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CURRENT REGIMES FOR TEMPORARY MOVEMENT OF SERVICE PROVIDERS

CASE STUDY: THE UNITED STATES OF AMERICA

Note: The views in this paper represent the views of the authors and not the official position of the U.S. Government. Interpretations in this paper regarding the relationship between the visa categories and mode 4 are the sole responsibility of the authors. They do not bind Member States in any way. Member States' obligations under mode 4 are solely governed by their specific commitments set out in GATS schedules.

Julia Nielson
Trade Directorate
OECD
julia.nielson@oecd.org

Olivier Cattaneo
Trade Directorate
OECD
olivier.cattaneo@oecd.org

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Introduction

1. This paper undertakes a preliminary exploration of the U.S. regime for the entry of temporary workers falling under mode 4 of the World Trade Organization (WTO) General Agreement on Trade in Services (GATS). It has three parts. Part I comprises an overview of the U.S. nonimmigrant visa categories of most relevance for mode 4 and outlines a number of the difficulties encountered in trying to map immigration systems for temporary entry against GATS definitions and categories. Part II provides some statistics on the number and the origin of entrants under the major categories identified as being of interest to mode 4. Part III has a closer look at the workers with “specialty occupations” admitted to the United States on the basis of professional education, skills and/or equivalent experience (H1B visas). Annex I presents an abstract of the U.S. schedule of GATS commitments.

PART I: BREAKDOWN OF TEMPORARY ENTRY AND POSSIBLE MODE 4 COVERAGE

Scope of the study and methodological problems

2. Table 1 aims to briefly present the U.S. nonimmigrant classes of admission which, in the authors’ view, are of most relevance for mode 4. It includes a breakdown of temporary entry, conditions of admission attached to each visa category, and possible mode 4 coverage.

Criteria of selection for Table 1

3. For the purpose of this study, the classes of admission identified as being of interest to mode 4 are covering (1) the *temporary* admission (2) of *service* suppliers (3) involved in *trade*.

1. Temporary admission

4. The focus of this study is on temporary movement: it excludes permanent migration flows, which do not fall under mode 4 of GATS.

2. *Service suppliers*

5. Mode 4 is about the movement of service suppliers. Nonimmigrant classes of admission which do not include service suppliers are therefore excluded from the scope of this study. However, several methodological problems arise:

1. Most classes of admission appear to be a mixture of mode 4 and non-mode 4 activities, i.e. include service providers and other workers; for the purpose of this study, each class of admission even partially made of service suppliers is treated as being of interest to mode 4;
2. It is sometimes unclear what may be considered as a service for GATS purposes. For example, temporary agricultural workers are normally considered to fall outside the GATS as they are engaged in agricultural, not service, activities. However, it might be argued that such workers are service suppliers (e.g., suppliers of fruit-picking services). Notwithstanding this possibility, they have been excluded from the scope of this paper.

3. *Trade*

6. GATS regulates trade in services, i.e. commercial transactions. Consequently, Table 1 excludes some categories of entrants whose activities would not seem to constitute a commercial supply of services for GATS purposes (e.g., religious workers). Moreover, in accordance with Art. I:3 of GATS, Table 1 excludes foreign government officials, representatives of foreign organizations, and NATO officials.

7. However, it is sometimes difficult to determine the extent to which certain categories of entrants could be considered to be engaging in commercial activities falling under the scope of the GATS. For instance, athletes may be amateurs or professionals; and even amateur athletes, while unpaid, may receive sponsorship money. Similarly, it is unclear the extent to which other types of entrants may be engaged in commercial activities. Trainees may engage in some on-the-job activities, but can also be considered as falling under mode 2 (consumption abroad of training services) rather than mode 4. Exchange visitors similarly would seem to encompass both those consuming services (students participating in a given program) and providing services (e.g., visiting lecturers); again, the extent to which the latter might be a commercial activity for GATS purposes is unclear. Given these uncertainties, for the purpose of this paper, all categories which might include some activities of relevance for mode 4 have been included, with appropriate caveats. It should be noted that these judgments as to the relevance of categories are the authors' alone, and not necessarily those of the U.S. Government.

Criteria not used for selection

8. For the purpose of identifying classes of admission of most relevance for mode 4, this study did not consider:

1. *The nationality of the employer*

9. Indeed, there is some debate within the WTO Secretariat about whether foreign employees of domestic firms are covered by mode 4. However, it is not the role of the WTO Secretariat to be the legal interpreter of the GATS. Nor is it the purpose of this study to get involved in this debate.

10. It appears that, in the U.S. system of temporary admission of workers, a petition can be filed either by a U.S. company (for most classes of admission), or a foreign business (for intracompany transferees).

2. *The type of contract*

11. This question is closely related to the previous one. This study does not exclude classes of admission on the basis of the type of contract existing between the service provider and the service consumer or his/her employer (independent contractors, project-tied workers, employees, or others).

Main characteristics of the system and overview of schemes of most relevance for Mode 4

12. The United States has an “open door” policy for most nonimmigrant classes of admission. In other terms, there is no set limit on the total number of temporary admissions each year.

13. However, some exceptions apply: H1B (workers with “specialty occupations”), H1C (registered nurses), and H2B visas (nonagricultural workers performing services unavailable in the United States) are all subject to numerical limitations. Annual caps for these categories are respectively: 195,000 (H1B), 500 (H1C) and 66,000 (H2B). De facto, the number of visas granted can exceed these numbers, since the cap does not apply, for instance, to renewals. These limitations are also frequently revisited.

14. A record 31.4 million nonimmigrants were admitted to the United States during 1999 (last available data). A large majority (76.7%) entered as visitors for pleasure (tourists), with the next highest class of admission, temporary visitors for business, accounting for 14.6% (see Part II).

15. The absence of set limit on the total number of temporary admissions does not mean the absence of any regulation governing these admissions. Areas such as the grounds for nonimmigrant admission, length and extension of stay, employment in the United States, accompaniment by family members, travel restrictions within the United States, and change in admission status are all governed by domestic regulations. Moreover, the regime applicable varies with the class of admission and, sometimes, with the origin of the alien (visa exemptions, NAFTA workers).

