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REGULATION OF SERVICES TRADED ELECTRONICALLY

Executive Summary

This paper aims to explore whether there are particular issues for electronic supply arising from common restrictions or regulations on the cross-border supply of services. Could the impact of a restriction or regulation differ between the on-line and off-line environments? Could some types of measures have a more trade restrictive effect in the on-line environment than in the off-line environment?

First, this paper analyses restrictions scheduled under Article XVI (Market Access) and XVII (National Treatment) of the GATS. In general, it appears that barriers to trade under modes 1 and 2 are often equally burdensome for on-line and off-line trade, an exception being commercial presence or residency requirements. Mode 1 and 2 national treatment and market access restrictions are not aimed at electronic supply per se, but reflect the general reluctance of Members to allow cross-border supply of certain heavily regulated services. The technological possibility of cross-border electronic supply of many more services on a greater scale has increased the cost of such restrictions (in terms of potential lost trade) and has renewed pressure for their reduction. While this paper examines Members' scheduled GATS commitments, it acknowledges a gap between these commitments and the actual regime governing on- and off-line trade in services. Subsequent to the Uruguay Round, many Members have undertaken unilateral liberalisation, including the adoption of specific measures to allow, facilitate and encourage electronic supply of services.

Second, this paper analyses measures which might fall under Article VI.4. It suggests that the particular impact of a regulation on electronic supply can be affected less by the nature of the regulation itself than by the speed and scale of the Internet. The study underlines the importance of existing elements of good regulatory practice in underpinning electronic supply of services: efficiency (to match the speed and efficiency gains of the Internet); transparency (ready availability of information on the range of regulatory requirements in a greater number of jurisdictions) and increased development of international standards (e.g., greater convergence in the requirements for professional services, to reduce the number, or extent, of regulatory differences with which electronic service suppliers will have to contend).

REGULATION OF SERVICES TRADED ELECTRONICALLY

Introduction

1. This paper aims to explore whether there are particular issues for electronic supply arising from common restrictions or regulations on the cross-border supply of services. Could the impact of a restriction or regulation differ between the on-line and off-line environments? Could some types of measures have a more trade restrictive effect in the on-line environment than in the off-line environment? While some measures may arguably become more burdensome, some may not change in impact; others may simply become harder to enforce in the on-line world. There may also be particular impacts for small and medium sized enterprises (SMEs) trading on-line.

2. It is also important to state what the paper will not cover. While issues related to the regulation of e-commerce itself could also impact upon and compound the challenges confronting businesses wishing to trade on-line, they are not regulations on the *service trade activity per se* and are thus beyond the scope of this work. That is, the study will *not* focus on regulations designed to govern the *conduct* of e-commerce (e.g., relating to privacy, consumer protection, dispute settlement and taxation). Many of these issues are the subject of work in other parts of the OECD.

3. While in its broadest definition e-commerce can include products and services which are advertised, ordered, delivered or paid for electronically, the scope of this paper is considerably narrower, focusing only on *services* traded electronically; that is, services ordered *and delivered* on-line. For the purposes of this paper, "services" are limited to those services referred to in the Services Sectoral Classification List (MTN.GNS.W/120, known as "W/120") developed as a reference tool for the Uruguay Round services negotiations. This approach is without prejudice to the question of whether digitally downloaded entities with a physical equivalent (e.g., software) should be considered as digitised products or services. That ongoing debate between WTO Members is beyond the scope of this paper.

4. Equally, the paper will not look at the measures affecting input or enabling services for e-commerce - such as telecommunications services - but rather those services which are amenable to being supplied via e-commerce. These services have been selected on the basis of the technical possibility of their being provided on-line; the extent to which these services are actually being traded on-line is hard to measure and is subject to a range of variables including consumer preference, infrastructure capacity and availability and a conducive regulatory environment.

Part I: Measures affecting services traded electronically

5. The possibility of electronic supply of services has expanded the scope for trade in services in a number of ways. While previously it may have been possible to trade some services cross-border via fax or telephone, the Internet greatly increases the number and type of services that can be traded. High speed, real time Internet links have greatly expanded existing trade in some services (e.g., a range of business services - from legal advice to data processing - have seen enormous growth in cross-border supply from the Internet) or, because of their greater capacity and speed in carrying "rich data", Internet links have enabled more of a service to be traded cross-border compared with what is possible via telephone or fax (e.g., health services, where a surgeon can consult on an operation or provide diagnostic advice over the

Internet). By reducing the transaction costs of trading over distance, the Internet also increases the range of traders who can participate in cross-border supply (e.g., by allowing greater participation by SMEs)¹.

6. The Internet has increased efficiencies and opportunities for supply via modes 1 and 2, making it possible for more trade to take place via these modes, in many cases providing an alternative to supply via modes 3 or 4.² While the Internet has made this increased trade in services technologically possible, the question remains as to the extent to which regulatory environments allow it to actually occur. This paper seeks to explore whether the existing restrictions on mode 1/2 supply pose particular problems for on-line supply.

7. Three important points should be noted at this point. First, electronic supply can technically take place under any of the 4 modes - e.g., a foreign commercial presence company can sell books to its customers in the host country via the Internet (mode 3 electronic supply). However, in terms of the purpose of this paper - to explore impediments to electronic supply - it is not clear that barriers to modes 3 and 4 will be of most interest in terms of service suppliers' ability to provide services *electronically* - as opposed to at all. Therefore, the focus of the paper will be barriers affecting trade under modes 1 and 2 (i.e., cross-border supply and consumption abroad).

8. Second, and related to this, both modes 1 and 2 are included in this paper as WTO Members have yet to reach a final determination as to whether the online supply of services constitutes supply under mode 1 only, or also under mode 2. Mode 2 (consumption abroad) has traditionally been conceptualised as involving the physical movement of the consumer, or the entity to be serviced (e.g., a ship for repairs) of one WTO Member to the territory of another WTO Member. In the case of on-line services, it has been questioned whether some services may also be viewed as being consumed abroad, even though the consumer physically remains in his/her own territory. That is, in on-line supply, does the virtual service cross the border (mode 1) or is the virtual consumer deemed to be consuming the service in the territory of the supplier (mode 2)? It is important to recall in this context that GATS modes of supply were developed as a tool to facilitate the making of specific commitments in services by WTO Members and not as a means of delineating regulatory jurisdiction.

9. Third, the general view of WTO Members is that, without prejudice to the question of likeness³, the means of delivery does not alter specific commitments; they permit the electronic supply of the scheduled service unless otherwise specified. It has been pointed out that it would be possible to define the coverage of a commitment, in the sector/sub-sector column of the schedule, as excluding supply through certain technological means.⁴ It is also the general view of WTO Members that the GATS is technologically neutral in the sense that it does not contain any provisions that distinguish between the different technological means through which a service may be supplied. However, some delegations have

1. For a broader discussion of the growth and changes in trade prompted by electronic supply see "Measuring the new economy: trade and investment dimensions" TD/TC/WP(2001)23/FINAL.

2. It could of course also be argued that electronic supply also creates new demand for trade via mode 3 and especially mode 4. For a discussion of the relationship between electronic supply and mode 4, see "Service providers on the move: a closer look at labour mobility and the GATS" TD/TC/WP(2001)26/FINAL.

3. WTO Members have noted that the question of likeness is central to the application of MFN and national treatment and that the main question to be addressed in this regard is whether electronically delivered services and those delivered by other means should be considered "like services". See WTO, Trade in Services "Work Programme on Electronic Commerce: Progress Report to the General Council Adopted by the Council for Trade in Services on 19 July 1999" S/L/74, dated 27 July 1999.

4. See WTO, Trade in Services "Work Programme on Electronic Commerce: Progress Report to the General Council Adopted by the Council for Trade in Services on 19 July 1999" S/L/74, dated 27 July 1999.

expressed a view that these issues are complex and need further examination⁵. A number of issues have also been identified which require further consideration, including the classification and scheduling of new services (albeit limited in number) likely to arise in the context of electronic commerce.⁶ Against this background, this paper focuses on existing commitments under modes 1 and 2 for those services which could be traded electronically.

10. Additionally, this paper explores the impact of some general regulations affecting trade in services. That is, it includes both measures affecting market access and national treatment scheduled under Articles XVI and XVII respectively and non-discriminatory regulations affecting trade in services falling under Article VI. The paper looks at some examples of such regulatory measures to see if they pose any particular problems for electronic supply.

11. Again, three points should be noted. First, it can be very difficult to find examples of regulatory measures falling under Article VI as regulations which do not fall under Articles XVI or XVII do not have to be scheduled (although it would appear that some Members have scheduled such measures in some cases). While Members must publish all measures of general application affecting the operation of the GATS (Article III.1), notification requirements to the Council for Trade in Services only cover measures which significantly affect trade and then only in sectors where Members have made specific commitments (Article III.3). In any event, relatively few notifications have been received under this Article.

12. Second, it should also be recalled that there are several different types of measures referred to under Article VI to which different requirements apply. While the title of the Article is "Domestic Regulation", Article VI.1 refers to all measures of general application affecting trade in services and requires these to be administered in a reasonable, objective and impartial manner. Article VI.2 refers to "administrative decisions affecting trade in services". Possible additional disciplines under Article VI.4 refer only to "measures relating to qualification requirements and procedures, technical standards and licensing requirements" and there is some debate about how broadly this should be interpreted⁷. Given the breadth of possible measures under Article VI, the availability of information on measures and the applicability of possible GATS disciplines, this study has narrowed its focus from the universe of regulatory measures to those which might fall under Article VI.4.

