

- Discriminatory taxes
- Restrictions on movement of remittances
- Currency exchange restrictions
- Licences or special permits required
- Nationality requirements
- Licensing required for equipment imports
- Permanent residency requirements for psychologists
- Export of archaeological finds prohibited
- Requirement for membership of local associations

Measures affecting most-favoured-nation treatment

1.4 Property services

a. *Property services relating to owned or rented real estate (821)*

¹⁰ Computer and Related Services: Background Note by the Secretariat, WTO Doc. S/G/W/45.

Measures affecting market access

- Licence requirements
- Registration requirements
- Commercial presence requirements
- Restrictions on type of legal entity
- Nationality and/or residency requirements
- Citizenship required to use the title of estate agent
- Deposits or insurance required to cover losses caused to clients

Measures affecting national treatment

- Nationality and/or residency requirements
- Citizenship requirements
- Citizenship required to use the title of estate agent
- Restrictions on movement of remittances

Measures affecting most-favoured-nation treatment*b. Commission or contract property services (822)***Measures affecting market access**

- Commercial presence requirements
- Restrictions on type of legal entity
- Authorization requirements
- Nationality and/or residency requirements
- Citizenship required to use the title of estate agent
- Deposits or insurance required to cover losses caused to clients
- Registration and licensing requirements

Measures affecting national treatment

- Nationality and/or residency requirements
- Citizenship requirements
- Citizenship required to use the title of estate agent
- Restrictions on the area of activities
- Educational requirements
- Examination requirements
- Restrictions on movement of remittances

Measures affecting most-favoured-nation treatment**1.5 Leasing or rental services not involving operation***a. Leasing or rental services for uncrewed boats (83103)***Measures affecting market access**

- Limitations on foreign capital participation
- Owner nationality requirements for registration
- Residency requirements
- Advance authorization requirements
- Advance notification requirements

Requirement for business to be conducted through regional representative offices or using a local company as the agent
Approval by the shipping authority required

Measures affecting national treatment

Discriminatory registration requirements
Discriminatory taxes
Restrictions on the movement of remittances
Nationality and/or residency requirements for Board members

Measures affecting most-favoured-nation treatment

b. Leasing or rental services for uncrewed aircraft (83104)

Measures affecting market access

Limitations on the type of legal entity
Limitations on foreign capital participation
Nationality and/or residency requirements
Registration requirements
Nationality and/or residency requirements applicable to the owner or Board for registration purposes
Requirements relating to foreign capital participation in the owning company for registration purposes
Aircraft certification requirements
Requirement for business to be conducted through regional representative offices or using a local company as the agent
Approval requirements

Measures affecting national treatment

Nationality and/or residency requirements
Discriminatory registration requirements
Aircraft certification requirements
Restrictions on the movement of remittances

Measures affecting most-favoured-nation treatment

c. Leasing or rental services for other forms of transport without personnel (83101, 83102, 83105)

Measures affecting market access

Residency requirements for the provision of car hire services
Tourism service licensing requirements for the provision of car hire services
Limitations on foreign capital participation
Restrictions on type of legal entity

Measures affecting national treatment

Discriminatory tourism service licensing requirements for the provision of car hire services
Restrictions on movement of remittances
Controls on the currency that can be taken out of or brought into the country

Measures affecting most-favoured-nation treatment

- d. *Leasing or rental services for other types of machinery and equipment without operators (83106-83109)*

Measures affecting market access

Requirement for business to be conducted through regional representative offices or using a local company as the agent
 Restrictions on type of legal entity
 Limitations on foreign capital participation

Measures affecting national treatment**Measures affecting most-favoured-nation treatment****1.6 Other business services**

- a. *Advertising services¹¹ (871)*

Measures affecting market access:

Ban on advertising particular products that are harmful to consumers or the environment
 Limitations on foreign capital participation
 Requirements to form joint ventures
 Exclusion of certain legal, financial or health services from advertising services
 Tax treatment of the sector
 Evidence of economic need
 Bans on importing materials
 Domestic content restrictions
 Licence requirements

Measures affecting national treatment

Currency exchange restrictions
 Qualification requirements
 Licence requirements
 Requirements for minimum periods of prior professional experience
 Limitations on movement of natural persons
 Restrictions on movement of remittances abroad

Measures affecting most-favoured-nation treatment

Identification of the measure: Relaxation of national content conditions.
 Justification for the Measure

Others

Additional costs deriving from the diversity of regulations across countries
 Access to campaigns mounted by government bodies

¹¹ Advertising Services: Background Note by the Secretariat, WTO Doc. S/G/W/47.
 A typology of barriers to trade in services. Peat Marwick, Management Consultant. 1986.

b. Market research and public opinion survey services (864)

The restrictions on trade in services of this kind that are found in legislation are usually horizontal in nature, and relate mainly to movement of natural persons and to foreign investment.

It appears that the real constraints on the international supply of services of this kind are practical ones, reflected in a preference for local firms owing to their greater knowledge of the local market and its structure, of the geography of the country, and of the peculiarities of each geographical area, language, etc. As a result of this, many firms, when commissioned to provide services of this kind abroad, do so by contracting them out to local firms.

Measures affecting market access

- Registration and licensing requirements
- Restrictions on type of legal entity
- Limitations on foreign capital participation
- Requirement to work in partnership with local firms or individuals
- Legal representation requirements
- Visa or special work permit requirements

Measures affecting national treatment

- Concession requirements for data processed abroad
- Restrictions on movement of remittances

Measures affecting most-favoured-nation treatment

c. Management consultancy and related services (865, 866)

Measures affecting market access

- Requirement to work in partnership with local companies
- Limitations on foreign capital participation
- Restrictions on type of legal entity
- Evidence of economic need
- Experience requirements
- University degree required
- Residency and/or citizenship requirements to use professional qualifications
- Registration requirements
- Residency and/or citizenship requirements for accreditation
- Local certification requirements
- Visa and/or special work permit requirements

Measures affecting national treatment

- Discriminatory requirements to register or enrol with local associations
- Restrictions on international movement of data
- Restrictions on international movement of remittances
- Double taxation

Measures affecting most-favoured-nation treatment

d. Technical testing and analysis services (8676)

Measures affecting market access

- Restrictions on type of legal entity
- Limitations on foreign capital participation
- Partnership requirements
- Evidence of economic need
- Knowledge and/or position requirements for stay in the country to be authorized
- Academic degree requirements
- Experience requirements
- Proof of technical qualifications
- Evidence of economic need
- Access permitted only to natural persons for certain services
- Visa and/or special work permit requirements
- Government approval required

Measures affecting national treatment

- Requirements for membership of local associations
- Restrictions on the area of services that can be offered
- Knowledge and/or position requirements for stay in the country to be authorized
- Requirement for government approval based on discriminatory criteria
- Requirements for employment and training of local employees
- Performance requirements
- Local job creation requirements

Measures affecting most-favoured-nation treatment

e. *Services relating to agriculture, hunting and forestry (881) and fishing (882)*

Measures affecting market access

- Limitations on foreign capital participation
- Restrictions on type of legal entity
- Partnership requirements
- Licensing requirements for the provision of certain services
- Access permitted only to natural persons for the provision of certain services
- Recognition requirements for professional qualifications
- Residency and/or nationality requirements
- Knowledge and/or position requirements for stay in the country to be authorized
- Hunting licence requirements
- Requirement to establish a commercial presence
- Restriction on the number of agencies that can offer hunting-related services
- Restricted number of licences for the supply of certain services

Measures affecting national treatment

- Nationality requirements for personnel handling certain products or substances
- Residency and/or nationality requirements
- Discriminatory tariffs for the issue of hunting licences

Measures affecting most-favoured-nation treatment

Description of the Measure: Agreements making it easier to obtain licences enabling the vessels of countries complying with local and international conservation policies and practices and maintaining good fishing relations to gain access to local waters for

specific purposes. Reciprocity-based agreements making it easier for foreign professionals to gain admittance by means of a fast-track work permit issue process.

Justification for the Measure.

Generate cooperation for the conservation of marine resources.

f. Mining-related services (883, 5115)

Measures affecting market access

Requirements to establish a commercial presence

Restrictions on type of legal entity

Partnership requirements

Limitations on foreign capital participation

Licence requirements

Visa and/or special work permit requirements

Access permitted only to natural persons for certain services

Nationality and/or residency requirements

Requirements for specific university qualifications

Knowledge and/or position requirements for stay in the country to be authorized

Visa and/or special work permit requirements

Measures affecting national treatment

Nationality and/or residency requirements

Restrictions on the movement of remittances

Currency exchange restrictions

Discriminatory taxes and double taxation

Discriminatory requirements for the recognition of qualifications when these are necessary

Measures affecting most-favoured-nation treatment

g. Manufacturing-related services (884, 885)

Measures affecting market access

Restrictions on type of legal entity

Limitations on foreign capital participation

Partnership requirements

Requirement to establish a commercial presence

Local content requirements

Requirements to provide certain services in the country concerned

Knowledge and/or position requirements for stay in the country to be authorized

Requirements for qualifications, academic degree or experience

Visa or special work permit requirements

Measures affecting national treatment

Requirements for membership of local associations

Restrictions on the movement of remittances

Currency exchange restrictions

Discriminatory requirements for the recognition of qualifications when these are necessary

Discriminatory taxes and double taxation

Measures affecting most-favoured-nation treatment

*h. Energy services*¹²

Together with Educational Services, the Energy sector is among those for which the GATS members have accepted the fewest commitments. Only twelve countries have accepted commitments, and almost all the limitations referred to in respect of Market Access and National Treatment are horizontal ones. The measures contained in the specific commitments for this sector are listed below.

Measures affecting market access

Existence of public or private monopolies
 Restrictive trading practices by operators of transmission and distribution networks
 Limitations on foreign capital participation
 Restrictions on type of legal entity
 Requirement to work in partnership with local capital under the form of joint ventures
 Requirement to obtain a Contract of Concession issued by the relevant State or local authority
 Limitations on the type of energy service in respect of which commitments are entered into
 Price controls

Measures affecting national treatment

Restrictions on the number of foreigners on Boards
 Discrimination in government criteria for awarding contracts
 Restrictions on movement of remittances

Measures affecting most-favoured-nation treatment

Description of the Measure: Agreements with neighbouring countries on the issuing of licences to foreign generators to supply local distributors (generally in certain cases), based on reciprocity.

Justification for the Measure: To have the capacity to be able to meet demand surges that may arise.

Others

Existence of vertically integrated companies
 Environmental and public health legislation

i. Staff placement and supply services (872)

Measures affecting market access

Restrictions on the categories of staff they can deal with
 Citizenship requirements to be able to own a placement firm
 Citizenship requirements to be a placement agent or consultant
 Licensing requirements
 Restrictions on the number of licences to supply these services
 Authorization requirements
 Restrictions linked to the state of the labour market
 Requirements to establish a commercial presence

¹² Energy Services: Note by the Secretariat, WTO Doc. S/G/W/52.

- Limitations on foreign capital participation
- Restrictions on type of legal entity
- Partnership requirements
- Government monopolies

Measures affecting national treatment

- Discriminatory restrictions on the categories of staff they can deal with
- Discriminatory restrictions on the issuing of licences
- Restrictions on the movement of remittances
- Discriminatory taxes and double taxation

Measures affecting most-favoured-nation treatment

j. Investigation and security services (873)

- Measures affecting market access
- Nationality and/or residency and/or citizenship requirements
- Requirement to establish a commercial presence
- Limitations on foreign capital participation
- Restrictions on type of legal entity
- Partnership requirements
- Government authorization requirements
- Requirements relating to competition, integrity, quality of protection services, etc.

Measures affecting national treatment

- Authorization requirements
- Citizenship and/or residency and/or nationality requirements for Board members and/or executives
- Nationality and/or residency and/or citizenship requirements
- Restrictions on the movement of remittances
- Currency exchange restrictions

Measures affecting most-favoured-nation treatment

k. Related science and technology consultancy services (8675)

Measures affecting market access

- Restrictions on type of legal entity
- Partnership requirements
- Limitations on foreign capital participation
- Requirement to establish a commercial presence
- Accreditation requirements
- Nationality, citizenship or residency requirements
- Citizenship requirements for use of professional title
- Access permitted only to natural persons for certain services
- Only local firms entitled to offer certain services
- Local qualifications required to offer certain services

Measures affecting national treatment

- Nationality, citizenship or residency requirements
- Accreditation requirements
- Authorization requirements

Set tariffs for foreign firms
 Discriminatory taxes
 Practice or training requirements
 Restrictions on the movement of remittances
 Local qualifications required to offer certain services

Measures affecting most-favoured-nation treatment

l. Equipment maintenance and repair services (excluding transport equipment) (633, 8861-8866)

Measures affecting market access
 Requirement to establish a commercial presence
 Limitations on foreign capital participation
 Restrictions on type of legal entity
 Nationality, citizenship or residency requirements
 Government authorization requirements
 Performance requirements
 Requirements to employ local staff

Measures affecting national treatment

Nationality, citizenship or residency requirements
 Government authorization requirements
 Requirements to use local products and services
 Requirements to train local staff
 Restrictions on movement of remittances
 Requirements to register with local associations

Measures affecting most-favoured-nation treatment

m. Building cleaning services (874)

This type of service cannot be consumed abroad (mode 2), or by means of cross-border trade (mode 1). Generally speaking, there are no specific obstacles to trade in building cleaning services and, as can be appreciated from the commitments, the only major restrictions are horizontal in nature, particularly as regards foreign direct investment (mode 3) and, to a lesser extent, the movement of professionals (mode 4).

n. Photographic services (875)

The legislation of the countries does not generally contain obstacles that specifically affect trade in photographic services. The greatest barriers to trade in this type of service are of a horizontal nature and are associated mainly with regulations on the movement of natural persons and, to a lesser extent, FDI. Some specific obstacles to trade in services of this type by supply mode 4 are those restrictions, horizontal or otherwise, that are placed on the movement of the equipment that professionals need to carry out their work.

o. Packing services (876)

The legislation of the countries does not generally include specific obstacles to trade in services of this type. The restrictions on trade in packing services are horizontal in nature and mainly stem from restrictions on the amount and limits of foreign direct investment, and the form in which it has to be made. The restrictions on the free movement of persons that the legislation of the countries contains is another factor.

p. Publishing and printing services (88442)

Measures affecting market access

- Limitations on foreign capital participation
- Restrictions on type of legal entity
- Partnership requirements
- Restrictions on the area of business in a local market
- Nationality and/or residency requirements
- Special nationality and/or residency requirements for publishers

Measures affecting national treatment

- Restrictions on movement of remittances
- Nationality and/or residency requirements
- Special nationality and/or residency requirements for publishers
- Discriminatory restrictions on the area of business

Measures affecting most-favoured-nation treatment

q. Conference and convention services (87909)

- Measures affecting market access
- Requirement to establish a commercial presence for certain services to be offered
- Reporting
- Nationality requirements for those wishing to work as interpreters
- Nationality requirements for those wishing to work as interpreters and/or translators
- Restrictions on the free movement of natural persons (entering or leaving)
- Limitations on foreign capital participation
- Restrictions on type of legal entity
- Partnership requirements

Measures affecting national treatment

- Nationality requirements for those wishing to work as interpreters
- Nationality requirements for those wishing to work as interpreters and/or translators
- Nationality and/or citizenship requirements for use of the title “translator” or “interpreter”
- Restrictions on movement of remittances
- Currency exchange restrictions
- Discriminatory taxes

Measures affecting most-favoured-nation treatment

2. Communications services

2.1 Postal and B. courier services¹³ (7511, 7512)

Measures affecting market access

- Existence of monopolies
- Restrictions on the weight of objects
- Restrictions on the type of services in which foreign providers can operate
- Service standard requirements
- Licensing requirements
- Restrictions on handling of own correspondence
- Customs regulations
- Restrictions on access to transport for correspondence

Measures affecting national treatment

- Restrictions on price setting
- Public responsibilities and controls
- Restrictions on access to transport and communications media
- Restrictions on the type of clients
- Customs regulations
- Requirements for licences issued to foreign companies on a discriminatory basis
- Discriminatory taxes
- Restrictions on handling of own correspondence
- Existence of cross-subsidies
- Predatory pricing and abuse of dominant position by State companies (where competition with State companies may arise there is potential for many discriminatory measures)

2.2 Telecommunications services¹⁴ (7521, 7522, 7523, 7529, 843)

- Measures affecting market access
- Restrictions on the number of providers
- Restrictions on type of legal entity
- Limits on foreign capital participation
- Restrictions on access to public networks by private companies
- Ban on data transmission by foreign companies
- Taxes on the transmission of data from or out of the country
- Standards, proof and certification requirements
- Interconnection policies
- Licensing requirements

Measures affecting national treatment

- Discriminatory tariffs and qualification criteria for obtaining licences
- Limitations on the type of services that can be offered by foreign companies
- Requirements for information to be processed and stored in the country concerned
- Preferential tariffs
- Discriminatory technical standards demanded from foreign companies
- Discriminatory charges for incoming calls

¹³ Postal and Courier Services: Note by the Secretariat, WTO Doc. S/G/W/39.