16. Thus, the United States has a highly developed visa system, which differentiates amongst a wide number of categories and provides detailed information on the number, country of origin and skill levels of persons entering the country on a temporary basis. These data are particularly useful to (1) measure the movement of physical persons under the mode 4 of GATS, (2) find out which type of services these workers are supplying and (3) what regime of admission

is applicable to each of them. However, several methodological problems make this analysis particularly difficult:

- Traditional visa classifications do not include a mode 4 category as such. This is a common feature in most WTO Members' schemes, even in the most developed ones such as the U.S. Entrants falling under mode 4 can be found in a number of visa categories, and the conditions of their admission may vary with the type of services supplied or the skills of the workers.
- Most often, there is no distinction between service-related and other activities. For instance, temporary visitors for business include but are not limited to services-related transactions. It is therefore impossible to precisely determine the number of admissions related to the supply of services.
- Similarly, some classes of admission may include both non-profit and commercial activities (e.g., athletes or artists). Or the extent to which a category includes commercial service suppliers may be unclear (e.g., exchange visitors can be either professors -possibly mode 4- or students -mode 2-). Only a few visa categories are exclusively or mostly made of mode 4 workers (e.g., the specific visa category for registered nurses).

2. *The GATS schedule of commitments*

17. The totality of the temporary entry regime is not reflected in GATS commitments (see Annex 1). Visa categories also do not exactly match the categories used for GATS commitments. Finally, some additional requirements, such as commercial presence, appear in the schedule of commitments and not in the overall visa regime.

18. However, the actual system for temporary entry is generally broader, more detailed and more flexible than mode 4 scheduled commitments. Consequently, actual trade under mode 4 – and numbers of temporary entrants – are much greater than the scheduled commitments would suggest.

3. *The logic of the system*

19. Conditions of temporary admission to the United States may vary considerably with the status of the entrant. For instance, the admission regimes applicable to NAFTA professional workers (TN visas) and temporary visitors for business (B1 visas) are quite flexible, because some formalities can be waived.

20. The nonimmigrant regime is tailored to help the United States respond to economic needs and labor shortages. It also attempts to minimize any negative impact on the domestic workforce. Key features of the system include:

1. Labor certification or consultation aims to determine whether U.S. workers are available to undertake the employment sought by the applicant, and what would be the effect of the alien's employment on the wages and working conditions of U.S. workers similarly employed;
2. The alien must have a certain level of education, skills, or recognition by the international community;

3. The alien must be offered wages and working conditions similar to the U.S. workers similarly employed;
4. Specific regimes apply in sectors of particular importance – both economic and cultural – to the country, such as seasonal service activities, sport, entertainment, motion picture, training, and cultural programs.

21. Regarding the authorized length of stay, the system is also generally flexible. In most cases, the nonimmigrant can stay until the completion of his/her project. Accordingly, renewals are often possible, except for instance, for workers in international cultural exchange programs (Q1 visas). On the other hand, a nonimmigrant must often prove his intent to go back to his/her home country, and the overall period of stay (extensions included) is almost always limited.

22. The U.S. system also provides for the movement of families accompanying the nonimmigrants, who often but not always belong to another class of admission. Thus, not only the flows of mode 4 workers, but also related flows, are measured. Family members include spouses and minor unmarried children. They may not engage in employment, but may attend school or college. However, they can apply for a change of status in order to take a job or go to the university.

Visa categories of most relevance for mode 4

23. Based on the classification used by the INS, Table 1 distinguishes eight major groups of visa categories of interest to mode 4:

- (i) Temporary visitors for business;
- (ii) Treaty traders and investors;
- (iii) Temporary workers and trainees;
- (iv) Representatives of foreign information media;
- (v) Exchange visitors;
- (vi) Intracompany transferees;
- (vii) NAFTA Professional workers.

24. Clearly, much more information would be required in order to make any kind of definitive judgement about the mode 4 coverage of the visa categories listed below. The following table should thus be seen as indicative and preliminary only, designed to try to establish some parameters for the current snapshot of temporary entry in the United States for the purposes of mode 4. It represents the authors' opinion only, and is of course without any implications for the legal nature of WTO Members' GATS commitments.

25. Indeed, it should be recalled that WTO Members' obligations regarding mode 4 entry are governed solely by their schedules of specific commitments. The identification of visa categories of possible relevance to mode 4 for measurement purposes does not have any implications for the entry of persons under these categories, which remains the sovereign decision of the relevant authorities.

Table 1. Classes of admission of most relevance for Mode 4 (Definitions, conditions and Mode 4 coverage)

<p>Visa classification</p>	<p>Purpose/Definition</p>	<p>Conditions (not exhaustive)</p>	<p>Mode 4 coverage?</p>
<p>B1 - Temporary visitors for business</p>	<p>An alien coming to the United States to engage in commercial transactions which do not involve gainful employment in the country, i.e., engaged in international commerce on behalf of a foreign firm, not employed in the U.S. labor market, and receives no salary from U.S. sources.</p>	<p>The petitioner must show: - his/her intent to leave the United States after he/she has conducted business activities; - he/she has sufficient financial means to ensure no need for employment while in the United States; - he/she has a permissible temporary activity, which gives him/her a reason for requesting entry to the United States.</p> <p>The visitor may not: - receive salary or payment of any kind in the United States.</p> <p>Duration/renewals: Initial period: max. 6 months. Extensions: possible up to a total stay of 1 year.</p> <p>No admission to exceed 90 days.</p>	<p>Would appear to be a mixture of mode 4 and non-mode 4 activities, as it may include activities beyond services.</p>
<p>Visa Waiver Program</p>	<p>Program initiated in 1986 and permanent as of October 30, 2000. Permits certain nonimmigrants from qualified countries to enter the United States on a temporary basis without nonimmigrant visas. To date (2000), 29 countries are members of the Program.</p>		

Treaty traders and investors			
E1 - Treaty traders	An alien coming to the United States, under the provisions of a treaty of commerce and navigation between the United States and the foreign state of such alien, to carry on substantial trade or to direct the operations of an enterprise in which he/she has invested a substantial amount of capital.	Several requirements apply. For instance: - the applicant must be employed in a supervisory, executive, or highly specialized skill capacity (the ordinary skilled or unskilled workers do not qualify); - the investment must generate significantly more income than just to provide a living to the investor and family (E2 visas), or it must have a significant economic impact in the United States.	Would appear to be a mixture of mode 4 and non-mode 4 activities, as it includes non-service activities.
E2 - Treaty investors	Duration/Renewals: Holders of E visas may reside in the United States as long as they continue to maintain their status with the enterprise.		

