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**Materials Submitted to the Technical subgroup (TSG)
of the Expert Group on International Economic and Social Classifications**

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Table of Contents of Materials
Submitted by Professor Laurel S. Terry (LTerry@psu.edu)
Representing the International Bar Association

to the Technical Subgroup (TSG) of the Expert Group
on International Economic and Social Classifications,
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1. Legal Services Classification Section of WTO, [*Services Sectoral Classification List, Note by the Secretariat*](#), MTN.GNS/W/120 (July 10, 1991)(used in the Uruguay Round GATS negotiations; it incorporates by reference Provisional UN CPC 861)
2. [*Guidelines for the Scheduling of Specific Commitments Under the General Agreement on Trade in Services \[in the ongoing GATS Doha Round Negotiations\]*](#) S/L/92 (28 March 2001)(recommends continued use of W/120)
3. Excerpts on Classification and Legal Services Trade Statistics from WTO Council on Trade in Services, [*Legal Services Background Note by the Secretariat*](#), S/C/W/43 (6 July 1998)
4. Excerpts on Classification from OECD, [*Managing Request-Offer Negotiations under the GATS: The Case of Legal Services*](#), Job 04/77 (June 2004)
5. WTO, [*Communication From Australia, Negotiating Proposal: Legal Services Classification Supplement*](#), S/CSS/W/67/Suppl.2 S/CSC/W/32 (11 March 2002)
6. WTO, [*Communication from the European Communities: Classification of Legal Services*](#) S/CSC/W/39 (24 March 2003)
7. [*WTO Services Database*](#), Predefined Reports, Legal Services Commitments for Developed, Transition, Developing, and Least Developed Countries
8. [*International Bar Association \(IBA\) Resolution Regarding the Terminology to Use in "Track 1" of the GATS*](#) (Adopted San Francisco, 2003)
9. Other IBA Resolutions and Materials Relevant to Trade in Services
 - a. [*International Bar Association, GATS: A Handbook for International Bar Association Members*](#) (2002)
 - b. [*IBA Resolution on GATS and Deregulation of the Legal Profession*](#) (Adopted Vienna, 1998)[known as Core Values Resolution]
 - c. [*IBA Statement of General Principles for the Establishment and Regulation of Foreign Lawyers*](#) (Adopted Vienna, 1998)
 - d. [*IBA Standards and Criteria for Recognition of the Professional Qualifications of Lawyers*](#) (Adopted Istanbul, 2001)
 - e. [*IBA Resolution Regarding Suitability of Using the Accountancy Disciplines in "Track 2" of the GATS*](#) (Adopted San Francisco, 2003)

***The following items have not been reviewed or endorsed
by the International Bar Association.
They are submitted by Professor Laurel Terry in her individual capacity.***

10. Laurel Terry and Jonathan Goldsmith, *Discussion Paper for the IBA WTO Working Group: Possible Points of Agreement about a WTO Legal Services Classification System* (October 4, 2004)(This paper has not yet been reviewed by IBA Council or IBA WTO Working Group)
11. Provisional UN CPC – legal services classifications in [861](#) (incorporated by reference into the GATS Services Sectoral Classification List, GNS/W/120)*
12. UN CPC Version 1.0 (1997) – legal services classifications in [821](#)*
13. UN CPC Version 1.1 (2002) – legal services classifications in [821](#)*
14. ISIC Revision 3.1 - legal services classifications in [7411](#) and [7523](#)
15. COICOP - legal services' inclusion in [12.7.0](#)
16. Extended Balance of Payment EBOPS (1996) and Balance of Payments Manual (BPM5) - legal services classification [9.3.1.1](#) (with 275 as the internationally accepted code for reporting balance of payment components)
17. Joint OECD-Eurostat Trade in Services Classification, [9.3.1.1](#)
18. North American Product Classification System, [Phase III](#), Working Draft - legal services classifications in 5411*
19. NAICS 2002 – legal services classifications in [5411](#)*
20. Improving the Consultation Process with the Legal Profession
21. Hypothetical examples of international trade in legal services - from U.S. conferences
22. Examples of Regulatory Measures for International Legal Services – [Terry Submission to ABA Commission on Multijurisdictional Practice \(Summary\)](#)
23. Resources about GATS, Legal Services and Statistics
 - a. [International Bar Association, GATS: A Handbook for International Bar Association Members](#) (2002), available at <http://www.ibanet.org/pdf/gats.pdf>
 - b. Classification Page of the ABA GATS Webpage, available at http://www.abanet.org/cpr/gats/track_one_class.html
 - c. ABA GATS Webpage, available at http://www.abanet.org/cpr/gats/gats_home.html
 - d. You may want to contact Julia Nielson at the OECD a copy for her paper entitled *The Effects of Liberalizing Legal Services Markets on the Wider Economy*, Cameron May Conference on Legal Services and the WTO, London, 14 Feb. 2003. It contains a useful analysis of the strengths and weaknesses of legal services statistics.

* The information and tables contained in the asterisked items were prepared by Professor Laurel S. Terry, Penn State Dickinson School of Law, USA, for a law review article she is preparing entitled: Laurel S. Terry, *What's In a Name? The Classification of Legal Services in the WTO and Elsewhere*. The Tables are based on information obtained from the webpages of the U.N. Statistics Division and the U.S. Census Bureau.

WORLD TRADE ORGANIZATION

RESTRICTED

MTN.GNS/W/120

10 July 1991

(98-0000)

Special Distribution

SERVICES SECTORAL CLASSIFICATION LIST

Note by the Secretariat

The secretariat indicated in its informal note containing the draft classification list (24 May 1991) that it would prepare a revised version based on comments from participants. The attached list incorporates, to the extent possible, such comments. It could, of course, be subject to further modification in the light of developments in the services negotiations and ongoing work elsewhere.

SERVICES SECTORAL CLASSIFICATION LIST

<u>SECTORS AND SUB-SECTORS</u>		<u>CORRESPONDING CPC</u>
1.	<u>BUSINESS SERVICES</u>	<u>Section B</u>
A.	<u>Professional Services</u>	
a.	Legal Services	
b.	Accounting, auditing and bookkeeping services	862
c.	Taxation Services	863
d.	Architectural services	8671
e.	Engineering services	8672
f.	Integrated engineering services	8673
g.	Urban planning and landscape architectural services	8674
h.	Medical and dental services	9312
i.	Veterinary services	932
j.	Services provided by midwives, nurses, physiotherapists and para-medical personnel	93191
k.	Other	
B.	<u>Computer and Related Services</u>	
a.	Consultancy services related to the installation of computer hardware	841
b.	Software implementation services	842
c.	Data processing services	843
d.	Data base services	844
e.	Other	845+849
C.	<u>Research and Development Services</u>	
a.	R&D services on natural sciences	851
b.	R&D services on social sciences and humanities	852
c.	Interdisciplinary R&D services	853
D.	<u>Real Estate Services</u>	
a.	Involving own or leased property	821
b.	On a fee or contract basis	822
E.	<u>Rental/Leasing Services without Operators</u>	
a.	Relating to ships	83103
b.	Relating to aircraft	83104
c.	Relating to other transport equipment	83101+83102+
d.	Relating to other machinery and equipment	83106-83109
e.	Other	832
F.	<u>Other Business Services</u>	
a.	Advertising services	871
b.	Market research and public opinion polling services	864
c.	Management consulting service	865
d.	Services related to man. consulting	866
e.	Technical testing and analysis serv.	8676
f.	Services incidental to agriculture, hunting and forestry	881
g.	Services incidental to fishing	882

h.	Services incidental to mining	883+5115
i.	Services incidental to manufacturing	884+885 (except for 88442)
j.	Services incidental to energy distribution	887
k.	Placement and supply services of Personnel	872
l.	Investigation and security	873
m.	Related scientific and technical consulting services	8675
n.	Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)	633+ 8861-8866
o.	Building-cleaning services	874
p.	Photographic services	875
q.	Packaging services	876
r.	Printing, publishing	88442
s.	Convention services	87909*
t.	Other	8790
2.	<u>COMMUNICATION SERVICES</u>	
A.	<u>Postal services</u>	7511
B.	<u>Courier services</u>	7512
C.	<u>Telecommunication services</u>	
a.	Voice telephone services	7521
b.	Packet-switched data transmission services	7523**
c.	Circuit-switched data transmission services	7523**
d.	Telex services	7523**
e.	Telegraph services	7522
f.	Facsimile services	7521**+7529**
g.	Private leased circuit services	7522**+7523**
h.	Electronic mail	7523**
i.	Voice mail	7523**
j.	On-line information and data base retrieval	7523**
k.	electronic data interchange (EDI)	7523**
l.	enhanced/value-added facsimile services, incl. store and forward, store and retrieve	7523**
m.	code and protocol conversion	n.a.
n.	on-line information and/or data processing (incl.transaction processing)	843**
o.	other	
D.	<u>Audiovisual services</u>	
a.	Motion picture and video tape production and	9611

The () indicates that the service specified is a component of a more aggregated CPC item specified elsewhere in this classification list.

** The (**) indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance (e.g. voice mail is only a component of CPC item 7523).

	distribution services	
b.	Motion picture projection service	9612
c.	Radio and television services	9613
d.	Radio and television transmission services	7524
e.	Sound recording	n.a.
f.	Other	
E.	<u>Other</u>	
3.	<u>CONSTRUCTION AND RELATED ENGINEERING SERVICES</u>	
A.	<u>General construction work for buildings</u>	512
B.	<u>General construction work for civil engineering</u>	513
C.	<u>Installation and assembly work</u>	514+516
D.	<u>Building completion and finishing work</u>	517
E.	<u>Other</u>	511+515+518
4.	<u>DISTRIBUTION SERVICES</u>	
A.	<u>Commission agents' services</u>	621
B.	<u>Wholesale trade services</u>	622
C.	<u>Retailing services</u>	631+632 6111+6113+6121
D.	<u>Franchising</u>	8929
E.	<u>Other</u>	
5.	<u>EDUCATIONAL SERVICES</u>	
A.	<u>Primary education services</u>	921
B.	<u>Secondary education services</u>	922
C.	<u>Higher education services</u>	923
D.	<u>Adult education</u>	924
E.	<u>Other education services</u>	929
6.	<u>ENVIRONMENTAL SERVICES</u>	
A.	<u>Sewage services</u>	9401

B.	<u>Refuse disposal services</u>	9402
C.	<u>Sanitation and similar services</u>	9403
D.	<u>Other</u>	
7.	<u>FINANCIAL SERVICES</u>	
A.	<u>All insurance and insurance-related services</u>	812**
a.	Life, accident and health insurance services	8121
b.	Non-life insurance services	8129
c.	Reinsurance and retrocession	81299*
d.	Services auxiliary to insurance (including broking and agency services)	8140
B.	<u>Banking and other financial services</u> (excl. insurance)	
a.	Acceptance of deposits and other repayable funds from the public	81115-81119
b.	Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction	8113
c.	Financial leasing	8112
d.	All payment and money transmission services	81339**
e.	Guarantees and commitments	81199**
f.	Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:	
	- money market instruments (cheques, bills, certificate of deposits, etc.)	81339**
	- foreign exchange	81333
	- derivative products incl., but not limited to, futures and options	81339**
	- exchange rate and interest rate instruments, inclu. products such as swaps, forward rate agreements, etc.	81339**
	- transferable securities	81321*
	- other negotiable instruments and financial assets, incl. bullion	81339**
g.	Participation in issues of all kinds of securities, incl. under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues	8132
h.	Money broking	81339**
i.	Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services	8119+** 81323*
j.	Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments	81339** or 81319**
k.	Advisory and other auxiliary financial	8131

	services on all the activities listed in Article 1B of MTN.TNC/W/50, incl. credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy	or	8133
1.	Provision and transfer of financial information, and financial data processing and related software by providers of other financial services		8131
C.	<u>Other</u>		
8.	<u>HEALTH RELATED AND SOCIAL SERVICES</u> (other than those listed under 1.A.h-j.)		
A.	<u>Hospital services</u>		9311
B.	<u>Other Human Health Services</u>		9319 (other than 93191)
C.	<u>Social Services</u>		933
D.	<u>Other</u>		
9.	<u>TOURISM AND TRAVEL RELATED SERVICES</u>		
A.	<u>Hotels and restaurants (incl. catering)</u>		641-643
B.	<u>Travel agencies and tour operators services</u>		7471
C.	<u>Tourist guides services</u>		7472
D.	<u>Other</u>		
10.	<u>RECREATIONAL, CULTURAL AND SPORTING SERVICES</u> (other than audiovisual services)		
A.	<u>Entertainment services</u> (including theatre, live bands and circus services)		9619
B.	<u>News agency services</u>		962
C.	<u>Libraries, archives, museums and other cultural services</u>		963
D.	<u>Sporting and other recreational services</u>		964
E.	<u>Other</u>		
11.	<u>TRANSPORT SERVICES</u>		
A.	<u>Maritime Transport Services</u>		

a.	Passenger transportation	7211
b.	Freight transportation	7212
c.	Rental of vessels with crew	7213
d.	Maintenance and repair of vessels	8868**
e.	Pushing and towing services	7214
f.	Supporting services for maritime transport	745**
B.	<u>Internal Waterways Transport</u>	
a.	Passenger transportation	7221
b.	Freight transportation	7222
c.	Rental of vessels with crew	7223
d.	Maintenance and repair of vessels	8868**
e.	Pushing and towing services	7224
f.	Supporting services for internal waterway transport	745**
C.	<u>Air Transport Services</u>	
a.	Passenger transportation	731
b.	Freight transportation	732
c.	Rental of aircraft with crew	734
d.	Maintenance and repair of aircraft	8868**
e.	Supporting services for air transport	746
D.	<u>Space Transport</u>	733
E.	<u>Rail Transport Services</u>	
a.	Passenger transportation	7111
b.	Freight transportation	7112
c.	Pushing and towing services	7113
d.	Maintenance and repair of rail transport equipment	8868**
e.	Supporting services for rail transport services	743
F.	<u>Road Transport Services</u>	
a.	Passenger transportation	7121+7122
b.	Freight transportation	7123
c.	Rental of commercial vehicles with operator	7124
d.	Maintenance and repair of road transport equipment	6112+8867
e.	Supporting services for road transport services	744
G.	<u>Pipeline Transport</u>	
a.	Transportation of fuels	7131
b.	Transportation of other goods	7139
H.	<u>Services auxiliary to all modes of transport</u>	
a.	Cargo-handling services	741
b.	Storage and warehouse services	742
c.	Freight transport agency services	748
d.	Other	749
I.	<u>Other Transport Services</u>	
12.	<u>OTHER SERVICES NOT INCLUDED ELSEWHERE</u>	95+97+98+99