¹⁴ Telecommunication Services. Note by the Secretariat, WTO Doc. S/C/W/74.

A typology of barriers to trade in services. Peat Marwick, Management Consultant. 1986.

Restrictions on equipment imports

Measures affecting most-favoured-nation treatment

Description of the Measure: Regional agreements guaranteeing access to certain markets and/or national treatment, based on reciprocity.

Justification for the Measure: Need to provide substantial guarantees of free access to certain markets.

Others

Network monopoly

Restrictions on the resale of excess capacity on leased circuits

Ban on interconnection with other leased circuits

Government procurement

2.3 Audio-visual services¹⁵ (9611, 9612, 9613, 7524)

Non-discriminatory quantitative restrictions

Restrictions on screening time of foreign programmes

Measures affecting market access

Exclusion of particular services. For example “Cable television and radio services”

Limitations on the presence of foreign natural persons

Restrictions on Board positions for foreigners

Screen quotas

Restrictions on screening time of foreign programmes

Cultural obligations

Domestic content restrictions

Treatment of intellectual property rights

Restrictions on imports

Obligation to carry out dubbing and subtitling locally

Obligation to process films locally

Language restrictions

Censorship bodies

Restrictions on direct investment

Controls on pirating

Measures affecting national treatment

Currency exchange restrictions

No access to subsidies or other domestic support measures

Limitations on the presence of foreign natural persons

Restrictions on distribution

Discriminatory taxes

Price setting

Measures affecting most-favoured-nation treatment

Description of the Measure: Film and television programme coproduction agreements that provide the beneficiaries with access to financial assistance, tax benefits, facilities for importing material and simplified procedures for entry of foreign natural persons.

¹⁵ Audiovisual Services: Background Note by the Secretariat, WTO Doc. S/G/W/40.
A typology of barriers to trade in services. Peat Marwick, Management Consultant. 1986.

Preferential treatment in the allocation of screen quotas.
 Potential for the adoption of measures to retaliate against unilateral measures adopted by trading partners.
 Facilities for the movement between countries of natural persons working in this area.
 Justification for the Measure: To stimulate cultural links with nearby countries.

Others

Given the large proportion of these services incorporated into goods, free trade policies for goods are important.

3. Construction and related engineering services¹⁶ (511-518)

Measures affecting market access

Restrictions on the number of suppliers
 Restrictions on the value of transactions and assets
 Restrictions on the number of operations
 Restrictions on the number of natural persons that can be employed
 Restrictions on the type of legal entity permitted for a foreign commercial presence
 Restrictions on foreign capital participation
 Evidence of economic need
 Limits on type of contracts that can be entered into
 Restrictions on the movement of equipment and materials

Measures affecting national treatment

Nationality and residency requirements
 Licensing, standards and qualification requirements
 Currency exchange restrictions
 Discriminatory taxes and subsidies
 Restrictions on the movement of foreign specialists
 Registration requirements
 Authorization requirements
 Technology transfer requirements
 Restrictions on land ownership
 Access to government contracts
 Requirements to work in partnership with or subcontract to local companies

Measures affecting most-favoured-nation treatment

Description of the Measure: Preferential treatment for suppliers from certain countries (particularly neighbouring ones), making it easier for them to supply their services; there are also exceptions to MFN, concerning the movement of personnel, research and development subsidies and FDI, which can have a significant effect on this sector.

4. Distribution services¹⁷ (621, 622, 631, 632, 6111, 6113, 6121, 8929) (wholesale and retail)

Measures affecting market access

Commercial presence requirement
 Ministerial authorization requirements

¹⁶ Construction and Related Engineering Services. Note by the Secretariat, WTO Doc. S/C/W/38.

¹⁷ Distribution Services: Background Note by the Secretariat, WTO Doc. S/C/W/37.

Restrictions on foreign investment: size of the investment or franchise, maximum appropriation, joint-ventures, etc.

Approval for eligibility for royalty payments

Proof of economic need: appropriateness given the current level of the service, effect of new firms on public welfare, demographic density, geographic dispersion and impact on traffic flows.

Licensing requirements

Restrictions on selling area

Exclusions because of State monopolies or national interest

Infrastructure of the country

Measures affecting national treatment

Currency exchange restrictions

Exclusion of products

Quotas on foreign staff

Limitations on the time foreign professionals can stay in the country

Nationality requirements

Prior residency requirements for top managers and Board members

Regulations on payments and transfers abroad

Limitations on real estate purchases

Taxes and subsidies that discriminate between nationals and foreigners

Discriminatory taxes on goods sent by post

Restrictions on expenditure abroad

Measures affecting most-favoured-nation treatment

Description of the Measure: Preferences granted to members of a free trade agreement.

Justification for the Measure: Measures in support of reciprocal liberalization commitments relating to trade in goods.

Others

Regulations that inhibit optimum decision-making in the sector (regulations on large stores, opening hours of stores, location of these, etc.)

Regulations that inhibit competition in the sector (vertical integration, selective distribution, exclusive territories and customers, setting of resale prices, etc.)

5. Education services¹⁸ (921-924, 929)

Measures affecting market access

- Special visas required for students
- Nationality and/or residency requirements for students
- Foreign currency controls
- Limitations on foreign investment
- Limitations on foreign commercial presence
- Evidence of economic need
- Existence of State monopolies
- Limitations on the purchase of real estate
- Limitations on length of stay
- Restrictions on intellectual property
- No recognition of qualifications, certificates or degrees obtained abroad (mode 4)

Measures affecting national treatment

- Requirement to translate degrees obtained abroad into their local equivalent
- Need to reach agreements on vocational training, accreditation and procedures for granting licences
- Obstacles to licences being obtained by foreign establishments
- Restrictions on the recruitment of foreign teachers
- Nationality requirements (for suppliers)
- Subsidies for local institutions
- Foreign students do not qualify for benefits such as transport passes and financial assistance
- Discriminatory taxes
- Nationality requirements for Board members
- Difficulties in granting degrees and diplomas in foreign-owned institutions

Measures affecting most-favoured-nation treatment

Description of the Measure: Preferential treatment on the basis of reciprocity agreements, particularly with reference to the movement of natural persons, the promotion and protection of investments and the right to establish legal persons.

Justification for the Measure

6. Environmental services¹⁹ (921-924, 929)

Measures affecting market access

- Restrictions on the type of services included
- Difficulties in establishing a commercial presence
- Existence of a numerical quota on the number of licences issued to environmental service providers
- Proof of economic need
- Monopolies
- Foreign providers excluded from certain services
- Jurisdictional restrictions
- Government regulations and planning

¹⁸ Education Services. Note by the Secretariat, WTO Doc. S/G/W/49.

¹⁹ Environmental Services: Background Note by the Secretariat, WTO Doc. S/G/W/46.

- Limitations on foreign capital participation
- Restrictions on companies' area of operations
- Restrictions on the ownership of assets (land, drains)
- Licensing requirements
- Numerical quota for the granting of licences to environmental service providers

Measures affecting national treatment

- Currency exchange restrictions
- Requirements for obtaining licences different for nationals and foreigners
- Residency requirements for service provision
- Nationality requirements for the Board
- Regulations on payments and transfers abroad
- Migration policies
- Discriminatory taxes or subsidies
- Discrimination in standards required
- Foreign providers excluded from certain services

Measures affecting most-favoured-nation treatment

Others

- Government participation
- Freedom to trade in environmental goods
- Export promotion policies
- Intellectual property rights

7. Financial services

7.1 All insurance and insurance-related services (812, 8121, 8129, 81299, 8140)

Measures affecting market access

- Access denied to foreign companies
- Licensing requirements
- Requirements to establish a commercial presence in the country concerned
- Restrictions on type of legal entity
- Requirement to work in partnership with local firms
- Evidence of economic need
- Limits on foreign capital participation
- Existence of government monopolies
- Obligation to reinsure with local companies
- Obligation to reinsure with State companies
- Requirements to work through local sponsors
- Restrictions on the area of activities that can be pursued
- Limitations on expansion of existing activities
- Controls on foreign currency transactions
- Same historical treatment ("grandfathering") not guaranteed to institutions already operating in the domestic market
- Restrictions on the number of companies that can enter the market
- Restrictions limiting the sectors in which a company can operate, e.g. a company offering life insurance might be forbidden to offer other types of insurance, etc.

Measures affecting national treatment

Licensing requirements
 Special authorization requirements
 Restrictions on the movement of remittances
 Restrictions on the time that foreign capital can be left in the country
 Restrictions on the type of services that can be offered or goods that can be insured
 Special requirements for authorization to supply new services to be granted
 Discriminatory deposit and capital requirements
 Discriminatory taxes
 Currency exchange restrictions
 Restrictions on the acquisition of real estate
 Requirements to employ nationals
 Policies that oblige or encourage nationals to reinsure with local companies
 Restrictions on insuring imported goods
 Restrictions on access to the government market

Measures affecting most-favoured-nation treatment

Description of the Measure: Agreements to give access to foreign firms, whether in specific sectors or otherwise
 Justification for the Measure: Reciprocity criteria or pressure to open up closed markets

Others

Provisions relating to information transfers and data processing, equipment transfers

**7.2 Banking services and other financial services (excluding insurance)
 (81115-81119, 8112, 8113, 81199, 81339, 81333, 81321, 8132, 8119, 81323, 81319, 8131, 8133, 8131)**

Measures affecting market access

Ban on the establishment of foreign companies
 Restrictions on type of legal entity
 Restrictions on buying domestic companies
 Limits on foreign capital participation
 Restrictions on the services they can offer
 Evidence of economic need
 Restrictions on the size of the market they can enter
 Non-discriminatory restrictions on international data flows
 Same historical treatment (“grandfathering”) not guaranteed to institutions already operating in the domestic market
 Non-discriminatory restrictions on the value of transactions and assets
 Powers of the country’s Central Bank
 Requirement to establish stockbrokers to operate in the share market
 Restrictions on the number of banks that can operate in the market
 Non-discriminatory restrictions on the maximum capitalization of an institution that can be taken over by another
 Non-discriminatory restrictions on the value of transactions and assets
 Restrictions on the number of stockbrokers that can operate in the market

Measures affecting national treatment

Discriminatory reserve requirements
Restrictions on movement of remittances
Restrictions on the time that foreign capital can be left in the country
Special authorization requirements
Nationality or permanent residency requirements for Board members
Discriminatory tax and subsidy provisions
Prohibitions on access to Central Bank discount facilities
Restrictions on purchases of shares or other assets
Restrictions on the acquisition of real estate
Discriminatory currency exchange restrictions
Discriminatory interest rate restrictions
Discriminatory restrictions on charges and commissions
Discriminatory requirements to provide certain services
Limits on government deposits
Restrictions on the functions that can be performed by foreign employees
Restrictions on the number of branches
Restrictions on branch relocation
Restrictions on the number of ATMs
Discriminatory restrictions on the value of transactions and assets
Discriminatory restrictions on the area of operations of foreign bank branches
Special requirements for authorization to supply new services to be granted
Restrictions on the amount and conditions of loans that foreign banks can grant

Measures affecting most-favoured-nation treatment

Description of the Measure: Reciprocity requirements relating to prudential measures and procedures for issuing licences.
Reciprocity requirements relating to limits on foreign capital participation in firms that handle shares.
Preferential access to capital, money or currency markets.
Justification for the Measure: Affinity and familiarity with the procedures, regulations and supervision applied by particular countries.
Reciprocity in market access.

Others

Provisions relating to information transfers and data processing, transfer of equipment.
Provisions relating to the access of financial services to payment systems.

8. Health and social services²⁰ (9311, 9319, 933)

Measures affecting market access

- Limits on foreign ownership
- Requirements to form joint ventures
- Coverage of public health insurance plans not extended to services provided abroad
- Restrictions on the range of health services and goods that may be provided
- State provision of a minimum level of basic services for disadvantaged groups in society
- Migration policies, visa requirements, residency permits, etc.

Measures affecting national treatment

- Nationality requirements
- Discriminatory procedures for the granting of licences and certificates
- Discriminatory controls or incentives to ensure the geographical and social coverage of services

Measures affecting most-favoured-nation treatment

Description of the Measure: Preferential treatment on the basis of reciprocity agreements, particularly as regards the movement of professionals and access conditions for these.

Justification for the Measure

9. Tourism and travel-related services²¹ (641-643, 7471, 7472)

Measures affecting market access

- Migration policies that make it difficult for tourists to enter or leave the country
- Visa and documentation requirements
- Inadequate infrastructure
- Deficiencies in air transport
- Restrictions on type of legal entity
- Limitations on foreign capital participation
- Licensing or equity requirements for the establishment of a commercial presence
- Limits on the size of investments
- Evidence of economic need
- Restrictions on the area of activities

Measures affecting national treatment

- Currency exchange restrictions
- Restrictions on the amount of currency people can travel with
- Restrictions on the type of goods that can be taken out of the country
- Price discrimination
- Employment restrictions
- Restrictions on the area of activities

²⁰ Health and Social Services. Note by the Secretariat, WTO Doc. S/G/W/509.

²¹ Tourism Services. Note by the Secretariat, WTO Doc. S/C/W/51.

A typology of barriers to trade in services. Peat Marwick, Management Consultant. 1986.

10. Recreational, cultural and sporting services

10.1 Performance services (including theatre, bands and orchestras and circuses) (9619)

Measures affecting market access

- Government approval requirements
- Visa and special work permit requirements
- Additional requirements for performance artistes and professionals
- Requirement for services to be contracted for by a local firm
- Evidence of economic need
- Requirements for local artistes to be hired (mode 3)
- Restrictions on land ownership
- Restrictions on the area of activities
- Licensing and registration requirements
- Access permitted only to natural persons for the supply of certain services
- Moral regulations
- Requirement that certain services be supplied only by natural persons

Measures affecting national treatment

- Discriminatory government approval requirements
- Discriminatory taxes and subsidies
- Requirements for local artistes to be hired (mode 4)
- Financial support for certain specific activities when conducted by locals
- Restrictions on the movement of remittances
- Currency exchange restrictions

Measures affecting most-favoured-nation treatment

10.2 News agency services (962)

Measures affecting market access

- Government authorization required to work in managerial positions
- Nationality and/or residency requirements for the position of editor
- Nationality and/or residency requirements for managerial positions
- Limitations on foreign capital participation
- Limitations on multiple media ownership
- Restrictions on international movement of data

Measures affecting national treatment

- Nationality and/or residency requirements for the position of editor
- Nationality and/or residency requirements for managerial positions
- Restrictions on the movement of remittances and on international payments
- International restrictions

Measures affecting most-favoured-nation treatment

10.3 Library, archive and museum services and other cultural services (963)

These types of services of a cultural nature are not usually subject to restrictions in the laws of the different countries; in general, investment in activities of this kind tends to be welcome. The greatest obstacles to access to the supply of these services by modes 3 and 4 are horizontal ones and, in the case of the latter mode, the hiring policies of government suppliers, which can favour nationals. As regards discriminatory treatment, there may be policies involving the provision of subsidies or financial assistance to companies that supply these cultural services, from which foreign organizations are debarred.