Temporary workers and trainees	
H1B - Specialty occupations	<p>Workers with “specialty occupations” admitted on the basis of professional education, skills, and/or equivalent experience.</p>
<p>The U.S. employer submitting a petition must:</p> <ul style="list-style-type: none"> - offer the alien a position that is a skilled professional position (specialty occupation) and related to the alien’s professional background; - pay the alien a minimum prevailing wage (Labor Condition Application). <p>The alien must:</p> <ul style="list-style-type: none"> - be professionally qualified to fill the job duties (four-year university degree or equivalent experience). <p>Duration/renewals: Initial period: max. 3 years. Extensions: of another 3 years for an overall total of 6 years.</p> <p>Numerical limitations apply: The annual H1B cap was set to 195,000 for the fiscal years 2001 to 2003.</p> <p>Workers previously approved for H1B employment are exempt from the cap. However, workers may have a second (or more) petition filed on their behalf in order to</p> <ol style="list-style-type: none"> 1) extend the period allowed to work with their current employer, or 2) notify INS of changes in the conditions of employment, or 3) request concurrent H1B status with another employer. 	<p>Would appear to be a mixture of mode 4 and non-mode 4 activities. See details below.</p>

<p>H1C - Registered nurses</p>	<p>Registered nurses coming to the United States to temporarily work in "healthcare shortage areas". Based on the former H1A visa category, which expired on September 30, 1997. The law that created the H1C visa category expires in 2003.</p>	<p>The employer must: - be an hospital located in a healthcare shortage area; - show that employment will not adversely affect the wages and working conditions of similarly employed nurses; - have taken timely and "significant steps" to recruit and retain U.S. citizen or eligible immigrant nurses.</p> <p>Duration/renewals: Period of admission not to exceed 3 years. No extension is possible.</p> <p>Numerical limitations apply (annual cap of 500).</p>	<p>Would appear to fall under Mode 4.</p>
<p>H2B - Nonagricultural workers performing services unavailable in the United States</p>	<p>Temporary non-agricultural workers coming to the United States to perform temporary services or labor if unemployed persons capable of performing the service or labor cannot be found in the United States.</p>	<p>The U.S. employer must: - be offering a position that is temporary and based on unusual need (the contract must have a specific ending date); - obtain a temporary labor certification (employment will not adversely affect U.S. workers); - pay the worker the minimum prevailing wage.</p> <p>Duration/renewals: Initial period: max. 1 year. Extensions: possible for a total stay of 3 years maximum (a beneficiary must then depart the United States for at least 6 months).</p> <p>Numerical limitations apply (annual cap of 66,000).</p>	<p>Would appear to be a mixture of mode 4 and non-mode 4 activities, as it includes activities beyond services (e.g., manufacturing).</p>

<p>H3 - Industrial trainees</p>	<p>Aliens coming temporarily to the United States as trainees, other than to receive graduate medical education or training.</p>	<p>The U.S. employer must: - provide a detailed description of the training program and previous training or experience of the alien; - explain why the training is required and what will be the benefits for the employer and the alien (with a perspective of a career abroad).</p>	<p>Unclear whether is mode 2 consumption of training services (includes both classroom and on-the-job training hours). If are receiving remuneration in host country, may partially fall under mode 4.</p>
<p>O1 - Workers with extraordinary ability/achievement</p>	<p>Temporary workers with extraordinary ability or achievements in the arts, sciences, business, education, athletics, or the motion picture or television industry may enter the United States to perform for a U.S. employer temporary services relating to an event or events.</p>	<p>The petitioner must prove that : - the alien has reached a level of expertise that places him/her among the small percentage at the very top of his/her class; - the alien is entering the United States to participate in specific event(s) requiring his/her expertise; - the alien enters the United States to perform temporary services for a U.S. employer or the U.S. agent of an international employer. - it has obtained an advisory opinion from an appropriate peer group, and provides extensive documentation compelling evidence of the beneficiary's qualifications.</p> <p>Duration/renewals: Initial period: max. 3 years. Extensions: can be granted in one-year increments until the project is finished (no time limit).</p>	<p>Would appear to fall under mode 4 (temporary services).</p>
<p>O2 - Workers accompanying and assisting in performance of O1 workers</p>	<p>Temporary workers entering the United States solely for the purpose of accompanying and assisting workers with extraordinary ability/achievements.</p>	<p>The beneficiary must demonstrate that : - his/her skills are essential to the performance of the O1 (O2 visas are not available to domestic helpers and unskilled "artist assistants");</p>	<p>Would appear to fall under mode 4 as are receiving remuneration in host country for services supplied on a commercial basis.</p>

<p>P1 - Internationally recognized athletes or entertainers</p>	<p>An internationally recognized artist, entertainer, or athlete may enter the United States to participate in a performance for an American employer or an international employer working through a U.S. agent.</p>	<p>- after labor consultation, the support services cannot be readily performed by a U.S. worker; - he/she will depart the United States at the end of the authorized stay; Duration/renewals: Length necessary to complete the event and not to exceed 3 years.</p> <p>For athletes, the U.S. employer must: - consult with an appropriate labor organization; - prove the performer's international recognition in the sport.</p> <p>For entertainment groups, the U.S. petitioner must demonstrate that: - prior consultation with labor organization was held; - the group is internationally recognized and has been operating for at least one year.</p> <p>Duration/renewals: Initial period: limited to 5 years. Extensions: can be granted until the project is finished (not to exceed 10 years overall).</p> <p>Requirements include: - a formal reciprocal exchange program between the U.S. organization sponsoring the alien and the organization in the foreign country, which will receive the U.S. artists or entertainers; - labor consultation; - a contract including conditions (e.g., of pay).</p>
<p>P2 - Artists or entertainers in reciprocal exchange programs</p>	<p>Artists and entertainers coming to the United States to perform as part of a reciprocal exchange program with a U.S. organization.</p>	<p>Would appear to mostly mode 4 activities. However, unpaid participation in a competition (e.g., amateur athletes) would fall outside GATS.</p> <p>Would appear to fall under mode 4 (note existence of contract).</p>