WORLD TRADE ORGANIZATION

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Trade in Services

GUIDELINES FOR THE SCHEDULING OF SPECIFIC COMMITMENTS UNDER THE GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)

Adopted by the Council for Trade in Services on 23 March 2001

A. HOW TO DESCRIBE COMMITTED SECTORS AND SUB-SECTORS

23. The legal nature of a schedule as well as the need to evaluate commitments, require the greatest possible degree of clarity in the description of each sector or sub-sector scheduled. In general the classification of sectors and sub-sectors should be based on the Secretariat's Services Sectoral Classification List.⁴ Each sector contained in the Secretariat list is identified by the corresponding Central Product Classification (CPC) number. Where it is necessary to refine further a sectoral classification, this should be done on the basis of the CPC or other internationally recognised classification (e.g. Financial Services Annex). A breakdown of the CPC, including explanatory notes for each sub-sector, is contained in the UN Provisional Central Product Classification.⁵

Example: A Member wishes to indicate an offer or commitment in the sub-sector of map-making services. In the Secretariat list, this service would fall under the general heading "Other Business Services" under "Related scientific and technical consulting services" (see item I.F.m). By consulting the CPC, map-making can be found under the corresponding CPC classification number 86754. In its offer/schedule, the Member would then enter the sub-sector under the "Other Business Services" section of its schedule as follows:

Map-making services (86754)

24. If a Member wishes to use its own sub-sectoral classification or definitions it should provide concordance with the CPC in the manner indicated in the above example. If this is not possible, it should give a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment.

25. It is understood that market access and national treatment commitments apply only to the sectors or sub-sectors inscribed in the schedule. They do not imply a right for the supplier of a committed service to supply uncommitted services which are inputs to the committed service.

B. HOW TO TREAT THE MODES OF SUPPLY

26. The four modes of supply listed in the schedules correspond to the scope of the GATS as set out in Article I:2. The modes are essentially defined on the basis of the origin of the service supplier and consumer, and the degree and type of territorial presence which they have at the moment the service is delivered.

⁴Document MTN.GNS/W/120, dated 10 July 1991.

⁵Statistical Papers Series M No. 77, Provisional Central Product Classification, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991.

Council for Trade in Services

LEGAL SERVICES

Background Note by the Secretariat

A. Introduction

This Note has been prepared at the request of the Council for Trade in Services and provides background information on the legal services sector. It is meant to facilitate the discussion in the Council on the exchange of information programme and it should not be regarded as exhaustive.

During the Uruguay Round negotiations, the Secretariat produced a note on "Trade in Professional Services" in document MTN.GNS/W/67 of 25 August 1989, which contained general information and data on trade in professional services and two short sections focusing on legal services. This Note does not duplicate the work undertaken during the Uruguay Round, but attempts to provide a more specific analysis of issues affecting trade in legal services.

In the past decades international trade in legal services has grown as a result of the internationalisation of the economy. Increasingly, lawyers are faced with transactions involving multiple jurisdictions and are required to provide services and advice in more than one jurisdiction. The demand for lawyers to be involved in foreign jurisdictions often comes from their corporate clients, who do business across borders and choose to rely on the services of professionals who are already familiar with the firm's business and can guarantee high quality services. Some countries also favour international trade in legal services, as the establishment of foreign lawyers is seen as a catalyst for foreign investment, contributing to the security and predictability of the local business environment.

The concept of "one stop shopping" and access to high quality services for firms doing business cross-border appear as major factors in favouring the internationalisation of the legal profession. The lack of local expertise in certain fields of the law is, however, a factor that might gradually disappear as local practices develop skills in order to be able to attract foreign clients. The establishment of forms of collaboration between foreign and local firms as well as the employment of local lawyers by foreign firms and of foreign lawyers by local firms are factors which could contribute to the emergence of a more competitive legal profession in those countries which are still mainly importers of legal services.

The main obstacle to trade in legal services is represented by the predominantly national character of the law and by the national character of legal education. There are of course important similarities between national laws, in particular within the "great legal systems" or "legal families", which are based on the same legal tradition and often share common bodies of law such as caselaw or legal codes. Legal families, however, do not provide a satisfactory solution to the obstacles represented by qualification requirements in legal services, as the main aspect of a lawyer's education is still his knowledge of national law, which differs for each country within a legal family and in some cases even within the same country.

It is clear how common legal traditions might facilitate trade in legal services within legal families, but it should not be understated that there are also common elements among legal educations across the world and that obstacles to trade in legal services between countries belonging to different legal traditions - albeit higher than within legal families - may still be overcome.

B. The legal profession

The legal profession is divided across national lines and reflects the national character of the law. National laws have been grouped in legal families, sharing common legal principles, and in some instances similarities in the structure of the legal profession. Comparative lawyers have identified the following main legal families: Romano-Germanic Law, Common Law, Socialist Law, Hindu Law, Muslim Law, Laws of the Far East, Black Africa and Malagasy Law.¹ The Romano-Germanic and the Common Law families stretch well beyond the countries in which they originated and are the families of laws who bring together the largest number of national laws. Moreover, other legal traditions, which constitute separate legal families, have been influenced by the expansion of Romano-Germanic Law and Common Law and share some legal principles with either of these two families or in some instances with both.

The Common Law legal family shares the same legal principle of *stare decisis*, which binds lower courts to decisions of higher courts on the same points of law. The corollary of the *stare decisis* principle is that caselaw constitutes the main body of law in common law countries. Some Common Law countries also share the same caselaw, even in the absence of a formal hierarchy between their respective courts of law.

The Civil Law tradition is based on the concept of codification. The law is codified by the legislator in codes (civil code, commercial code, criminal code, etc.), which cannot be altered and must be applied by the courts. Codes differ among Civil Law countries - to a certain extent more than the caselaw between Common Law countries - as each country adopted its "national codes", however, some codifications, especially in the field of civil law have exercised important influences on others. The first codification was the attempt by emperor Justinianus to codify Roman Law in the *Corpus Iuris Civilis*. More recent are the French *Code Napoleon* of 1804 and the German *BGB* of 1900, which have exercised great influence on the codifications which have taken place in the past two centuries in other Civil Law countries. As codes grow old in Civil Law countries, a major role is played by ordinary legislation passed by parliaments in the various fields of the law.

The national and local character of the legal profession is a reflection of the national character of the law and of the territorial jurisdiction of the courts. The principal role of the lawyer was originally that of advocate, and the legal profession was organised around the courts, with each bar associated to a specific local court. Lawyers were required to maintain physical establishment in the territory of the local court in order to be accessible to other members of the bar and to the court itself. The paradigm local court / local bar / local lawyer changed with the expansion of trade and with the emergence of new fields of the law such as business and trade law for which representation before a local court is relatively less important. In most circumstances these subjects require legal counselling in matters involving transactions, relationships and disputes not necessarily entailing court proceedings.

This change in the practice of law also led to the emergence of a new type of lawyer mainly involved in counselling, as opposed to the traditional lawyer/advocate, whose main role is representation before a court. While the profession of advocate is almost always regulated and is reserved to qualified members of a professional association (often the local bar), in some countries there is no monopoly by lawyers on legal advice so that members of other professions such as

¹ David, René, "Major legal systems in the world today : an introduction to the comparative study of law," (*Les grands systemes de droit contemporains*) translated and adapted by John E.C. Brierley, 3rd ed., London, Stevens, 1985.

accountants, bankers or estate agents can offer legal advice in relation to economic activities covered by their respective professions. Trade restrictive aspects of the regulation of advocates include nationality requirements, residency requirements, local qualification requirements and local language requirements. In contrast, lower regulatory barriers for counselling lawyers in some countries have facilitated trade in legal services and in the particular the establishment of foreign lawyers as foreign legal consultants.

The distinction between advice and representation is clearly expressed in English law, where the profession of solicitor (counselling) is separated from that of barrister (court representation). The separation between the two professions is, however, becoming less rigid than in the past, as solicitors have been gradually admitted to appear before lower courts in England and Wales. In France the legal profession, previously divided between *avocats* and *conseillers juridique et fiscal*, was recently unified under the common title of *avocat*, resulting in the merger under a single profession of the functions of court representation and advice on legal and fiscal matters. In Japan there is not a formal distinction within the legal profession between counselling and representation functions, but the number of lawyers entitled to appear before a court, *bengoshi*, is relatively very small. Most of the counselling functions, on the other hand, are performed by company in-house lawyers, who do not qualify as *bengoshi* and cannot appear before a court of law. In some countries a nationality requirement exists for representation services, due to the public role performed by the court lawyer in the domestic legal system.

Another important distinction within the legal profession concern “notarial activities”. Notarial activities include property transactions, successions, affidavits on divorce and mergers and acquisitions in the area of company law. In some countries notarial activities are performed by counselling lawyers or by other public officials, while in other countries, in particular Latin countries in Europe and South America, they are reserved for an independent legal professional, the notary. In both cases the professional performing notarial services can act as public official, at least in some of the activities he performs. Due to the public role often played by the notary, notarial activities are not the forefront of liberalisation in legal services and in those countries where the profession is separated there is often a nationality requirements for notaries.²

Professional organizations exist in most countries, and in some cases more than one professional organization exists in one country, especially when the legal profession is divided between different professionals (advocates, counselling lawyers, notaries, etc.), geographic areas (on the basis of court jurisdiction) and different fields of the law. Membership of professional organizations is often compulsory, however, also in those countries where it is voluntary the vast majority of practising lawyers are members of the relevant organization. In some countries professional organizations have regulatory functions, while in others this function is performed by the courts especially with respect to court lawyers.

Possible questions:

- What is the role of international trade in sectors such as host country law and court representation, considering the differences in national law and legal education between national legal systems and families of laws? Are there common elements in national laws and educations, within and across legal families, which can help bridging the gap?
- Does the public role of certain professionals (court lawyers and notaries) justify nationality requirements?

² In some countries certain notarial activities are regarded as “services supplied in the exercise of governmental authority,” like legal services pertaining to the administration of justice. However, unlike judges, court clerks and public prosecutors, who are civil servants, notaries often supply their services “on a commercial basis,” and therefore subject to the provisions of the GATS.

C. Definition of legal services

A broad definition of legal services would include advisory and representation services as well as all the activities relating to the administration of justice (judges, court clerks, public prosecutors, state advocates, etc.). This second aspect, however, is effectively excluded from the scope of the GATS as in most countries it is considered a “service supplied in the exercise of governmental authority” according to Article I(3)(c) of the Agreement. The GATS covers all advisory and representation services in the various field of the law and in statutory procedures.

In the WTO “Services Sectoral Classification List” (document MTN.GNS/W/120), “(a) legal services” are listed as a sub-sector of “(1) business services” and “(A) professional services”. This entry corresponds to the CPC number 861 in the United Nations Provisional Central Product Classification. In the UN CPC the entry “legal services” is sub-divided in “legal advisory and representation services concerning criminal law” (86111), “legal advisory and representation services in judicial procedures concerning other fields of law” (86119), “legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.” (86120), “legal documentation and certification services” (86130) and “other legal and advisory information” (8619).³

³	861	Legal services
	8611	Legal advisory and representation services in the different fields of law
	86111	<u>Legal advisory and representation services concerning criminal law</u>
		Legal advisory and representation services during the litigation process, and drafting services of legal documentation in relation to criminal law. Generally, this implies the defence of a client in front of a judicial body in a case of criminal offence. However, it can also consist of acting as a prosecutor in a case of criminal offence when private legal practitioners are hired on a fee basis by the government. Included are both the pleading of a case in court and out-of-court legal work. The latter comprises research and other work for the preparation of a criminal case (e.g. researching legal documentation, interviewing witnesses, reviewing police and other reports), and the execution of post-litigation work, in relation to criminal law.
	86119	<u>Legal advisory and representation services in judicial procedures concerning other fields of law</u>
		Legal advisory and representation services during the litigation process, and drafting services of legal documentation in relation to law other than criminal law. Representation services generally consist of either acting as a prosecutor on behalf of the client, or defending the client from a prosecution. Included are both the pleading of a case in court, and out-of-court legal work. The latter comprises research and other work for the preparation of a case (e.g. researching legal documentation, interviewing witnesses, reviewing police and other reports), and the execution of post-litigation work, in relation to law other than criminal law.
	8612	86120 <u>Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.</u>
		Legal advisory and representation services during the litigation process, and drafting services of legal documentation in relation to statutory procedures. Generally, this implies the representation of a client in front of a statutory body (e.g. an administrative tribunal). Included are both the pleading of a case in front of authorized bodies other than judicial courts, and the related legal work. The latter comprises research and other work for the preparation of a non-judicial case (e.g. researching legal documentation, interviewing witnesses, reviewing reports), and the execution of post-litigation work.