10.4 Sporting services and other recreational services (964)

Measures affecting market access

- Limited number of concessions for companies supplying certain services on a commercial basis
- Restrictions on the acquisition of real estate
- Licensing requirements for gambling activities
- Exclusive franchises for gambling-related services
- Licensing requirements
- Certain sports banned
- Visa and special work permit requirements
- Restrictions on type of legal entity
- Evidence of economic need
- Requirement to work under a local sponsor

Measures affecting national treatment

- Discriminatory taxes and subsidies
- Financial support for local suppliers of certain services
- Currency exchange restrictions
- Restrictions on movement of remittances

Measures affecting most-favoured-nation treatment

11. Transport services

11.1 Maritime transport services²² (7211, 7212, 7213, 8868, 7214, 745)

Measures affecting market access

- Limits on foreign capital participation
- Restrictions on type of legal entity
- Commercial presence in the country required for operations to be permitted
- Provision of cabotage services forbidden
- Consultation process

Measures affecting national treatment

- Requirements for the granting of licences
- Need to appoint a local agent
- Nationality requirements to own and register vessels under the local flag

²² Maritime Transport Services. Note by the Secretariat, WTO Doc. S/C/W/62.
A typology of barriers to trade in services. Peat Marwick, Management Consultant. 1986.

- Crew nationality requirements
- Restrictions on the type of vessels that may be used. Discriminatory taxes and subsidies
- Discriminatory port tariffs
- Limitations on the handling of government cargo
- Restrictions on the type and quantity of cargo transported
- Reservations for local cargo
- Restrictions on storage and use of port warehouses
- Financial assistance for local providers
- Discriminatory standards
- Provision of cabotage services forbidden
- Local registration required for certain services to be offered
- Supply and demand-related adjustment requirements

Measures affecting most-favoured-nation treatment

Identification of the measure: Preferential tax treatment and/or other benefits for the transport of specific or general products based on the principle of reciprocity or preferential treatment for certain nations.

Justification for the Measure: Promotion of reciprocal trade with particular countries; need to guarantee access to foreign markets for local vessels.

11.2 Transport by inland waterways (7221, 7222, 7223, 8868, 7224, 745)

Measures affecting market access

- Environmental tests
- Limitations on foreign capital participation
- Restrictions on the type of local entity
- Partnership requirements
- Requirements to establish a commercial presence
- Government authorization requirements
- Licensing requirements
- Restrictions on the area of activities
- Nationality and/or residency requirements
- Advance notification requirements for the hiring of vessels

Measures affecting national treatment

- Government authorization requirements
- Nationality and/or residency requirements
- Restrictions on access to trading or cabotage rights
- Discriminatory taxes
- Restrictions on access to port services, maintenance, etc.

Measures affecting most-favoured-nation treatment

Description of the Measure: Measures reserving access or trading rights to vessels or operators from countries with which agreements are in force.

Justification for the Measure: To protect the infrastructure and environment of inland waters and to regulate trading rights.

11.3 Air transport services²³ (731, 732, 734, 8868, 746)

The GATS agreement, including its dispute resolution procedure, is only applicable to measures affecting aircraft repair and maintenance services, to the sale and marketing of air transport services, and to computerized reservation system services.

Measures affecting market access

- Preference for national airlines
- Obligation to establish a registered office
- Licensing or authorization requirements
- Limitations on foreign capital participation
- Migration policies
- Reservation systems accessible only through a public network
- Limitations on selective investment analysis
- Restrictions on aircraft size

Measures affecting national treatment

- Access to reservation systems
- Reservation systems controlled by local airlines
- Currency exchange restrictions
- Discriminatory taxes and subsidies
- Discriminatory user tariffs
- Discriminatory ground handling treatment
- Restrictions on the ground services that foreign companies can provide
- Space limitations at air terminals
- Ban on the sale and marketing of air transport services for certain materials
- Restrictions on the transfer of remittances abroad
- Concessions regime
- Price controls

Measures affecting most-favoured-nation treatment

Identification of the measure: Aircraft repair and maintenance: Preferential treatment for maintenance service providers outside the territory; preferential treatment for foreign providers on the basis of reciprocity.

Sale and marketing: Exceptions covering sale and marketing services along with computerized reservation system services, designed to provide equivalent treatment on the basis of reciprocity; another class of exceptions are those that cover only aspects of services marketing.

Computerized reservation systems: Agreements covering all sectors and all air transport regimes; exceptions covering both computerized reservation systems and the marketing of services; agreements providing for preferential treatment for particular computerized reservation system services or particular airlines that use them.

Justification for the Measure: Computerized reservation systems: Inadequacy of multilateral agreements for the development of computerized reservation systems.

Others

Fiscal exceptions and exceptions relating to transport activities.

²³ Air Transport Services. Note by the Secretariat, WTO Doc. S/C/W/59.
A typology of barriers to trade in services. Peat Marwick, Management Consultant. 1986.

11.4 Land transport services: generalities and road transport²⁴ (7124-7124, 6112, 8867, 744, 7131, 7139, 741, 742, 749)

Non-discriminatory quantitative restrictions

Restrictions on the total number of taxis, buses and cargo vehicles
Quotas on the number of authorizations and licences granted
Vehicle weight and size limits
Emergency safeguards on the number of services providers and on their operations and products

Measures affecting market access

Restrictions on free price setting
Qualitative criteria for market access
Prohibitive tariffs for new entrants
Blockading of lorries as a result of political or sectoral demonstrations
Ban on traffic at weekends or on public holidays (cargo transport)
Excessive petrol, road use and toll charges
Technical restrictions
Social legislation (driving and rest time, controls and penalties)
Restrictions on foreign investment and ownership
Evidence of economic need
Nationality and citizenship requirements
Nationality requirements for the Board
Incorporation requirements
Vehicle registration requirements, but not extended to foreign vehicles
Limitations on the use of rented vehicles
Access to stops and terminals
Emergency safeguards on the number of services providers and on their operations and products

Measures affecting national treatment

Difficulties in crossing frontiers
Requirements for the issuing of visas to foreign drivers
Access to stops, terminals and other infrastructure
Restrictions and/or prohibitions on the movement of buses or parking of these in cities or tourist centres (passenger transport)
Nationality and residency requirements
Licences exclusively for zones and routes
Registration requirements for foreign vehicles
Establishment in the country required for cabotage services to be provided

Measures affecting most-favoured-nation treatment

Description of the Measure: Agreements on preferential tax treatment for value-added tax, vehicle tax and income tax, based on reciprocity or guaranteed to specific members. There have also been agreements on sharing the supply of cargo between countries, generally in the form of bilateral agreements, and in some cases regional ones.

²⁴ Land Transport Services - Part 1 - Generalities and Road Transport. Note by the Secretariat, WTO Doc. S/C/W/60.

Bilateral agreements providing for quantitative restrictions and dividing up passenger traffic between the two States.

Justification for the Measure: Regional vehicular transport specifications.

Promotion of regional integration.

Others

Existing public transport subsidies

Government procurement

11.5 Rail transport services²⁵ (7111-7113, 8868, 743)

Measures affecting market access

Restrictions on the value of transactions and assets

Restrictions on the number of suppliers

Restrictions on the number of operations

Restrictions on the number of natural persons

Restrictions on type of legal entity allowed for commercial presence

Restrictions on foreign capital participation

Limits on investment

Restrictions of scope

Technical obstacles

Controls on pricing, financing and accountancy policies

Access rights

Cabotage rights

Measures affecting national treatment

Taxes, subsidies and guarantees

Nationality and residency requirements

Licences, standards and qualifications

Registration requirements

Authorization requirements

Performance requirements

Technology transfer requirements

Network access rights

Measures affecting most-favoured-nation treatment

Description of the Measure: Reciprocity requirements for tax treatment.

Preferential treatment for wagon rental charges given to specific neighbouring countries.

Measures providing for preferential traffic rights, operating conditions and services for companies from certain countries or between these countries.

Justification for the Measure: To promote integration between neighbouring countries.

To protect the local railway infrastructure and the environment, and to regulate traffic rights in the country in question and between the countries concerned.

Others

Government procurement (Policies on concessions and monopolies)

²⁵ Land Transport Services - Part 2 - Rail Transport Services. Note by the Secretariat, WTO Doc. S/C/W/61.

Annex 2: Industry Profiles

This annex contains 21 industry profiles that provide information on the main service industries. For each of these, the information has been organized as follows: description of the activity, economic importance, main companies, forms of internationalization, main barriers and other relevant information. This material can be useful for evaluating the quality of the commitments signed up to by the different countries in trade agreements.

1. Legal services

This sector is included in the WTO Service Sectorial Classification as a subsector of (1) Business Services and (A) Professional Services. It comes under number 861 of the United Nations Provisional Central Product Classification.

1.1 Description of the activity

A complete definition of this category of services should include legal advisory services, legal representation and activities relating to the administration of justice. This last aspect, however, is excluded from the scope of GATS as it is deemed to be a public service for which local authorities are responsible.

Consequently, and in accordance with the United Nations CPC, we shall treat the following as legal services: legal advisory and representation services concerned with criminal law and judicial processes in other legal fields; legal advisory and representation services in proceedings conducted by quasi-judicial tribunals, bars, etc., legal documentation and certification services and other legal advice and information services.

When attempting to describe this category of services, the first aspect to be borne in mind is that the legal profession reflects the national character of laws. National laws can be grouped into families that share legal principles and, in some cases, similarities in the structure of the profession. The following families have been identified: Romano-Germanic tradition, common law, socialist law, Hindu law, Far Eastern laws, Black African laws and Malaysia. Of all these families, the first two are the ones that cover the greatest number of national legal systems.

The main difference between these two traditions is that common law draws principally on case law when issuing its judgements, whereas Romano-Germanic or civil law is based on rigorous application of the codes of each country.

The national and local character of the legal profession reflects the national character of laws and the territorial jurisdiction of the courts.

Another important consideration is that the work of lawyers used to centre on the courts, where they had to defend or prosecute people, and each bar was associated with a specific local court. This began to change as new fields for the work of lawyers came into being, such as business and international trade, where court work is less important and what is required is legal advice on particular transactions, contracts, relationships and disputes that will not necessarily come before the courts of justice.

This has led to the emergence of a new type of lawyer, one whose main work consists in giving advice and not in providing representation before the courts. Advisory lawyers of this kind often meet with far fewer barriers to international trade in their services, since if their work is purely advisory they are not subject to many of the restrictions that apply to foreigners wishing to practise the law. As each day passes, however, it is becoming more and more difficult to separate

advisory functions from representative ones, and this to some degree counteracts the ease of trading referred to above.

One important function that can usually be performed only by lawyers is that of a notary. Owing to the importance of the public role played by these professionals, it is not very common for trade in services of this kind to be liberalized, and they can usually be provided only by professionals from the country concerned.

Another important aspect that should be mentioned is that there are usually local organizations, membership of which is often obligatory.

Lastly, it is important to bear in mind that demand for legal services comes both from companies and organizations and from individual citizens. The sectors most affected by international trade in these services, however, are commercial and international law, and in these areas the greatest demand is from companies and organizations. It is not improbable that, with time, greater integration and competitiveness in the sector could lead to foreign competitors entering fields previously dominated by local laws.

1.2 Economic importance of the activity

The legal services sector has experienced continuous and steady growth in recent decades owing to the liberalization of international trade and the emergence of new fields of practice, in particular in the area of business.

The number of lawyers is continually expanding at a remarkable rate. In the European Community it is estimated that between 1989 and 1993 the number of lawyers grew by around 20%, while in the United States the number trebled between 1979 and 1993. The number of lawyers and law firms varies from country to country, depending on the size of the economy, the degree of economic development and the structure of the legal profession. In the mid-1990s there were over 800,000 in the United States, 500,000 in the European Community and 19,000 in Japan. In 1994, it is estimated that this sector provided employment to more than 1,200,000 people in the United States.

At the beginning of this decade the output of legal services accounted for 14% of total professional services output and 1.1% of GDP in a typical industrialized country. In 1992 the output of legal services was US\$ 95 billion in the United States and US\$ 52 billion in the European Community.

The two countries that exported the greatest quantity of services of this type were the United States and Great Britain. In 1990 the two nations had between them a positive trade balance of US\$ 2 billion.

1.3 Main firms

In 1988 the world's biggest firm was an American one, Baker & McKenzie, with 404 partners, 41 offices, 32 of them outside the United States, and 1,942 lawyers under contract. It was followed by Jones Day and Sidley & Austin, both of them also American, the first having 8 local offices, 5 of them abroad, and 306 partners, and the second having 3 local offices, 2 abroad, and 231 partners. In fourth place was the Canadian firm Blake Cassels with 227 partners and just one office abroad.

1.4 Forms of internationalization

Most international trade in legal services is conducted through cross-border trade (mode 1) or by means of temporary movements of lawyers working as individual professionals (mode 4) or

as employees or partners of a firm established abroad. Affiliated trade is not great, and there are not many firms that set up permanently in other countries (mode 3), because the costs of establishing a commercial presence abroad are still very high compared to those of cross-border trade. Only big firms in the leading world financial and business centres carry on this type of trade, owing to the high costs and risks it involves.

Cross-border trade in services of this type consists in the transmission of legal documents or advice via the postal or telecommunications services.

1.5 Main barriers

The greatest obstacle to free trade in services of this type is the national character of laws and legal training. As a result, the main hindrances to international commerce in legal services are the requirements imposed on foreign professionals who have graduated abroad before they can practise with the title of lawyer.

1.6 Clients

The demand for lawyers to provide their services in foreign jurisdictions generally comes from existing corporate clients that carry out business in a number of countries and prefer to work with professionals who are already familiar with the firm's business and have given them good results in the past. This means that most of the demand for legal services offered by foreigners will be transnational and multinational companies and international organizations.

2. Accounting, auditing and book-keeping services

This sector is listed in the WTO Service Sectorial Classification as a subsector of (1) Business Services and (A) Professional Services. It comes under number 862 of the United Nations Provisional Central Product Classification

2.1 Description of the activity

In accordance with the classification referred to, the following are meant by accounting and auditing services:

Financial auditing services, auditing of financial statements and other accounting information, compilation of financial statements and other accounting services.

This category also includes book-keeping services, i.e. the activity of keeping a company's accounting records in books of accounts, but it excludes activities involved in accounting for tax rebates.

While accounting and auditing services are at the heart of what accountancy firms provide, there is a wide variety of additional services that these generally can or do offer, such as merger audits, insolvency services, tax consultancy, investment services and management consultancy. The experience that these firms have gained with information technology means they are among the leading world suppliers of services of this kind.

The demand for services of this type is driven by legal requirements, such as the need to produce financial statements, but also, and to an ever greater extent, by the desire of clients to obtain advice on the most varied subjects. Although there might be demand from individuals, almost all of it comes from companies, organizations and the public sector.

The continual increase in international mergers and acquisitions is creating opportunities for accountancy firms that possess knowledge about the profitability and compatibility of businesses to provide services in this field, in the form of feasibility studies, valuation of shares and companies,

tax strategies, etc. Increased competition in different industries means that these are always looking to improve their competitiveness, and this also opens up a field in which companies can use the knowledge they have acquired to enhance the efficiency and effectiveness of their clients. Electronic commerce is also opening up a new field for these firms, since there are companies that need to authenticate information obtained over the internet, record electronic transactions, ensure data security, protect customer confidentiality, etc. Development has also brought with it demand for environmental services from Governments, private firms and international organizations. Another important aspect is the growing demand for consultancy services in relation to public share offerings, consultancy subcontracts, etc.