<p>P3 - Artists or entertainers in culturally unique programs</p>	<p>Artists or entertainers coming in the United States to solely perform, teach or coach in a program that is “culturally unique” (such as a traditional ethnic, cultural, musical, folk artistic, or theatrical performance or presentation).</p>	<p>a time frame and a schedule of events; - proof of the performers’ international credentials. Duration/renewals: Initial period: limited to the length of the project and not to exceed 1 year. Extensions: possible as long as the performance continues.</p>	<p>Unclear because the sponsoring organization or program may not be for profit. Would appear to fall under mode 4 if the performer is receiving remuneration.</p>
<p>Q1 - Workers in international cultural exchange programs</p>	<p>An alien coming temporarily to the United States to participate in an international cultural program for the purpose of providing practical training, employment, and the sharing of history, culture or traditions of his/her home country.</p>	<p>Requirements include: - the objective to enhance the development or understanding or promote or facilitate the petitioner’s art form. - a consultation with an appropriate labor organization; - a contract providing an itinerary and duration; - documentation that the performance is culturally unique and that the performer has achieved national or international recognition or acclaim. Duration/renewals: Initial period: max. 1 year. Extensions: can be granted as long as the performance continues.</p>	<p>Would appear to be a mixture of mode 4 and non-mode 4 activities, as may include non-service activities.</p>

		<p>to U.S. workers.</p> <p>Duration/renewals: The visa is granted for the duration of the program. After the first visa was granted, one cannot participate in another international cultural exchange program until he/she has been abroad for one year.</p>	
Representatives of foreign information media			
J1 - Representatives of foreign information media	<p>An alien coming temporarily to the United States as a bona fide representative of foreign press, radio, film, or other foreign information media.</p>	<p>To qualify, the alien must be traveling to work on informational or educational material, and he/she must be able to demonstrate that he/she is an accredited media representative. Employees of U.S. media organizations are not eligible.</p> <p>Freelance media workers may qualify, if they are working under contract on a product to be used abroad by an informational or cultural medium to disseminate information or news.</p>	<p>Would appear to fall under mode 4.</p>
Exchange visitors			
J1 - Exchange visitors	<p>An alien coming temporarily to the United States as a participant in a program approved by the Secretary of State for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating skills, or</p>	<p>The petitioner must show that:</p> <ul style="list-style-type: none"> - he has adequate educational background and English speaking ability; - he has the intent to leave the United States at the end of the program. 	<p>Would appear to be a mixture of mode 4 and non-mode 4 activities. Exchange programs can be of all kinds, and do not necessarily imply the provision of services or even work (e.g., exchange students would fall under mode 2).</p>

	receiving training.	<p>Duration/renewals: A J1 visa may be continued in status for the duration of the exchange program as long as the visitor maintains the program and does not engage in another work without authorization. After the completion of the program, the visitor must reside in his/her country of nationality or last residence for two years before they become eligible to apply for an immigrant or temporary worker visa.</p>	<p>It is unclear whether activities funded by the sponsoring organization in the form of a scholarship or other stipend would fall outside GATS.</p>
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<p>Intracompany transferees</p>	<p>L1 - Intracompany transferees</p>	<p>An alien, employed for at least one continuous year out of the last three by an international firm or corporation, who seeks to enter the United States temporarily in order to continue to work for the same employer, or a subsidiary or affiliate, in a capacity that is primarily managerial, executive, or involves specialized knowledge.</p>	<p>Unlike in most other visa categories, the petition must be filled by a foreign business.</p> <p>The alien must show that:</p> <ul style="list-style-type: none"> - he/she has worked for the foreign company continuously for at least one year out of the last three in a managerial or executive capacity, or in a job requiring specialized knowledge; - that the host company is a branch, parent, affiliate, or subsidiary of the foreign company. <p>Duration/renewals: For an established company, the visa may be issued for an initial period of up to 3 years. For a start-up business, the initial admission period is limited to 1 year. However, upon renewal, the alien working in a start-up can obtain a 3-year admission. For established companies, 2-year extensions can be granted, inside or out the United States for the maximum allowed time period. Executive and managerial L1 visas may be issued for a maximum of 7 years, whereas a specialized knowledge employee L1 visa may only be issued for 5 years.</p>	<p>Would appear to be a mixture of mode 4 and non-mode 4 activities, as may include activities beyond services.</p>
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Professional workers, North American Free-Trade Agreement		
<p>TN - Professional workers, North American Free-Trade Agreement</p>	<p>Canadian or Mexican citizen seeking temporary entry to the United States as a professional under the provisions of Chapter 16 of NAFTA.</p> <p>Admissions under the U.S.-Canada FTA began January 1989 and ended December 1993. Admissions under the NAFTA began January 1, 1994.</p>	<p>Entry is facilitated for visitors seeking classification as visitors for business, treaty traders or investors, intracompany transferees, or other business people engaging in activities at a professional level. Such visitors are not required to obtain nonimmigrant visas, prior petitions, labor certifications, or prior approval but must satisfy the inspecting officer they are seeking entry to engage in activities at a professional level and that they are so qualified (until 2004, requirements may vary between Mexican and Canadian citizens – see e.g., for labor certifications).</p> <p>Appendix 1603 D1 to Annex 1603 of the NAFTA lists professional occupations and professions eligible for temporary entry to the United States, and the minimum requirements for qualification (diplomas) for each of them. Most of these occupations and professions belong to the services sector.</p> <p>Duration/renewals: Initial duration: max. 1 year. Extensions: possible 1-year increments for as long as temporary employment exists.</p>
<p>Would appear to be a mixture of mode 4 and non-mode 4 activities, as may include non-service activities.</p>		

Source: INS, Department of State.

PART II: NUMBER AND ORIGIN OF NONIMMIGRANTS

26. The United States provides detailed data, by class of admission, on the number and the origin of entrants. Such data could be adequately used to more precisely analyze mode 4-related flows of workers. However, lots of caution is required while analyzing these numbers:

- i) As pointed out in Part I of this study, most of the classes of admission appear to be a mixture of mode 4 and non-mode 4 activities. Thus, under no circumstances, the numbers presented should be treated as reflecting the movement of mode 4 workers only. The only possible conclusion is that the number of mode 4 workers will be inferior to the number of entrants of classes identified as being of most relevance for mode 4 (at least the number of mode 4 workers declared as such at the entry);
- ii) The INS also pointed out that several limitations on data exist. For instance, 1997 data are not reliable, because the United States developed a new system of data collection during the year.

1. *The number of entrants*

27. (Table 2 only includes classes of admission identified as being of most relevance for mode 4)

28. Table 2 reveals that the total number of nonimmigrants entering the United States has substantially grown over the last decades.

29. Since 1995 (date of entry into force of the GATS), in relative terms, the fastest growing classes of admission have been the “temporary workers and trainees (and families)” and the “intracompany transferees (and families)”. The number of NAFTA professional workers has increased even more rapidly, but this regime was just installed, and no comparison is possible. In absolute terms, the “temporary visitors for business” have been the fastest growing class of admission (+1.3 million entrants).