The revision of the UN CPC approved by the UN statistical committee in February 1997 leaves the legal services classification substantially unchanged. However, it includes as a subclass of legal services "Arbitration and conciliation services," previously part of management consultancy services.⁴

It appears, however, that the UN CPC distinction between advice and representation in criminal law, other fields of the law and statutory procedures was not as relevant to Members scheduling commitments as the distinction between advice and representation in host country, home country and international law. As the UN CPC classification in this sector did not reflect the reality of trade in legal services, Members have preferred to adopt the following distinctions in scheduling GATS commitments, which appear better suited than the UN CPC to express different degrees of market openness in legal services: (a) host country law (advisory/representation); (b) home country law and/or third country law (advisory/representation); (c) international law (advisory/representation); (d) legal documentation and certification services; (e) other advisory and information services.

A Member may allow foreign professionals to practice its domestic law, international law and the law of his home country or of a third country. In all these circumstances the commitment may cover only advisory services or it may extend to representation services, so that a foreign professional may represent a client before a domestic court or an arbitration tribunal in the host country. Professionals practising international, home and third country law are often referred to as Foreign Legal Consultants (FLCs). This definition has also been adopted in some GATS schedules.

- Should the revision of the UN CPC take account of the Uruguay Round scheduling distinctions in legal services in re-defining classification in the sector?
- Is the distinction between host country, international, home country and third country law satisfactory?

D. The legal services sector

The legal services sector has experienced a steady and continuous growth in the past decades as a consequence of the growth in international trade and of the emergence of new fields of practice, in particular in the area of business law. Sectors such as corporate restructuring, privatization, cross-border mergers and acquisitions, intellectual property rights, new financial instruments and competition law have generated an increasing demand for more and more sophisticated legal services in the past years. Unfortunately there are no comprehensive disaggregated data on the size of the sector, as legal services are often bundled together with other professional services or business services.⁵ It has been estimated that in the European Community the number of professional

8613	86130	<u>Legal documentation and certification services</u>
		Preparation, drawing up and certification services of legal documents. The services generally comprise the provision of a number of related legal services including the provision of advice and the execution of various tasks necessary for the drawing up or certification of documents. Included are the drawing up of wills, marriage contracts, commercial contracts, business charters, etc.
8619	86190	<u>Other Legal advisory and information services</u>
		Advisory services to clients related to their legal rights and obligations and providing information on legal matters not elsewhere classified. Services such as escrow services and estate settlement services are included.

⁴ See, "Detailed analysis of the modifications brought about by the revision of the central product classification," Note by the Secretariat – Addendum, S/CSC/W6/Add.10, 27 March 1998.

⁵ Disaggregated data on legal services are available from the OECD for Iceland and the United States.

Legal Services: Uruguay Round Commitments

COUNTRY	HOST COUNTRY LAW		INTERNATIONAL LAW		HOME COUNTRY LAW		OTHER	MODES
	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION		
Antigua and Barbuda			X		X			All*
Argentina	X	X	X	X	X	X		All*
Aruba			X					All, NT 4: unbound
Australia			X	X	X	X		All*
Austria			X		X			1,2,4*
Barbados							86130	3, 4
Bulgaria			X		X			All*
Canada			X		XF			All*
Chile			X					3, 4*
Colombia			X		XF		All* modes of supply for legal advisory services relating to mining	1, 2
Cuba	X	X	X	X	X	X	86190	2, 3, 4*
Czech Republic	X	X	X	X	X	X	86190	All*
Dominican Republic								MA: 1, 2, 3; NT: 3
Ecuador			X		X			All*
El Salvador							86190	All*
European Communities	(France and Luxembourg)	(France and Luxembourg)	X		X			All*
Finland			X		X			All*
Gambia	X	X	X	X	X	X		All*
Guyana	X	X	X	X	X	X		All*
Hungary					X			All*
Iceland			X		XF			All*
Israel	X	X	X	X	X	X		All*
Jamaica			X		X			All*
Japan	X	X	X	X	X	X	Services supplied by qualified patent attorneys and maritime procedure agents	All*

X: indicates a partial or full market access and national treatment commitment.

XF: indicates a partial or full commitment in home and third country law.

86130: legal documentation and certification services.

86190: other legal advisory and information services.

MA: Market Access

NT: National Treatment

*: mode four unbound, except as indicated in the horizontal section

COUNTRY	HOST COUNTRY LAW		INTERNATIONAL LAW		HOME COUNTRY LAW		OTHER	MODES
	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION		
Lesotho	X	X	X		XF			3, 4*
Liechtenstein			X		X			1, 2, 4*
Malaysia	(Domestic Offshore corporation laws)		X		X			1, 2, 4*; mode 3 limited to Federal territory of Labuan
Netherlands Antilles			X		X			All
New Zealand	X	X	X	X	X	X		All*
Norway					X			All*
Panama			X		X			All*
Papua New Guinea	X	X	X	X	X	X		All*
Poland	X	X	X	X	X	X		1, 2
Romania	X	X	X	X	X	X		1, 2
Rwanda	X	X	X	X	X	X		All
Sierra Leone	X	X	X	X	X	X		All*
Slovak Republic	X	X	X	X	X	X		All*
Slovenia	X	X	X	X	X	X		All*
Solomon Islands			X	X	X	X		All*
South Africa	X	X	X	X	X	X		3, 4*
Sweden			X		X			All*
Switzerland			X		X			All*
Thailand	X	X	X	X	X	X		2, 3
Trinidad and Tobago			X					All
Turkey			X		XF			All
United States	X	X	X	X	X	X		All*
Venezuela	X		X		X			2, 4*
TOTAL	22	20	42	20	42	20	6	

X: indicates a partial or full market access and national treatment commitment.
 XF: indicates a partial or full commitment in home and third country law.
 86130: legal documentation and certification services.
 86190: other legal advisory and information services.
 MA: Market Access
 NT: National Treatment
 *: mode four unbound, except as indicated in the horizontal section

Level of commitments in legal services by mode of supply
(Percentages of full, partial and no commitments)

Mode of supply	Market Access			National treatment		
	Full	Partial	No	Full	Partial	No
Cross-border supply	22 18*	62 67*	16 16*	22	60	18
Consumption abroad	31 24*	60 67*	9 9*	31	58	11
Commercial presence	13 4*	78 87*	9 9*	16	76	9
Natural persons	2 2*	91 91*	7 7*	2	91	7

* Percentage taking account of horizontal commitments applicable to all sectors.

Types of measures scheduled in legal services
(Taking account of horizontal measures applicable to all sectors)

Market Access	Mode 1	Mode 2	Mode 3	Mode 4
Value of transaction or assets			8	
Number of natural persons			4	26
Types of legal entity	4	2	18	2
Participation of foreign capital			8	2
Other market access measure	1	3	12	
Total	5	5	50	30

National Treatment	Mode 1	Mode 2	Mode 3	Mode 4
Financial measures			1	
Nationality and residency requirements	6	2	16	11
Licensing, standards, qualifications	7	2	12	11
Registration requirements	4	1	7	4
Authorization requirements			1	1

Local content, training requirements				1
Other national treatment measure	2	1	6	5
Total	19	6	43	33



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Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

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**TRADE DIRECTORATE
TRADE COMMITTEE**

**TD/TC/WP(2003)40/FINAL
Unclassified**

Working Party of the Trade Committee

MANAGING REQUEST-OFFER NEGOTIATIONS UNDER THE GATS: THE CASE OF LEGAL SERVICES

OECD Trade Policy Working Paper No. 2

by Massimo Geloso Grosso

All Trade Working Papers are now available through OECD's Internet website at:
<http://www.oecd.org/trade>

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English - Or. English

IV. CURRENT DEVELOPMENTS IN THE GATS

1. Definition of legal services

17. The WTO services sectoral list¹ has a single entry for legal services listed as a subcategory of professional services and a sub-subcategory of business services, with reference to the CPC number 861 in the United Nations Provisional Central Product Classification.² As highlighted by the WTO Secretariat, the UN CPC distinction between advice and representation in criminal law, other fields of the law and statutory procedures was less relevant to Members scheduling commitments than the distinction between advice and representation in host country, home/third country and international law.³

18. Even these distinctions are, however, under review during the current negotiations. A number of WTO Members have submitted proposals suggesting alternative definitions of legal services that could be used when countries submit their requests and offers. The proposals aim to refine, improve and bring enhanced flexibility to the current classification to reflect more clearly the commercial realities of international trade in legal services. They also seek to give Members the ability to increase the number and quality of their commitments in legal services without compromising public policy objectives such as the protection of domestic consumers or safeguarding the rule of law.⁴

19. The levels of ambition for classification are varied, including in relation to the field of law, category of professionals and type of service. Some proposals have called for the development of common definitions for foreign legal consultancy services — i.e. professionals practising international, home and third country law — and for the practice of international law.⁵ One proposal has suggested that legal services be divided into sub-sectors that focus on the individual professions (lawyers, judges, and other legal professionals not elsewhere classified).⁶ Another has proposed defining legal services as including the provision of legal advice or legal representation in such capacities as counselling in business transactions, participation in the governance of business organisations, mediation, arbitration and similar non-judicial dispute resolution services, public advocacy and lobbying.⁷

¹ Document MTN.GNS/W/120.

² The revision of the UN CPC (CPC Rev.1), approved by the UN statistical committee in February 1997, leaves legal services substantially unchanged. However, it includes as a subcategory of legal services “Arbitration and conciliation services”, previously part of management consultancy services.

³ WTO, 2003a.

⁴ WTO, 2003a; and Miller and Gallacher, 2002.

⁵ See, for example, one of the communications from Australia on legal services (WTO 2001a) and the communication from Canada on professional services (WTO, 2001b).

⁶ Communication from India on movement of professionals (WTO, 2000a).

⁷ Communication from the US on legal services (WTO, 2000b). However, upon further consideration of WTO Members’ concerns about lobbying by foreign lawyers, the United States is neither seeking nor requesting that WTO Members schedule lobbying in their commitments.

20. More recently, a specific proposal for classification suggested adding 12 new sub-categories based on the area of law and the type of service. The 12 sub-categories are: home-country law (advisory services); home-country law (representation services); third country law (advisory services); third-country law (representation services); host-country law (advisory services); host-country law (representation services); international law (advisory services); international law (representation services); international commercial arbitration services; other alternative dispute resolution services; preparation and certification of legal documents; and other legal advice or consultancy services.⁸

21. A further proposal in this area considers that, for classification purposes, the only parameter to be taken into account should be the nature of the different activities that can be provided by legal professionals and not the underlying qualifications to perform these activities. In this respect, assuming as a guiding principle that legal services suppliers are only able to provide legal services for which they are qualified, this proposal suggests to: 1) keep the current classification of legal services (CPC 861, plus arbitration and conciliation) without further sub-divisions; 2) address any limitations on the provision of legal services, including on the fields of law on which practice would be allowed, through the market access and national treatment columns of their schedules of commitments (see below); and 3) allow for the possibility to enter additional commitments for the supply of legal services in fields of law for which the service supplier is not qualified.⁹

22. The International Bar Association (IBA) has also adopted in September 2003 a resolution in support of a system of terminology for legal services for the purpose of international trade negotiations. The resolution does not take a position on the issue of classification, but recommends a system of terminology for legal services that could be used in formulating either commitments or reservations to commitments within the framework of the GATS.¹⁰

23. All these options need to be considered carefully by WTO Members. The classification system used in the Doha Round will have a significant influence on the evolution of the international market for legal services. It is crucial that the terminology employed in the negotiations be clear and consistent with the reality of modern trade in legal services.

2. Existing commitments and beyond

24. Under the GATS, WTO Members are subject to general rules and disciplines, which apply to all Members and, for the most part, to all services including legal services. These include most-favoured-nation (MFN) treatment and transparency; however, WTO Members were given a one-off opportunity to list MFN exemptions in the Uruguay Round (an opportunity also afforded to subsequent acceding countries). Six Members have MFN exemptions in legal services¹¹ and four other Members have exemptions for professional services.¹² Reasons given for exemptions include lack of reciprocity, the protection of public policy goals such as ensuring the quality of the service and the need to approve the establishment of foreign law firms on a case-by-case basis.¹³

⁸ See the latest communication from Australia on legal services (WTO, 2002a).

⁹ Communication from the EC on legal services (WTO, 2003a).

¹⁰ IBA, 2003a.

¹¹ Brunei Darussalam, Bulgaria, Dominican Republic, Lithuania, FRY Macedonia and Singapore.

¹² Costa Rica, Honduras, Panama and Turkey.

¹³ See Annex Table 3.