13. Third, there has been significant debate amongst WTO Members about the relationship between Articles XVI, XVII and VI, in particular on how to determine whether a given measure falls under Articles XVI or XVII or under Article VI.4. While there is general agreement that measures tantamount to restrictions on market access or national treatment should be scheduled as such, it is not always clear where the line should fall in categorising measures. This study thus includes measures which some WTO Members have proposed as examples of measures falling under Article VI.4, but without prejudice to a final determination by all WTO Members on this subject. Attributions of measures to Article VI.4 should thus be viewed as *preliminary only*.

14. In the preparation of this paper, the Secretariat has drawn upon previous OECD work on barriers in specific service sectors, and also on the "Consolidated List of Barriers" [TD/TC/WP(99)58/FINAL] produced from these studies. Additionally, we have drawn on the lists of commitments under modes 1 and

5. *Ibid.*

6. See WTO Council for Trade in Services "Work Programme on Electronic Commerce: Interim Report to the General Council", S/C/8, dated 31 March 1999.

7. A further question is whether any potential disciplines developed pursuant to Article VI.4 would apply only to sectors where a Member had undertaken specific commitments.

2 for selected service sectors⁸ presented in "Electronic Commerce - existing GATS commitments for the electronic supply of services" [TD/TC/WP(99)37/FINAL]. It should be noted that one limitation of both these sources is that where a Member has made no commitments for a sector (i.e., that sector is not included in their schedule) it is not possible to know what restrictions are maintained. In undertaking a very preliminary identification of regulatory measures falling under Article VI; the Secretariat has drawn upon documents from the WTO Working Party on Domestic Regulation.

Part II: Scheduled restrictions under Article XVI (Market Access) and XVII (National Treatment)

15. On-line supply of services responds to a number of factors, including consumer demand for the convenience of on-line trade, lower start up costs for suppliers in on-line trade and the development of new business models. Additionally, on-line supply may be particularly attractive for foreign suppliers in markets where restrictions on modes 3 and 4 render supply via these modes impractical or expensive (i.e., where the cost of doing business via other modes is increased by the types of restrictions in place).⁹ For example, while an international legal team may co-ordinate and provide advice to the client electronically for reasons of economy of resources and time, such an option may be particularly attractive where restrictions on movement of key personnel under mode 4 render temporary movement by the legal professionals impractical.

16. The degree to which it is attractive to traders to supply electronically via modes 1 or 2 rather than under modes 3 or 4 may depend, in addition to the market factors described above (such as lower costs), on the relative extent of the restrictions scheduled under each mode. In a number of cases, commitments under mode 1 are the same as those under mode 3 (e.g., Argentina has scheduled "None" against market access and national treatment for mode 1 and mode 3 for legal services CPC 861¹⁰). In other cases, there are some differences between the two (e.g., Australia has bound "None" for mode 1 and mode 2 legal services CPC 861, but maintains, *inter alia*, a residency requirement for equity partners of firms advising on foreign law under mode 3¹¹; the People's Republic of China has bound "None" for both market access and national treatment for the supply of legal services CPC 861, excluding Chinese law practice, under both modes 1 and 2, but maintains a range of limits on market access and national treatment under mode 3¹²). One question might be whether the restrictions scheduled against mode 3 concern matters specifically related to establishment, or whether they were intended to limit the scope of foreign law firms' activities, in which case, there might be an inconsistency with the commitments made under modes 1 and 2 which permit the supply of legal services by foreign firms.

8. This study focused on mode 1 and 2 scheduled commitments for those services most likely to be able to be traded on-line, or where on-line trade is significant. The major sectors included were: business services (professional services, computer services, R&D services, real estate services, advertising services, market research services, management consultancy services), audio-visual services, education services, tourism and travel related services, entertainment services, news services, library and museum services.

9. It should be noted that this refers to *restrictions* on market access liable to be scheduled under GATS Article XVI or XVII - i.e., discriminatory measures applied to foreign suppliers, rather than to *regulations* falling under GATS Article VI.4 - i.e., non-discriminatory measures applying to both national and foreign suppliers. Supply via mode 1, including on-line, should not constitute a means of avoiding regulations governing the supply of a service imposed on all suppliers in the market, whether they are established or not. See also Part III.

10. See "Argentina: Schedule of Specific Commitments", GATS/SC/4, dated 15 April 1994.

11. See "Australia: Schedule of Specific Commitments", GATS/SC/6, dated 15 April 1994.

12. See "The People's Republic of China: Schedule of Specific Commitments", GATS/SC/135, dated 14 February 2002.

17. Annex I provides tables prepared by the WTO¹³ on the structure of WTO Members' market access and national commitments under modes 1 and 2 for a range of services which could be supplied electronically. Some services appear to face few barriers, or are bound as "None" by a reasonably high percentage of those Members making commitments - e.g., data processing, R&D services (natural sciences), advertising services, management consulting services secondary and adult education services, travel agencies and news agency services. High levels of partial commitments can be seen for legal services, accounting/auditing/book-keeping and wholesale and retail services, on-line information and database retrieval services. In general, there are more scheduled restrictions against mode 1 supply than mode 2, and mode 2 is more likely to be bound as "None".

18. The WTO Secretariat has also prepared figures on the developed and developing country breakdown of existing commitments for cross-border (mode 1) supply of a number of services which can be traded electronically¹⁴. According to these figures, approximately 70% of developed country WTO Members have committed to barrier-free access for cross-border supply of: data processing, software implementation and other computer-related services; travel agency, tour operator and tourist guide services; professional services such as advertising, architecture and engineering; and management consulting and market research. However, the figures differ for developing country WTO Members: for most computer services, 30% of developing countries have taken commitments, with about 10-13% scheduling no barriers to cross-border supply. Equally, while between 25-35% of developing country WTO Members have taken commitments on professional services (e.g., management consulting, engineering, architecture and accounting), only 6-7% offer barrier-free cross-border access.

19. More detailed work on the types of market access and national treatment restrictions that individual WTO Members have scheduled under modes 1 and 2 for certain services amenable to electronic supply has been undertaken by the OECD Trade Directorate¹⁵. Annex II includes tables from this work outlining commitments by all OECD and selected non-OECD countries for some professional services (legal, accounting, taxation, architecture and engineering) and some computer and related services (software implementation, data processing and database services). Some general observations can be made from these tables, although care should be taken given the different scope of the commitments undertaken¹⁶. For example, both Australia and Singapore have made full commitments for both market access and national treatment for modes 1 and 2 supply of software implementation services; however, while the scope of the activities covered by Australia's commitment is defined by reference to Provisional CPC 842, Singapore used its own definition, hence the two commitments may not be comparable. Similarly, the tables outline the commitments made under those specific sector headings in W120, but it is possible that other parts of the same Provisional CPC code may be the subject of commitments under other sector headings. For example, Canada's commitments under "1.B. Computer and related services - (b)

13. Adapted from tables in "Structure of Commitments for Modes 1, 2 and 3: Background Note by the Secretariat", document S/C/W/99, dated 31 March 1999.

14. See Lee Tuthill, Trade in Services Division, WTO Secretariat, "Global Trends in Electronic Commerce: E-commerce & the GATS/WTO" presented at the *E-commerce Strategies for Asia-Pacific* symposium held in Delhi 8-10 August 2000.

15. See "Electronic commerce: existing GATS commitments for online supply of services", TD/TC/WP(99)37/FINAL, dated 7 December 2000.

16. WTO Members had a variety of options in defining the scope of their commitments on trade in services in the Uruguay Round. Many - but not all - used the "Services Sectoral Classification List" MTN.GNS/W/120 ("W/120", dated 10 July 1991) which was developed for the purposes of making specific commitments and set out 12 main services sectors and approximately 160 sub-sectors, with corresponding references to the United Nations Provisional Central Product Classification (the "Provisional CPC"). While many Members referred to W/120 and/or the Provisional CPC, others used their own definitions to indicate the scope of activities covered by a specific commitment.

software implementation services, (c) data processing services and (d) data base services" all refer to only part of the relevant CPC codes (842, 843 and 844 respectively). However, Canada has made commitments for other parts of these same codes under "7.B. Banking and other financial services - (l) provision and transfer of financial information, and financial data processing and related software by providers of other financial services" and for parts of Provisional CPC 843 under "2.C. Telecommunication Services - (n) on-line information and/or data processing (including transaction processing)". Bearing these important caveats in mind, some broad observations can be made.

20. For software implementation services, most OECD countries¹⁷ and some non-OECD countries (Argentina, South Africa) have made full commitments for both mode 1 and 2 supply. Other countries have also made full commitments, but only for part of Provisional CPC 842 (Canada, Malaysia, Singapore); Thailand's commitment similarly covers only part of Provisional CPC 842, but leaves mode 1 "Unbound". Other WTO Members used their own definition, and either made full commitments (Hungary, Singapore) or partial commitments (Hong Kong China left national treatment "Unbound" for both modes 1 and 2). Others have left the sector largely "Unbound" (Indonesia - for parts of the sector; other parts are bound at "None") or completely "Unbound" (India) or have not included the sector in their schedule (Brazil, Chile, Egypt, Morocco, Philippines).

21. A similar picture emerges for data processing services: most OECD and some non-OECD countries (Argentina, South Africa) have made full commitments for both modes. Iceland has some limitations on national treatment for mode 1 and Canada's commitments, while full, cover only part of Provisional CPC 843. Thailand's commitments also cover only part of Provisional CPC 843, but it has left mode 1 "Unbound". Other countries have again used their own definition, either to make full (Hungary, Singapore) or partial commitments (Hong Kong China has left national treatment "Unbound" for both modes). Others have scheduled "Unbound" for both modes (India) or not included the sector in their schedule (Brazil, Chile, Egypt, Indonesia, Malaysia Morocco, Philippines).