Companies in this sector wishing to increase their profits by exporting their services will have to adopt international accounting standards, ensure that their professionals are covered by some recognized international certification, incorporate information technology into their activities as necessary, develop and promote market niches and provide their employees with ongoing training.

2.2 Economic importance of the activity

The first point that needs to be made is that the level of development of a country's accountancy sector will not reflect the size of its economy, but will be the outcome of different national practices in terms of the way the profession is organized.

In the case of the United States, the 100 biggest accountancy and consulting firms had revenue of US\$ 21.2 billion in 1996, a 14% increase on the year before.

In the European Union, more than 350,000 people were enrolled with the Federation of European Accountants in 1997, while in the United States 330,000 were enrolled with the American Institute of Certified Public Accountants.

2.3 Main companies²⁶

In this market, following the merger of Price Waterhouse with Coopers & Lybrand and that of KPMG with Ernst & Young, the largest firms are known as the Big Four (these two merged firms, Andersen Worldwide and Deloitte Touche Tomatsu International). In 1996, what were then the Big Six generated revenue of US\$ 42.2 billion and employed more than 48,000 managerial staff, with over 450,000 employees in total. Their 1996 revenue in billions of dollars was:

KPMG + Ernst & Young International	14.4
Price Waterhouse + Coopers & Lybrand	11.8
Andersen Worldwide	9.5
Deloitte Touche Tomatsu International	6.5

2.4 Tendencies

The world market for accountancy services is growing rapidly, making this an area with considerable potential for international trade in services. Many growing countries, and even those that have just abandoned socialism, see services of this type as a tool for obtaining information that will enable them to make the best decisions on finance, mergers and acquisitions, share buying and the development of capital markets, privatizing State firms, valuing public assets, attracting foreign investment, auditing foreign firms, improving tax collection policies, etc.

²⁶ Source: International Trade Centre, Sector Profiles, Accountancy Services.

The attention of accountancy firms is moving away from financial statements towards other sources of information, for example company strengths that are not accounted for in balance-sheets such as marketing skills, experience, learning abilities, etc.

Customers are increasingly demanding multi-integrated one-stop services to sustain their decision-making; one reflection of this is the growing tendency for accountancy firms to pursue a strategy of horizontal integration with legal firms, banks and insurers.

As regards auditing firms, clients are expecting them to perform better and better in all the areas that are relevant to the workings of their business.

Another development is the entry of non-traditional suppliers into this market, with computer firms, engineers and economists constantly emerging as alternative sources of information and advice, to the accompaniment of a rise in specialist advisory services that concentrate on particular functions, industries or structures.

Auditing services are increasingly likely to include services such as risk management, computer network security, portfolio analysis, etc. Accounting services are becoming more and more capital-intensive, and rising transaction costs are making it difficult for independent firms to survive, unless they have a very special market niche.

As was explained earlier, there are areas with development potential, prominent among them being mergers and acquisitions advice, advice on performance measurement, consultancy services for electronic commerce, the environment, takeover bids, etc.

2.5 Forms of internationalization

International transactions in this area of services take place mainly in the form of cross-border trade (mode 1) and foreign direct investment (mode 3), the latter generally taking the form of some kind of partnership with local firms.

Affiliated accounting and consultancy services transactions far exceed cross-border transactions, owing to the difficulty of providing this service outside the home country.

2.6 Main barriers

The chief obstacles to international trade are the qualification criteria that foreigners have to meet, licensing requirements for foreign firms wishing to operate and, in general, obstacles that hinder foreign investment in the sector and the scope of the activities that can be conducted. Major obstacles also derive from the differences in countries' accounting and legal systems.

3. Architectural and engineering services

This sector is listed in the WTO Service Sectorial Classification as a subsector of (1) Business Services and (A) Professional Services. It comes under number 867 of the United Nations Provisional Central Product Classification.

3.1 Description of the activity

Within this classification, the following four subsectors are found:

Architectural Services, covering architectural consultancy and pre-design services, architectural design, contract administration, a combination of these last two, and other services.

Engineering Services, covering consultancy services, design services for the construction of building foundations and structures, design services for mechanical and electrical structures for

buildings, civil engineering design, industrial and production process design, other services during the installation and construction stage, and other services.

Integrated Engineering Services, covering integrated engineering services for transport and infrastructure projects, projects concerned with drinking water and sanitary services, construction and manufacture of turnkey projects, and others.

Town and landscape planning services.

Architectural companies provide plans and designs for buildings and structures, while engineering firms provide planning, design, construction and administration services for buildings, structures, installations, civil works, industrial processes, etc. In the United States, engineering is one of the biggest and most diverse professions, whereas architecture is comparatively much less significant. In Europe, by contrast, there are far more architects than engineers.

One characteristic of architectural and engineering services is the fact that supply is dominated by small firms, especially in the case of architects. Often, however, architectural and engineering functions are combined in somewhat larger firms. Meanwhile, demand for services of this type is closely linked to industrial construction and investment, both of which closely track economic cycles, which means that demand for architectural and engineering services is greatly affected by these.

3.2 Economic importance of the activity

Data on this activity are not very accurate, owing to the overlap between it and construction services. What we do know is that in 1992 the engineering consultancy services industry employed more than 660,000 people in the United States, with output of US\$ 62 billion in that year. In 1993 the number of engineers was recorded at 1,700,000, while the number of architects was 123,000. The architectonics industry, for its part, employed 124,000 people with output of US\$ 12 billion.

Although exports and imports of services of this type are often considered insignificant, the practicability of cross-border trade means that they are generally much greater than in the case of construction services. By and large, the industrialized countries are net exporters of architectural and engineering services (in 1996 the United States had a surplus of US\$ 2.5 billion and Canada one of US\$ 1.1 billion).

The world's 200 biggest firms had a worldwide turnover of US\$ 14,458 million in 1996, some 32% more than in 1995, when turnover stood at US\$ 10,985 million.

3.3 Forms of internationalization

Most international trade in architectural and related engineering services is conducted by establishing a commercial presence abroad (mode 3) or through the movement of natural persons (mode 4), i.e. architects who are commissioned to work abroad and go to the country where they are commissioned. With the development of telecommunications systems, however, plans and designs produced by architects and engineers can be transmitted electronically, and on-line consultation is becoming easier and easier. All this has led to continued growth in cross-border trade (mode 1), and there are great expectations for its development.

3.4 Main barriers

In most countries, architectural and engineering services can only be provided by accredited professionals; among the main hindrances to international trade in services of this type, therefore, are regulations denying foreigners recognition and validation of their qualifications, along with assessment and licensing requirements. Also significant are restrictions on the movement of natural

persons and rules that make it difficult for foreign firms to establish a commercial presence in a country. Lastly, we should include policies that limit the scope of the activities that professionals can conduct, and those that oblige them to join local associations.

4. Construction and related engineering services

This sector comes under number 3 of the WTO Service Sectorial Classification and numbers 511-518 of the United Nations Provisional Product Classification.

4.1 Description of the activity

Under the classification referred to, construction and related engineering services are deemed to be general building construction work, general civil engineering construction work, installation and assembly work and building completion work, among others.

Construction is one of the oldest of industries, and has been one of the key economic activities since time immemorial. Not only does it have the function of providing the infrastructure for other sectors, but it is itself one of the largest sectors in most countries. Furthermore, its close relationship with public works and the implementation of fiscal policy means that it is regarded as a strategic industry in the creation of sustained growth and employment.

Construction services are supplied primarily by providers that set up on or close to the site where the work is to be carried out. They tend to be established there only for the duration of the work, whereas they have a much more permanent local or regional presence to enable them to promote and provide a variety of services at a given moment in time and on an ongoing basis. Construction services can be provided by general contractors that implement the entire project or by specialist subcontractors that deal with just part of it.

In individual countries, there tends to be a fairly small number of large firms, an even less substantial number of medium-sized firms, and a large group of small firms that generally specialize in particular aspects of construction work or operate in smaller geographical areas.

Construction services are required by all economic agents, from individuals needing homes to live in to firms requiring infrastructure and Governments and the public sector in general. In some countries the public sector accounts for more than half of all demand for these services, but the tendency towards privatization of State firms means that this proportion is constantly falling.

4.2 Economic importance of the activity

The construction sector is unquestionably one of the most important for employment, output and growth in any economy. For developing countries it is a particularly important sector, owing to its role in the development of basic infrastructure, training of local personnel, technology transfer and improvements in access to information channels. As we have already pointed out, the connection between this sector and public works and fiscal policy in general is also a particularly important one.

In most industrialized countries the construction sector accounts for between 5% and 7% of GDP, although there are obviously exceptions such as the United States (3.8%), Mexico (3.7%), Japan (10.3%) and Korea (13.9%). Although data are often not available for developing countries, the percentage of GDP accounted for by construction does not appear to differ greatly from the figure for industrialized countries; some examples are India (5.7%), Philippines (5.6%), Thailand (7%) and Singapore (7.1%).

This sector is also very important for jobs, as it is one of the biggest employers in any economy. It generally accounts for between 5% and 7% of total employment, but in some countries

the rate is even higher, examples being Germany (8.7%), Japan (10.5%) and Mexico (9.7%). The sector provides employment to more than 7.5 million people in the United States, and to more than 9 million in the European Union.

4.3 Forms of internationalization

The most commonly used method for supplying services of this type internationally, and in some cases the only practicable one, is to implement some type of foreign direct investment (mode 3). It is very common to find joint ventures being set up with local firms, often for reasons of financing, know-how and technology transfer, or with a view to drawing on the knowledge that local firms have about national laws, regulations and practices. Internationally provided construction services tend to be for large-scale projects such as airports, ports, plants, etc., usually executed by specialist firms that are already established in the country, or that have to set up there after obtaining the contract. For this type of project, they generally subcontract local firms.

Cross-border trade in services of this type seems to be negligible, except where the engineering design stage is concerned. Progress in communications, however, and the ability to transmit plans and designs electronically, have made it possible for part of the pre-building work to be carried out abroad.

4.4 Tendencies

Owing to the cyclical nature of demand for construction services, which depends greatly on the economic cycle and on macroeconomic variables, it is difficult to discern any clear tendency in the sector. As regards cross-border trade, this can be expected to grow and take on greater and greater importance owing to technological progress enabling more and more services in the field of construction to be provided in this way.

4.5 Main barriers

Domestic regulations usually represent major barriers to trade in services of this type, examples being controls on land use, technical requirements, building permits, environmental regulations, etc. Another major source of barriers are restrictions on the movement of specialists and those affecting the mobility of construction teams. Capital and currency controls are also an important factor.

5. Advertising services

This sector is listed in the WTO Service Sectorial Classification as a subsector of “Other Business Services”. It comes under number 871 of the United Nations Provisional Central Product Classification.

5.1 Description of the activity

In accordance with the above classification, we shall understand by advertising services: sale or rental of advertising space or time; planning, creation and placing of advertising; and other advertising services that do not fit into the above classifications.

Advertising is considered to be a growth industry, with great potential for development in many countries. As people become richer and markets more diversified, companies are allocating a larger and larger proportion of their funds to advertising in order to attract the attention of consumers, create brand loyalty or create market niches for new products. Advertising has become one of the main diversification tools in the hands of companies.

Generally speaking, it is found that the largest share of the media spending of advertising agencies goes on television or newspapers, depending on the country, followed by magazines, then radio, and lastly other media.

Advertising seeks to stimulate not consumption as such, but demand for individual goods and services. Thus, changes affecting the industry are greatly influenced by changes in markets for goods, and there is a strong tendency towards globalization in this sector.

Multinational companies tend to hire advertising agencies that have a presence in all major markets. This has led to a greater and greater proportion of the revenue generated by this industry being concentrated among large agencies with strong international links and alliances.

5.2 Economic importance of the activity²⁷

The level of advertising and spending carried out in each country has a positive relationship with income per capita in the country. Thus, we find that in some developed countries spending on advertising is over US\$ 300 per person, while in developing countries spending is typically just US\$ 50 per person.

In 1998, advertising spending in the United States was more than US\$ 112 billion (US\$ 379.7 per capita), the highest in the world. In Brazil, spending was over US\$ 10 billion (US\$ 48.7 per capita), the highest total in South America.

5.3 Tendencies

The increase in international integration is expected to continue, as markets for goods are becoming more and more global and companies operating in different countries are looking to work with the smallest possible number of advertising agencies. The development of technology and the media, the deregulation of television, the birth of new television channels and the development of electronic channels for showing advertisements are major factors that lead us to expect that both this industry and international trade in advertising services will continue to grow.

Researchers in this sector believe that two important movements are under way in the industry:

Increased concentration across the board.

Growing polarization between small local agencies and large international networks.

5.4 Main advertising agencies across the world²⁸

The world's five biggest agencies had revenues of over US\$ 6 billion in 1996, which was 3% higher than the turnover of these same firms the previous year. These five companies and their 1996 revenue in millions of dollars were:

Dentsu Inc.	1,929.9
McCann-Erickson Worldwide	1,299.0
J. Walter Thompson Co.	1,073.0
BBDO Worldwide	952.2
Hakuhodo	897.7

²⁷ Additional source: Advertising Age Database.

²⁸ Source: Advertising Age Database.

5.5 Forms of internationalization

The main mode of supply for services of this type is direct investment abroad (mode 3), which takes a variety of forms including the setting up of subsidiaries, minority holdings and joint ventures. The preferred strategy in this industry, however, has been to invest in wholly-owned subsidiaries or majority shareholdings.

Cross-border trade in these services (mode 1) is carried out by commissioning foreign agencies to mount particular campaigns or advertisements.

5.6 Main barriers

Of particular importance are impediments created by local regulation, insofar as these oblige companies to adapt to the specific rules of each country and to different market conditions. The diversity of regulations gives rise to high information and adjustment costs for companies in this sector. Observers say that these costs have risen considerably since the last decade, possibly reflecting an increase in consumer protection policies.

6. Computer and related services

This sector is listed in the WTO Service Sectorial Classification as a subsector of “Professional and Business Services”. The services concerned come under numbers 841-844 and 849 of the United Nations Provisional Central Product Classification.

6.1 Description of the activity

According to the above classification, computer and related services include the following:

Consultancy services relating to the installation of hardware; software implementation services; software and systems consultancy services; systems analysis services; system design services; programming services; systems maintenance services; data processing services; data processing and tabulation services; time sharing services; other data processing services; database services; data preparation services and other computer services.

Computer services are an important part of the information technology (IT) industry, at the heart of which we find the computer industry with its hardware, software and computer services producers. It is increasingly plain that it makes little sense to speak of computer services in isolation, as both hardware and software companies are major suppliers of computer services that compete with those on offer from outside firms, and as all the constituent parts of the information technology industry are becoming increasingly interdependent.

The first problem we face when seeking to define computer services is the position of computer software: is it a service or a good? It had been thought that the solution was to treat standardized software as goods and the rest as services, but as growing numbers of programmes are being bought over the internet and downloaded from there, software provided in this way tends to be classified as a service, even when it is standardized.

Meanwhile, the IT industry also includes producers of electronic and communications equipment, telecommunications services and a wide variety of information services.

The other problem of definition, therefore, derives from the overlap between some computer and telecommunications services. This overlap is particularly pronounced in the case of database and data processing services provided on line. There are cases where the inter-relationship between services of this kind means that there is no obvious way of deciding whether they are computer services, telecommunications services or both.

6.2 Economic importance of the activity²⁹

The world information technology market was estimated at US\$ 528 billion in 1995. Between 1987 and 1994, this market expanded twice as fast as world output, and growth was particularly high in certain Asian and South American countries. In 1994 the OECD countries accounted for 92% of this output, whereas the corresponding figure for 1987 was 94%. Most of this market is concentrated among the G7 countries, but countries such as Brazil, Korea and China have large markets, comparable with those of a number of European countries. On the other hand, there are large differences between the OECD countries and some Asian and South American countries in terms of the percentage of GDP accounted for by this industry, something that suggests it has great potential for growth in these countries.