30. “Temporary visitors for business” represent the most important group of entrants (4,592,540 admissions in 1999). One half of these visitors benefited from the visa waiver program. “Temporary workers and trainees” is the second largest group of entrants, with 444,659 admissions in 1999. “Specialty occupations” workers represent a vast majority of these entries (302,326 in 1999). “Intracompany transferees and families” and “exchange visitors and families” count, respectively, 346,334 and 319,360 entrants in 1999.

Table 2. Evolution of the number of temporary admissions (selected categories of most relevance for Mode 4)

	1981	1985	1990	1995	1996	1998	1999
Temporary visitors for business (B1)	1 135 422	1 796 819	2 661 338	3 275 336	3 770 326	4 413 440	4 592 540
<i>Visa Waiver, business</i>	X	X	294 065	942 539	1 370 452	1 959 552	2 145 967
Treaty traders and investors and families	80 802	96 489	147 536	131 777	138 568	144 572	151 353
Treaty traders (E1)	NA	65 406	78 658	53 557	54 289	50 817	50 521
Treaty investors (E2)	NA	31 083	68 878	78 220	84 279	93 755	100 832
Temporary workers and trainees¹	44 770	74 869	139 587	190 018	218 448	360 790	444 659
Registered nurses (H1A) ²	X	X	X	6 512	2 046	551	534
Specialty occupations (H1B) ³	NA	47 322	100 446	117 574	144 458	240 947	302 326
Non-agricultural workers performing services unavailable in the United States (H2)	X	X	17 754	14 193	14 345	24 895	35 815
Industrial trainees (H3)	NA	3 003	3 168	2 787	2 986	3 157	3 462
Workers with extraordinary ability/achievement (O1) ⁴	X	X	X	5 974	7 177	12 221	15 946
Workers accompanying and assisting in performance of O1 workers (O2) ⁴	X	X	X	1 813	2 112	2 802	3 248
Internationally recognized athletes or entertainers (P1) ⁴	X	X	X	22 397	25 608	34 447	36 228
Artists or entertainers in reciprocal exchange programs (P2) ⁴	X	X	X	660	1 727	3 089	3 772
Artists or entertainers in culturally unique programs (P3) ⁴	X	X	X	5 315	5 938	9 452	8 471
Workers in international cultural exchange programs (Q1) ^{4,5}	X	X	X	1 399	2 056	1 921	2 485

(contd)

Table 2. Evolution of the number of temporary admissions (selected categories of most relevance for Mode 4)

	1981	1985	1990	1995	1996	1998	1999
Representatives (and families) of foreign information media (II)	16 708	16 753	20 252	24 220	33 596	28 888	31 917
Exchange visitors (JI)	80 230	110 942	174 247	201 095	215 475	250 959	275 519
Intracompany transferees (LI)	38 595	65 349	63 180	112 124	140 457	203 255	234 443
Professional workers, US-Canada FTA and NAFTA	X	X	5 293	23 904	26 987	59 061	68 354
Professional workers, U.S.-Canada Free-Trade Agreement (TC) ⁶	X	X	5 293	X	X	X	X
Professional workers, North American Free-Trade Agreement (TN) ⁶	X	X	X	23 904	26 987	59 061	68 354

Notes: 1 Excludes admissions under the U.S.-Canada Free-Trade Agreement and the North American Free-Trade Agreement (shown separately). 2 Admissions began October 1, 1990 (fiscal year 1991). This classification ended during fiscal year 1995; entries subsequent to that represent readmissions of individuals who were previously admitted under this classification. 3 Prior to October 1, 1991 (fiscal year 1992), HIB admissions were termed "Distinguished merit or ability." 4 Admissions began in April 1992. 5 For 1999, includes 19 Q-2 workers admitted under the Irish Peace Process Cultural and Training Program Act of 1998. 6 Admissions under the U.S.-Canada Free-Trade Agreement began January 1989 and ended December 31, 1993. Admissions under the North American Free-Trade Agreement began January 1, 1994.

No reliable data available for 1997. X Not applicable.

Source: 1999 Statistical Yearbook of the Immigration and Naturalization Service

2. *The origin of the entrants*

31. (Table 3 only includes classes of admission identified as being of most relevance for mode 4)

32. Table 3 shows the geographic origin of the nonimmigrants entering the United States. It reveals that temporary workers may come from any part of the world.

33. However, the vast majority of entrants are either coming from Europe, Asia or North America. Europe is the first provider of temporary workers in 6 visa categories (intracompany transferees, exchange visitors, workers in international cultural programs, workers with extraordinary ability/achievement (and workers accompanying them), industrial trainees); North America is the first provider of temporary workers in 3 visa categories (non-agricultural workers performing services unavailable in the United States, internationally recognized athletes or entertainers, artists or entertainers in reciprocal exchange programs); Asia is the first provider of temporary workers in 3 visa categories (specialty occupations, artists or entertainers in culturally unique programs, registered nurses).

Table 3. Geographic origin of non-immigrants (selected categories of most relevance for Mode 4)

	All countries	Europe	Asia	Africa	Oceania	North America	Caribbean	Central America	South America
Registered nurses (H1A)	534	124	190	12	11	153	46	5	44
Specialty occupations (H1B)	302 326	96 618	136 738	6 988	7 497	27 834	2 890	2 418	26 135
Non-agricultural workers performing services unavailable in the United States (H2B)	35 815	1 895	1 633	177	582	30 627	5 362	2 392	794
Industrial trainees (H3)	3 462	1 304	1 016	75	90	760	30	61	212
Workers with extraordinary ability/achievement (O1)	15 946	9 895	1 881	259	934	1 591	225	79	1 347
Workers accompanying and assisting in performance of O1 workers (O2)	3 248	1 508	678	59	87	675	200	9	231
Internationally recognized athletes or entertainers (P1)	36 228	13 846	1 486	752	790	16 422	4 684	857	2 761
Artists or entertainers in reciprocal exchange programs (P2)	3 772	212	154	17	5	3 282	202	17	88
Artists or entertainers in culturally unique programs (P3)	8 471	2 330	3 192	456	110	1 891	1 515	9	426
Workers in international cultural exchange programs (Q1)	2 485	1 550	387	259	7	211	9	17	62
Exchange visitors (J1)	275 519	172 570	48 130	9 616	9 606	16 642	2 563	3 029	17 978
Intracompany transferees (L1)	234 443	121 514	55 131	2 555	9 009	27 868	1 225	1 634	17 991

Source: 1999 Statistical Year book of the Immigration and Naturalization Service

PART III: A CLOSER LOOK AT SPECIALTY OCCUPATION WORKERS (H1B)

34. The U.S. system of classification of temporary entrants, as described in the first two parts of this study, is already very detailed, as compared to many other countries. It thus allows a more precise measure of mode 4-related movements of workers. In the case of the “specialty occupation workers” (H1B), the level of detail is even higher. Indeed, this category is subject to an annual numerical limitation (cap) of entrants and, as a result, the INS provides quarterly reports on HB petitions. The INS also frequently issues reports on the characteristics of specialty occupation workers, which are useful to determine the share of H1B entrants which is made of mode 4 workers (i.e. service suppliers).