ANNEX TABLE 4
URUGUAY ROUND COMMITMENTS ON LEGAL SERVICES

COUNTRY	HOST COUNTRY LAW		INTERNATIONAL LAW		HOME COUNTRY LAW		OTHER	MODES
	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION		
Antigua and Barbuda			X		X			All*
Argentina	X	X	X	X	X	X		All*
Aruba			X		X			All, NT 4: unbound
Australia			X	X	X	X		All*
Austria			X		X			1,2,4*
Barbados							86130	3, 4
Bulgaria			X		X			All*
Canada			X		XF			All*
Chile			X					3, 4*
Colombia			X		XF		All* modes of supply for legal advisory services relating to mining	1, 2
Cuba	X	X	X	X	X	X	86190	2, 3, 4*
Czech Republic	X	X	X	X	X	X		All*
Dominican Republic							86190	MA: 1, 2, 3; NT: 3
Ecuador			X		X			All*
El Salvador							86190	All*
European Communities	(France and Luxembourg)	(France and Luxembourg)	X		X			All*
Finland			X		X			All*
Gambia	X	X	X	X	X	X		All*

COUNTRY	HOST COUNTRY LAW		INTERNATIONAL LAW		HOME COUNTRY LAW		OTHER	MODES
	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION		
Guyana	X	X	X	X	X	X		All*
Hungary					X			All*
Iceland			X		XF			All*
Israel	X	X	X	X	X	X		All*
Jamaica			X		X			All*
Japan	X	X	X	X	X	X	Services supplied by qualified patent attorneys and maritime procedure agents	All*
Lesotho	X	X	X		XF			3, 4*
Liechtenstein			X		X			1, 2, 4*
Malaysia	(Domestic Offshore corporation laws)		X		X			1, 2, 4*; mode 3 limited to Federal territory of Labuan
Netherlands Antilles			X		X			All
New Zealand	X	X	X	X	X	X		All*
Norway					X			All*
Panama			X		X			All*
Papua New Guinea	X	X	X	X	X	X		All*
Poland	X	X	X	X	X	X		1, 2
Romania	X	X	X	X	X	X		1, 2
Rwanda	X	X	X	X	X	X		All
Sierra Leone	X	X	X	X	X	X		All*
Slovak Republic	X	X	X	X	X	X		All*
Slovenia	X	X	X	X	X	X		All*
Solomon Islands			X	X	X	X		All*
South Africa	X	X	X	X	X	X		3, 4*
Sweden			X		X			All*

COUNTRY	HOST COUNTRY LAW		INTERNATIONAL LAW		HOME COUNTRY LAW		OTHER	MODES
	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION	ADVISORY	REPRESENTATION		
Switzerland			X		X			All*
Thailand	X	X	X	X	X	X		2, 3
Trinidad and Tobago			X					All
Turkey			X		XF			All
United States	X	X	X	X	X	X		All*
Venezuela	X		X		X			2, 4*
TOTAL	22	20	42	20	42	20	6	

Source: WTO, 1998a

X: indicates a partial or full market access and national treatment commitment.

XF: indicates a partial or full commitment in home and third country law.

86130: legal documentation and certification services.

86190: other legal advisory and information services.

MA: Market Access

NT: National Treatment

*: mode four unbound, except as indicated in the horizontal section

WORLD TRADE ORGANIZATION

S/CSS/W/67/Suppl.2
S/CSC/W/32
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(02-1233)

Council for Trade in Services
Special Session
Committee on Specific Commitments

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COMMUNICATION FROM AUSTRALIA

Negotiating Proposal: Legal Services Classification

Supplement

The attached communication has been received from the delegation of Australia with the request that it be circulated to Members of the Council for Trade in Services as a second supplement to document S/CSS/W/67. It has also been requested that it be circulated to the Committee on Specific Commitments.

1. This paper proposes expanding the definition of 'Legal Services' in the World Trade Organisation's Services Sectoral Classification List¹. The paper completes the initial suite of negotiating proposals on legal services tabled by Australia.² Australia reserves the right to submit further proposals in relation to legal services at a later date.

I. BACKGROUND

2. In its background paper on legal services, the WTO Secretariat addresses the classification issue and poses the following questions:³

- Should the revision of the United Nations Central Product Classifications take account of the Uruguay Round scheduling distinctions in legal services in redefining classification in the sector?
- Is the distinction between host-country, international, home-country and third-country law satisfactory?

3. Even though these two questions relate to the UN Provisional Central Product Classifications (CPC), they would be equally pertinent if directed at the WTO's Services Sectoral Classifications (W/120) as the latter list is closely correlated to, and in some cases derived from, the CPC. Accordingly, if the questions are rephrased in context of W/120, Australia's answer to both questions would be affirmative in that: (1) any revision of W/120 should take into account the Uruguay Round scheduling distinctions in legal services in redefining classification in that sector; and (2) it follows

¹ World Trade Organisation 'Services Sectoral Classification List' MTN.GNS/W/120 of 10 July 1991.

² Australia's initial proposal identified some impediments to further liberalisation and proposed six guiding principles for the liberalisation of trade in legal services (S/CSS/W/67 of 27 March 2002 and S/CSS/W/67/Corr.1 of 11 April 2001). It was followed by a paper proposing 'Limited Licensing' as a regulatory approach for foreign lawyers (S/CSS/W/67/Suppl.1/Rev.1 of 10 July 2001).

³ World Trade Organisation 'LEGAL SERVICES: Background Note by the Secretariat' S/C/W/43 of 6 July 1998, at paragraphs 15 to 18.

from Uruguay Round scheduling by Members that the distinctions between host-country, international, home-country and third-country law are appropriate.

4. At present, W/120 has a single undifferentiated entry for 'Legal Services' listed under the subsector of 'Professional Services', which in turn is listed under the 'Business Services' sector. However, the nature of market access barriers associated with the provision of transnational legal services is such that the liberalisation of trade in legal services would be better served if 'Legal Services' were further differentiated to include subcategories that reflect the reality of trade in transnational legal services. A survey of Uruguay Round commitments clearly indicates that the area of law (essentially, home-country law, international law, third-country law and host country law) and the type of service (advisory/consultancy and representational) provide an useful guide as to the appropriate subcategories that should be incorporated into W/120.

5. As recognised in the Secretariat's paper in 1998,⁴ Australia considers that there is a strong case for expanding W/120 to more clearly reflect the commercial realities of international trade in legal services and provide a framework for Members to have enhanced flexibility in making commitments in legal services. An expanded W/120 should take into account the different types of services that can be provided by foreign legal practitioners and the different considerations that may underlie a Member's approach when making commitments in the legal services sector.

II. PROPOSAL

6. Australia proposes that the definition of "Legal Services" in W/120 should be expanded to include the following subcategories:

- (a) Home-country law (advisory services) – limited to providing advice or consultancy services in the law of the legal practitioner's home country or jurisdiction in which the practitioner has a legal right to practise law;
- (b) Home-country law (representation services) – extends to representing clients before a court or judicial body in the law of the practitioner's home-country or jurisdiction;
- (c) Third-country law (advisory services) – limited to providing advice or consultancy services in the law of a third-country or jurisdiction where the practitioner has competency in the law of that country or jurisdiction;
- (d) Third-country law (representation services) – extends to representing clients before a court or judicial body in the law of a third-country or jurisdiction where the practitioner has competency in the law of that country or jurisdiction;
- (e) Host-country law (advisory services) – limited to providing advice or consultancy services in the law of the host country or jurisdiction;
- (f) Host-country law (representation services) – extends to representing clients before a court or judicial body in the law of the host-country;
- (g) International law (advisory services) – limited to providing advice or consultancy services in international law;

⁴ World Trade Organisation 'LEGAL SERVICES: Background Note by the Secretariat' S/C/W/43 of 6 July 1998, at paragraphs 17 and 18.

- (h) International law (representation services) – extends to representing clients before a court or judicial body in international law;
- (i) International commercial arbitration services – extends to the right to prepare and appear in international commercial arbitration on behalf of clients;
- (j) Other alternative dispute resolution services - extends to advice or consultancy and participation in mediation and similar non court-based dispute resolution services;
- (k) Preparation and certification of legal documents – including providing advice and the execution of various tasks necessary for the drawing up or certification of documents; and
- (l) Other legal advisory or consultancy services – extends to advisory or consultation services to clients on their legal rights and obligations and providing information of legal or law-related matters not elsewhere classified.

III. DEFINITION: AREA OF LAW AND TYPE OF SERVICE

7. Each of the proposed subcategories is, in effect, a combination of an area of law and type of service. Australia is of the view that it is more appropriate to define and include areas of law and types of service into W/120, rather than defining the service provider. The proposed approach provides Members with an opportunity to make commitments on widely recognised areas of law and types of service without the need to describe the service provider as a foreign lawyer, legal practitioner, advocate, foreign legal consultant or any other term used by individual Members.

8. The structure of the WTO schedules is better suited to accommodating definitions focused on the area of law and type of service, rather than on the definition of the service provider. In other words, the scheduling structure appears to lend itself to providing greater efficiencies and possibly better outcomes during negotiations if Members focus on areas of law and types of service rather than on the type or types of service provider. Realities of transnational trade in legal services, as confirmed by the Uruguay Round commitments and negotiating proposals tabled by Members in the current negotiations,⁵ strongly suggest that the distinctions between host-country, home-country, third-country and international law are fundamental to achieving liberalisation of trade in legal services. Therefore, Australia considers that in expanding the definition of 'Legal Services' in W/120, Members should maintain a focus on areas of law and types of service rather than on the service provider.

IV. CONCLUSION

9. The proposed subcategories allow Members to make commitments with certainty where meaningful market access can be provided to foreign legal practitioners while, where considered appropriate, restricting access to the practice of host-country law, the primary domain of local practitioners. Countries that maintain a nationality requirement in relation to the provision of legal services appear to do so to protect a 'public function' performed by host-country practitioners involved in the practice of host-country law, particularly in relation to representation associated with a

⁵ Negotiating Proposals on Professional Services by the European Communities, S/CSS/W/33 of 22 December 2000; Canada, S/CSS/W/52 of 14 March 2001; and Switzerland, S/CSS/W/75 of 4 May 2001 as well as Australia's Negotiating Proposals on Legal Services, S/CSS/W/67 of 27 March 2001 and S/CSS/W/67/Suppl.1/Rev.1 of 10 July 2001.

right of audience in the courts of host jurisdictions.⁶ The proposed subcategories, together with a limited licensing regulatory system,⁷ would provide those Members with a clear mechanism through which to limit the practise of ‘host-country law (representation services)’ to local practitioners, but make substantial commitments through other subcategories, thus protecting the ‘public function’ as well as providing meaningful market access to foreign legal practitioners.

10. Therefore, by expanding and refining W/120 as proposed above, Members could increase the number and quality of commitments without compromising the protection of domestic consumers or the quality of legal services, and safeguard the rule of law.

⁶ WTO Secretariat “Guide to the GATS: An Overview of Issues for Further Liberalisation of Trade in Services” (2001) Kluwer Law International, The Hague and the World Trade Organisation, Geneva, at Page 407.

⁷ Refer to Australia’s negotiating proposal tabled with the Council for Trade in Services on 10 July 2001 detailing a ‘Limited Licensing’ system for foreign lawyers, S/CSS/W/67/Suppl.1/Rev.1.

COMMUNICATION FROM THE EUROPEAN COMMUNITIES

Classification of legal services

The attached communication has been received from the delegation of the European Communities with the request that it be circulated to the Committee on Specific Commitments.

I. INTRODUCTION

1. The services sectoral classification list (W/120) has a single, undifferentiated entry for “legal services” listed under professional services, a sub-sector of business services, with a reference to UN CPC 861. The WTO Secretariat, in its background note of 6 July 1998,¹ has highlighted that the UN CPC distinction between advice and representation in criminal law, other fields of the law and statutory procedures was not as relevant to Members scheduling commitments as the distinction between advice and representation in host country, home country and international law.

2. There have been proposals to refine, improve and bring enhanced flexibility to the W/120 classification of legal services to reflect more clearly the commercial realities of transnational trade in legal services. They also aim to give Members the ability to increase the number and quality of their commitments in legal services without compromising the protection of domestic consumers, the quality of legal services and the safeguard of the rule of law. Some proposals in this area have just pointed to developing common definitions for foreign legal consultancy services and for the practice of international law.² One proposal has suggested that legal services be divided into sub-sectors that focus on the individual professions (lawyers, judges and other legal professionals not elsewhere classified).³ Another one has proposed defining legal services as including the provision of legal advice or legal representation in such capacities as counselling in business transactions, participation in the governance of business organisations, mediation, arbitration and similar non-judicial dispute resolution services, public advocacy, and lobbying.⁴ More recently, a specific proposal for classification suggested adding subcategories based on the area of law and the type of service.⁵

3. It is the EC view that those proposals fall short of capturing the entire range of cross-border legal services and do not necessarily entail the flexibility they intend to introduce. The W/120 has shown enough flexibility for Members’ scheduling of commitments and, together with a common

¹ S/C/W/43.

² CSC Jobs No 2157 from the USA, dated 14 April 1999, No 3186 from Japan, dated 23 May 2000, and No 4977 from Korea, dated 9 August 2000. Also S/CSS/W/67 and S/CSS/W/67/Suppl. 1 from Australia, and incidentally S/CSS/W/52 (point 5), from Canada.

³ S/CSS/W/12, from India.

⁴ S/CSS/W/28 (point 5) from the USA.

⁵ S/CSS/W/67/Suppl. 2 from Australia, S/CSC/W/32 and S/CSC/M/22 (point 3).

understanding of commitments, that classification can provide a useful basis to reflect modern international legal practice.