In the Asia-Pacific region, the Asian-Oceania Computing Industry Organization (ASOCIO) estimates that in 1995 the value of information technology markets in that region was US\$ 154 billion, giving a growth rate of 16% over 1994, which is higher than the 14% growth rate for the world as a whole. In 1995 the Asia-Pacific region accounted for some 27% of the world market, whereas in 1992 the figure was only 23%.

As regards the software and computer services market, taken by themselves they totalled US\$ 312 billion in 1995. The largest portion of this was accounted for by the United States (42%), followed by Western Europe (30%). In recent years, Indian companies have seen substantial growth; in 1997 they took 12% of the world software market.

In 1995 the market for packaged software in the OECD countries was US\$ 88 billion, representing 94% of the world market. Products of this type made one of the greatest contributions to growth in the IT market of OECD in the period 1987-1995. In 1995, the United States was the world leader.

In 1995, the computer services market produced revenue of US\$ 161 billion in the OECD countries, with an average annual growth rate of 10% since 1987. The United States once again is the biggest market, with around 45%.

In 1998 the United States accounted for 44% of the world information technology market, followed by Europe with 29% and Japan with 12%. As regards growth in this market, in 1998 the world market expanded by 8.1% over the previous year; the North American market grew by 9.6% and the Western European one by 9%, while the Japanese market fell by 4% and the rest of the world saw growth of 15.2%.

6.3 Main companies³⁰

Below is a list of the five largest service and support providers, with their 1996 revenues for these services shown in millions of dollars:

IBM	22,785
Electronic Data Systems	14,441
Hewlett-Packard	9,462
Digital Equipment	5,988
Computer Sciences	5,400

The following list shows the firms with the highest revenues from software sales in 1996, also in millions of dollars:

²⁹ Additional source: International Trade Centre, Sector Profiles, Computer Services. European International Technology Observatory.

³⁰ Source: International Trade Centre, Sector Profiles, Computer Services.

IBM	13,052
Microsoft Corp.	9,247
Hitachi Ltd.	3,960
Computer Assoc.	3,945
Oracle	3,615

As regards internet access providers, the biggest, ranked by number of subscribers (in millions), are:

America On-Line	8.0
CompuServe	5.3
Microsoft Network	2.2
Prodigy	1.0
AT&T Worldnet	0.9

6.4 Tendencies³¹

Broadly speaking, this market is expected to carry on growing throughout the world, but at higher rates in the less developed countries than in the industrialized ones. For the year 2000, predictions are for growth of 9.7% in the world IT market, with positive growth rates everywhere in the world: United States (9%), Western Europe (9.5%), Japan (7.2%) and rest of the world (13.6%).

As regards specific service areas, it is expected that consultancy services will grow as the complexity of the systems that companies require to remain competitive increases. There is also expected to be rapid growth in outsourcing in the areas of applications maintenance, systems integration, data processing and other support activities.

As regards the software industry, we are now seeing a process of consolidation, with more than 40 of the 100 biggest firms having made acquisitions recently. One of the main reasons for carrying out mergers and acquisitions in this industry is to integrate complementary technologies or consolidate the specific know-how of certain firms in particular fields. The demand for solutions to the year 2000 problem has been put at US\$ 600 billion, and it is believed that companies will be unable to meet this demand fully. The demand for multimedia applications is also expected to carry on growing in future.

The consolidation process has also spread to on-line services. Internet service providers are still growing, but so are international alliances seeking to increase their penetration of local markets. Another related area that is growing is web page design and management.

As internet activity increases, cyberspace is filling up with traffic, and a new field is emerging for companies whose business it is to find solutions that enable internet access to be speeded up.

6.5 Forms of supply

Where computer services are concerned, it is essential to be close to the customer in order to be able to identify market opportunities and become familiar with the cultural, administrative and regulatory environment. As a result, most service companies establish a commercial presence in the destination country, so that direct investment (mode 3) is an important form of supply. With globalizing markets, improved telecommunications services and technology, cross-border trade

³¹ Source: International Trade Centre, Sector Profiles, Computer Services.

(mode 1) in computer services is also an important component in the internationalization of these services; for example, it is increasingly common for software to be sold and support provided on line. Lastly, shortages of specialist staff in this industry mean that movement of natural persons is also playing an important role in the internationalization of services of this kind. Purchasing by mode 2, in which consumers go to the country of the provider, is of very little significance in the area of computer services.

6.6 Main barriers

This is a sector that has generally been left fairly unregulated. Most of the specific obstacles to supplying services of this type internationally stem from difficulties in establishing a commercial presence. Also important, though, are restrictions on the movement of natural persons, protection for intellectual property, research and development policies, and the feasibility of satisfying some of the demand from government.

7. Postal and courier services

These sectors are listed in the WTO Service Sectorial Classification as two subsectors of (2) Communications Services. Postal Services (A) are at number 7511 in the United Nations Provisional Central Product Classification and courier services are at number 7512.

7.1 Description of the activity

According to the above classification, postal services fall into four sub-items:

Letter-related postal services, consisting in collecting, transporting and delivering letters, newspapers, magazines, flyers, etc., to addressees both within the country and abroad.

Parcel-related postal services, consisting in collecting, transporting and delivering parcels or packages to addressees both within the country and abroad.

Post office counter services such as the sale of stamps, handling of registered or certified letters and packages, and other post office counter services.

Other postal services such as rental of letter boxes, and other unclassified services.

As regards courier services, the classification referred to divides them into two sub-items:

Multimodal courier services consisting in collecting, transporting and delivering letters, parcels and packages by courier to addressees in the country and abroad, using one or more modes of transport (excluding courier services for airmail correspondence).

Other courier services for goods not classified anywhere else.

For the most part, providers of public postal services are State companies that have a monopoly over most of the correspondence services they provide. Courier services, usually involving rapid delivery of parcels and correspondence, are generally offered by postal monopolies, but they do not have an exclusive right to this. Normally, in fact, courier services are offered by private companies that compete among themselves and with State companies. The competition environment of the sector has been changing, however, as private companies have expanded their business into the correspondence market, particularly in segments such as business to individuals and direct marketing. There is a gradual trend in the world towards privatizing State monopolies, but there is no sign of monopoly rights to supply postal services being discontinued. Only a few countries such as Finland, New Zealand and Sweden have put a complete end to monopolies in this sector.

One of the biggest challenges facing both the postal industry and the public and private courier industry is that of competition from other communications services such as facsimile, electronic mail and data networks, especially in the business to business segment. In 1996, for the first time, the volume of electronic mail in the United States exceeded that of letters in the postal system. Other segments, however, such as correspondence from business to individuals and between individuals, have not been so affected by the development of e-mail. The development of the internet and technology have also brought advantages to postal and courier services; the ability to exchange data electronically is regarded as an essential tool for rapid and reliable delivery in express mail services. Furthermore, new technologies have stimulated the development of some segments; parcel delivery, for example, has benefited greatly from the growing popularity of internet and television shopping.

7.2 Relationship with other sectors

With postal and courier services, the essential thing is for deliveries to be made successfully, and for this reason these services depend very heavily on transport services, particularly air and sea transport. Land transport can be significant in the delivery of parcels and other items within a country or region or even between neighbouring countries, while air transport is essential when it comes to distant locations.

In the CPC, air transportation of **mail** is explicitly excluded from courier services, but nowhere is the scope of the word **mail** defined, and it is not clear whether the exclusion relates only to airmail or to any courier service that uses air transport (in air transport services there is a sub-item "transportation of mail by air").

7.3 Economic importance of the activity

Postal services

In 1995, 403 billion letters were handled by approximately six million postal workers around the world, according to *Post 2005*, a study carried out recently by the Universal Postal Union (UPU). Of all this movement, almost 98% was within countries and only 2% was accounted for by international movements of correspondence. At present, 86% of domestic correspondence is generated by businesses.

In 1995, physical post accounted for around 20% of the world communications market, with telephone and fax taking around 75% and electronic mail just 5%. Electronic mail is expected to become more and more important, mainly to the detriment of physical post.

As regards employment, the industrialized countries employ 2,540,000 people in their postal services, Africa 100,000, Latin America and the Caribbean 190,000, Asia and Oceania 2,140,000 and Europe 1,020,000.

Courier services

There are not many data on courier services. What can be said is that in 1992 the total market for express courier services, including those supplied by postal companies, was estimated at US\$ 2 billion.

It is also important to emphasize the expansion of foreign courier companies in South America, something that reflects the increase in demand for rapid delivery services and other factors such as the relative inefficiency of public monopolies. Geographical proximity has made South America a very attractive market for North American companies. DHL is the biggest provider of services of this kind to South America, shipping around 2.5 million parcels, packages and similar products to clients in the region each month; furthermore, the activities of these outside

providers have been enriched by bilateral links between the provider's country of origin and the one in which it establishes its commercial presence.

DHL is also the biggest supplier in Asia and the Pacific, handling 36% of all shipments in the region. The economic growth experienced by this region has made a substantial contribution to growth in demand for courier services.

7.4 Tendencies

According to the UPU study, *Post 2005*, the volume of correspondence handled by postal services will carry on growing up until 2005 despite the loss of market share caused by mass use of electronic mail services and increasing competition from other services; growth in these services is expected to be around 2.5% a year in domestic correspondence traffic, with 2.3% growth in the industrialized countries. The increase is expected to be mainly in the business to individual segment, with correspondence between individuals declining.

Physical mail is expected to grow even though its share of the communications market is forecast to shrink, as this market as a whole will grow more quickly than the market for postal services.

UPU expects international mail to grow strongly (between 3.4% and 5.2% a year), with low-income countries showing the highest rates of growth (5.1% on average).

7.5 Main courier companies

Taking the world as a whole, the main courier service companies are DHL Worldwide Express, United Parcel Service, Federal Express and GD Express Worldwide.

Most of these companies have set up branches in numerous foreign countries to be able to capture part of the growing demand for courier services.

7.6 Forms of internationalization

Providers of courier services generally enter foreign markets by establishing a commercial presence (mode 3) in the market they wish to serve. In some countries, however, courier companies enter into contractual arrangements with local companies (mode 1) to carry out their deliveries, these being generally land or air transport companies. It is also very common for courier service companies to supply their services to countries in the region where they have established a commercial presence; for this purpose they set up distribution centres in airports and other places, whence products are routed to sub-centres for final delivery.

7.7 Main barriers

Where postal services are concerned, there is no doubt that the main barrier to trade is the fact that the principal suppliers of these services are still monopolies, most of them State ones, with all the abuses that this situation can give rise to.

As regards courier services, the most common obstacles are customs regulations, the general regulatory role sometimes played by State postal monopolies, licensing requirements, postal taxes, etc. Also important are restrictions on the handling of correspondence that can be imposed on courier companies.

8. Tourism services

This sector is listed in category 9 of the WTO Service Sectorial Classification as “Tourism and Travel-related Services”. It comes under numbers 641-643, 7471, and 7472 of the United Nations Provisional Product Classification.

8.1 Description of the activity

In the above classification, this sector is divided into four subsectors:

Hotels (hotels, motels and others) and restaurants (full service restaurants, self-service, dining rooms and others) (also services whereby drinks are offered in premises, with or without entertainment).

Travel agents and the organization of group travel.

Tourist guides.

Others.

Tourism services forming part of more general services (transport services, ticket reservation, distribution, business, recreation, sport, culture, etc.) are usually included in these more general categories.

The World Tourism Organization (WTO) defines international tourism as tourism in which a traveller crosses an international border. The GATS definition of tourism in general leaves out a number of activities, such as the ones mentioned, which are viewed by WTO as key tourist-related industries. WTO expects the definition used by GATS to be revised at the next round of negotiations, which will begin in 2000.

Broadly defined, tourism is seen as one of the biggest industries in the world, as well as one of the fastest-growing ones worldwide. Being a highly labour-intensive activity, it is vitally important for employment, especially in remote and rural areas.

The demand for tourism, both domestic and international, is closely correlated with people’s incomes, and this industry has therefore benefited greatly from the rise in global wealth. The fall in the cost of air travel, too, has changed this industry radically, although those who make their living from tourism have expressed concern about the present system of bilateral aviation agreements, arguing that protectionism severely limits the potential of the industry.

Tourism is also a highly perishable service, in the sense that empty aircraft seats, unused hotel rooms, etc., have no residual value. This industry is also highly dependent on the infrastructure of the country concerned and relies on many transport services being available so that customers can take up the services on offer. This industry will face major environmental and infrastructure-related challenges in the coming years.

8.2 Economic importance of the activity³²

According to WTO, tourism and travel in general accounted for 9.7% of world GDP in 1996, and the organization predicts that this figure will rise to 11.5% by 2006. International tourism, by contrast, is much smaller; in 1996 only 3.5% of the world population travelled abroad.

According to WTO, revenue from international tourism (excluding transport) in 1998 grew by some 2% over 1997, to stand at US\$ 445 billion. Between 1989 and 1993, the revenue of this sector grew by an average of 10% or so a year, while between 1994 and 1998 it grew by only 5.9%.

³² Additional source: World Tourism Organization.

Dollar figures, however, are greatly influenced by currency changes, and the way to tell whether international tourism has increased or not is to look at the figure for international travellers. In 1998 there were 625 million, and between 1989 and 1993 the figure grew by just 5% a year on average, while between 1994 and 1998 average growth was 3.2%. This latter figure reveals what is still substantial growth, if we take into account the crisis that some countries have gone through and the growth in unemployment in the industrialized countries.

From 1992 to 1994, the average increase in international tourist travel brought about a substantial increase in the exports of this sector. In 1997, revenue from tourism represented some 8% of total world goods exports and almost 34% of total services exports.

The trend of current account balances for travel in the developed countries has been downwards since 1980; in 1997, after being in deficit for several years, this account was in surplus by US\$ 800 million. This result was due mainly to the large deficits run up by Germany and Japan in that year, US\$ 28 billion and US\$ 35 billion respectively. Half of all developed countries, however, had surpluses.

As for developing countries, these have consistently recorded surpluses, which increased from US\$ 4.6 billion in 1980 to US\$ 33.7 billion in 1989 and US\$ 62.2 billion in 1997. This growing surplus is due mainly to the increase in supply from Asia, Oceania and Africa.

According to WTO, in 1993 it was estimated that one person in ten around the world was working in the tourism sector, making it the world's biggest employer. Meanwhile, tourism is held to have three effects on employment: firstly, there are the direct effects from tourist spending; secondly, there are indirect effects such as the employment generated by firms offering services to tourists; and thirdly, there are effects produced through the economy as a whole, which derive from the two above-mentioned effects.

The tourism sector and the employment it generates are vitally important to developing countries, and this importance is increasing in these countries owing to high growth rates in the sector by comparison with the rest of the economy. Less developed countries are experiencing large rises in the number of tourists they receive, but the figures are still low by world standards. Considering the labour-intensive nature of tourism, developing and less-developed countries can have many comparative advantages in this area.

In 1997, it was estimated that there were 29 million beds around the world, while in 1980 there were only 16 million; this represents average growth of 3.5% a year. This growth in the hotel industry has taken place mainly in South-East Asia and Oceania, with growth of 13.6% a year since 1997. At present, most of the capacity is in Europe (39.3%), America (32.2%) and South-East Asia and Oceania (23.2%).

8.3 Main countries³³

Below we list the five countries that were the world's biggest spenders on international tourism (excluding transport) in 1997; figures are in millions of dollars:

United States	51,220
Germany	46,200
Japan	33,041
Great Britain	27,710
Italy	16,631

³³ Source: World Tourism Organization.