35. A more precise analysis of the mode 4 component of specialty occupation workers is particularly useful and significant, since H1Bs represent the second largest nonimmigrant class of admission (more than 300,000 entrants in 1999) and their activities are essential to the U.S. economy (see the role in the computer-related occupations).

36. Tables 4 and 5 reveal that a vast majority of the H1B occupations are related to services supply (architecture, engineering, surveying, computer-related occupations, systems analysis and programming, accountants, auditors, occupations in college and university education), and could therefore fall under mode 4 of GATS.

Table 4. H-1B petitions approved by detailed occupation and cap/non-cap status: October 1999 to February 2000

<i>Occupation LCA Code (3-digits)</i>	Total	Percent	Cap	Percent	Non-Cap	Percent
Total	81 262	-----	51 574	-----	29 688	-----
Known Occupations	79 548	100.0	50 369	100.0	29 179	100.0
Occupations in Systems Analysis and Programming (030)	37 686	47.4	22 204	44.1	15 482	53.1
Electrical/Electronics Engineering Occupations (003)	4 256	5.4	2 747	5.5	1 509	5.2
Occupations in College and University Education (090)	3 222	4.1	2 298	4.6	924	3.2
Computer-Related Occupations, N.E.C. (039)	3 127	3.9	1 804	3.6	1 323	4.5
Accountants, Auditors, and Related Occupations (160)	2 974	3.7	2 168	4.3	806	2.8
Occupations in Architecture, Engineering, and Surveying, N.E.C. (019)	1 995	2.5	1 141	2.3	854	2.9
Occupations in Economics (050)	1 849	2.3	1 302	2.6	547	1.9
Misc. Professional, Technical, and Managerial Occupations, N.E.C. (199)	1 531	1.9	1 088	2.2	443	1.5
Mechanical Engineering Occupations (007)	1 477	1.9	954	1.9	523	1.8
Occupations in Biological Sciences (041)	1 409	1.8	961	1.9	448	1.5
Physicians and Surgeons (070)	1 155	1.5	709	1.4	446	1.5
Occupations in Administrative Specializations, N.E.C. (169)	971	1.2	735	1.5	236	0.8
Budget and Management Systems Analysis Occupations (161)	923	1.2	702	1.4	221	0.8
Occupations in Medicine and Health, N.E.C. (079)	851	1.1	612	1.2	239	0.8
Occupations in Computer Systems Technical Support (033)	829	1.0	498	1.0	331	1.1
Service industry Managers and Officials (187)	805	1.0	565	1.1	240	0.8
Architectural Occupations (001)	766	1.0	575	1.1	191	0.7
Sales and Distribution Management Occupations (163)	745	0.9	520	1.0	225	0.8
Industrial Engineering Occupations (012)	689	0.9	457	0.9	232	0.8

(contd)

Table 4. H-1B petitions approved by detailed occupation and cap/non-cap status: October 1999 to February 2000

<i>Occupation LCA Code (3-digits)</i>	Total	Percent	Cap	Percent	Non-Cap	Percent
Commercial Artists: Designers and Illustrators, Graphic Arts (141)	649	0.8	446	0.9	203	0.7
Occupations in Data Communications and Networks (031)	638	0.8	424	0.8	214	0.7
Therapists (076)	629	0.8	158	0.3	471	1.6
Occupations in Chemistry (022)	619	0.8	429	0.9	190	0.7
Finance, insurance, and Real Estate Managers and Officials (186)	519	0.7	366	0.7	153	0.5
Miscellaneous Managers and Officials, N.E.C. (189)	509	0.6	348	0.7	161	0.6
Occupations in Preschool, Primary School, and Kindergarten Education (092)	502	0.6	341	0.7	161	0.6
Other Occupations	8 223	10.3	5 817	11.5	2 406	8.2
Unknown Occupations	1 714	-----	1 205	-----	509	-----

Note: Approximately 2.1% of total petitions have an unknown occupation. Percents shown in the table are based on the total number of petitions with known occupations. N.E.C. indicates Not Elsewhere Classified.

Source: INS.

Table 5. H1B petitions approved by occupation

Occupation (LCA Code ⁴)	Percent		Total
	Estimate	95% Confidence Limits	
Total	100.0		134 400
Occupations in systems analysis and programming (030)	53.3	(51.7 - 55.0)	71 700
Electrical/electronics engineering occupations (003)	4.9	(4.2 - 5.5)	6 500
Computer-related occupations (not elsewhere classified (N.E.C.)) (039)	3.4	(2.8 - 4.0)	4 600
Occupations in college and university education (090)	3.0	(2.5 - 3.5)	4 000
Accountants, auditors and related occupations (160)	2.8	(2.3 - 3.4)	3 800
Occupations in architecture, engineering, and surveying (N.E.C.) (019)	2.3	(1.8 - 2.7)	3 000
Other	30.3	(28.8 - 31.9)	40 800

Note: Numbers and percents may not add to totals due to rounding.

Source: INS.

37. Table 6 lists the companies with the most workers authorized to begin employment between October 1999 and February 2000 (last available data). It thus appears that services companies (computer-related services, consultants, banks, universities) represent a vast majority of the H1B petitioners and, as such, of the employers of mode 4 workers.