22. Commitments are more mixed for professional services. For accounting services, both OECD and non-OECD countries have made more commitments, but also maintain more restrictions. Fewer OECD countries maintain no restrictions (Australia, Czech Republic, Iceland, Mexico, New Zealand and Poland), with all others retaining some restrictions and, in some cases (Finland, Switzerland) with commitments covering only part of Provisional CPC 862. Only one of the selected non-OECD countries has full commitments (Argentina); others maintain some restrictions (Malaysia on national treatment, Thailand has left mode 1 "Unbound"; South Africa's commitments cover only part of Provisional CPC 862 and leave mode 1 "Unbound"). Others have scheduled "Unbound" for both modes (Brazil, Chile - covering only part of Provisional CPC 862, Morocco) or not included the sector in their schedules (Egypt, India, Indonesia, Philippines). Countries using their own definition either made full commitments (US) or maintained some restrictions (Singapore on market access for mode 1; Hungary left mode 1 market access "Unbound"; Hong Kong China left mode 1 and national treatment for mode 2 "Unbound" - Japan used a combination of Provisional CPC 862 and its own definition and maintained restrictions on market access for both modes).

23. The picture is even more complicated for legal services, with many countries making commitments for only part of Provisional CPC 861 or using their own definition. For all activities covered by Provisional CPC 861, only Argentina, the Czech Republic, Finland, Poland and the Slovak Republic have made full commitments, although others have made full commitments for part of CPC 861 (Australia, Canada, Hungary, Malaysia, New Zealand, Norway, Switzerland, Turkey). Other countries' commitments covering part of Provisional CPC 861 maintain some restrictions (Austria, Japan) or leave both modes "Unbound" (Chile, South Africa). Those using their own definitions maintain some restrictions (EU and Sweden on mode 1, US on both modes). Finally, a number of countries, including some OECD members

17. Mexico has not included the sector in its schedule.

(Korea, Mexico), have not included the sector in their schedules (Brazil, Egypt, Hong Kong China, India, Indonesia, Morocco, Philippines, Singapore).

24. While the picture is mixed, there is clearly scope to expand commitments for modes 1 and 2 for a range of services which could be traded electronically (this issue is taken up further in Part IV).

25. OECD work has also identified specific examples of restrictions on market access and national treatment, which are found at Annexes III and IV respectively, with Annex V providing examples of scheduled limitations on both market access and national treatment for some services. Common restrictions scheduled against the supply of services under modes 1 and 2 are:

- Commercial presence requirements (to provide the service at all, or to provide certain types of services);
- Residency requirements for the provision of certain services; requirement that at least one of a firm's partners be a resident; residency requirements at the sub-national level;
- Requirement for service to be authenticated by a local or for co-operation with an established supplier;
- Limitations on foreign firms activities; authorisation required to supply certain services;
- Exemptions from public funds (financial assistance only available for certified educational establishments; scholarships not available for education services supplied from abroad; audio-visual subsidies available for locally produced programming only).

26. Some of these limitations on mode 1 and 2 supply seem to pose no special problems for on-line versus off-line supply. For example, limitations on the type of legal entity required (e.g. prohibition of incorporation or multidisciplinary partnerships in the legal sector) may have a similar effect whether supply is on- or off-line. Equally, restrictions on the scope of practice or limitations on the number of licenses granted pose no special problems for the on-line as opposed to off-line worlds. Indeed, it might be argued that many of these restrictions are more difficult to enforce in the context of electronic supply and that the Internet also represents a means by which such restrictions on trade might be circumvented.

27. Cross-border supply of services is not new, but electronic supply has greatly increased the scale of that trade. Assessments of the restrictive impact of a mode 1 or 2 limitation can be influenced by the greater volume of trade permitted by electronic supply. That is, the restrictiveness of the measure itself may not change, but its impact may. For example, a limitation on cross-border supply of accountancy services (e.g., requirement for partnership with local firm) would also have affected the supply of that service by fax; however, as the size of the potential market is greatly increased by electronic supply (i.e., the Internet enables suppliers to reach many more consumers, including by advertising their services more widely at less expense), the impact of the restriction on on-line supply appears greater in terms of lost opportunities.

28. Other restrictions posing problems for on-line trade are those which relate to citizenship or nationality requirements (e.g., requirement for a minimum number/percentage of local directors/managers/staff). These limitations, prevalent in modes 1 and 2 and heavily concentrated in the professional service sectors, arguably have the effect of severely limiting cross-border supply of services. Again, these limitations are a problem for both off-line and on-line cross-border suppliers; however, given the potential scale of electronic supply, they may have a greater impact on on-line supply. These requirements may also pose a particular problem for SMEs, who are supposed to be amongst the main

beneficiaries of the lower costs of on-line supply - e.g., an SME can potentially trade on-line in 50 different countries, but it cannot have fifty different nationalities on its staff to meet nationality requirements for every country.

29. Some restrictions on supply under mode 1 or 2 appear to have the effect of requiring supply by another mode - in particular, requiring supply via mode 3 commercial presence (see Annexes II and III for examples). Requirements for commercial presence for mode 1 supply can effectively prevent cross-border supply per se, or at least prevent it from serving as a meaningful *alternative* to other modes of supply.

Part III: Measures which might fall under Article VI.4

30. Service sectors generally tend to be highly regulated. Accordingly, the GATS recognises the right of Members to regulate, and to introduce new regulations on the supply of services to meet national policy objectives. In a number of sectors where electronic supply is possible - such as professional services, distribution services and financial services - regulations apply to achieve a range of objectives, including consumer protection, professional competence, and social or cultural policy objectives.

31. These regulations apply to services supplied in both the on- and off-line worlds; indeed, they were not developed with electronic supply in mind. The question is whether the impact of these regulations will vary depending on whether the service is traded electronically or not. Some examples of domestic regulations falling under Article VI.4 - that is, measures relating to licensing and qualification requirements and procedures and technical standards - affecting services likely to be traded on-line might be¹⁸:

- Regulations on zoning or operating hours for retail services;
- Local language requirements for the supply of a service;
- Recognition of foreign qualifications; use of titles restricted to residents;
- Registration or special authorisation requirements, including at the local level;
- License renewal required in every sub-national jurisdiction; short licensing periods; large number of documents required for license application; multiple points of application for licenses; licenses must be applied for in person; local experience requirement; indemnity insurance requirement; high license fees; licenses required for individual projects; short periods of time for submission of applications;
- Membership in the relevant professional organisation required.

32. In a limited number of cases, regulations may become obsolete or non-applicable in the digital world. In this way, some forms of on-line trade can be free from the regulations affecting their off-line equivalent. For example, restrictions on shop opening hours and zoning and planning laws for retail services do not apply in the context of on-line trade. The inapplicability of some regulations in the digital context might create distortion in competition between online and offline service providers. On the other

18. As noted in paragraphs 12 and 13, there is as yet no agreement amongst WTO Members as to the range and type of measures falling under Article VI.4. The judgement as to whether a measure falls under Article VI.4 or not also depends on the content of the measure. For example, it could be argued that if a regulation on zoning includes a numerical limitation on retail shops in a particular region, that that regulation falls under Article XVI (Market Access) and not under Article VI.4.

hand, this is one of the real benefits - for both consumers and traders - of e-commerce and the absence of restrictive regulation plays an important role in the development of e-commerce.

33. In most cases, it would appear that regulatory measures have the same affect on trade in the on- and off-line worlds. For instance, licensing, certification or qualification requirements apply equally to all service providers. If these requirements are cumbersome or complex - for example, licensing periods are short or licenses are required for every new project - both on-line and off-line service providers are affected. Similarly, the absence of recognition of qualifications or training is equally a problem for both on-line and off-line suppliers.

34. However, depending on the form that such procedures take, there might be cases where on-line suppliers face particular problems - e.g., where licenses must be applied for in person or electronic versions of documents are not accepted. Local experience requirements for licenses or restrictions on the use of titles to residents may also pose special problems for on-line suppliers. Generally, onerous licensing requirements may act as a brake on the greater participation of SMEs in the cross-border supply of services otherwise enabled by electronic supply. However, it might be argued that electronic supply also enables such requirements to be more readily circumvented - governments may find it technically difficult to prevent unqualified service suppliers from offering their services on-line and such concerns lie behind the considerable attention paid to how to ensure adequate consumer protection on the Internet.

35. Many problems are not actually related to the restrictiveness of the actual regulation applying to the supply of the service, but arise because of the *scale* of electronic supply afforded by the Internet. As the Internet makes it possible to reach consumers around the world, it brings sellers in contact with regulatory environments around the world. The requirements of a given jurisdiction may be as easy or difficult to meet for on- or off-line traders, the difference is (i) the lack of prior knowledge of the application of a regulation and (ii) the potential number and variety of such regulations in all jurisdictions where the web seller might be operating.

36. For example, a law in a particular country requires that a law firm list all partners in the firm on any business-related correspondence. This requirement is in substance no more burdensome for an electronic supplier of legal services than for an off-line supplier; both must provide the names of all partners on their correspondence. The problem for the electronic supplier is that they might not know where their client is located; might be unaware of this requirement and, as they are offering their services globally, might be faced with many different requirements. The problem is thus less the measure itself than the uncertainty (don't know where trading) and multiplication (expansion of markets where trading) effects.¹⁹ Equally, the impact of differences between state and federal regulations for services, and additional special requirements at the sub-national level, may be exacerbated by the very reach and scale of the Internet.