Now we shall see which five countries received the most revenue from international tourism (excluding transport) in 1998; the figures are once again in millions of dollars:

United States	74,240
Italy	30,427
France	29,700
Spain	29,585
Great Britain	21,295

Lastly, we shall see which countries were the main destinations for international tourist travel in 1998; the figures are for thousands of people:

France	70,000
Spain	47.7435.475

8.4 Main barriers

Among the main barriers to the international provision of services of this type are the immigration policies and security controls adopted by countries; combined with documentation requirements and currency restrictions, these often become real obstacles to individual tourism and the establishment of tourism businesses. It is also important for countries to have the right infrastructure to receive foreign visitors and enable these to move around within them. In addition, the protectionist aviation policies of many countries can seriously harm the international supply of this industry. Lastly, while there may be few specific barriers to foreign investment in this area, these should not be overlooked where they do exist, be they specific or horizontal.

8.5 Forms of internationalization

By contrast with most of the other services we have looked at, the international supply of tourism services is characterized essentially by cross-border movement of consumers of these services (mode 2). Ultimately, the exporter of services is the country receiving the visits of foreign tourists, who import the tourism services provided by that country.

The other way of selling services of this type internationally is through foreign direct investment (mode 3), which consists in investment by foreign companies in firms that provide tourism services in the country concerned, for example by building a hotel, purchasing a restaurant, etc.

9. Financial services

This sector is listed in category 7 of the WTO Service Sectorial Classification. It is covered, although the correspondence is not exact, by numbers 811, 812, 813 and 814 of the United Nations Provisional Product Classification.

9.1 Description of the activity

We find that financial services are basically divided into two groups, insurance and related services, and banking services and other financial services. To define or even name every one of the services that fall into these sectors would take a very long time, but they can be found in the above classifications. In the GATS annex on financial services there is a list of services of this type, although not a very exhaustive one, which is a slightly modified version of the list in document W/120 (WTO Service Sectorial Classification).

9.2 Economic importance of the activity

In most of the countries this sector has been growing for the last 25 years, but since 1990 this growth seems to have levelled off somewhat. The effects of the crisis will show up in the statistics for some countries, but not for others. In the case of insurance companies, premiums have been rising as a percentage of GDP in many countries.

The financial sector is now consolidating and restructuring in the industrialized countries. In Asia and the Pacific the crisis has led to the loss of many jobs in the sector, while the introduction of technology has led to greater relative demand for highly qualified people.

In 1995, the financial sector employed 4.7% of the workforce in the United States, 3.1% in Japan and 5.3% in Switzerland. As regards the percentage of GDP accounted for by the sector, among the industrialized countries the figure is 2.5% for Canada, 3.2% for France, 5.2% for Japan, 6.6% for the United States and 13.3% for Switzerland. To take some examples from among developing countries, the figure is 2.9% for Colombia, 9.4% for Hong Kong (China) and 7.8% for Thailand.

As regards international trade in services of this type, we are seeing growth in cross-border trade, in both imports and exports of services. There is evidence that cross-border capital flows and the activities of the financial markets increased in 1997, despite the effects of the crisis. Foreign direct investment grew in 1997, increasing trade in financial services not only through commercial presence, but also through cross-border trade.

In 1997, the United States had a trade deficit in insurance of US\$ 2.2 billion, while in other financial services there was a surplus of US\$ 6 billion, giving a final positive balance for trade in this sector of US\$ 3.8 billion. This was higher than the US\$ 2.5 billion seen in 1996 and the US\$ 500 million seen in 1995. In the European Union, the trade balance for financial services was in surplus by US\$ 8.9 billion in 1995, with surpluses in the insurance sector and in other services; in 1994 the surplus was US\$ 8.5 billion. In 1996, Canada had a deficit both in the insurance sector and in other sectors, the end result being a negative balance of US\$ 1.1 billion.

It is estimated that in 1997, 84.8% of direct investment flows abroad came from developed countries, while 14.4% came from developing ones. Of the sum total of world flows, 58.2% went to developed countries and 37.52% to developing ones.

9.3 Impact of new technologies

Technological advances have a great impact on the financial services industry. Information technology has brought a new set of competitors into the financial markets. Major changes have taken place in banking, in share and derivatives markets, etc. Electronic banking transactions and electronic share trading are becoming commonplace, and already are virtually the norm among financial institutions. Although not all banks offer on-line services, this situation is expected to change very shortly, with all of them doing so in a couple of years' time.

9.4 Forms of internationalization

With the advent of new technologies, and the opportunities for carrying out remote transactions that these offer, it might be expected that cross-border trade (mode 1) would become a more and more common feature of the international supply of these services by comparison with the establishment of a commercial presence (mode 3). There are however a number of financial services, such as asset management and life insurance, that require long-term contracts or personal attention, and in these cases a commercial presence has to be established for the sake of direct contact with customers. Although mode 1 is growing in relative importance, mode 3 is expected to carry on predominating in the sector.

9.5 Main barriers

The most common restrictions limiting the scope for establishing a commercial presence are restrictions on the type of legal entity and limitations on foreign capital participation in local financial organizations, while restrictions on the number of licences granted are also an important factor. Other major restrictions are limitations on ownership, special authorization requirements, taxes and subsidies and nationality requirements. As regards cross-border trade, there are important issues relating to the transfer of data and information, the transfer of equipment, providers' access to payment systems, etc.

10. Distribution services

This sector is in category 4 of the WTO Service Sectorial Classification and comes under numbers 621, 622, 631, 632, 6111, 6113, 6121 and 8929 of the United Nations Provisional Product Classification.

10.1 Description of the activity

In accordance with the above classification, distribution services will be understood to mean services provided by commission agents, wholesale trade services, retail trade services, franchising services and others. In the CPC classification the distribution of services is ignored, as it is regarded as being inherent in their provision. There are cases however, such as that of services incorporated into goods, where this is a mistake.

Distribution services are a crucial link between producers and consumers, so the performance of this sector has major consequences for the welfare of consumers. Increased efficiency and competitiveness in the sector can lead to lower prices for goods, as distribution margins are a major component of the final price of goods, and can also help to reduce distortions in the pricing system. Distributors supply consumers not only with goods but also with a wide range of accessory services that can enable consumers to take more informed decisions that are better for them; at the same time, these services furnish producers with information that enables them to estimate the demand for their products. Owing to all this, shortcomings in the distribution sector can lead to resources being allocated incorrectly and to large economic costs being incurred.

10.2 Economic importance of the activity

In most countries for which data are available, the distribution sector, including both wholesale and retail services, accounts for a very large percentage of GDP, ranging from 8% in Germany to 20% in Hong Kong. In many countries it is the sector that makes the largest contribution to GDP, after manufacturing. This sector makes an even larger contribution to employment than to GDP, as it is a relatively labour-intensive one (in Hungary, for example, it accounted for 12.4% of employment in 1993, while the GDP figure was 11%).

This sector increased in absolute size in most OECD countries between 1979 and 1994, when the highest growth rates were in Japan and Korea. Employment in the sector has also grown in most of these countries, but less strongly than output, which shows that labour productivity has also increased in the sector.

As regards international trade, we can say that in 1995 the value of the wholesale trade conducted by the United States with the rest of the world was US\$ 14,997 million, while the figure for retail trade was US\$ 1,133 million. Meanwhile, foreign companies with branches in the United States conducted wholesale trade worth US\$ 9,364 million and retail trade worth US\$ 576 million.

10.3 Forms of internationalization

The main way in which distribution services are traded internationally is through the establishment of a commercial presence (mode 3) and cross-border trade (mode 1).

Both wholesalers and retailers carry out trading in services mainly by establishing a commercial presence, but technological advances mean that this situation may change in future. Franchise trading is generally carried out on a cross-border basis, while commission trading involves the establishment of a commercial and cross-border presence.

10.4 Main providers

The five largest retailers in the world in 1994, by sales (in billions of dollars), were:

Wal-Mart	USA	82.5
Metro Int	Germany	55.0
Tengelmann	Germany	36.5
Kmart	USA	34.0
Edeka Zentrale	Germany	32.4

10.5 Main barriers

Unquestionably, international trade in the distribution services provided by wholesalers and retailers depends mainly on freedom to establish a commercial presence in the foreign country. For this reason, the general foreign investment regime operating in the country with which it is intended to trade is of vital importance.

Restrictions on the movement of natural persons are also important, as these services are labour-intensive. As regards cross-border trade in these services, discriminatory taxes on goods sent by post are a major obstacle.

10.6 Impact of electronic commerce

Innovations such as electronic data transmission have revolutionized commerce between companies, but we have recently seen similar innovations greatly affecting distributors, with the emergence of cybermalls, specialist on-line distributors, multi-product megastores, and so forth. On-line sellers of flowers, books, cars, music, software, etc., are bringing major changes to traditional distribution services. The advantages for these on-line vendors looking to grow their businesses rapidly are lower search, transaction and storage costs, a greater variety of products, better pricing and more information on the market.

Electronically traded products can be advertised, ordered and paid for electronically, and even delivered on line. This has major implications for distributors; if products can be delivered on line, for example, there will be no need to retain showcases and showrooms.

It is forecast that by 2007 around 25% of consumer purchases will take place over the internet; there is great uncertainty about these figures and the development of this new field, however, owing to the novelty of these services. People may not like buying over the internet, or they may love it; it may be that technology will enable these transactions to be carried out even more cheaply than at present; in short, anything could happen.

11. Audio-visual services

This sector is listed under point D of category 2 of the WTO Service Sectorial Classification as a subsector of Communications Services. It comes under numbers 9611, 9612, 9613, 7524 of the United Nations Provisional Product Classification.

11.1 Description of the activity

In accordance with the above classification, by audio-visual services we mean the production and distribution of cinema films and video tapes; cinema film projection services; radio and television services; sound and image transmission services; sound recording services and others (e.g. the content of multimedia products, etc.).

11.2 Economic importance of the activity

According to the European Commission, the audio-visual industry in the EU employs around 1.8 million people, a figure which could rise to 4 million by 2005; this is one indicator of the growth potential that this industry has as a result of rapid technological change. In the United States, 590,000 people were employed in the film and video industry in 1995; in Japan, these two sectors, plus radio and broadcasting, employed 110,000 people, with annual sales of ¥ 4 trillion.

According to the United Nations, China is the country with the most cinemas (140,000), followed by the United States with 25,000. As regards the number of television and radio sets, the United States is in first place with 210 and 547 million respectively.

11.3 Main countries and markets

India has the world's biggest film industry, with an annual output of 700 feature films and 900 shorts. The United States is the second-largest producer, followed by other countries such as Australia, Egypt, Brazil, Russia, France, Germany, Italy, Spain and Great Britain. Hong Kong, for its part, is the second-biggest exporter of films (after the United States) and the third-biggest producer.

As regards recorded music, the biggest market is the United States (US\$ 12,102 million in sales to the public) followed by Japan, Germany, Great Britain, Canada and Brazil.

The United States is the biggest market for audio-visual products as a whole.

11.4 Forms of internationalization

Before anything else, it is important to stress that determining the origin of an audio-visual service can sometimes be quite complicated, mainly owing to the existence of numerous coproduction agreements between companies in different countries. There is no hard-and-fast rule for solving this problem, and in fact it is increasingly common for cinema production companies to be international firms.

As regards international trade in services of this type, the most common modes of supply are modes 1 and 3, i.e. cross-border trade and the establishment of a commercial presence in the importing country.

11.5 Main barriers

In most countries audio-visual media are quite heavily regulated, owing to the great social, economic and cultural influence they can exert. Thus, there are a number of barriers to international trade in these services, the aim of which is to promote and protect local customs and qualities. Among the most common types of barrier, we find local content restrictions in film production, television screen quotas that limit the amount of time for which foreign programmes can be shown, rules making it obligatory to carry out certain parts of the process locally, denial of access to subsidies provided to local firms, cultural restrictions, etc.

12. Environmental Services

This sector is listed as category 6 in the WTO Service Sectorial Classification. It comes under numbers 9401, 9402 and 9403 in the United Nations Provisional Product Classification.

12.1 Description of the activity

In accordance with the above classification, environmental services will be understood to include sewerage services, waste disposal services, sanitation and similar services, and others.

This definition is widely held to be somewhat narrow, as it does not incorporate all services that can benefit the environment.

12.2 Economic importance of the activity

Data, and what is understood by environmental services, vary from country to country. Nonetheless, it is estimated that in a typical industrialized country environmental services represent less than 1% of all services; this figure may underestimate the importance of the sector, however, as much of its output may be included in government accounts.

In most OECD countries the most important activity in this sector is the management of drinking water and waste water, followed by refuse handling and then the control of air pollution. In these countries, it is also estimated that environmental services employ around 1% of the total workforce, a figure that could also be an underestimate, as it does not include government employees in the sector.

In 1996, the world environmental market was put at US\$ 453 billion, of which the services segment accounted for just over US\$ 229 billion. Of the services concerned, solid waste handling (US\$ 102 billion) and water treatment (US\$ 65 billion) were the dominant activities. The United States, Western Europe and Japan accounted for 87% of the world market.

It is important to emphasize the role of the public sector in the provision of services of this type. In the United States, for example, most revenue from waste water is generated by the public sector. In the European Union, control over water treatment is likewise mainly in State hands. As regards solid waste, the situation is different; in the United States, only a third of revenue is accounted for by public bodies. In many countries, however, this activity is still controlled mainly by the State.

12.3 Tendencies

The evidence available suggest a tendency towards greater concentration in the environmental industry. Economies of scale and the preference of consumers for big companies have meant that large firms have been able to obtain better and better returns to the detriment of small businesses in the sector. Technological development has also favoured large companies, as processes have become more and more complex and smaller firms have found it difficult to make the investment needed to stay up to date. For these and other reasons, there has been a constant succession of mergers and acquisitions among companies in this market.

In this sector there are many technologies that have remained unaltered over the years. The situation is changing, however, owing to the greater number of requirements being imposed by local laws. Technology is becoming a more and more important tool of competition.

As regards international trade, the industry is expected to become highly oriented towards this, particularly in more mature areas such as water and waste management and control of air pollution. The adoption of environmental standards throughout the world will expand international

markets, while privatization and deregulation are creating greater opportunities for foreign firms. The tendency towards consolidation in this industry is also stimulating international trade.

12.4 Forms of internationalization

It would appear that a large proportion of trade in environmental services is carried out through the establishment of a commercial presence (mode 3), with the consequent presence of natural persons (mode 4), while a large number of support services are provided by other means (modes 1 and 2).

12.5 Main companies

The following list shows the world's top five environmental services companies by turnover in 1995:

WMX Technologies	USA	Solid wastes/Diversified
Générale des Eaux	France	Water/Sewerage/Diversified
Browning Ferris Industries	USA	Solid wastes
Lyonnaise des Eaux	France	Water/Diversified
Asea Brown Boveri Corp.	Switzerland	Diversified/Equipment

12.6 Main barriers

The main barriers to international trade in services of this type, once they are part of the market, are obstacles to foreign participation. Thus, barriers that limit the ability of firms to establish a commercial presence in a country, or prevent them from bringing in experts from their own country to work there, are very significant. Serious obstacles will therefore be represented by restrictions on foreign capital participation, on the type of legal entity required, on the scope of a company's operations, etc.

Meanwhile, in this industry the access that foreign firms have to government contracts is very important, as is the treatment they are given by local governments.

13. Educational services

This sector is listed in category 5 of the WTO Service Sectorial Classification. It comes under numbers 921, 922, 923, 924 and 929 of the United Nations Provisional Product Classification.

13.1 Description of the activity

In accordance with the above classification, the category of educational or teaching services is considered to include primary education services (including pre-school education), secondary education services, higher education services (including postgraduate studies), adult education services (obtained outside the normal educational system), and other educational services.

These categories are based on the traditional structure of the sector. Higher education, however, is an area that has changed greatly in recent years, and this can have a considerable effect on the scope and concept of education.

It is also important to note the appearance of a range of activities that are closely related to education and which, while not being educational themselves, are intended to support educational systems and processes. Some examples are examination services, services for students in exchange programmes, etc.