II. WHAT ARE THE FEATURES OF CONTEMPORARY INTERNATIONAL LEGAL PRACTICE?

4. For a long time, lawyers and law firms have been doing most of their business within their own domestic market. Most clients' legal matters were confined to a single country and a lawyer's familiarity with that country's legal system was a qualification of particular importance. The internationalisation of the economy is modifying this trend.

- Owing to the increasing trade flows, consumers of legal services seek advice when carrying out cross-border transactions in which international law and different domestic laws often overlap. Modern commercial transactions, even at their most basic, routinely require legal advice on the laws of more than one jurisdiction. At the more complex end of the market, it is not unusual for clients to require advice on the laws of 10, even 15, jurisdictions, and in addition, in respect of international treaties between sovereign States.
- Lawyers are also moving and qualifying to practice⁶ in jurisdictions other than their home country; sometimes they even cumulate qualifications to practice in more than one jurisdiction.

5. The increasing mobility of clients and lawyers alike and the international dimension of legal problems which need to be tackled in a globalised economy, have prompted an ever increasing need for international co-operation between lawyers and have given birth *inter alia* to the "migration" of lawyers, transnational partnerships and foreign establishments of law firms.

6. The ongoing globalisation of commercial activity by businesses makes it imperative that lawyers be able to provide to their clients advice and assistance respecting the laws of the jurisdictions in which they are qualified to practice, no matter the place or context in which these laws have to be examined (jurisdiction of the territory where the client is established, another jurisdiction, arbitration procedures). Whenever a client is requesting advice or assistance respecting laws of jurisdictions for which the lawyer is not qualified to practice, if that lawyer finds it difficult to obtain the required qualification, it is also imperative that the lawyer can co-operate, either through a network of "best friends" or through a partnership, with lawyers qualified therein. This possibility of co-operation is fundamental whenever the lawyer's client has to be represented in front of a national court or administrative body applying the procedural law of a jurisdiction for which the lawyer is not qualified to practice.

7. These requirements of contemporary international legal practice can be easily met by law firms, provided that they are allowed to recruit and/or to enter into partnership with lawyers qualified to practice in different jurisdictions.

III. WHAT IS THE SCOPE OF COMMITMENTS UNDERTAKEN BY WTO MEMBERS IN RESPECT OF LEGAL SERVICES?

8. A survey of the schedules of commitments in the legal services sub-sector shows that only a few WTO Members have taken commitments for all legal services. **Most WTO Members** who have liberalised trade in legal services **have limited their commitments to legal advice** (or legal consultancy), probably because they feared the situation where a foreign lawyer not admitted to the

⁶ For the purpose of this paper the terms "qualification to practice as a lawyer" should be understood as a "licensing" within the meaning of Article VI of GATS.

Bar in their territory could represent clients in front of their national courts. In addition, most of the commitments refer to the fields of law that they cover, using for that purpose **the distinction between host country, home country, third country and international law.**

9. This terminology seems to be mainly based on a world where lawyers are qualified to practice only in their own country or jurisdiction and raises many questions. In particular:

- The concept of home country law, which can be defined as the law of the country or jurisdiction where the lawyer is qualified to practice, might overlap with the concept of host country law⁷.
- The concept of third country law can receive two possible interpretations. Either it is any third country law where the lawyer is qualified to practice, as indicated in the classification proposals that have been submitted so far, in which case the concept overlaps with the concept of home country law. Or it is the law of any country (other than the host country) where the lawyer is not necessarily qualified to practice, in which case the concept becomes controversial for reasons of consumer protection.
- The definition of international law is also fraught with difficulties. Law can be considered as international by its sources⁸, by its content (more than one country is involved) and by the jurisdiction charged with its application and/or interpretation (an international court or tribunal). Some proposals have put the emphasis on the content and consider that international law consists of rules and principles of general application dealing with the conduct of States and of international organisations and with their relations, as well as with some of their relations with persons, whether natural or juridical, covering therefore private international law. Others go even further to include also law related to international business transactions. Many Members, and among them the EC, consider instead that private international law and law related to international business transactions are mainly part of domestic law or of a combination of several domestic laws. International law would therefore be limited to public international law.
- Specific consideration will have to be given in this context to the *sui generis* supranational legal orders that have been developed in the framework of integration processes. As regards EC law, this should not be considered as international law but as domestic EC law. Indeed, the EC constitutes a new legal order of international law for the benefit of which the States have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only Member States but also their nationals. The law stemming from the Treaty, an independent source of law, could not, because of its special and original nature, be overridden by domestic legal provisions, however framed, without being deprived of its character as Community law

⁷ In effect, a national of country A who qualifies as a lawyer in that country and is subsequently admitted to the Bar in country B provides legal services in the home country law of A and B. Likewise, the lawyers qualified in country B that are employed in the office opened in that country by a law firm whose primary establishment is located in country A, are providing legal services in their home country (which is the law of B). From the point of view of country B, whenever those lawyers practice in their territory, they will be providing legal services in host country law.

⁸ See Article 38 of the Statute of the International Court of Justice.

and without the legal basis of the Community itself being called into question.⁹

10. Most **commitments** have been **made in respect of international law (or specifically public international law) and home country law**. In this situation, the exact coverage of the commitments varies depending on the way that they have been scheduled:

- In some cases, the schedule expressly indicates that the host country law is not committed (or unbound) or that the commitments only cover foreign law.
- In other cases, no express indication is made under the sectoral coverage of the commitments, but additional commitments are undertaken with regard to host country law, and therefore host country law seems to be excluded from the commitments in so far that it is not covered by those additional commitments.
- Finally, there are cases where no reference whatsoever is made to host country law, leaving therefore open the interpretation of those commitments¹⁰.

11. The exact coverage of the commitments is easier to determine when the commitments are made in respect to **the law of jurisdiction where the service supplier is qualified**. From a technical point of view, it is however doubtful that those commitments reflect the situation of law firms, where it is not the service supplier itself but its personnel who is qualified to practice.

IV. IS CONTEMPORARY INTERNATIONAL LEGAL PRACTICE CORRECTLY AND COMPLETELY ADDRESSED BY THOSE COMMITMENTS?

12. The EC considers that none of the approaches based on a distinction between different fields of law addresses all the requirements of modern international legal practice. Such analysis is valid for commitments extending to all legal services, and even more when these are limited to legal advice only. Indeed, all those approaches mix unnecessarily the definition of a service with the necessary qualifications to provide it and, consequently, tend to overlook the situation of law firms.

13. For classification purposes, the only parameter to be taken into account should be the nature of the different services that can be provided by legal professionals. In this regard, the UN CPC classification, after the revision of 1997 which added arbitration and conciliation services, is quite exhaustive. It even extends to activities that are performed mainly by the legal professions, but not only by them (conciliation and mediation, advice on tax laws).

14. In this context, it has to be noted that there are a number of legal professionals who are entrusted with public functions (e.g. judges, notaries, etc.). In conformity with Article I:3 of GATS, they should not be affected by commitments undertaken with regard to legal services, even if their activity could be considered as included among those described by CPC 861¹¹. However, in case the entire WTO membership would not agree with a full exclusion of some of those legal professionals

⁹ See judgements of the European Court of Justice of 5 February 1963, case 26/62, Van Gend & Loos, [1963] ECR I, and of 15 July 1964, case 6/64 Costa /ENEL, [1964] ECR 585.

¹⁰ In the absence of a rigid classification, such commitments cover foreign home country law and host country law whenever the foreign lawyer is qualified to practice both. If such rigid classification were to be introduced, as suggested by some proposals, foreign lawyers who would have qualified to practice the law of the host country would not be covered by the commitment.

¹¹ Likewise, for example, members of a national court of auditors are not affected by commitments undertaken with regard to auditing services, even if they provide auditing services (e.g. auditing the accounts of government or of public undertakings).

from the GATS, Members always have the possibility, in order to dissipate any doubt, of not binding the provision of legal services by legal professionals entrusted with public functions.

15. A further sub-distinction of the legal services described in CPC 861 based on different fields of law raises problems for drawing the line between international law and national law, as well as between home and host country law. In addition, such a distinction, which is unknown to other services sub-sectors, appears unnecessary in so far as, through licensing requirements imposed on legal services providers, a Member can certainly ensure that a lawyer can only provide legal services in fields of law for which he/she is qualified to practice¹². An indication of the fields of law might only be useful to indicate whether the Member considers opening or not opening its market to the provision of legal services in the law of any country (except the host country) for which the foreign lawyer is not qualified to practice.

16. The imperatives of modern international legal practice suggest that commitments be entered with regard to all legal services included in CPC 861. In order to address properly the possibility for a foreign lawyer to co-operate with locally qualified lawyers and the possibility for a foreign law firm to recruit and/or to enter into partnership with locally qualified lawyers, with a view to assuring the representation of their clients in front of a national court or administrative body in the host country or in arbitration procedures, commitments limiting the scope of practice to legal advice services are insufficient. While some schedules try to overcome those limitations through additional commitments, this solution appears to be a technical pirouette unique in the GATS context¹³¹⁴.

17. By undertaking commitments with regard to all legal services, Members would not be obliged to allow the representation before their national courts or administrative bodies by lawyers who are not qualified to practice the national law. In effect, since the practice of the national law (that includes the procedural law applied by those courts and bodies) is subject to the licensing conditions that apply in that Member, only those lawyers duly qualified in the jurisdiction of the Member concerned will be able to provide representation services. In this context, unless a specific limitation is scheduled for the market access in mode 3, such a lawyer will be able to represent clients either on his/her own or on behalf of a foreign law firm that has employed or entered into partnership with him/her.

18. Commitments in respect of legal services in general can still be restricted by Members by way of scheduling specific limitations on market access or national treatment in accordance with Articles XVI and XVII of GATS (e.g. nationality or residency conditions to enter the national Bar, quotas.). In the light of the requirements of modern international legal practice, it will be up to Members to negotiate the scope of such limitations.

¹² In the sub-sector of auditing, for example, the different schedules do not distinguish between audits required by the host country law and audits required by foreign laws. However, Members that have committed auditing services, can deny a licence for carrying out audits required by the host country law if the individual auditor does not satisfy the required qualifications.

¹³ In the rest of the services sectors, the possibility (and more normally the obligation) to enter into partnership with local service suppliers or to recruit personnel in the host country are issues dealt with through the market access and national treatment columns.

¹⁴ For example, in taxation services, one could imagine the case where a Member, fearing that foreign tax advisors are not sufficiently qualified to advise on the local taxes, imposes on them the need to complete their qualifications. However, from a consumer protection point of view, that Member has in principle no objection to foreign tax advisors working together with locally qualified tax advisors or to foreign firms specialised in tax advice entering into their market through tax advisors qualified with regard to the local taxation. Such case is properly addressed through the undertaking of commitments for all taxation services, without having to limit the scope of the commitments to taxation services in local taxes and to introduce an additional commitment authorising foreign firms specialised in tax advice to enter into partnership with or recruit tax advisors qualified with regard to the local taxation.

V. CONCLUSION: THE FLEXIBILITY OF THE ACTUAL CLASSIFICATION FOR INCREASING THE NUMBER AND QUALITY OF COMMITMENTS

19. On the basis of the above-mentioned considerations, the EC consider that the number and quality of commitments in the sub-sector of legal services can be increased without altering the W/120 classification. To this end, commitments should cover all legal services without further specification on the scope of activities. As regard the fields of law, while there is no need to reflect them in the schedules, it might be useful that Members indicate whether commitments are limited to the laws in which the service supplier or its personnel is a qualified lawyer or, if they so wish, to cover also laws in which the service supplier or its personnel is not qualified.

20. As for other services sectors, market access and national treatment limitations would have to be listed under the relevant mode. As regards non-discriminatory regulatory measures as defined in Article VI:4 of GATS (e.g. registration with the Bar in the host country, compliance with the code of ethics of that Bar, use of home title...), they do not need as such to be listed in the schedules but a reference in a note might prove useful.

21. For ease of reference the following example is provided:

Legal services (CPC 861 + arbitration and conciliation services)*	1	1	
	2	2	
	3	3	
	4	4	

* Provision of legal services is only authorised in respect of public international law and the law of any jurisdiction where the service supplier or its personnel is qualified to practice as a lawyer, and, like the provision of other services, is subject to licensing requirements and procedures applicable in [COUNTRY]. For lawyers providing legal services in respect of public international law and foreign law, these may take *inter alia* the form of compliance with local codes of ethics, use of home title (unless recognition with the host title has been obtained), insurance requirements, simple registration with the host country Bar or a simplified admission to the host country Bar through an aptitude test. Legal services in respect of [COUNTRY] law shall in principle be carried out by or through a fully qualified lawyer admitted to the [COUNTRY] Bar acting personally. Full admission to the Bar in [COUNTRY] might therefore be necessary for representation before courts and other competent authorities in [COUNTRY] since it involves practice of national procedural law.

About this site

What is the WTO Services Database?

The WTO Services Database contains the schedules of commitments and lists of Article II (MFN) exemptions of WTO Members. You can download the texts in the form of database "reports" in MS Excel, pdf and Lotus 123 format. The database is maintained, in English only, by the Trade in Services Division of the WTO. Only the commitments of countries which were members of WTO prior to 31 December 1999 are included in the database. Hence the database does not include data on current negotiations or on countries which joined the WTO since January 2000.