37. The *perception* of the impact of some regulations which are problems for both on- and off-line suppliers - such as recognition of qualifications - may also seem greater in the on-line world simply by virtue of the greater trade possibilities of the Internet. That is, because the Internet makes supply of services to many different markets around the globe technically possible, the absence of recognition of qualifications in many jurisdictions to make this possibility a reality may seem a particular burden to the on-line trader. The off-line trader, particularly an SME with no real expectation of trading in many jurisdictions, may not perceive this measure as an obstacle of the same magnitude.

19. Similar problems arise for e-retailers in terms of regulations applying to the sale of goods (e.g., local prohibitions on the sale of certain types of goods such as nazi memorabilia).

38. While the actual regulation may be no more restrictive, lack of transparency regarding it and/or delays in administering it are particularly burdensome in the digital world. If a registration process takes too long, or if there is no possible access from abroad to the list of registration requirements, electronic supply may be seriously hampered. As one of the expected benefits of electronic supply is speed, and business or product cycles in e-commerce are often shorter than in other forms of trade, delays may cause greater problems for electronic suppliers.

Part IV: Observations

Expanding commitments under Modes 1 and 2

39. In some ways, electronic supply has been largely free from restrictions to date (partially for technical reasons) and business has stressed the need to ensure that no new barriers to electronic supply are created. Indeed, while they may specifically exclude electronic supply from their commitments, WTO Members have noted that the emergence of electronic supply should not provide a reason to schedule new restrictions.²⁰ Rather, electronic supply and associated new technologies provide an opportunity to revisit specifications in schedules that the supply of a service via a particular mode was "Unbound due to lack of technical feasibility"²¹ and to expand existing commitments for mode 1 and 2 supply of services.

40. While this paper has examined Members' scheduled GATS commitments, there is often a gap between these commitments and actual regime governing on- and off-line trade in services. Many Members' commitments reflected the regulatory *status quo*, or less than the *status quo*, at the time of the Uruguay Round, but those Members have in many cases subsequently undertaken significant unilateral liberalisation. Additionally, some Members have adopted specific measures to allow, facilitate and encourage electronic supply of services. Previous work by the Trade Directorate has presented a survey of unilateral liberalisation and facilitation measures relevant to growth of Internet-based electronic commerce that have been undertaken by governments in both OECD and non-OECD member economies.²² While nothing prevents Members from unilaterally taking a more liberal approach, an important objective of the current GATS negotiations is to translate some of this unilateral liberalisation into bound GATS commitments.

41. As the analysis in Part II indicates, commitments for services which could be traded electronically vary and there is considerable scope for improving those commitments in the current GATS negotiations. Indeed, as noted above, expanding these commitments may simply be a matter of translating the market reality into schedules, rather than actual new opening. In any event, improved commitments under modes 1 and 2 could encourage the further development of e-trade in these services, with particular benefits for SME suppliers. This in turn provides particular benefits for developing countries (who tend to have more SMEs and fewer large suppliers), as would expanded market access into both developed and developing country markets. There is considerable scope for expanded commitments by developing countries for services of interest to other developing countries (such as computer services, including data

20 . See WTO Council for Trade in Services "Work Programme on Electronic Commerce: Interim Report to the General Council", S/C/8, dated 31 March 1999.

21 . Members could usefully revisit such entries in the light of current and future technological developments. However, it should be noted that a number of the services to which such entries currently apply may not yet be supplied on-line e.g., hotels and restaurants and tourist guide services sub-sectors; entertainment services (not including audio-visual services which are classified separately) and sporting and other recreational services. See "Electronic commerce: existing commitments for online supply of services" TD/TC/WP(99)37/FINAL.

22 . See "Electronic commerce: initial survey of liberalisation and facilitation measures", TD/TC/WP(99)38/FINAL, dated 30 March 2000.

processing, and some professional services). Such liberalisation could create new opportunities for intra-developing country trade, particularly where developing country suppliers may have a greater understanding of the particular needs of other developing countries and be able to offer services tailored to their requirements.

42. One existing restriction on electronic supply is the requirement in a number of WTO Members' schedules for commercial presence under mode 1. This restriction is not aimed at electronic supply *per se*, but reflects the general reluctance of Members to allow cross-border supply of certain, heavily regulated, services. The technological possibility of cross-border electronic supply of many more services on a greater scale has increased the cost of such restrictions (in terms of potential lost trade) and has renewed pressure for their reduction. Indeed, such measures have come under a new pressure in the context of expectations of a global marketplace rendered wide open by the Internet. The restrictive impact of such measures on electronic supply depends in part on the precise nature of the commercial presence requirement. A requirement to maintain a representative office (staffed, for example, by one person with a telephone) is clearly less burdensome than one to establish a fully-fledged subsidiary operation. Further, commercial presence requirements can be more burdensome for some types of e-traders than others. While large suppliers (such as Amazon.com) increasingly have local branches in their main markets (to enable them, for example, to access efficient distribution networks or to cater to differing consumer preferences), small and medium enterprises (SMEs) are less likely to be able to establish branches abroad. Commercial presence requirements may thus reduce the potential for SMEs to access broader international markets, a major benefit of e-trade, and may create distortion in competition. Moreover, as noted above, such requirements may pose particular problems for developing countries, which tend to have many SMEs and fewer large companies.

43. An objective of new GATS negotiations could be to expand the number of services sectors where Members have made commitments for mode 1 and 2 supply, to enable a greater range of services which can be traded electronically to be so traded. Another objective could be to attempt, in sectors where some commitments have already been made for mode 1 and 2 supply, to improve the level of those commitments.²³ In particular, Members could aim to remove or reduce commercial presence requirements with a very restrictive effect on electronic supply. In cases where a Member considers it necessary to maintain some such requirement, less restrictive alternatives could be employed. For example, instead of being required to establish a commercial presence for liability purposes, foreign service suppliers could be required to have a local agent (i.e., a local person on whom any documents could be served in the event of a legal problem), and/or to have additional forms of liability insurance. Similarly, requirements for services supplied by foreign suppliers to be authenticated by a local, via some form of co-operation with a local enterprise, are less restrictive for electronic supply than a commercial presence requirement.

44. While such alternatives are a considerable improvement on the current effective prevention of cross-border supply, they still impose costs which may make the environment less attractive for business, in particular for SMEs. Indeed, they are still far from a full commitment to enable the cross-border supply of the service - the situation which would ensure that what was technologically possible via electronic supply was also possible in terms of the regulatory environment. However, regulatory environments include a range of measures to ensure that important public policy objectives are met, and how these may be achieved in the on-line context is the subject of the next section.

23. Obviously, agreement amongst WTO Members on whether mode 1 or mode 2 commitments were seen as most relevant for electronic supply would facilitate advances in the current round of negotiations.

Adapting current domestic regulation regimes to the digital world

45. Unlike market access and national treatment restrictions, not all regulations are considered barriers to trade or, indeed, are subject to negotiation under the GATS. The GATS recognises the right to regulate and its disciplines only come into play when such regulation intersects with trade and particularly with GATS commitments. Even then, current disciplines are mainly concerned with impartial, objective and reasonable implementation of regulation and with transparency than with the substance of regulation itself.

46. The issues that arise for regulation and electronic supply in this study are twofold: where regulation is rendered meaningless or ineffective by electronic supply, perhaps threatening the achievement of public policy objectives; and, in limited cases, where regulations may have a particular impact on electronic, as opposed to off-line, supply.

Measures having a lesser impact on electronic supply

47. In a limited number of cases, regulations are not applicable or rendered obsolete in the digital context. This raises the question of how these regulations should be adapted for on-line trade, or indeed, whether there is a need to adapt these regulations - or to regulate - at all. Further, there may be technical limits to the types of regulation it is possible to apply to on-line trade.

48. Where a measure is not applicable in the digital context, an important first step is to consider the underlying policy objective behind the regulation and ask: (i) is this objective of the regulation still relevant, is it still important to try to achieve it? and, (ii) to what extent is achievement of this objective challenged or undermined by use of the Internet?

49. For example, if restrictions on opening hours or outlets' size are aimed at preserving small local shops, to what extent are 24h/24h e-shopping facilities a threat for these small local shops? A threshold question may be the extent to which they are direct competitors, or serving the same market. If (e.g., in the case of bookstores) it is considered to be a threat, given that it is impossible to regulate opening hours on the Internet, questions might be: (i) Is this objective of protecting small local shops still desirable, bearing in mind the benefits for consumers from 24h/24h supply? (ii) If so, are there other ways to achieve this objective (e.g. supporting small local shops by other means)? For example, could another solution be to remove the barriers to small shop opening hours; that is, to avoid creating distortions in competition between off- and on-line trade by raising both to the more liberal level?²⁴

50. In other cases, it may be that, while a particular regulation may not apply in the on-line context, this does not undermine the broad policy objective behind that regulation and no new regulation is needed. For example, if regulations requiring closure of shops on Sunday is motivated by a desire to avoid having employees work more than 6 consecutive days, the existence of on-line shopping does not fundamentally challenge this objective, and thus no particular regulatory action is needed and electronic supply should remain unimpeded. Indeed, a regulation which might be necessary off-line to achieve a given policy objective, might be unnecessary on-line to achieve the same objective. In this case, WTO Members should avoid imposing unneeded off-line restrictions on on-line trade.

51. Finally, it needs also to be recalled that domestic regulation is not necessarily limited to subjects of common interest to both the on-line and off-line worlds. Although the emergence of new barriers to

24. It should also be recalled that small retailers may themselves be able to become on-line traders and overcome opening hours restrictions by creating their own websites. Such websites could also provide small local shops with the opportunity to expand their customer-base beyond local clientele.

trade should be avoided for electronic supply, such supply itself may require new regulation to address problems specific to e-commerce: e.g. ensuring the effective protection of online privacy or secured payments.²⁵ In line with the parameters established in the introduction, this study does not address these issues, which are the subject of ongoing work in other OECD bodies.