13.2 Economic importance of the activity

Education has a well-recognized role in promoting economic and personal growth and social development, and in reducing inequity. By educating their populations, countries enable them to participate in and support the economic and social development process. Education enables countries to confront the challenges raised by technological change and trade integration. The ability of education to develop people and provide them with skills makes it crucial to the success of economic adjustments.

It is also important to emphasize the close link between a person's level of education and the likelihood of their being unemployed; the better educated a person is, the less likely that they will be unable to find work. This link has led to numerous initiatives by Governments to promote human capital development in their countries.

In most countries, the percentage of GDP spent by Governments on educational services has remained constant in recent years. In developed countries, it stands at around 5% on average, whereas in developing countries it is around 4%. On a per capita basis, however, spending on education has increased in most countries; between 1989 and 1994 the increase was 150% in developed countries, while in developing ones it was 55%.

Educational services are normally viewed as a public consumption good, and in many cases they are provided free or at prices that do not reflect the true cost of providing them. Government spending is therefore the main source of funds for education. In 1994 the OECD countries as a whole spent 5.9% of their GDP on providing these services. It should not be forgotten that education is also provided by private institutions which freely set the prices they charge their pupils.

As regards international trade, at the beginning of the 1990s more than 1.5 million people were engaged in higher studies abroad. Between 1989 and 1993 the number of students going outside their countries to carry out higher studies abroad increased by between 3% and 6% a year. In 1995 the world market for international higher education was estimated at US\$ 27 billion.

13.3 Market structure

Owing to the importance of the sector, as already described, most countries treat education up to a certain level (generally primary and secondary) as an entitlement. This stage of education is normally provided free of charge, and in many countries it is obligatory. Private providers generally participate in this type of education as well, usually with the support of subsidies, the extent of such provision varying depending on the country concerned.

Educational systems have developed greatly since the 1970s. New types of courses and training programmes have appeared, different types of apprenticeships have been developed and alternative training schemes have emerged. More and more emphasis has been put on higher and adult education.

The number of young people going into higher education has increased, mainly owing to new consumer interests and needs and a greater supply with the emergence of non-university institutions and programmes, franchises, agreements among networks of institutions and programmes and a greater emphasis on distance learning.

Distance learning has been a very dynamic area, and one which has benefited greatly from technological advances in the area of information and communication. The internet is perceived as the most important of these advances, as not only has it enabled structures to be improved in higher education, but it has also led to changes in processes and organization there.

13.4 Forms of internationalization

Teaching services are traded internationally, mainly through consumption abroad (mode 2), whereby students go to a foreign country and receive these services there.

Another way in which these services are traded is through the establishment of providers abroad (mode 3). This is generally done by setting up subsidiaries, campuses abroad, twinning arrangements combined with franchising, etc.

Cross-border trade (mode 1) is another way of selling these services, and one which, as we have explained, has become more important as technology that facilitates distance learning has developed.

13.5 Main countries

The United States is the biggest exporter of services of this type; in 1995 it received more than 453 thousand foreign students, and the size of the market was put at US\$ 7 billion. Most of the students who go to the United States are from Asia (58%), followed by Europe and then, in third place, Latin America.

After the United States we find countries such as France (170,574 foreign students), Germany (146,126) and Great Britain (128,550).

13.6 Main barriers

Because most of the trade in services of this type takes place in the form of consumption abroad, the measures that most restrict trade in them are ones that restrict the mobility of students, which means that immigration requirements and currency controls are very important. Also significant are the difficulties students encounter in translating qualifications gained or courses followed abroad into their local counterparts. Also worth bearing in mind are barriers to the establishment of foreign educational organizations in a country.

14. Social and health services

This sector is listed in category 8 of the WTO Service Sectorial Classification, and is covered by numbers 9311, 9319 and 933 of the United Nations Provisional Product Classification. In this brief description of the sector we shall also include health services provided by professionals, which are numbers 9312, 932 and 93191 in above classification. Broadly, we are dealing with division 93 of the United Nations Provisional Product Classification, which includes all health and social services.

14.1 Description of the activity

In this description, social and health services will be taken to mean hospital services, other human health services, social services, other social and health services, and the professional services of doctors and dentists, veterinarians, midwives, nurses, physiotherapists, paramedical personnel and others.

14.2 Economic importance of the activity

Medical, health and social services have a variety of developmental, income distribution, social and other functions. The relative importance of the sector varies between countries, between people and over time, depending on parameters such as income, age, technology and the economic and social objectives that prevail at the time.

Many analysts, especially in the OECD countries, have tended to see the health sector not as a contributor to GDP but as a burden on economic growth. Across the OECD countries, health spending has been increasing over the last two decades, absorbing private consumption expenditure and, in particular, government spending.

In the mid-1990s the OECD countries were spending US\$ 2 trillion a year on health care, more than 8% of their GDP, whereas in developing countries health expenditure is around 5% of GDP. These figures include public and private spending on both goods and services. Hospital services account for between 40% and 50% of this expenditure in the OECD countries, followed by drugs spending, which accounts for between 30% and 40%, while the rest mainly goes on paramedical and home treatment services.

As regards health spending per capita, the differences are dramatic. There are underdeveloped countries that spend only US\$ 5 per person on health each year, examples being Bangladesh, Ghana and Nigeria, whereas other countries, such as the United States and Switzerland, spend US\$ 3,500 per person per annum.

As regards employment, this has been increasing in tandem with the growth of health expenditure. In the European Union, it is estimated that employees in this sector account for 8% of the total workforce. Of these, nurses and midwives account for some 25%.

As regards trade in services of this type, there are no aggregate data, but we can say that in 1996 exports of these services from the United States totalled US\$ 872 million (mainly through mode 2), while imports were US\$ 550 million.

Another interesting fact is that global demand for telemedicine services is forecast to reach US\$ 1,250 million by the year 2000.

14.3 Main agents

In 1998, the United States was the world's biggest consumer and supplier of health services. The three biggest profit-making organizations in the United States that year were Columbia/HCA, Quorum Health Resources and Tenet Health Care.

The European Union, Japan and Australia are also important players in this market. The International Financial Corporation is the biggest source of private sector funding in emerging markets, and its level of investment in the sector is forecast to increase further over the coming years. Also important are the World Bank, the World Health Organization (WHO), the International Telecommunications Union and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

14.4 Forms of internationalization

Hitherto, the most important mode of supply for the trade in health services has been consumption abroad (mode 2), whereby patients go to more developed countries in search of better quality, to less developed countries in search of exotic therapies or lower prices, or between countries with the same level of development to obtain care at the right time or of the quality required.

It is important to emphasize the growing importance of cross-border trade (mode 1) in health services, thanks to the development that telemedicine has experienced owing to progress in technology and communications.

As regards the establishment of a commercial presence (mode 3), this type of trade tends to take place mainly between developed countries. Trade through the movement of professionals

(mode 4) also takes place, but only on a small scale, owing to the many legal and practical obstacles that impede it.

14.5 Main barriers

Because services of this type are mainly provided via the movement of consumers, the main barriers to trading in them are going to be requirements, permits, visas, etc., that are asked of patients wishing to enter or leave the country. Also important are restrictions on the establishment of a commercial presence or on the movement of professionals, such as licence validation policies, etc. Additionally, consideration needs to be given to factors such as insurance coverage, the viability of patient movement, the role of the State, and the quality and reliability of communications.

15. Telecommunications services

This sector is listed in category 2, Communications Services, of the WTO Service Sectorial Classification, as subsector C. It comes under numbers 7521, 7522, 7523, 7529 and 843 of the United Nations Provisional Product Classification.

15.1 Description of the activity

According to the above classification, telecommunications services include telephony services, data transmission with packet and circuit switching, telex, telegraph, fax, rented private circuits, electronic mail, voicemail, retrieval of information on line and from databases, electronic data transfer services, enhanced and/or added-value fax services, code and protocol conversion, on-line data and/or information processing and others.

The telecommunications industry is going through a process of rapid structural change and dramatic economic growth. The national monopolies that dominated the industry in most countries until very recently are facing competition, and in many countries are being or have been privatized. New services are constantly being developed in response to competition and technological change. In some countries competition has led to dramatic cuts in the price of services and speeded up innovation in the sector, so that the segmentation of services is on the verge of ending.

15.2 Economic importance of the activity

The role of telecommunications in facilitating international trade, economic development and improved quality of life is a generally accepted fact. This sector has the potential to enable countries to participate fully in international trade and the globalization of markets, especially if it is supported by liberalization of cross-border trade in electronic distribution services. Furthermore, more accessible and varied services may prove instrumental in the success of national and global projects that have the potential to bring great benefits to all the parties involved.

In 1997, the world telecommunications market was valued at US\$ 644 billion, and investment in that year totalled US\$ 170 billion, while the sector employed 5.4 million people around the world. America accounted for 38% of revenue that year (US\$ 245 billion), Europe 32%, Asia 26%, Oceania 2.6% and Africa 1.5%. Despite this, the largest amount of investment was made in Asia (US\$ 74 billion), followed by Europe and then America. As a percentage of GDP, revenue from telecommunications services was highest in Oceania (3.4%), followed by America (2.3%). As regards investment as a percentage of gross fixed capital formation, the leader was Oceania with 5.3%, followed by Africa with 3.2% and Asia with 2.9%.

As regards employment, this remained stable between 1995 and 1997, declining slightly in America and increasing in Oceania by an average of 4% a year.

In 1997, the world's telecommunications networks comprised 792 million fixed lines and 214 million cellular telephone users.

15.3 Forms of internationalization

Most international trade in telecommunications services is conducted in two ways. Cross-border trade (mode 1), which is becoming more and more important as technology progresses, and the establishment of a commercial presence (mode 3), this latter form being stimulated by the opening up of markets that had been kept closed to foreign companies, the privatization of State firms and the need for companies to take advantage of economies of scale and scope.

15.4 Main providers

The world's biggest providers of telecommunications services are mainly from the industrialized countries. In 1997, the 20 biggest public telecommunications companies had earnings of US\$ 477 billion, some 74% of total world earnings. Of these companies, the five biggest were:

NTT (Japan), AT&T (United States), Deutsche Telekom (Germany), Bell Atlantic (United States) and BT (Great Britain).

As regards earnings from international services, the total for the top 20 operators was US\$ 115.3 billion. The five largest international carriers were:

AT&T, Deutsche Telekom, Cable & Wireless, MCI and BT.

In 1997, the earnings of the 20 biggest cellular telephony firms totalled US\$ 73 billion. The five largest were:

NTT, DGT (China), TIM (Italy), AT&T, SBC (United States).

15.5 Main barriers

Among the main barriers to trade in services of this type are limitations on the number of suppliers, restrictions on the type of legal entity and limitations on foreign capital participation. Also important are other measures such as bypass restrictions, usage requirements, restrictions on the resale of excess capacity, prohibition of interconnection, etc. Other sources of national treatment barriers are tax measures, nationality, licensing and qualification requirements, etc.

16. Energy services

This sector is not included in its own right in the WTO Service Sectorial Classification. In the United Nations Provisional Product Classification it is not listed as an individual category either, but energy services can be found at numbers 61300, 62113, 62271, 93297, 88300, 88450, 88700, 91132, 91133; in CPC Rev. 1 numbers 69110 and 69120 are important.

16.1 Description of the activity

This is an industry in which traditionally no distinction has been drawn between goods and services. This is usually explained by the market structure that has traditionally existed, with most energy sector industries being dominated by vertically integrated State companies, so that a single enterprise is responsible for production, transportation and distribution of energy products, leaving little scope for trade and competition. The recent trend towards privatization and liberalization of these markets has made it easier to identify a number of economic activities that may constitute services separately from goods, and may be appropriate subjects for multilateral trade liberalization treaties. In these liberalized markets we find that services such as energy transportation, transmission and distribution are more and more likely to be provided by independent operators

working in a competitive environment. Other services include consultancy, construction, network maintenance and distribution-related services such as metering and charging. In some countries or organizations, electricity is classified entirely as a service, owing to the fact that it cannot be stored.

Generally speaking, it is broadly accepted that the production of primary energy (which does not require other energy products as inputs) and secondary energy are not services subject to GATS, but goods subject to GATT; energy transportation and distribution are services subject to GATS if they are supplied independently. The other services involved in the energy chain (construction, engineering and consultancy) are regarded as energy-related services rather than as energy services as such.

The sectors that are included in the field of energy goods and services are coal, petroleum, electricity, natural gas, nuclear energy and renewable energy sources such as hydroelectric power, geothermal energy, wind energy, solar energy and biomass.

16.2 Trade in energy

Goods in this sector have been traded for a long time, but trade in services is a newer concept.

Coal and oil, being easy to store and transport, are traded across the world, while natural gas and electricity are traded regionally, owing to the difficulty of transporting and storing them. Most world trade (76%) in natural gas is between the United States and Canada. Of all the natural gas traded internationally, 75% is transported in pipes, while the rest is converted into liquid gas and shipped.

The regional nature of trade is more pronounced in the case of electricity than in that of gas, as electricity cannot be stored and the only way of transporting it is over networks, which need to be interconnected if trade is to take place.

Despite all this, geographical factors affect energy goods more than services, at least where gas and electricity are concerned. Trade in services conducted by establishing a commercial presence is not affected by distance and interconnection needs, whereas cross-border trade can be seriously affected by distance and a lack of interconnections.

16.3 Main providers

In 1994, the five largest energy companies in Europe were Royal Dutch/Shell, British Petroleum, Elf Aquitaine, Electricité de France and ENI. Their earnings in that year were 210,839 million ECU, and they employed around 350 thousand people.

Worldwide, the five largest independent energy producers in mid-1996 were Edison Mission Energy, Power Gen, National Power, AES and Enrol Development.

16.4 Forms of internationalization

The main modes of supply for trade in energy services seem to be the establishment of a commercial presence (mode 3), cross-border trade (mode 1) and movement of natural persons (mode 4). Mode 3 is important because international providers can take advantage of privatization, liberalization and deregulation processes in national energy markets, especially in the electricity and gas sectors. Cross-border trading of these services in the form of distribution over the interconnected networks of different countries is significant, as is mode 4, in the form of expert advice and assistance.

16.5 Main barriers

In countries where State companies still have a vertically integrated monopoly, there is no room for competition or for the establishment of foreign suppliers, and exchanges will only take place when it suits the company with the monopoly.

In countries where the market is partially open (freedom to enter some sectors) or even fully open, obstacles to trade in services of this type will still be encountered, among the main ones being: restrictions on the scope of operations and the participation of foreign capital, national policy objectives, excessively strict regulations relating to the environment or public health, obligations deriving from the fact of it being a public service, restrictions or obligations relating to procurement of the inputs needed to supply the services, migration restrictions, etc.

17. Maritime transport services

This sector is listed in category 11, Transport Services, of the WTO Service Sectorial Classification, as subsector A. It is covered by numbers 7211, 7212, 7213, 7214, 8868 and 745 of the United Nations Provisional Product Classification.

17.1 Description of the activity

According to the above classification, maritime transport comprises passenger transportation, cargo transportation, the rental of crewed vessels, ship maintenance and repair, tug services and support services related to maritime transport.

Where maritime transport services are concerned, it is important to realize that the market for heavy loads such as oil, iron, coal, bauxite, etc, is a very competitive one in which the business is taken by whoever offers lower prices in cents per ton than the competition. Meanwhile, the market for cargo transportation in containers and general liner cargo seems to be dominated by two types of organization: the “conferences”, more or less integrated cartels in which prices and frequencies are fixed and the “outsiders”, which are large or small independent operators. The traffic dominated by the conferences has been declining over the last thirty years as new operators from South-East Asia have emerged with enough power to offer services equivalent to those offered by the conferences.

Generally speaking, the conference system coexists with a framework of intergovernmental cargo-sharing agreements which are the result of historical or colonial ties, or have been developed to compete with State commerce in powers such as Russia and China. This system is also being eroded, owing largely to the decline of the mercantilist system dating from the seventeenth century.