Table 6. All H-1B petitions approved by INS according to company name¹ : October 1999 to February 2000

Rank	Company	Number	Rank	Company	Number
1	Motorola Inc	618	41	Keane	114
2	Oracle Corp	455	42	University of Washington	113
3	Cisco Systems Inc	398	43	Analysts Intl Corp	110
4	Mastech	389	44	Capital One Serv	109
5	Intel Corp	367	45	Apar Infotech	108
6	Microsoft Corp	362	46	Modis Inc	108
7	Rapidigm	357	47	L& T Technology LTD	107
8	Syntel Inc	337	48	Complete Business Solutions Inc	105
9	Wipro LTD	327	49	Techspan	101
10	Tata Consultancy Serv	320	50	CMOS Soft Inc	100
11	PriceWaterhouseCoopers LLP	272	51	Renaissance Worldwide	99
12	People Com Consultants Inc	261	52	University of PA	97
13	Lucent Technologies	255	53	Conexant Systems Inc	96
14	Infosys Technologies LTD	239	54	I2 Technologies Inc	96
15	Nortel Networks Inc	234	55	AT T	93
16	Tekedge Corp	219	56	Jean Martin	91
17	Data Conversion	195	57	EMC	90
18	Tata Infotech	185	58	Atlantic Duncans Intl	87
19	Cotelligent USA Inc	183	59	Merrill Lynch	87
20	Sun Microsystems Inc	182	60	Unique Computing	86
21	Compuware Corp	179	61	Computer Intl	85
22	KPMG LLP	177	62	Indotronix Intl	85
23	Intelligroup	161	63	Nationwide Insurance	85
24	Hi Tech Consultants Inc	157	64	Interim Technology Consulting	84
25	Group Ipex Inc	151	65	Compaq Computer	80
26	Ace Technologies Inc	149	66	GE	80
27	Hewlett Packard Co	149	67	MSI Majesco Software Inc	80
28	Everest Consulting GR	147	68	Data Core Systems	78
29	Bell Atlantic Network Serv	141	69	IT Solutions Inc	77
30	Ernst Young LLP	137	70	Allied Informatics Inc	76
31	Agilent Technologies Inc	136	71	Ciber Inc	75
32	Deloitte Touche LLP	130	72	Deloitte Consulting LLC	75
33	Birlasoft	128	73	Goldman Sachs	75
34	Global Consultants	128	74	Baton Rouge Intl	74
35	IBM	124	75	Cyberthink	73
36	R Systems Inc	124	76	Stanford University	73
37	Sprint United Mgt	124	77	Cap Gemini America	72
38	Wireless Facilities	124	78	Infogain Corp	72
39	Cognizant Technology Solutions	123	79	Ajilon Serv	71
40	Satyam Computer Serv	123	80	Allsoft Technologies Inc	71

(contd.) Table 6. All H-1B petitions approved by INS according to company name¹: October 1999 to February 2000

Rank	Company	Number
81	Morgan Stanley Dean Witter	71
82	Ericsson Inc	70
83	Harvard University	70
84	Sabre Inc	70
85	Yash Technologies Inc	70
86	Pyramid Consulting Inc	69
87	MSX Intl Inc	68
88	Softplus Inc	67
89	Baylor College Of Medicine	65
90	Microstrategy	65
91	University of Minnesota	65
92	Universal Software	65
93	Computer Horizons	64
94	Ramco Systems	63
95	Siebel Systems Inc	63
96	Insight Solutions Inc	62
97	Synopsys Inc	62
98	Texas Instruments Inc	62
99	Infosynergy	61
100	Lason Systems Inc	61
101	Vanguard GR	61
102	Yale University	61
Sub-total for 102 companies listed		13 940
Sub-total for companies not listed		67 322
Grand Total		81 262

1. Company name as listed on Form I-129, Petition for a Nonimmigrant Worker. Counts represent a minimum number of approvals. For some individual companies, multiple petitions were submitted with variations in the spelling or abbreviation of the name and were counted as petitions for different companies.

Source: INS.

38. Table 7 presents H1B petitions approved by country of birth. Accordingly, nearly half of the H1B petitions were granted to persons born in India, which far exceeded China, the next leading country.

Table 7. H1B petitions approved by country of birth

Country of Birth	Percent		Total
	Estimate	95% Confidence Limits ³	
All countries	100.0		134 400
India	47.5	(45.9 - 49.2)	63 900
China	9.3	(8.3 - 10.2)	12 400
United Kingdom	3.2	(2.6 - 3.8)	4 400
Canada	3.0	(2.4 - 3.5)	4 000
Philippines	2.7	(2.2 - 3.3)	3 700
Korea	2.3	(1.8 - 2.8)	3 100
Taiwan	2.1	(1.6 - 2.5)	2 800
Japan	2.0	(1.6 - 2.5)	2 700
Other countries	27.8	(26.4 - 29.3)	37 400

1. The 134 400 approved petitions do not all apply against the annual H-1B cap of 115 000. The approved total is adjusted by subtracting (1) the number of petitions that have been approved for one individual beyond the initial occurrence, and (2) the number of petitions that have been revoked. The INS has announced that the 1999 H-1B cap may have been exceeded even after applying these adjustments and has contracted the firm of KPMG, Inc. to assist in developing the final 1999 count.
2. Public Law 105-277, Division C, American Competitiveness and Workforce Improvement Act of 1998, Section 416(c)(2) requires the INS to submit an annual report with "information on the countries of origin and occupations of, educational levels attained by, and compensation paid to, aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act during the previous fiscal year." The first report under this requirement will be submitted to Congress for those approved for H-1B status in Fiscal Year 2000.
3. 95th percent confidence interval: with repeated sampling, the true population proportion will fall within the interval 95% of the time.

Source: INS.

39. Table 8 presents H1B petitions approved by highest degree earned. Not surprisingly (see the conditions of admission), a vast majority (95%) of the entrants have a university degree.

Table 8. H1B petitions approved by highest degree earned

Degree Earned	Percent		Total
	Estimate	95% Confidence Limits	
Total	100.0		134 400
High school diploma	1.0	(0.6 - 1.3)	1 300
Associate's degree	.5	(0.3 - 0.7)	700
Bachelor's degree	56.8	(55.2 - 58.5)	76 400
Master's degree	30.7	(29.2 - 32.3)	41 300
Professional degree	2.5	(2.0 - 3.0)	3 400
Doctorate degree	7.6	(6.8 - 8.5)	10 300
Unknown or none	.8	(0.5 - 1.2)	1 100

Note: Numbers and percents may not add to totals due to rounding.

Source: INS.