Measures having a greater impact on electronic supply than off-line supply

52. For the most part, whether measures are more burdensome for services traded electronically is often less to do with the nature of the measure itself than with the scale and knowledge problems created by the Internet. For example, a given jurisdiction has, to ensure the quality of the service, particular licensing requirements for architects. These requirements are no different in substance for on- of off-line suppliers; the additional burden for on-line suppliers arises because they are offering services in a large number of jurisdictions and need knowledge of many - likely differing - requirements.

53. Nonetheless, this study notes that there may be some sorts of regulatory requirements which, by their nature, may pose particular difficulties in the on-line context. Many of these measures are also burdensome for off-line trade, but are marginally more so for on-line trade, so removal or replacement by a less burdensome measure which would still fulfil the same regulatory objective would have benefits for both types of suppliers. Examples of less burdensome measures might include:

- Measures to facilitate temporary or occasional practice, such as temporary licensing procedures that can be found for architectural and engineering services, are positive for both on-line and off-line provision of services. However, they are particularly useful in the digital world, where delays due to administrative burdens cause even more prejudice.
- Foreign lawyers and foreign law firms could be authorised to practise their home country law, third country law (where qualified) and international law in a host country without having to meet the burdensome requirements related to the right to practise host country law: use of a specific different title (e.g. foreign legal consultant as opposed to attorney) or in some instances their home professional title, submission to the deontology/rules of professional conduct of both home and host country, etc.
- Cumbersome registration and recognition procedures which require personal attendance over extended periods, while inconvenient for off-line traders, can pose particular problems for on-line suppliers (arguably having a similar effect to a commercial presence requirement). Creation of on-line registration procedures which do not require personal attendance – could address this problem, although they may pose some resource problems for some developing countries);

25. In this regard, the WTO Secretariat has noted that GATS Article XIV General Exceptions covers a number of the types of issues at which regulation on e-commerce may be aimed - e.g., protection of morals (on-line obscenity, gambling); protection of life or health (on-line sale of prescription drugs); prevention of deceptive or fraudulent practices (consumer protection); and protection of individual privacy in relation to the processing of and dissemination of personal data and the protection of confidentiality of individual records and accounts. Article XIV also requires that measures falling under these exceptions must be necessary to achieve to the policy objective (i.e., could there be a less trade restrictive way of achieving the same result?) and not used as a disguised restriction on trade in services, nor be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail. These conditions may also help to ensure that regulations developed to address these other aspects of e-commerce also help to foster an enabling environment for electronic supply. (Tuthill, *op.cit.*).

- Replacement of residence-based requirements with other means of meeting the same objective - e.g., consideration of replacing local experience requirements with other means of familiarisation with local conditions, such as bridging courses available on-line; special insurance requirements for on-line suppliers.

54. In cases where a specific measure may pose particular problems for on-line trade, one point to consider might be whether, in the case of a possible necessity test developed pursuant to Article VI.4, such a measure could be deemed more burdensome than necessary in the on-line context, but not in the off-line context? For example, a country may have a requirement for accountants to personally sign all tax returns they prepare. The regulation specifies hard copy documents with an original signature and makes no provision for digital signatures or electronic submission of returns. This requirement poses particular problems for on-line supply, and might be judged as being more burdensome than necessary to ensure the quality of the service for on-line, but not off-line supply. The GATS is generally viewed as being technologically neutral in that the agreement does not contain provisions that distinguish between the different technological means through which a service may be supplied²⁶. Disciplines pursuant to the Article VI.4 mandate could thus apply equally to on- and off-line trade. However, while the same necessity test would be applied to both on- and off-line trade, the outcome may differ between on- and off-line trade.

55. In this case, possible solutions might involve adapting the regulation to meet the needs of e-commerce (e.g., by allowing digital signatures and electronic submission of returns) or, indeed, removing the requirement entirely (to the possible benefit for both on- and off-line trade). Essentially, approaches to ensuring that regulations governing the supply of a service are not unduly burdensome for the on-line supply are the same as for off-line supply: greater transparency (i.e., timely availability of information regarding the requirement enabling on-line suppliers to assess whether it is still economically interesting for them to perform tax returns given the requirement to provide a signed hard copy); general simplification of regulatory requirements (i.e., consideration of less burdensome but equally effective alternatives which could apply to both on- and off-line trade, such as the lodging of a single signed hard copy form for all tax returns rather than for each individual return); and greater convergence between the requirements of this jurisdiction and others, perhaps through the development of international standards (in this case, for tax accountants).

The importance of existing good regulatory practices

56. Indeed, the study underlines the importance of existing elements of good regulatory practice in underpinning electronic supply of services: transparency (ready availability of information on the range of regulatory requirements in a greater number of jurisdictions); reasonable, objective and impartial administration; and increased development of international standards (to reduce the number, or extent, of regulatory differences with which electronic service suppliers will have to contend).

Transparency

57. Transparency in domestic regulation is characterised as the availability of information necessary to evaluate the costs and opportunities of operating in a given commercial market. E-commerce increases the need for transparency in domestic regulation. An enterprise engaging in e-commerce does not necessarily know who and where its clients will be. As a consequence, if such an enterprise has to

26. See WTO Trade in Services "Work Programme on Electronic Commerce: Progress Report to the General Council: Adopted by the Council for Trade in Services on 19 July 1999", S/L/74, dated 27 July 1999.

promptly respond to a demand posted on the Internet, it must be able to determine just as quickly what is the law applicable in the customer's host country.²⁷

58. Indeed, there have been instances where a service supplier has been asked to change the content of its service for consumers in a specific country or prevent access to its web site to consumers from that country. Issues related to conflict of laws are closely related, and the debate is not clear-cut as to what law is applicable or who is responsible for any deceptive practice.

59. For some countries, transparency can be seen as an additional administrative burden and a poor use of already scarce resources. While electronic supply offers new opportunities for a range of traders (developing countries and SMEs) to have a greater share of world services trade, that participation is to some extent conditioned on their being able to access information and that information being readily available - something which requires both resources on their part and the resource investment of other trading partners. Making a greater amount of information on commitments and regulations to be available to traders - preferably on-line - indeed requires a significant resource investment, one for which many developing countries would require assistance²⁸. Nonetheless, it should also be recalled that, after the initial investment, the Internet ultimately greatly reduces the cost of making information available (compared to traditional means). While electronic supply may create a demand for additional transparency, it also provides a way of meeting this demand (e.g., regulatory transparency is improved by the possibility to post licensing requirements on-line).

Reasonable, objective and impartial administration

60. In addition to underlining the need for transparency in regulatory regimes, electronic supply also underlines the importance of predictable and reasonable administration. While this is also crucial for off-line supply, the scale, scope and speed elements of the Internet multiply the effects of unpredictable or inefficient administration. The efficiency gains from electronic supply, including the greater speed of the digital world where business and product cycles are shorter, will be undermined by, for example, unreasonable time frames for the verification of the compliance with domestic regulation. Verification or assessment procedures should also be objective and impartial and should not in themselves be a restriction on the supply of the service.

61. Gains also accrue from reasonable administration in tandem with transparency. For example, qualification requirements should be published and made easily accessible to the public – including foreigners (transparency). Qualifications of a service provider attempting to supply a service in a foreign country should then be checked within a reasonable period. When those two requirements are met (transparency and efficiency), trade is facilitated (better predictability). Similarly, procedures for presenting and processing a request for authorisation to exercise a profession in another country should be clear and predictable (including timely) and should not be too cumbersome (e.g., should not necessitate extended physical presence in the host country).

62. While better administration benefits all suppliers, a service supplier operating over the Internet will have to proceed simultaneously in several countries (larger scale), and will be expected to proceed faster than its competitors (higher speed) and will thus gain particular benefits from reasonable - and preferably simplified - administrative procedures. Here again, it should be noted that the use of the Internet itself could also contribute to simplifying and improving administration. For instance, the possibility for

27. To the extent it is possible to determine where the customer will be at the time he/she will effectively consume the service.

28. While information on WTO commitments and any material notified to the WTO can be accessed via that organisation's web-site, it may need interpretation to be useful to e-traders.

businesses to apply for licenses directly on-line could eventually lead to a faster and more efficient administration of these licenses.

International standards

63. A number of the regulatory difficulties for electronic supply are related to differing requirements in the range of countries in which an e-trader may be operating. Electronic supply can thus be facilitated by improved international collaboration and co-ordination on qualification and licensing requirements and procedures and technical standards. Possible initiatives include the development, dissemination, and adoption of:

- Mutual recognition agreements;
- Internationally accepted standards or codes of good practice.

64. International collaboration and co-ordination contribute both to transparency and predictability, as well as to reducing the possibility that domestic regulation is perceived by other countries as overly burdensome or effectively constitutes barriers to trade.

65. The financial services' sector is an illustration of co-ordination efforts made under the auspices of e.g. the IMF and other groups such as the G22 and G7. In this context, the development of internationally accepted standards or codes of practice are not only facilitating trade in financial services, but also contribute to securing economic stability.²⁹

66. Regional and private sector initiatives are also emerging. For example, in the architecture and engineering sector, several agreements were signed by professional bodies of different countries to agree on a series of applicable certification requirements. An Accord on Recommended International Standards of Professionalism in Architectural Practice was also developed, comprising guidelines on (1) accreditation policy, (2) practical experience/training/internship policy, (3) practical examination (demonstration of professional competence) policy, (4) registration/licensing/certification policy, (5) ethics and conduct policy, and (6) continuing education policy.³⁰

A need to promote an open dialogue between regulators and the private sector

67. Finally, achieving a regulatory environment conducive to the electronic supply of services while safeguarding the achievement of public policy objectives requires an open dialogue between regulators, the private sector and other stakeholders in on-line trade (e.g., consumers). Such a dialogue plays an important role in ensuring that the regulatory environment keeps pace with fast-moving developments in the world of e-commerce, to facilitate trade, efficiently adapt domestic regulatory regimes to the specific needs of trade in the digital world and prevent the circumvention of regulatory measures designed to achieve important policy objectives.