17.2 Outlook and tendencies

Maritime Transport

A process of deflagging is currently under way, meaning that ships are being registered in open registers to enable their owners to enjoy the benefits of the lower labour costs that registration in the country allows. Almost all the heavy cargo fleet is registered in this way, and liners are increasingly going the same way. Some countries are trying to stop or slow down this trend, mainly by creating second registers, a trend that began in Europe and is now becoming widespread.

At the same time, we are seeing a movement towards privatization of the last State shipping companies. Something else that can be observed is that the birth of mega-carriers and mega-alliances has not deprived the market of fluidity, owing to the instability of alliances and to State

supervision. There has also been liberalization of cargo traditionally reserved for national firms or companies from particular countries.

18. Port services

These have also been subject to the same logic of restructuring and reform in the direction of privatization and liberalization, in both developing and developed countries. The objective behind this movement is to increase efficiency and diversify the sources of capital flows.

The World Bank has said that there is a discernible movement away from State ports towards ports shared between private agents and government. There are “landlord” ports where the port authority confines itself to building and owning the infrastructure, while private operators carry out all other activities; there are also service ports where the port authorities do everything. Of the two models, the World Bank prefers the first. The World Bank points out that there are also some instances where private operators finance the infrastructure in exchange for certain monopoly privileges in respect of cargo handling and storage.

18.1 Economic importance of the activity

Maritime transport is still, by a long way, the main method used for transporting goods internationally, although the growth rate of air cargo transport is far higher: 5% in the last 10 years, as against 2%. In 1997, maritime transport grew for the twelfth consecutive year, with volume of 5,074 million metric tons.

Rates for these services are falling as a proportion of the value of the goods transported. In developed countries rates now average 4.2%, while in developing ones they average 8.3%.

Recent productivity indicators show that despite technological progress, there has been a decline in productivity owing to overcapacity.

Of the total volume transported, 44.7% is carried by tankers, followed by dry heavy cargo with 23% and transportation of higher-value goods (liner), with 32.6%.

In 1998 the world fleet transported 758.2 million tons of dead weight, the great bulk of which (542.5 million) belonged to developed countries.

18.2 Main countries

In 1996, the five leading countries in the sector transported (under national and foreign flags) 50% of all the dead weight tons transported in the world. These countries were Greece (17.41%), Japan (12.84%), United States (7.22%), Norway (7.19%) and China (5.33%).

18.3 Main barriers

The most important limitations on international trade in maritime transport services include restrictions on foreign capital participation, nationality requirements for owning and registering vessels under national flags, limitations on access to government cargoes, discriminatory taxes and discriminatory port tariffs.

19. Air transport services

This sector is listed in category 11, Transport Services, of the WTO Service Sectorial Classification, as subsector C. It comes under numbers 931, 732, 734, 8868 and 746 of the United Nations Provisional Product Classification.

19.1 Description of the activity

According to the above classification, air transport services include passenger transport, cargo transport, crewed aircraft rental, aircraft maintenance and repair and air transport-related support services. The air transport services annex of GATS, however, says that this agreement does not apply to traffic rights or services directly related to these, but that it does apply to measures affecting the repair and maintenance of aircraft, the sale and marketing of air transport services and computer reservation systems.

What will be understood by aircraft repair and maintenance is work carried out on an aircraft or part of it when it is not in service, excluding what is known as line maintenance. This definition is very close to what the industry calls “maintenance, repair and overhaul”. This latter definition includes line maintenance which, as we have mentioned, is outside the scope of GATS. Where maintenance, repair and overhaul is concerned, there is a high degree of public intervention, for reasons of flight safety and quality.

Computerized reservation systems are defined as the services provided by computer systems containing information on timetables, availability, fares and fare conditions, through which tickets can be reserved or issued. This definition seems to include not just services offered through travel agencies but also those offered directly to the public, which have multiplied with the internet.

Air transport sale and marketing services are defined as the opportunities for the air carrier concerned to sell and market its air transport services freely, including all aspects of marketing such as market research, advertising and distribution; these activities do not include the setting of prices for air transport services, or the conditions applicable. Clearly, this definition only includes air transport sales and marketing activities carried out by the company on its own account. Technological advances have brought complications into this definition.

19.2 Economic importance of the activity

The aircraft maintenance, repair and overhaul market was valued in 1996 at between US\$ 23 and 25 billion; forecasts are for US\$ 33 billion by 2005. Despite this, maintenance service costs have remained stable and even declined as a proportion of airlines’ operating costs.

Regarding computerized reservation systems, little information is available, but annual turnover is estimated at over US\$ 4 billion. We also know that the three biggest companies employ around 15,000 people and are connected to more than 120,000 travel agents.

As regards ticket sales, airlines account for only 20% to 30% of total sales. One way of estimating the size of the air transport sales and marketing services market is to total up operating costs for “ticket issuing, sales and promotions”. These came to US\$ 37.5 billion in 1994, increasing to US\$ 40 billion in 1995.

19.3 Main providers

Where computerized reservation system services are concerned, if the traditional definition is taken, i.e. operations carried out through travel agents, the market is dominated by 12 operators, of which only five operate globally (SABRE, Galileo, Amadeus, Worldspan and GETS).

The three companies that carried most passengers in 1996 were United, American and Delta, with 187,536, 168,174 and 151,048 million passenger-kilometres respectively. These three were also the companies that accounted for the most ton-kilometres in that year. Where cargo and mail are concerned, the companies that accounted for the most ton-kilometres were Federal Express, Lufthansa and Korean Air.

19.4 Forms of internationalization

Regarding maintenance, repair and overhaul, it seems that the most important forms of internationalization are modes 2, consumption abroad, and mode 3, commercial presence. The existence or absence of restrictions on the consumption of aircraft maintenance services abroad is a critical factor. For example, since the American Federal Aviation Administration (FAA) liberalized its rules to allow American aircraft to be repaired abroad, there has been a 150% increase in the number of repair stations abroad. We also find maintenance companies and airlines making investments or acquiring maintenance plants abroad to service their own aircraft or those of other airlines.

As regards computerized reservation systems, trade is conducted chiefly through the establishment of a commercial presence (mode 3). The parent company typically sets up a “national marketing company” in each country, and this works with local airlines and the biggest travel agents. It can also happen that a market is covered by a company from some neighbouring country, in which case services are traded by means of modes 1 and 2; mode 4 can also be important when specialist personnel are needed to install the system.

Companies that decide to sell their tickets and carry out marketing activities abroad generally do so by establishing a commercial presence (mode 3) abroad, through which they can carry out and coordinate their activities.

19.5 Main barriers

The main barriers to international trade in maintenance and repair services are going to be commercial presence restrictions such as requirements to open a registered office, licensing or authorization requirements, residency requirements or restrictions on foreign capital participation. The practicability of having aircraft serviced abroad is also a very important factor.

As regards the sale and marketing of air transport services, the most important restrictions are those of a horizontal nature that create obstacles to the establishment of a commercial presence. Again, certain services may be excluded, or the right to advertise or set up regional offices may be restricted. Also important are limitations on access to computerized reservation systems and international agreements.

Barriers to trade in respect of computerized reservation systems are typically horizontal and relate to the establishment of a commercial presence; there may also be requirements to use the public network or limitations on the use of these services. The international agreements dealing with this issue also have an important effect.

20. Land transport services: generalities and road transport

Land transport services are included in category 11, Transport Services, of the WTO Service Sectorial Classification, as subsectors E, F, G, H and I. They come under numbers 7111, 7112, 7113, 8868, 743, 7121-7124, 6112, 8867, 744, 7131, 7139, 741, 742 and 749 of the United Nations Provisional Product Classification.

20.1 Description of the activity

In accordance with the above classification, land transport services will be deemed to include rail transport, road transport and transportation by pipeline. We shall also include auxiliary services associated with all forms of transport, and other transport services.

The land transport sector covers a varied range of activities, which often have very little in common. There are highly capital-intensive activities such as railways and pipelines, and others

that require relatively little investment such as taxis, lorries and buses. Some of these activities operate in a highly regulated environment characterized by planning considerations and the need to offer a universal service, while others operate simply as market activities. The degree of concentration also varies greatly.

In this section we shall concentrate on road transport and other generalities, going on to deal in detail with rail transport services in the next.

20.2 Economic importance of the activity

Road transportation accounts for between 2% and 6% of countries' GDP and employment, depending on their geography, the structure of their transport networks and their level of development. It is important to emphasize that numerous studies have shown road transport to have a very large impact on GDP and employment.

Most passenger road transportation takes place by car, with this form of transport accounting for 53% of the 25 trillion passenger-kilometres travelled in motorized transport around the world in 1995. Other passenger transport is distributed as follows: 4% for two-wheeled traffic, 24% for buses and coaches, 8% for railways, 0.8% for trams and underground railways, 10% for air travel and 0.4% for waterborne journeys. Thus, leaving aside automobiles, passenger transport by road represents between 25% and 30% of the world passenger transport total.

As regards the urban travel market, some estimates of its potential can be derived from the constant increase in urban population around the world, in both absolute and relative terms (from 735 million in 1950 to 2 billion in 1985, with 2,950 million forecast for 2000). Accordingly, the demand for urban travel has risen constantly as well.

Intercity transport is provided mainly by buses and, marginally, by taxis. It is characterized by low barriers to entry and few economies of scale; for this reason, control over bus terminals and stations is a key factor in the market. This market has also seen movement towards liberalization which has translated into lower prices, wages and profits and an increase in employment.

Road freight is the main method of transporting cargo in the world as a whole; in the European Union, 72.3% of cargo ton-kilometres were carried by road in 1995, and the quantity carried had increased by 155% since 1970. In the United States, however, the figure was only 28.9% in 1995. This method of transporting freight plays a very important role in developing countries where railways have not been developed efficiently for this purpose. This sector too is characterized by relatively low barriers to entry and few economies of scale. The process of liberalizing freight transport has translated into falling prices, the creation of new companies and bankruptcy of some existing ones, greater concentration and specialization, lower profitability, adaptation to demand, lower wages and more jobs.

20.3 Countries where the most passengers travel by bus and coach

Of a total of 6 trillion passenger-kilometres travelled by bus and coach within or between cities, 7.6% is accounted for by China, 6% by the European Community, 3.8% by the United States and 2% by Central and Eastern Europe.

20.4 Number of lorries registered

In Africa there are 5.62 million lorries in good condition (3.33%), in America there are 80.43 million (47.64%), in Asia 45.22 million (26.8%), in Oceania 2.63 million (1.56%), and in Europe there are 34.78 million lorries in good condition, accounting for 20.6% of the total.

20.5 Forms of internationalization

Mode 1 plays no part in urban transport. Mode 4 is marginal and mode 2, although it occurs, is not important, nor is it restricted. Most trade is conducted through the establishment of a commercial presence (mode 3), especially in cases where the business is open to foreigners or these are authorized to buy or set up companies in the sector.

Since most intercity transportation takes place within national borders, the main mode of supply is mode 3 as well. Cross-border trade (mode 1) is intracontinental in nature and the direction of trade is generally from less developed countries to more developed ones. Modes 2 and 4 are not significant.

Mode 3 is also the most important form of internationalization where road freight transportation services are concerned. Mode 1 is also important, and its intracontinental nature has meant that it has been favoured by regional agreements

20.6 Main barriers

In the case of urban passenger transportation, the most serious problems appear to be those that prevent concessions being obtained by governments. Limitations on investment in this sector are also important, however.

The main obstacle to intercity passenger transportation is represented by prohibitions and restrictions on the movement and parking of buses in cities and tourist centres.

As regards the trade in freight, we find restrictions on cross-border trade such as the blockading of lorries by demonstrations, the banning of traffic on weekends and public holidays, customs problems, visa requirements for drivers, etc. Also very important are barriers that affect foreign investment, prominent among them being restrictions on the number of providers, the amount that can be invested, the number of operations, the participation of foreign capital, tax policies and subsidies, etc.

21. Rail transport services

This sector is included in category 11, Transport Services, of the WTO Service Sectorial Classification, as subsector E. It comes under numbers 7111, 7112, 7113, 8868 and 743 of the United Nations Provisional Product Classification.

21.1 Description of the activity

In accordance with the above classification, rail transport services will be deemed to include passenger transport, freight transport, towing services, maintenance and repair of rolling stock, and support services associated with rail transport services.

Railway companies began to develop in the nineteenth century as competing private firms, although they did receive State subsidies and other forms of assistance at that time owing to the high costs of building infrastructure and operating in the sector. At the beginning of the twentieth century, these companies gradually transformed themselves into groups. In most cases these groups were nationalized, owing in part to the development of road transport for freight and passengers. In colonial territories, the government authorities usually built and ran the railways directly. Similarly, most underground railway systems around the world are developed, financed and administered from the start by government authorities. Thus, a classic natural monopoly system emerged in rail transport services, and this is still the most common form today.

This model only began to lose its predominance in the 1980s as a result of pressure to deregulate from the authorities in developed countries and from the World Bank in developing ones. The first step towards changing a system that was proving to be very costly and inefficient was to allow companies to set prices freely. A new model whereby operating activities were separated from those of infrastructure maintenance and administration began to be applied; this model has been applied in the European Union, for example, by Directive 91/440/EEC8, although this cannot be evaluated here, as it is of such recent application. At the same time as efforts have been made to separate functions in certain developed countries, more radical attempts at privatization have been made. At present, the World Bank is promoting the concession system, after having favoured a system of operators independent from government for many years.

21.2 Economic importance of the activity

Rail transport services are very important in general, but they are particularly so in developing countries because they provide the only means of carrying out mass passenger transportation at a price that is accessible to most of the population. In 1995, China accounted for 18% of passenger-kilometres travelled in the world, a figure equalled by India.

Since the end of the 1970s, the share of rail services in the transport market has gradually been declining, owing mainly to the development of alternative services such as road and air transport. In the European Union, the percentage of passenger-kilometres accounted for by the railways was 10.3% in 1970, 8.5% in 1980 and 6.2% in 1994. The revival of passenger traffic resulting from the introduction of high-speed trains has not been enough to reverse this tendency, which has been even sharper in the case of the freight sector. The percentage of ton-kilometres carried by the railways in the European Union declined from 31.7% in 1970 to 24.9% in 1980 and 18.9% in 1990, to stand in 1994 at 14.9%. This latter trend is even more striking when considered in terms of value, as the use of freight trains is increasingly being confined to the heaviest and lowest-value freight.

It is important to emphasize the fact, which many analytical studies have brought to light, that the business of passenger transportation at best breaks even, while freight transportation can be profitable, as many private freight companies in the United States have shown.

21.3 Forms of internationalization

For a long time there was no competition where mode 1 was concerned, except in cases where it was possible to travel between two points using different routes. This situation has changed with the arrival of high-speed trains, cargo brokers, motorways, etc. Nonetheless, national operators still face serious problems in operating beyond their borders, owing to a number of technical obstacles.

As regards mode 2, this is a fairly common and relatively unrestricted form of internationalization, and one which has been promoted to a considerable degree by companies and Governments in recent years by means of young persons' railcards, Eurocards, etc.

As for mode 3, there was no trade of this kind while these services were being run by State monopolies, but the privatization of companies, the development and creation of new private companies, access and cabotage rights and a number of other changes have led to the establishment of a commercial presence abroad becoming a new and attractive form of international trade.

Mode 4 trade also takes place, there being a constant flow of technicians, experts and even administrators, mainly going from developed countries to developing ones.

21.4 Main barriers

Besides the technical barriers that often hinder cross-border trade in these services, there are other very important obstacles, such as limitations on the number of suppliers, on operations or even on the value of assets and transactions, on foreign capital participation or on the type of legal entity. Other factors that need to be taken into account are tax measures and the access to subsidies given to foreigners, licensing, authorization, nationality and residency requirements and performance and technology transfer requirements, etc.



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