The Services Database gives you consolidated texts

For countries which were members of GATT prior to the creation of WTO in 1995, the original schedules of commitments exist in the form of WTO official documents bearing the symbol GATS/SC/* (where * is a number which represents a specific country). However, after the Uruguay Round, sectoral negotiations took place in the WTO on the movement of natural persons (1995), on telecommunications (1997) and on financial services (1998). During the sectoral negotiations not all WTO members participated. Those which did took new commitments specifically in those sectors. These new schedules replace or supplement the corresponding section in the original schedules. The new schedules take the form of official documents called "supplements" bearing the document symbol GATS/SC*/suppl.x where * is a number representing the country, and x is the supplement number. The fact that the basic services schedules are amended by subsequent, separate documents makes it cumbersome to compile all the information on a particular country. The Services Database solves this problem by substituting the text of the supplements directly into place, providing one consolidated and up-to-date schedule for each country.

The services database lets you sort information

By using the predefined reports you can sort information:

- by country (select a country and retrieve details of all commitments of that country, listed by sector)
- by mode of supply (select from commercial presence, consumption abroad, cross-border supply or presence of natural persons to retrieve a list of countries and their commitments)
- by sector and level of development (choose a sector, and within that sector choose a level of development – developed, developing, least developed, transition). To obtain a complete list of commitments in a given sector you need to compile the four resulting lists
- by region
- by level of development

You can also retrieve a complete list of horizontal commitments, or a list of MFN exemptions. Finally, a sector/country matrix report is available. This is a table which identifies instances in which a given Member has made a commitment in a given sector. Totals are supplied for each country and sector.

The Services Database allows you to search for keywords

For example, if you wish to search for all occurrences of the word "bank" the search will produce a list of all predefined reports which contain this keyword. You must open the reports and perform the search within each one to locate the keyword. Boolean operators and wildcards can be used for more sophisticated searches.

Browser requirements

Netscape Navigator 4.6 or later, or Microsoft Internet Explorer 4.7 or later. To view the predefined reports you will require Excel 97 or later, Adobe Acrobat version 3 or later, or Lotus 123 version 9 or later.

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Australia					
		1. Business Services			
		A. Professional Services			
a) Legal services	1)	None	1)	None	
Home country law, including public international law (CPC 861**)	2)	None	2)	None	
	3)	Natural persons practising foreign law may only join a local law firm as an employee or as a consultant and may not enter into partnership with or employ local lawyers	3)	At least one equity partner in a firm engaged in advising on foreign law matters must be a permanent resident (NSW, Victoria); at least one equity partner in a foreign law firm must be resident for a minimum period of 180 days per calendar year (Queensland)	3) Joint offices involving revenue-sharing between foreign law firms and Australian local law firms are permitted in NSW, Victoria, Queensland and Tasmania subject to the foreign law firms satisfying certain requirements, including in relation to liability, standard of conduct and professional ethics
	4)	Unbound except as indicated in the horizontal section	4)	Unbound except as indicated in the horizontal section	

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		1)cross-border supply 2)consumption abroad 3)commercial presence 4)presence of natural person		
Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Austria				
	1. Business Services			
	A. Professional Services			
a) Legal advice activities on home country law and international law excluding EEA/EC-law (ex CPC 861)	1) None	1) Foreign legal advisors are required to be members of their national Bar Association; they may use their professional title only with reference to the place of registration in their home country		
	2) None	2) None		
	3) Unbound	3) Unbound		
	4) Unbound except as indicated below:	4) Unbound except as indicated in the market access column		
	At the request of a consumer legal advisors may temporarily move into the territory of Austria in order to supply a specific service			See entry under 1)

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of Supply :		Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Canada											
				1. Business Services							
				A*. Professional Services							
a*) Foreign Legal Consultants (advisory services on foreign and public international law only) (CPC 861*)	1)	None	1)	None	Foreign Legal Consultants	* Asterisks designate "part of".					
	2)	None	2)	None	The right to practice without meeting normal accreditation requirements is granted temporarily in the Provinces of British Columbia, Saskatchewan and Ontario on the following basis:						
	3)	None, other than Commercial presence must take the form of a sole proprietorship or partnership	3)	None							
	4)	Unbound except as indicated in the horizontal section, and: Lawyers (Prince Edward Island, Alberta, Ontario and Newfoundland): Requirement to be permanent resident for accreditation (Québec): Citizenship requirement	4)	Unbound except as indicated in the horizontal section	1. In British Columbia and Saskatchewan the FLC must be a "member in good standing" of the legal profession in his/her home country. 2. In Saskatchewan, the FLC must have practised the law of his/her country for at least three complete years and in Ontario for at least the five preceding years. 3. In British Columbia and Saskatchewan the person must be of good character, repute and physically fit. In Ontario the person must be of good character. 4. In British Columbia and Saskatchewan the FLC carries a fidelity bond or other security in an amount of at least \$1,000,000 Canadian. 5. The FLC in Saskatchewan undertakes not to accept, hold, transfer and or in any other manner deal with trust funds.						

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
			6. In British Columbia and Saskatchewan the FLC must complete any mandatory continuing legal education programme.	
			7. In Ontario the FLC must reside or undertake to reside in Ontario as soon as practicable.	

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
EC 15 - NP				
	1. Business Services			
	A. Professional Services			
Legal advice on home country law and public international law (page 12 in the Schedule dated April 1994)	4) Unbound except for D and UK where: as indicated in the horizontal section under (iii) and subject to the following specific limitations: D and UK: University degree and professional qualifications and three years' professional experience in the sector. D: Unbound for activities reserved to "Rechtsanwalt".	4) Unbound except as indicated in the horizontal section.		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
European Community 12				
	1. Business Services			
	A. Professional Services			
a) Legal advice on home country law and public international law (excluding EC law)	1) F, P: Unbound for drafting of legal documents.	1) F, P: Unbound for drafting of legal documents. DK: Marketing of legal advice activities is restricted to lawyers with a Danish licence to practise and law firms registered in Denmark.		
	2) None	2) None		
	3) D: Access subject to acceptance into a Bar Association according to the "Federal Lawyers Act" which requires establishment which is restricted to sole proprietorship or partnership only. F: Provision through SEL (anonyme, à responsabilité limitée ou en commandite par actions) or SCP only.	3) DK: Marketing of legal advice activities is restricted to law firms registered in Denmark. Only lawyers with a Danish licence to practise and law firms registered in Denmark may own shares in a Danish law firm. Only lawyers with a Danish licence to practise may sit on the board or be part of the management of a Danish law firm.	F: Host country law and international law (including EC law) are opened to the Members of the regulated legal and judicial profession.#9 L: Host country law and international law (including EC law) subject to registration as "avocat" at the Luxembourg Bar.	#9 Access to these professions is governed by the French law No. 90-1259 of 31 December 1990 which opens the entire range of legal and judicial activities.
	4) Unbound except as indicated in the horizontal section and subject to the following specific limitations: GR: Conditions of nationality L: Unbound F: Legal advice activities and drafting of legal documents as a main activity and for the public, are reserved to the members of the regulated legal and judicial professions.#9 These activities may also be exercised as a secondary activity to the principal activity by members of other regulated professions or by qualified persons.	4) Unbound except as indicated in the horizontal section and subject to the following specific limitations: DK: Marketing of legal advice activities is restricted to lawyers with a Danish license to practise. Requirement of a Danish legal examination in order to obtain a Danish licence to practise.		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Finland					
		1. Business Services			
		A. Professional Services			
a) Legal Services (CPC 861)	1)	None	1)	None	
	2)	None	2)	None	
- international and home country law	3),4)	When practising legal services as a member of the General Bar Association, Finnish citizenship and residency in Finland are required	3)	None	
	4)	Unbound except as indicated in the horizontal section	4)	None	

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of Supply :		Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Iceland											
		1. Business Services									
		A. Professional Services									
Legal advice activities on home country law	1)	None			2)	None					
	2)	None			1),3),4)	Icelandic law exam or an equivalent thereto, conditions of nationality, or previous residency of at least one year when practising legal services as a member of the General Bar Association in Iceland					
	3)	None									
	4)	Unbound except as indicated in the horizontal section. Members of the General Bar Association of Iceland have an exclusive right to represent clients before all the major courts in Iceland.									
Legal advice on international law and foreign legal consultancy	1)	None			1)	None					
	2)	None			2)	None					
	3)	None			3)	None					
	4)	Unbound except as indicated in the horizontal section			4)	None					

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments	Notes
Israel						
	1. Business Services					
	A. Professional Services					
a) Legal services (CPC 861)	1)	None	1)	None		
	2)	None	2)	None		
	3)	Israeli resident or citizen	3)	Israeli resident or citizen		
	4)	Unbound except as indicated in the horizontal section.	4)	Unbound except as indicated in the horizontal section.		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Japan				
	1. Business Services			
	A. Professional Services			
a) Legal services supplied by a lawyer qualified as "Bengoshi" under Japanese law (CPC 861)	1)	Services must be supplied by a natural person.	1)	None
		Commercial presence is required.		
	2)	Services must be supplied by a natural person.	2)	None
		Commercial presence is required.		
	3)	Services must be supplied by a natural person.	3)	None except as indicated in HORIZONTAL COMMITMENTS
	4)	Unbound except as indicated in HORIZONTAL COMMITMENTS	4)	Unbound except as indicated in HORIZONTAL COMMITMENTS
		Commercial presence is required.		
a) Consultancy on law of jurisdiction where the service supplier is a qualified lawyer	1)	Services must be supplied by a natural person.	1)	A service supplier is required to stay in Japan not less than 180 days in a year.
		Commercial presence is required.		
i) Consultancy on law does not include:	2)	Services must be supplied by a natural person.	2)	A service supplier is required to stay in Japan not less than 180 days in a year.
a) legal representation for juridical procedures in courts and other government agencies as well as preparation of legal documents for such procedures;	3)	Services must be supplied by a natural person.	3)	None except as indicated in HORIZONTAL COMMITMENTS
b) expression of legal opinions concerning laws other than laws of the jurisdiction where the service supplier is qualified as a lawyer (hereinafter referred to as the "jurisdiction" in this sector);	4)	Unbound except as indicated in HORIZONTAL COMMITMENTS	4)	Unbound except as indicated in HORIZONTAL COMMITMENTS
c) legal representation for the entrustment of the preparation of notarial deeds; and		Commercial presence is required.		A service supplier is required to stay in Japan not less than 180 days in a year.
d) those activities concerning a legal case whose primary objective is the acquisition or loss or change of rights concerning real property in				3) i) Practice of international law is permitted, provided that the international law is or was in force in the jurisdiction. Practice of third country law and Japanese law is not permitted. ii) Association with Bengoshi is permitted. Employment of Bengoshi is not permitted. iii) Use of firm name is unrestricted, provided that it is followed with reference to "Gaikoku-Ho-Jimu-Bengoshi Jimusho" iv) Representation in arbitration is permitted, provided that the applicable law in the

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Japan or of industrial property rights, mining rights or other rights arising upon registration thereof with government agencies in Japan.			arbitration is the law which the service supplier is qualified to practice in Japan.	
ii) A service supplier shall be required to cooperate with Bengoshi or to ask for his advice in a legal case concerning family relations or inheritance, in which a Japanese national is involved as a party, or in a legal case whose objective is the acquisition or loss or change of rights concerning real property in Japan or of industrial property rights, mining rights or other rights arising upon registration thereof with government agencies in Japan, as long as the above objective is not the primary one.				
a) Legal services supplied by a patent attorney qualified as "Benrishi" under Japanese law (CPC 86119, 8612, 8613, 8619)	1) Services must be supplied by a natural person. Commercial presence is required.	1) None		
	2) Services must be supplied by a natural person. Commercial presence is required.	2) None		
	3) Services must be supplied by a natural person.	3) None except as indicated in HORIZONTAL COMMITMENTS		
	4) Unbound except as indicated in HORIZONTAL COMMITMENTS Commercial presence is required.	4) Unbound except as indicated in HORIZONTAL COMMITMENTS		
a) Legal services supplied by a maritime procedure agent qualified as "Kaijijidairishi" under Japanese law	1) Services must be supplied by a natural person.	1) None		
	2) Services must be supplied by a natural person.	2) None		
	3) Services must be supplied by a natural person.	3) None except as indicated in HORIZONTAL COMMITMENTS		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	<p>4) Unbound except as indicated in HORIZONTAL COMMITMENTS</p> <p>A service supplier must be recognized as "Gaikoku-Ho-Jimu-Bengoshi" by the Minister of Justice and register with the Japan Federation of Bar Associations.</p> <p>The conditions for granting recognition by the Minister of Justice are as follows:</p> <p>i) The service supplier is qualified as a lawyer in the jurisdiction.</p> <p>ii) The service supplier has engaged himself as a lawyer for at least 5 years in the jurisdiction.</p> <p>iii) The service supplier is not subject to such conditions of disqualification in the jurisdiction which, if applied to Bengoshi, would disqualify the Bengoshi.</p> <p>iv) The service supplier possesses the intention to undertake the profession in good faith.</p> <p>v) The service supplier possesses plans, residence and financial basis to perform his functions properly and steadily.</p> <p>vi) The service supplier possesses capability to compensate for damages caused to the client, if any.</p>	<p>4) Unbound except as indicated in HORIZONTAL COMMITMENTS</p>		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Liechtenstein					
		1. Business Services			
		A. Professional Services			
		a) Legal services			
- Consultancy on home country law and international law (except for consulting on Liechtenstein law) (part of CPC 861)	1)	None	1)	None	
	2)	None	2)	None	
	3)	Unbound	3)	Unbound	
	4)	Unbound except as indicated in Part I	4)	Unbound except as indicated in Part I	

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
New Zealand											
		NEW ZEALAND - SCHEDULE OF SPECIFIC COMMITMENTS#1									
		01. BUSINESS SERVICES									
		A. Professional Services									
		a) Legal services									
Practice of New Zealand law (CPC 861)	1)	None		1)	None		#1 See Attachment A.1				
	2)	None		2)	None						
	3)	None		3)	None						
	4)	Unbound except as indicated in the horizontal section.		4)	Unbound except as indicated in the horizontal section.						
Provision of advice on international law (CPC 861)	1)	None		1)	None		#1 See Attachment A.1				
	2)	None		2)	None						
	3)	None		3)	None						
	4)	Unbound except as indicated in the horizontal section.		4)	Unbound except as indicated in the horizontal section.						