29. See WTO, Council for Trade in Services "Financial Services: Background Note by the Secretariat", S/C/W/72, dated 2 December 1998.

30. See WTO, Council for Trade in Services "Architectural and Engineering Services: Background Note by the Secretariat", S/C/W/44, dated 1 July 1998.

ANNEX I: GATS MODE 1 AND 2 SPECIFIC COMMITMENTS³¹

Table 1. Structure of commitments, all Members, MODE 1

Sector	Total ^a	Market Access			National Treatment		
		Full	Partial ^b	Unbound	Full	Partial ^b	Unbound
Business Services							
Legal Services	56	14%	73%	13%	18%	68%	14%
Accounting/auditing/bookkeeping	67	24%	51%	25%	28%	46%	25%
Architectural Services	61	43%	39%	18%	43%	43%	15%
Medical & dental services	49	27%	22%	51%	37%	14%	49%
Data processing services	66	61%	23%	17%	64%	18%	18%
R&D services (natural sciences)	33	73%	9%	18%	73%	12%	15%
Advertising services	51	61%	27%	12%	59%	22%	20%
Management consulting services	62	65%	21%	15%	71%	16%	13%
Communication Services							
Online info & data base retrieval	65	22%	72%	6%	43%	51%	6%
Audio-visual services	19	21%	53%	26%	21%	47%	32%
Distribution							
Wholesale trade	45	20%	67%	13%	47%	42%	11%
Retailing services	44	16%	66%	18%	14%	68%	18%
Educational Services							
Secondary education	34	65%	26%	9%	29%	65%	6%
Adult education	31	65%	32%	3%	61%	35%	3%
Financial Services							
Non-life insurance	74	11%	61%	28%	19%	47%	34%
Acceptance of deposits	80	20%	19%	61%	24%	16%	60%
Lending of all types	79	16%	27%	57%	23%	22%	56%
Trading in securities	71	15%	27%	58%	18%	25%	56%
Health Related, Social Services							
Hospital services	39	31%	0%	69%	38%	0%	62%
Social services	19	16%	0%	84%	21%	0%	79%
Tourism Services							
Hotels and restaurants	123	28%	30%	41%	33%	28%	38%
Travel agencies	100	55%	17%	28%	60%	13%	27%
Recreational Services							
Entertainment services	39	44%	8%	49%	46%	8%	46%
News agency services	25	84%	12%	4%	76%	24%	0%

a. Total number of Members with commitments in the sector concerned for any of the three Modes.

b. Includes horizontal limitations.

31. These tables are adapted from tables in "Structure of commitments for modes 1, 2 and 3: Background Note by the Secretariat", WTO document S/C/W/99, dated 31 March 1999.

Table 2. Structure of commitments, all Members, MODE 2

Sector	Total ^a	Market Access			National Treatment		
		Full	Partial ^b	Unbound	Full	Partial ^b	Unbound
Business Services							
Legal Services	56	20%	73%	7%	18%	68%	14%
Accounting/auditing/bookkeeping	67	34%	54%	12%	42%	46%	12%
Architectural Services	61	74%	16%	10%	70%	18%	11%
Medical & dental services	49	47%	49%	4%	51%	41%	8%
Data processing services	66	70%	21%	9%	74%	15%	11%
R&D services (natural sciences)	33	70%	15%	15%	70%	15%	15%
Advertising services	51	65%	27%	8%	63%	25%	12%
Management consulting services	62	69%	23%	8%	76%	15%	10%
Communication Services							
Online info & data base retrieval	65	31%	58%	11%	40%	46%	14%
Audio-visual services	19	26%	63%	11%	26%	53%	21%
Distribution							
Wholesale trade	45	49%	42%	9%	51%	42%	7%
Retailing services	44	18%	73%	9%	18%	73%	9%
Educational Services							
Secondary education	34	71%	26%	3%	71%	26%	3%
Adult education	31	65%	35%	0%	61%	39%	0%
Financial Services							
Non-life insurance	74	15%	57%	28%	26%	43%	31%
Acceptance of deposits	80	30%	45%	25%	36%	40%	24%
Lending of all types	79	28%	47%	25%	34%	42%	24%
Trading in securities	71	28%	52%	20%	28%	51%	21%
Health Related, Social Services							
Hospital services	39	87%	8%	5%	87%	8%	5%
Social services	19	26%	68%	5%	32%	63%	5%
Tourism Services							
Hotels and restaurants	123	50%	42%	8%	53%	37%	11%
Travel agencies	100	69%	18%	13%	73%	12%	15%
Recreational Services							
Entertainment services	39	85%	10%	5%	85%	8%	8%
News agency services	25	88%	12%	0%	84%	16%	0%

a. Total number of Members with commitments in the sector concerned for any of the three Modes.

b. Includes horizontal limitations.

**ANNEX II: TABLES OF COMMITMENTS FOR SELECTED SECTORS FOR OECD AND
SELECTED NON-OECD COUNTRIES³²**

Legend

X	Binding of "none".
O	Binding subject to specified limitation(s).
X/O	Binding of "none" with the exception of one limitation.
UB	Binding of "unbound".
UB*	Binding of "unbound due to lack of technical feasibility".
X/UB and UB/O	Parts of a sector or sub-sector bound differently. See e.g. the chart for Chapter 1A (b) accounting, auditing and bookkeeping services, where several countries have bound accounting and bookkeeping as "none" and auditing as "unbound" (X/UB).
	Not included in schedule.

Note: The listings in the "Scope" column refer to the scope of the commitment in classification terms. Most commitments are made on the basis of the Central Product Classification "CPC". Where a CPC number is listed, the commitment is to the full scope of that CPC classification. Where a listing says "Part (CPC number)" the commitment is to that part of the CPC classification. Where a listing says "own definition" the commitment is to a specific definition devised by the Member concerned. In cases where a Member has referred to W/120 in its commitments, reference is made to the corresponding Provisional CPC code listed in that document. For example, in making its commitments on computer and related services, the US used the W/120 reference - 1.B. (a) - (e) (with the exception of airline computer reservation systems), to which Provisional CPC codes 841, 842, 843, 844 and 845+849 correspond. For the purposes of these tables, the US commitment for "1.B (b) software implementation services" (for example) is taken to refer to corresponding Provisional CPC code 842.

Similarly, the tables outline the commitments made under those specific sector headings in W120. It is possible that other parts of the same Provisional CPC code may be the subject of commitments under other sector headings. For example, Canada's commitments under "1.B. Computer and related services - (b) software implementation services, (c) data processing services and (d) data base services" all refer to only part of the relevant CPC code (842, 843 and 844 respectively). Canada has made commitments for other parts of these codes under "7.B. Banking and other financial services - (l) provision and transfer of financial information, and financial data processing and related software by providers of other financial services" and for parts of Provisional CPC 843 under "2.C. Telecommunication Services - (n) on-line information and/or data processing (including transaction processing)".

32. Material in this Annex is drawn from " Electronic commerce: existing GATS commitments for online supply of services", TD/TC/WP(99)37/FINAL, dated 7 December 2000.

Table 1. Chapter 1A: (a) Legal services

Country	Scope	Article VI measures of general application listed in schedules	Bindings			
			Mode 1		Mode 2	
			MA	NT	MA	NT
Argentina	861	Recognition, enrolment, legal domicile in Argentina	X	X	X	X
Australia	Part 861		X	X	X	X
Austria	Part 861		X	O	X	X
Brazil						
Canada	Part 861		X	X	X	X
Chile	Part 861	Competence assessment and recognition requirements	UB	UB	UB	UB
Czech Republic	861		X	X	X	X
Egypt						
European Communities	Own definition		X/O	X/O	X	X
Finland	861		X	X	X	X
Hong Kong, China						
Hungary	Part 861		X	X	X	X
Iceland	861	Examination, nationality or residency requirements	X	X/O	X	X
India						
Indonesia						
Japan	Part 861	Must be supplied by natural person	O	O	O	O
Korea						
Malaysia	Part 861		X	X	X	X
Mexico						
Morocco						
New Zealand	Part 861		X	X	X	X
Norway	Part 861		X	X	X	X
Philippines						
Poland	861		X	X	X	X
Singapore						
Slovak Republic	861		X	X	X	X
South Africa	Part 861		UB	UB	UB	UB
Sweden	Own definition		O	X/O	X	X
Switzerland	Part 861		X	X	X	X
Thailand	861		UB	UB	X	X
Turkey	Part 861		X	X	X	X
USA	Own definition	State provisions: services must be supplied by natural persons; in-state presence or residency for licensing.	X/O	X/O	X/O	X/O