40. Table 9 shows that the median prospective annual wage of H1B workers was \$45 000 (for the period running from May 1998 to July 1999); half of the workers were expected to earn between \$38 900 and \$55 000. The highest median wage among the leading occupations was for electrical/electronics engineers (\$54 000) and the lowest was for college and university educators (\$35 000).

Table 9. H1B workers' prospective wages

Occupation (LCA Code)	Annual Wage		
	Median 50 th Percentile	25 th Percentile	75 th Percentile
Total	\$45 000	\$38 900	\$55 000
Electrical/electronics engineering occupations (003)	54 000	47 875	63 420
Occupations in architecture, engineering, and surveying (N.E.C.) (019)	51 000	44 777	62 000
Computer-related occupations (not elsewhere classified (N.E.C.)) (039)	49 400	45 000	57 000
Occupations in systems analysis and programming (030)	47 000	42 000	54 500
Accountants, auditors and related occupations (160)	36 000	28 000	45 000
Occupations in college and university education (090)	35 000	27 000	45 000
Other and unknown	40 000	30 000	59 000

Note: Numbers and percents may not add to totals due to rounding.

Source: INS.

41. Table 10 reveals that more than 83% of the workers granted H1B status were between the ages of 20-34. The median age of all workers at the time their petition was received at the INS was 28 years.

Table 10. Age of H1B workers

Age at time of Application	Percent		Total
	Estimate	95% Confidence Limits	
Total	100.0		134 400
Under 20 years	0.1	(0.0 – 0.3)	200
20-24 years	18.6	(17.3 – 19.9)	25 000
25-29 years	42.4	(40.7 – 44.0)	56 900
30-34 years	22.1	(20.8 – 23.5)	29 800
35-39 years	9.2	(8.3 – 10.2)	12 400
40 years and over	6.6	(5.8 – 7.3)	8 800
Unknown age	1.0	(0.6 – 1.3)	1 300

Note: Numbers and percents may not add to totals due to rounding.

Source: INS.

ANNEX

ABSTRACT THE UNITED STATES OF AMERICA - SCHEDULE OF SPECIFIC COMMITMENTS

I. HORIZONTAL COMMITMENTS

ALL SECTORS COVERED BY THIS SCHEDULE: For the purpose of this schedule the "United States" is defined as encompassing the 50 states of the United States, plus the District of Columbia.

Limitations on market access

All Sectors: Temporary Entry And Stay of Natural Persons¹

Unbound, except for measures concerning temporary entry and stay of nationals of another member who fall into the categories listed below:

Services Salespersons - persons not based in the territory of the United States and receiving no remuneration from a source located within the United States, who are engaged in activities related to representing a services supplier for the purpose of negotiating for the sale of the services of that supplier where: a) such sales are not directly made to the general public and b) the salesperson is not engaged in supplying the service. Entry for persons named in this section is limited to a ninety-day period.

Intra-corporate Transferees - managers, executives and specialists, as defined below, who are employees of firms that provide services within the United States through a branch, subsidiary, or affiliate established in the United States and who have been in the prior employ of their firm outside the United States for a period of not less than one year immediately preceding the date of their application for admission and who are one of the following:

- a) **Managers** - persons within an organization who primarily direct the organization, or a department or sub-division of the organization, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or recommend hiring, firing, or other personnel actions (such as promotion or leave authorization), and exercise discretionary authority over day-to-day operations. Does not include first-line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.

¹ "Temporary entry" means entry without intent to establish permanent residence under immigration laws of the US and confers no rights with respect to citizenship. US commitments regarding entry and temporary stay in the US do not apply in cases of labour/management disputes.

- b) **Executives** - persons within the organization who primarily direct the management of the organization, establish the goals and policies of the organization, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. Executives would not directly perform tasks related to the actual provision of a service or services of the organization.
- c) **Specialists** - persons within an organization who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organization's services, research equipment, techniques, or management. (Specialists may include, but are not limited to, members of licenced professions.)

Entry for persons named in this section is limited to a three-year period that may be extended for up to two additional years for a total term not to exceed five years.

Personnel Engaged in Establishment - A person who has been employed in the immediately preceding year by an entity described in Section II, receiving remuneration from that source, who occupies a managerial or executive position with that entity and is entering the territory of the United States for the purpose of establishing an entity described in Section II that will support employment of persons named in paragraphs a), b), and c) therein. The subject persons shall present proof of acquisition of physical premises for the entity that shall commence its business operations within one year of the date of entry of that person.

Fashion Models and Specialty Occupations - Up to 65,000 persons annually on a worldwide basis in occupations as set out in 8 USC. § 1101 (a) (15) (H) (i) (b), consisting of (i) fashion models who are of distinguished merit and ability; and (ii) persons engaged in a specialty occupation, requiring (a) theoretical and practical application of a body of highly specialized knowledge; and (b) attainment of a bachelor's or higher degree in the specialty (or its equivalent) as a minimum for entry into the occupation in the United States. Persons seeking admission under (ii) above shall possess the following qualifications: (a) full licensure in a US state to practice in the occupation, if such licensure is required to practice in the occupation in that state; and (b) completion of the required degree, or experience in the specialty equivalent to the completion of the required degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty. Entry for persons named in this section is limited to three years.

Specialty occupation aliens and their employers must be in compliance with all labour condition application requirements that are attested to by the established employer. These requirements are: a) wages paid to the person are the greater of: 1) the actual wage paid by the employer to individuals in that place of employment with similar qualifications and experience, or 2) the prevailing wage for that occupational classification in the area of employment; b) conditions of work are such that they will not adversely affect working conditions for those similarly employed; c) there is no strike or lockout in the course of a labour/management dispute in progress at the place of employment affecting the subject occupation; labour/management dispute in progress at the place of employment; d) the employer has not laid off or otherwise displaced workers in the subject occupation in the previous six months and will not lay off or displace any US worker during the 90-day period following the filing of an application or the 90-day periods preceding and following the filing of any visa petition supported by the application; e) the employer has taken and is taking timely and significant steps to recruit and retain sufficient US workers in the specialty occupation; and f) notice is given at the time of application by the employer to employees or their representatives at the place of employment.

II. SECTOR-SPECIFIC COMMITMENTS

“Author’s note:

Most sectors are unbound, except as indicated in the horizontal section. However, additional limitations on either market access or national treatment exist for the categories listed below:

- Legal services;*
- Accounting, auditing and bookkeeping services;*
- Real estate services;*
- Placement and supply services of personnel;*
- Investigation and security services;*
- Radio and television transmission services;*
- Brokerage services.”*

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