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		1)cross-border supply 2)consumption abroad 3)commercial presence 4)presence of natural person		
Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Norway				
	1. Business Services			
	A. Professional Services			
a) Legal services - legal advice on foreign law (concerned parts of CPC 861)	1)	None	1)	None
	2)	None	2)	None
	3)	The advocate is personally responsible for his activities. To have an interest (own shares and/or be a member of the board of the firm) in a firm of Norwegian advocates is only possible when taking active part in the business.	3)	Foreign advocates can give advice on foreign law and international law after application. Some restrictions on co-operation with Norwegian advocates as a consequence of legislation on how a firm of Norwegian advocates may be organized.
	4)	Unbound except as indicated in the horizontal section	4)	Unbound except as indicated in the horizontal section. As for 3), but no restrictions on advice on a strictly occasional basis.

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply : 1/ cross-border supply 2/ consumption abroad 3/ commercial presence 4/ presence of natural person		Sector or Sub-Sector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments	Notes
South Africa								
		1. Business Services						
		A. Professional Services						
a) Legal services (advisory services in foreign and international law only) (CPC 861 +)	1)	Unbound	1)	Unbound				
	2)	Unbound	2)	Unbound				
	3)	None	3)	None				
	4)	Unbound except as indicated in the horizontal section	4)	Unbound except as indicated in the horizontal section				
Legal services (domestic law only) (CPC 861 +)	1)	Unbound	1)	Unbound				
	2)	Unbound	2)	Unbound				
	3)	An advocate is not allowed to form a partnership/company	3)	None				
	4)	Unbound except as indicated in the horizontal section	4)	Unbound except as indicated in the horizontal section				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Sweden				
	1. Business Services			
	A. Professional Services			
a) Legal services	2) None	2) None		#4 Limited liability companies are allowed, subject to certain conditions.
- Legal advice activities on home country law and international law	1),3),4) An "advokat" (see next column) may not practice his profession neither in cooperation with other persons than other "advokats", nor in the form of a limited liability company (joint stock company)#4	1),3),4) None except for the protection of the use of the Swedish title "advokat" (lawyer/solicitor/barrister), which requires membership in the Swedish Bar Association. Swedish law exam or equivalent education and practical experience, citizenship and residency are required for such membership.#5		#5 When not appearing under the title "advokat" foreign lawyers may freely offer legal advice activities.
	4) Unbound except as indicated in the horizontal section and as stated above	4) Unbound except as indicated in the horizontal section and as stated above		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Switzerland											
				1. Business Services							
				A. Professional Services							
				a) Legal Services							
- Consultancy on home country law and international law (part of CPC 861)	1)	None		1)	None						
	2)	None		2)	None						
	3)	None		3)	Swiss nationality necessary to open up practice in the canton of St. Gall						
	4)	Unbound except as indicated in Part I		4)	Unbound except as indicated in Part I						

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
USA				
	1. Business Services			
	A. Professional Services			
	For the following jurisdiction, the following commitments apply: in (all states)			
a) 1) Legal Services: practice as or through a qualified US lawyer	1) Services must be supplied by a natural person An in-state office must be maintained for licensure in: District of Columbia, Indiana (or an affiliate with an office and with other attorneys in the state), Michigan, Minnesota (or maintain individual residency in Minnesota), Mississippi, New Jersey, Ohio, South Dakota and Tennessee.	1) In-state or US residency is required for licensure in: Hawaii, Iowa, Kansas, Massachusetts, Michigan, Minnesota (or maintain an office in Minnesota), Mississippi, Nebraska, New Jersey, New Hampshire, Oklahoma, Rhode Island, South Dakota, Vermont, Virginia, Wyoming.		
	2) Services must be supplied by a natural person An in-state office must be maintained for licensure in: District of Columbia, Indiana (or an affiliate with an office and with other attorneys in the state), Michigan, Minnesota (or maintain individual residency in Minnesota), Mississippi, New Jersey, Ohio, South Dakota and Tennessee.	2) In-state or US residency is required for licensure in: Hawaii, Iowa, Kansas, Massachusetts, Michigan, Minnesota (or maintain an office in Minnesota), Mississippi, Nebraska, New Jersey, New Hampshire, Oklahoma, Rhode Island, South Dakota, Vermont, Virginia, Wyoming.		
	3) Services must be supplied by a natural person Partnership in law firms is limited to persons licenced as lawyers US citizenship is required to practice before the US Patent and Trademark Office	3) None		
	4) Services must be supplied by a natural person An in-state office must be maintained for licensure in: District of Columbia, Indiana (or an affiliate with an office and with other attorneys in the state), Michigan, Minnesota (or maintain individual residency in Minnesota), Mississippi, New Jersey, Ohio, South Dakota and Tennessee.	4) In-state or US residency is required for licensure in: Hawaii, Iowa, Kansas, Massachusetts, Michigan, Minnesota (or maintain an office in Minnesota), Mississippi, Nebraska, New Jersey, New Hampshire, Oklahoma, Rhode Island, South Dakota, Vermont, Virginia, Wyoming.		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments	Notes
		US Citizenship is required to practice before the US Patent and Trademark Office				
		For the following jurisdiction, the following commitments apply: Alaska#2				
a) 2) Legal Services: consultancy on law of jurisdiction where service supplier is qualified as a lawyer (such consultancy excludes the following:	1)	None	1)	None	a) Practice of international law: permitted, provided foreign legal consultant (FLC) is competent.	#2 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant (FLC) in Alaska. Licensure is subject to meeting requirements of registration, an experience requirement (5 of the 7 years preceding registration must have been spent practising law), certification of registration and good standing with home-country bar, meeting the professional liability insurance requirement, and agreement to be bound by the Rules of Disciplinary Enforcement, Ethics Opinions adopted by the Board of Governors of the Alaska Bar Association, and the Code of Professional Responsibility. Professional privileges apply to all foreign lawyers.
i) appearing for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state (other than upon admission pro haec vice);	2)	None	2)	None	b) Practice of 3rd-country law: permitted provided that FLC obtains written legal advice from an attorney licenced in that jurisdiction.	
ii) preparing any instrument effecting the transfer or registration of title to real estate located in the United States of America; iii) preparing any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof, or any instrument relating to the administration of a decedent's estate in the United States of America; and iv) preparing any instrument in respect of the marital or parental relations, rights or duties of a resident of the United States of America, or the custody or care of the children of such a resident.)	3)	None	3)	None	c) Practice of host-country law: permitted provided that FLC obtains written legal advice from an attorney licenced to practice in that jurisdiction.	
	4)	Unbound, except as indicated in the horizontal section	4)	None	d) Association with local lawyers: partnerships with local lawyers permitted.	
					e) Employment of local lawyers: permitted.	
					f) Use of firm name: permitted.	
					g) Other: n/a.	
		For the following jurisdiction, the following commitments apply: California#3				
	1)	None	1)	None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#3 The following information is provided for transparency purposes only. A supplier regularly providing services is required to be licenced as a foreign legal consultant in California. Licensure
	2)	None	2)	None	b) Practice of 3rd-country law: not permitted.	
	3)	None	3)	None	c) Practice of host-country	
	4)	Unbound, except as indicated in the horizontal section	4)	None		

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
			law: not permitted. d) Association with local lawyers: partnership with local lawyers permitted. e) Employment of local lawyers: permitted. f) Use of firm name: permitted. g) Other: n/a.	is subject to meeting requirements of registration, an experience requirement (4 of the 6 years preceding registration must have been spent practising law), certification of registration and good standing with home-country bar, meeting the professional liability insurance requirement, and agreement to be bound by the requirements of the State Bar of California. Professional privileges apply to all foreign lawyers.
	For the following jurisdiction, the following commitments apply: Connecticut#4			
1)	None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#4 The following information is provided for transparency purposes only. A supplier regularly providing services is required to be licenced as a foreign legal consultant in Connecticut. Licensure is subject to meeting requirements of registration, a minimum age of 26 years, an experience requirement (5 of the 7 years preceding registration must have been spent practising law), certification of registration, meeting the professional liability insurance requirement, an overdraft notification, good standing with home-country bar, and a written commitment to observe the Connecticut Rules of Professional Conduct. Professional privileges apply to all
2)	None	2) None	b) Practice of 3rd-country law: permitted provided FLC first obtains advice from an attorney licenced in that jurisdiction.	
3)	None	3) None	c) Practice of host-country law: not permitted.	
4)	Unbound, except as indicated in the horizontal section	4) None	d) Association with local lawyers: partnership with local attorneys permitted. e) Employment of local lawyers: permitted. f) Use of firm name: permitted. g) Other: n/a.	

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	For the following jurisdiction, the following commitments apply: District of Columbia#5			foreign lawyers.
1)	None	1) None	a) Practice of international law: permitted, provided FLC is competent.	#5 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in the District of Columbia. Licensure is subject to meeting requirements of registration, a minimum age of 26 years, an experience requirement (5 of the 8 years preceding registration must have been spent practising law), certification of registration and good standing with home-country bar, meeting the professional liability insurance requirement, and a written commitment to be bound by the Code of Professional Responsibility of the American Bar Association. Professional privileges apply to all foreign lawyers.
2)	None	2) None	b) Practice of 3rd-country law: permitted, provided FLC is competent.	
3)	In-state office required	3) None	c) Practice of host-country law: permitted provided FLC first obtains advice from an attorney licenced in that jurisdiction and identifies the person to the client.	
4)	Unbound, except as indicated in the horizontal section. Additionally, an in-state office is required.	4) None	d) Association with local lawyers: partnership with local lawyers permitted. e) Employment of local lawyers: permitted. f) Use of firm name: permitted. g) Other: n/a.	
	For the following jurisdiction, the following commitments apply: Florida#6			
1)	None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#6 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Florida. Licensure is subject to meeting requirements of registration, a minimum age
2)	None	2) None	b) Practice of 3rd-country law: not permitted.	
3)	None	3) None	c) Practice of host-country law: not permitted.	
4)	Unbound, except as indicated in the horizontal section	4) None	d) Association with local lawyers: partnerships with local lawyers permitted.	

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
			e) Employment of local lawyers: permitted. f) Use of firm name: permitted. g) Other: n/a.	of 26 years, an experience requirement (5 of the 7 years preceding registration must have been spent practising law), certification of registration and good standing with home-country bar, and a sworn statement to abide by the Rules of Professional Conduct. Professional privileges apply to all foreign lawyers.
	For the following jurisdiction, the following commitments apply: Georgia#7			
1)	None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#7 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Georgia. Licensure is subject to meeting requirements of registration, an experience requirement (5 of the 7 years preceding registration must have been spent practising law), certification of registration and good standing with home-country bar, and a commitment to observe the Rules of Professional Responsibility and Disciplinary Rules applicable to members of the State Bar of Georgia. Professional privileges apply to all foreign lawyers.
2)	None	2) None	b) Practice of 3rd-country law: not permitted.	
3)	None	3) None	c) Practice of host-country law: not permitted.	
4)	Unbound, except as indicated in the horizontal section	4) None	d) Association with local lawyers: partnership with local lawyers permitted. e) Employment of local lawyers: permitted. f) Use of firm name: permitted. g) Other: n/a	
	For the following jurisdiction, the following commitments apply: Hawaii#8			
1)	None	1) None	a) Practice of international law:	#8 The following information is provided for

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	2) None	2) None	permitted, provided FLC is competent.	transparency purposes only.
	3) None	3) None	b) Practice of 3rd-country law: permitted provided FLC obtains advice from an attorney licenced in that jurisdiction and identifies that person to the client.	A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Hawaii.
	4) Unbound, except as indicated in the horizontal section	4) None	c) Practice of host-country law: permitted provided FLC obtains advice from an attorney licenced in that jurisdiction and identifies that person to the client.	Licensure is subject to meeting requirements of registration, a minimum age of 26 years, an experience requirement (5 of the 7 years preceding registration must have been spent practising law), and certification of registration and good standing with home-country bar. Professional privileges apply to all foreign lawyers.
			d) Association with local lawyers: partnership with local lawyers permitted.	
			e) Employment of local lawyers: permitted.	
			f) Use of firm name: permitted.	
			g) Other: n/a.	
	For the following jurisdiction, the following commitments apply: Illinois#9			
1) None	1) None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#9 The following information is provided for transparency purposes only.
2) None	2) None	2) None	b) Practice of 3rd-country law: not permitted.	A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Illinois.
3) None	3) None	3) None	c) Practice of host-country law: not permitted.	Licensure is subject to meeting requirements of registration, an experience requirement (5 of the 7 years preceding registration must have been spent practising law), meeting the professional liability insurance requirement, a written commitment to observe the Rules of Professional Conduct, and certification of registration and good standing with home-country bar. Professional
4) Unbound, except as indicated in the horizontal section	4) None	4) None	d) Association with local lawyers: partnership with local lawyers permitted.	
			e) Employment of local lawyers: permitted.	
			f) Use of firm name: permitted.	
			g) Other: n/a	

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	For the following jurisdiction, the following commitments apply: Michigan#10			privileges apply to all foreign lawyers.
1)	None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#10 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Michigan. Licensure is subject to meeting requirements of registration, a minimum age of 18 years, an experience requirement (3 of the 5 years preceding registration must have been spent practising law), and certification of registration and good standing with home-country bar. Professional privileges apply to all foreign lawyers.
2)	None	2) None	b) Practice of 3rd-country law: not permitted.	
3)	None	3) In-state residency required	c) Practice of host-country law: not permitted.	
4)	Unbound, except as indicated in the horizontal section	4) In-state residency required	d) Association with local lawyers: partnership with local lawyers permitted. e) Employment of local lawyers: permitted. f) Use of firm name: permitted. g) Other: n/a.	
	For the following jurisdiction, the following commitments apply: Minnesota#11			
1)	None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#11 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Minnesota. Licensure is subject to meeting requirements of registration, a minimum age of 26 years, an experience requirement (5 of the 7 years preceding registration must have been spent practising law), certification of registration and good
2)	None	2) None	b) Practice of 3rd-country law: not permitted.	
3)	In-state office required	3) None	c) Practice of host-country law: not permitted.	
4)	Unbound, except as indicated in the horizontal section. Additionally, an in-state office is required.	4) None	d) Association with local lawyers: partnership with local lawyers permitted. e) Employment of local lawyers: permitted. f) Use of firm name: permitted. g) Other: n/a.	