Table 2. Chapter 1A: (b) Accounting, auditing and bookkeeping services

Country	Scope	Article VI measures of general application listed in schedules	Bindings			
			Mode 1		Mode 2	
			MA	NT	MA	NT
Argentina	862	Professional recognition and domicile requirements	X	X	X	X
Australia	862		X	X	X	X
Austria	862		X	O	X	X
Brazil	862		UB	UB	UB	UB
Canada	862		O	O	O	X
Chile	Part 862	Competence requirements and professional recognition for certain services	UB	UB	UB	UB
Czech Republic	862		X	X	X	X
Egypt						
European Communities	862		X/ UB	X/ UB	X	X
Finland	Part 862		X/ UB	X/ UB	X	X
Hong Kong, China	Own definition		UB	UB	X	UB
Hungary	Own definition		UB	X	X	X
Iceland	862		X	X	X	X
India						
Indonesia						
Japan	862 + own definition		O	X	O	X
Korea	862		X/UB	X	X/UB	X
Malaysia	862		X	O	X	O
Mexico	862	Professional recognition and licence requirements	X	X	X	X
Morocco	862		UB	UB	UB	UB
New Zealand	862		X	X	X	X
Norway	862		UB/O	X/UB	X	X
Philippines						
Poland	862		X	X	X	X
Singapore	Own definition		X/O	X	X	X
Slovak Republic	862		X	X	UB	UB
South Africa	Part 862		UB	UB	X	X
Sweden	862	Professional recognition, residency requirements	O	X/O	X	X
Switzerland	Part 862		X	X/O	X	X
Thailand	862		UB	UB	X	X
Turkey	862		UB	UB	X	X
USA	Own definition		X	X	X	X

Table 3. Chapter 1A: (c) Taxation services

Country	Scope	Article VI measures of general application listed in schedules	Bindings			
			Mode 1		Mode 2	
			MA	NT	MA	NT
Argentina						
Australia	863		X	X	X	X
Austria	863		X	O	X	X
Brazil						
Canada	Part 863		X	X	X	X
Chile						
Czech Republic	863		X	X	X	X
Egypt						
European Communities	Part 863		X/O	X/O	X	X
Finland	863		X	X	X	X
Hong Kong, China	Own definition		UB	UB	X	UB
Hungary	Part 863		X	X	X	X
Iceland	863		X	X	X	X
India						
Indonesia						
Japan	863 + own definition		O	X	O	X
Korea	863		X/O	X	X/O	X
Malaysia	863		X	O	X	O
Mexico						
Morocco						
New Zealand	Part 863		X	X	X	X
Norway	863		X	X	X	X
Philippines						
Poland						
Singapore	Own definition	Local registration requirements	O	X	X	X
Slovak Republic	863		X	X	X	X
South Africa	Part 863		X	X	X	X
Sweden	863		X	X	X	X
Switzerland	863		X	X	X	X
Thailand						
Turkey						
USA	Own definition		X	X	X	X

Table 4. Chapter 1A: (d) Architectural services

Country	Scope	Article VI measures of general application listed in schedules	Bindings			
			Mode 1		Mode 2	
			MA	NT	MA	NT
Argentina	8671		X	X	X	X
Australia	8671		X	X	X	X
Austria	8671		X	X/O	X	X
Brazil	8671		UB	UB	UB	UB
Canada	8671		X/O	X/O	X	X
Chile	Part 8671		UB	UB	UB	UB
Czech Republic	8671		X	X	X	X
Egypt						
European Communities	8671		X/O	X/O	X	X
Finland	8671		X	X	X	X
Hong Kong, China						
Hungary	Own definition		X	X	X	X
Iceland	8671		X	X	X	X
India						
Indonesia	8671		UB	UB	X	UB
Japan	Part 8671		X/O	X	X/O	X
Korea	8671		O	X	X	X
Malaysia	8671		X	O	X	O
Mexico	8671 ^a	Professional recognition and licensing requirements.	X	X	X	X
Morocco						
New Zealand	8671		X	X	X	X
Norway	8671		X	X	X	X
Philippines						
Poland						
Singapore	Own definition		X	X	X	X
Slovak Republic	8671		X	X	X	X
South Africa	8671	Local registration required for some services.	O	X	O	X
Sweden	8671		X	X	X	X
Switzerland	8671	Local experience required in one canton.	X	O	X	X
Thailand	8671		UB	UB	X	X
Turkey	8671		X/O	X	X/O	X
USA	Own definition		X	X	X	X

a. Unclear from schedule whether or not this is a partial listing of CPC 8671.

Table 5. Chapter 1A: (e) Engineering services

Country	Scope	Article VI measures of general application listed in schedules	Bindings			
			Mode 1		Mode 2	
			MA	NT	MA	NT
Argentina	8672		X	X	X	X
Australia	8672		X	X	X	X
Austria	8672		X	X/O	X	X
Brazil	Part 8672		UB	UB	UB	UB
Canada	8672		O	X/O	O	X
Chile	Part 8672		UB	UB	UB	UB
Czech Republic	8672		X	X	X	X
Egypt						
European Communities	8672		X/O	X/O	X	X
Finland	8672		X	X	X	X
Hong Kong, China						
Hungary	Own definition		X	X	X	X
Iceland	8672		X	X	X	X
India	8672		UB	UB	UB	UB
Indonesia	Part 8672		UB	UB	X/O	UB
Japan	Part 8672		X/O	X/O	X	X
Korea	8672		X	X	X	X
Malaysia	8672		X	O	X	O
Mexico	8672	Professional recognition and licensing requirements	X	X	X	X
Morocco						
New Zealand	8672	Registration (requiring residency) required for some services	X	O	X	X
Norway	8672		X	X	X	X
Philippines						
Poland	8672		X	X	X	X
Singapore	8672		X	X/O	X	X
Slovak Republic	8672		X	X	X	X
South Africa	8672		X	X	X	X
Sweden	8672		X	X	X	X
Switzerland	8672	Local experience (and nationality) requirements in specific cases.	X	X/O	X	X
Thailand	8672		UB	UB	X	X
Turkey	8672		X/O	X	X/O	X
USA	Own definition		X	X	X	X

Table 6. Chapter 1(B): Computer and related services -- (b) Software implementation services

Country	Scope	Article VI measures of general application listed in schedules	Bindings			
			Mode 1		Mode 2	
			MA	NT	MA	NT
Argentina	842		X	X	X	X
Australia	842		X	X	X	X
Austria	842		X	X	X	X
Brazil						
Canada	Part 842		X	X	X	X
Chile						
Czech Republic	842		X	X	X	X
Egypt						
European Communities	842		X	X	X	X
Finland	842		X	X	X	X
Hong Kong, China	Own definition		X	UB	X	UB
Hungary	Own definition		X	X	X	X
Iceland	842		X	X	X	X
India	842		UB	UB	UB	UB
Indonesia	842		UB/X	UB	UB/X	UB
Japan	842		X	X	X	X
Korea	842		X	X	X	X
Malaysia	Part 842		X	X	X	X
Mexico						
Morocco						
New Zealand	842		X	X	X	X
Norway	842		X	X	X	X
Philippines						
Poland	842		X	X	X	X
Singapore	Own definition		X	X	X	X
Slovak Republic	842		X	X	X	X
South Africa	842		X	X	X	X
Sweden	842		X	X	X	X
Switzerland	842		X	X	X	X
Thailand	Part 842		UB	UB	X	X
Turkey	842	Membership of Union of Chambers required.	X	X	X	X
USA	842		X	X	X	X

Table 7. Chapter 1(B): Computer and related services -- (c) Data processing services

Country	Scope	Article VI measures of general application listed in schedules	Bindings			
			Mode 1		Mode 2	
			MA	NT	MA	NT
Argentina	843		X	X	X	X
Australia	843		X	X	X	X
Austria	843		X	X	X	X
Brazil						
Canada	Part 843		X	X	X	X
Chile						
Czech Republic	843		X	X	X	X
Egypt						
European Communities	843		X	X	X	X
Finland	843		X	X	X	X
Hong Kong, China	Own definition		X	UB	X	UB
Hungary	Own definition		X	X	X	X
Iceland	843		X	O	X	X
India	843		UB	UB	UB	UB
Indonesia						
Japan	843		X	X	X	X
Korea	843		X	X	X	X
Malaysia						
Mexico	843		X	X	X	X
Morocco						
New Zealand	843		X	X	X	X
Norway	843		X	X	X	X
Philippines						
Poland	843		X	X	X	X
Singapore	Own definition		X	X	X	X
Slovak Republic	843		X	X	X	X
South Africa	843		X	X	X	X
Sweden	843		X	X	X	X
Switzerland	843		X	X	X	X
Thailand	Part 843		UB	UB	X	X
Turkey	843	Membership of Union of Chambers required.	X	X	X	X
USA	843		X	X	X	X

Table 8. Chapter 1(B): Computer and related services -- (d) Data base services

Country	Scope	Article VI measures of general application listed in schedules	Bindings			
			Mode 1		Mode 2	
			MA	NT	MA	NT
Argentina	844		X	X	X	X
Australia						
Austria	844		X	X	X	X
Brazil						
Canada	Part 844		X	X	X	X
Chile						
Czech Republic	844		X	X	X	X
Egypt						
European Communities	844		X	X	X	X
Finland	844		X	X	X	X
Hong Kong, China	Own definition		X	UB	X	UB
Hungary	Own definition		X	X	X	X
Iceland	844		X	O	X	X
India	844		UB	UB	UB	UB
Indonesia						
Japan	844		X	X	X	X
Korea	844		X	X	X	X
Malaysia	844		X	X	X	X
Mexico						
Morocco						
New Zealand	844		X	X	X	X
Norway	844		X	X	X	X
Philippines						
Poland	844		X	X	X	X
Singapore	Own definition		X	X	X	X
Slovak Republic	844		X	X	X	X
South Africa	844		X	X	X	X
Sweden	844		X	X	X	X
Switzerland	844		X	X	X	X
Thailand	Part 844		UB	UB	X	X
Turkey						
USA	844		X	X	X	X

ANNEX III: EXAMPLES OF MARKET ACCESS LIMITATIONS UNDER MODES 1 AND 2³³

Legal entity of the foreign supplier

Audit services -- Services must be supplied by a natural person or "Audit Corporation" (Japan, Market Access, modes 1 and 2).

Commercial presence required

Accounting services to take place in-country unless the King decides they may take place abroad (Norway, Market Access, mode 1).

Advertising services requires commercial presence (Malaysia, Market Access mode 1, unbound for National Treatment).

Architectural services requires commercial presence (Japan, Market Access, modes 1 and 2; Korea Market Access mode 1).

Audiovisual - motion picture and videotape production and distribution services requires commercial presence (Malaysia, Market Access mode 1, unbound for National Treatment).

Real estate services requires commercial presence (Australia, Market Access modes 1 and 2; for some services Japan, Market Access, modes 1 and 2).

Taxation services requires commercial presence, services must be supplied by natural person (Japan, Market Access, modes 1 and 2).

Travel agencies and tour operator service requires commercial presence (Australia, Market Access mode 1, Philippines Market Access mode 1, Poland (both Market Access and National Treatment, mode 1). In Canada, provincial requirements of residency and commercial presence (Market Access and National Treatment, mode 1).

Residency and authorisation to supply

Accounting services -- Requirement that public accountants, or at least one of the firm's partners, be effectively resident in-country (Singapore, Market Access, mode 1).

Architectural services -- Certain services reserved to locally registered architects (South Africa, Market Access, modes 1 and 2).

Architectural and engineering services -- Membership of professional association required (Turkey, Market Access, modes 1 and 2).

Auditing services -- Only auditors approved in-country may supply services in specified legal entities, be share-owners or form partnerships in auditing companies. Approval involves local examination, work experience and residency (Sweden, Market Access and National Treatment, mode 1).

Education services -- Nationality requirements (2 EC member states, Market Access and National Treatment, mode 1).

Management consultancy services -- Provincial residency and citizenship requirements for accreditation and use of certain titles (Canada, Market Access, modes 1 and 2).

33. Material in this Annex is drawn from "Electronic commerce: existing GATS commitments for online supply of services", TD/TC/WP(99)37/FINAL, dated 7 December 2000.

News agency services -- access to management functions subject to discretionary authorisations (Iceland, Market Access, modes 1 and 2).

Primary and secondary education services -- Authorisation required for specific services (Norway, Market Access, mode 1).

Taxation services -- Local residency requirements, local registration for certain services (Singapore, Market Access, mode 1).

Exemptions from public funds

Medical services -- Cost of medicare supplied abroad not covered by public medical insurance programmes (Poland, Market Access, modes 1 and 2).

Primary, secondary, tertiary and higher education -- financial assistance only available to certified establishments (Norway, Market Access, mode 1).

Education services supplied from abroad are not covered by public system of education and scholarships -- Poland, Market Access, modes 1 and 2.

Limitation on foreign firms' activities

Travel agencies and tour operator services -- Establishment required, foreign travel agencies may not organise tours abroad (Turkey, Market Access and National Treatment, mode 1).

All education services -- limit on activities of foreign persons, which may establish institutions only for foreign students (Turkey, Market Access, mode 1).

Unbound for part of a services sector

Unbound for certain taxation services (Korea, Market Access, modes 1 and 2).

Unbound for drafting of legal documents (France, Market Access and National Treatment, mode 1).

Unbound for architectural and engineering services (Greece, Italy, Portugal, Market Access and National Treatment, mode 1).

Unbound for engineering services (Indonesia, Market Access and National Treatment, mode 1; unbound for certain services mode 2 Market Access, unbound for mode 2 National Treatment).

Unbound for real estate services (Ireland, Market Access and National Treatment, mode 1).

Unbound for tourist guide services (Italy and Portugal, Market Access and National Treatment, mode 1).

ANNEX IV: EXAMPLES OF SCHEDULED LIMITATIONS ON NATIONAL TREATMENT FOR MODES 1 AND 2³⁴

Access to public funds

Audiovisual services

Motion picture and video tape production and distribution, motion picture projection; radio and television services and radio and television transmission services -- Assistance provided to locally produced programming and films (New Zealand, National Treatment, mode 1).

Motion picture and video tape production and distribution services -- Availability of grants restricted to citizens, permanent residents and non-profit corporations (USA, National Treatment, mode 1).

Adult and "Other" Education services -- Scholarships/grants limited to citizens/residents, certain institutions and jurisdictions (USA, National Treatment, modes 1 and 2).

Commercial presence required for cross-border supply

Accounting and auditing services Commercial presence required to provide auditing services to certain types of company (Switzerland, National Treatment, mode 1).

Real Estate Services involving own or leased property, and on a fee or contract basis -- in-state office and agent requirements for corporations owning real estate (USA, one state, National Treatment, mode 1).

Residency and authorisation, licensing requirements to supply cross-border

Architectural services -- Cantonal requirements for professional experience, nationality for certain services (Switzerland, National Treatment, mode 1).

Engineering services -- Residency requirement (Singapore, National Treatment, mode 1).

Engineering services -- Cantonal requirements for professional experience, nationality for certain services (Switzerland, National Treatment, mode 1).

Legal services -- Professional association membership requirement for foreign legal advisers; use of professional title only with reference to place of registration (Austria, National Treatment, mode 1).

Legal services -- Examination, conditions of nationality and prior residency apply for practice as member of the General Bar Association (Iceland, National Treatment, mode 1).

News agency services -- residency requirements for publisher and owner of publishing/printing company (Sweden, National Treatment, mode 1).

Limitation on foreign firms' activities

Accounting and auditing services -- No representation before competent authorities, no audits by foreigners permitted under specific laws (Austria, National Treatment, mode 1).

Accounting and auditing services -- Authentication in-country by locally licensed auditor (Malaysia, National Treatment, modes 1 and 2).

34. Material in this Annex is drawn from "Electronic commerce: existing GATS commitments for online supply of services", TD/TC/WP(99)37/FINAL, dated 7 December 2000.

Architectural services -- co-operation with established supplier required for certain services (Austria, National Treatment, mode 1).

Architectural services -- Authentication required in-country by locally licensed architect (Malaysia, National Treatment, modes 1 and 2).

Computer services, data processing, data base services and maintenance and repair services -- concession required for processing of personal data outside the country (Iceland, National Treatment, mode 1).

Engineering services -- co-operation with established supplier required for certain services (Austria, National Treatment, mode 1).

Engineering services -- Authentication in-country by locally licensed auditor (Malaysia, National Treatment, modes 1 and 2).

Engineering services -- Certain services reserved to registered resident engineers (New Zealand, National Treatment, mode 1).

R&D services on natural sciences -- license requirement for import of research equipment, permission required for specific imports (Iceland, National Treatment, modes 1 and 2).

R&D services on social sciences and humanities -- permission required for export of archaeological finds (Iceland, National Treatment, modes 1 and 2).

Market research and public opinion polling services -- concession requirement if personal data is to be processed outside of country (Iceland, National Treatment, mode 1).

Taxation services -- limit on scope of activity -- representation before competent authorities not permitted, no audits by foreigners permitted under specific laws (Austria, National Treatment, mode 1).

Fees and charges

Architectural services -- Application of national rules on fees for all services performed from abroad (Denmark, National Treatment, Mode 1).

ANNEX V: SCHEDULED LIMITATIONS ON BOTH MARKET ACCESS AND NATIONAL TREATMENT FOR SERVICES SUPPLIED CROSS-BORDER³⁵

Auditing services -- Only auditors approved in-country may supply services in specified legal entities, be share-owners or form partnerships in auditing companies. Approval involves local examination, work experience and residency (Sweden, Market Access and National Treatment, mode 1).

Auditing services -- Provincial requirements for commercial presence for supply, various provincial citizenship and/or residency requirements for accreditation as auditor and licensed public accountant (Canada, Market Access mode 1 and 2, National Treatment mode 1).

Architectural -- Provincial citizenship and residency requirements for accreditation (Canada, Market Access and National Treatment, mode 1).

Education services -- Nationality requirements (2 EC member states, Market Access and National Treatment, mode 1).

Engineering services -- Provincial citizenship and residency requirements for accreditation (Canada, Market Access modes 1 and 2, National Treatment, mode 1).

Engineering services -- Commercial presence required (Japan, Market Access and National Treatment mode 1).

Legal services -- France and Portugal unbound for drafting of legal documents.

Legal services -- Denmark restriction on marketing of legal advice to locally licensed and registered practitioners (EC12, Market Access and National Treatment, mode 1).

Legal services -- Commercial presence required, services to be supplied by natural person, in certain the cases supplier is required to stay in-country 180 days (Japan, Market Access and National Treatment, modes 1 and 2).

Legal services -- Examination, citizenship, residency, membership of professional association for use of title "advokat"; restrictions on choice of partner and corporate form for "advokat" (Sweden, Market Access and National Treatment, mode 1).

Legal services -- Services must be supplied by a natural person. State requirements of in-state office, residency required for licensing (USA, Market Access and National Treatment, modes 1 and 2).

Real Estate Services involving own or leased property, and on a fee or contract basis -- citizenship and residency requirements (Canada, Market Access and National Treatment, mode 1).

35. Material in this Annex is drawn from "Electronic commerce: existing GATS commitments for online supply of services", TD/TC/WP(99)37/FINAL, dated 7 December 2000.

Travel agencies and tour operator service requires commercial presence (Australia, Market Access mode 1, Philippines Market Access mode 1, Poland (both Market Access and National Treatment, mode 1). In Canada, provincial requirements of residency and commercial presence (Market Access and National Treatment, mode 1).

Travel agencies and tour operator services -- Establishment required, foreign travel agencies may not organise tours abroad (Turkey, Market Access and National Treatment, mode 1).