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
				standing with home-country bar, and are subject to the Minnesota Rules of Professional Conduct. Professional privileges apply to all foreign lawyers.
	For the following jurisdiction, the following commitments apply: New Jersey#12			
1)	None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#12 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in New Jersey. Licensure is subject to meeting requirements of registration, an experience requirement (5 of the 7 years preceding registration must have been spent practising law), meeting the professional liability insurance requirement, certification of registration and good standing with home-country bar, and shall observe the Rules of Professional Conduct of the American Bar Association. Professional privileges apply to all foreign lawyers.
2)	None	2) None	b) Practice of 3rd-country law: permitted provided FLC obtains advice from an attorney licenced in that jurisdiction and identifies that person to the client.	
3)	In-state office required	3) None	c) Practice of host-country law: permitted provided FLC obtains advice from an attorney licenced in that jurisdiction and identifies that person to the client.	
4)	Unbound, except as indicated in the horizontal section. Additionally, an in-state office is required.	4) None	d) Association with local lawyers: partnership with local lawyers permitted. e) Employment of local lawyers: permitted. f) Use of firm name: permitted. g) Other: n/a.	
	For the following jurisdiction, the following commitments apply: New York#13			
1)	None	1) None	a) Practice of international law: permitted, provided FLC is competent.	#13 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in New York. Licensure is subject to meeting requirements of
2)	None	2) None	b) Practice of 3rd-country law: permitted, provided FLC is competent.	
3)	In-state office required	3) None	c) Practice of host-country law: permitted to practice NY and federal law provided	
4)	Unbound, except as indicated in the horizontal section. Additionally, an in-state office is required.	4) None		

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
			<p>FLC relies on advice from a person duly qualified and entitled to render professional legal advice on NY or US law. Permitted to practice law of other US states, provided FLC is competent.</p> <p>d) Association with local lawyers: partnership with local lawyers permitted.</p> <p>e) Employment of local lawyers: permitted.</p> <p>f) Use of firm name: unrestricted.</p> <p>g) Other: n/a.</p>	<p>registration, a minimum age of 26 years, an experience requirement (3 of the 5 years preceding registration must have been spent practising law), certification of registration and good standing with home-country bar, meeting the professional liability insurance requirement, and agreement to be bound by the New York Bar Code of Ethics. Professional privileges apply to all foreign lawyers.</p>
	For the following jurisdiction, the following commitments apply: Ohio#14			
1)	None	1) None	a) Practice of international law: permitted.	#14 The following information is provided for transparency purposes only.
2)	None	2) None	b) Practice of 3rd-country law: permitted if FLC obtains advice from an attorney licenced in that jurisdiction and identifies that person to the client.	A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Ohio. Licensure is subject to meeting requirements of registration, a minimum age of 21 years, an experience requirement (4 of the 6 years preceding registration must have been spent practising law), certification of registration and good standing with home-country bar, meeting the professional liability insurance requirement, and being subject to the Ohio Code of Professional Responsibility and the disciplinary procedural rules set forth in Gov. Bar R.V. Professional privileges apply to all foreign lawyers.
3)	In-state office required	3) None	c) Practice of host-country law: permitted if FLC obtains advice from an attorney licenced in that jurisdiction and identifies that person to the client.	
4)	Unbound, except as indicated in the horizontal section. Additionally, an in-state office is required.	4) None	d) Association with local lawyers: partnership with local lawyers not permitted.	
			e) Employment of local lawyers: permitted.	
			f) Use of firm name: permitted.	
			g) Other: n/a.	

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	For the following jurisdiction, the following commitments apply: Oregon#15			
1)	None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#15 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Oregon. Licensure is subject to meeting requirements of registration, a minimum age of 18 years, an experience requirement (5 of the 7 years preceding registration must have been spent practising law), and certification of registration and good standing with home-country bar, meeting the professional liability insurance requirement, and agreement to comply with ORS Chapter 9, the Oregon Code of Professional Responsibility and the Oregon State Bar's Rules of Procedure. Professional privileges apply to all foreign lawyers.
2)	None	2) None	b) Practice of 3rd-country law: permitted if FLC obtains advice from an attorney licenced in that jurisdiction and identifies that person to the client.	
3)	None	3) None	c) Practice of host-country law: permitted if FLC obtains advice from an attorney licenced in that jurisdiction and identifies that person to the client.	
4)	Unbound, except as indicated in the horizontal section	4) None	d) Association with local lawyers: partnership with local lawyer permitted. e) Employment of local lawyers: permitted f) Use of firm name: permitted. g) Other: n/a.	
	For the following jurisdiction, the following commitments apply: Texas #16			
1)	None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#16 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Texas. Licensure is subject to meeting requirements of registration, a minimum age of 26 years, an experience requirement (5 of the 7 years preceding
2)	None	2) None	b) Practice of 3rd-country law: not permitted.	
3)	None	3) In-state residency required	c) Practice of host-country law: not permitted.	
4)	Unbound, except as indicated in the horizontal section	4) In-state residency required	d) Association with local lawyers: partnership with local lawyers permitted. e) Employment of local lawyers: permitted.	

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
			f) Use of firm name: permitted. g) Other: n/a.	registration must have been spent practising law), meeting the professional liability insurance requirement, certification of registration and good standing with home-country bar, and taking an oath to abide by the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct. Professional privileges apply to all foreign lawyers.
	For the following jurisdiction, the following commitments apply: Washington#17			
1)	None	1) None	a) Practice of international law: permitted to the extent incorporated in home-country law.	#17 The following information is provided for transparency purposes only. A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Washington. Licensure is subject to meeting requirements of registration, an experience requirement (5 of the 7 years preceding
2)	None	2) None	b) Practice of 3rd-country law: not permitted.	registration must have been spent practising law), and certification of
3)	None	3) In-state residency required at time admitted	c) Practice of host-country law: not permitted.	registration and good standing with home-country bar, and agreement to be bound by the Discipline Rules for Lawyers and the Rules of Professional Conduct. Professional privileges apply to all foreign lawyers.
4)	Unbound, except as indicated in the horizontal section	4) In-state residency required at time admitted	d) Association with local lawyers: partnerships with local lawyers permitted. e) Employment of local lawyers: permitted. f) Use of firm name: permitted. g) Other: n/a.	
	For the following jurisdiction, the following commitments apply: Other States			
1)	None	1) None		
2)	None	2) None		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
	3) Unbound for Alabama, Arizona, Arkansas, Colorado, Delaware, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin, Wyoming.	3) None		
	4) Unbound for Alabama, Arizona, Arkansas, Colorado, Delaware, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin, Wyoming.	4) None		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Sector or Sub-Sector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments	Notes
Bulgaria								
		1. Business Services						
		A. Professional Services#7						
a) Legal services	1)	None	1)	None	#7 General conditions for the supply of regulated professional services: official recognition of the education and the professional qualification of the supplier.			
Foreign legal consultants' advisory services on international public law and law of jurisdiction (home country law) where the service supplier is a qualified lawyer#8 (part of CPC 861)	2)	None	2)	None	#8 Consultancy on law does not include: legal representation in front of jurisdiction (judicial or non-judicial) and administrative bodies as well as preparation of legal documents for such procedures; expression of legal opinions concerning laws other than the law of the jurisdiction where the service supplier is qualified as a lawyer; and out-of-court legal representation related to the rights and obligations of Bulgarian nationals.			
	3)	None	3)	None				
	4)	Unbound except as indicated in the horizontal section	4)	Unbound except as indicated in the horizontal section				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Czech Republic											
		1. Business Services									
		A. Professional Services									
a) Legal services (CPC 861)	1)	None		1)	None						
	2)	None		2)	None						
	3)	No limitation involving foreign law. For activities involving national law acceptance in the Czech Bar Association or in the Czech Chamber of Commercial Lawyers is required		3)	Barristers and commercial lawyers in Czech law are required to be graduates of Czech universities						
	4)	Unbound except as indicated in horizontal section		4)	Unbound except as indicated in horizontal section						

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Estonia					
		1. Business Services			
		A. Professional Services			
a) Legal Services (CPC 861; does not include CPC 86190)	1)	Unbound	1)	Unbound	
	2)	None	2)	None	
	3)	Commercial presence is restricted to sole proprietorships or to law firms with limited liability, in which cases permission is needed from the Bar Association (Advokatuur). According to the Bar Statute (Advokatuuri põhimäärus) only Estonian nationals are allowed to establish a lawyer's office. To get accepted into the Bar Association the following requirements should be met: a) two years' work experience as an assistant to a barrister at law; b) passing a relevant examination; c) work for three years as a senior assistant. After that it is possible to pass a lawyer's exam (excellent knowledge of the Estonian law and excellent proficiency in the Estonian language are required). Notaries Public are persons performing a public service; they are appointed by the Ministry of Justice.	3)	Unbound	
	4)	Unbound, except as provided in the horizontal section.	4)	Unbound, except as provided in the horizontal section.	
Other legal advisory and information services (CPC 86190) including:	1)	None	1)	None	
	2)	None	2)	None	
a) Practice of International Law	3)	None	3)	None	
b) Practice of law of jurisdiction where service supplier qualifies as a lawyer under a relevant authority of this jurisdiction.	4)	Unbound, except as provided in the horizontal section.	4)	Unbound, except as provided in the horizontal section.	

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
(Such consultancy excludes the following:				
(i) appearing for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer of the Republic of Estonia;				
(ii) preparing any instrument effecting the transfer or registration of title to real estate located in Estonia;				
(iii) preparing any will or trust instrument effecting the disposition of any property located in the Republic of Estonia and owned by a resident thereof, or any instrument relating to the administration of such property;				
(iv) preparing any instrument in respect of the marital or parental relations, rights, or duties of a resident of the Republic of Estonia, or the custody or care of children of such a resident (otherwise according to CPC 86190)).				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		1)cross-border supply		2)consumption abroad		3)commercial presence		4)residence of natural person	
Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Hungary									
		1. Business Services							
		A. Professional Services							
a) Legal advisory services concerning home country law (ex CPC 861)	1)	None		1)	None				
	2)	None		2)	None				
	3)	Commercial presence should take the form of representative office		3)	None				
	4)	Unbound except as indicated in Part I		4)	Unbound except as indicated in Part I				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Kyrgyz Republic									
		1. Business Services							
		A. Professional Services							
(i) Legal services: home country law and public international law (excluding Kyrgyz Law)	1)	None		1)	None				
	2)	None		2)	None				
	3)	None		3)	None				
	4)	Unbound except as indicated under horizontal commitments		4)	Unbound except as indicated under horizontal commitments				
(ii) Legal services: practice as or through a qualified Kyrgyz lawyer	1)	None		1)	None				
	2)	None		2)	None				
	3)	Advocate services may be provided only by KR citizens. Only an advocate has the right to provide legal services in connection with criminal matters.		3)	Unbound				
	4)	Unbound except as indicated under horizontal commitments		4)	Unbound except as indicated under horizontal commitments				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Latvia											
		1. Business Services									
		A. Professional Services									
a) Legal services (CPC 861, except consultancy on home country and international law	1)	None				1)	None				
	2)	None				2)	None				
	3),4)	Licence issued by the Ministry of Justice and knowledge of Latvian language required. Licensed lawyer can provide all legal services, except representation in criminal proceedings.				3)	None				
		Representation in criminal proceedings permitted only to sworn solicitors. Nationality requirement for sworn solicitors and sworn notaries. Sworn solicitors and sworn notaries have to be at least 25 years old, having knowledge of Latvian language, graduated from University of Latvia or from other university recognized as equal by the Faculty of Law, University of Latvia, and having practical experience. Sworn solicitors have to pass examination in accordance with rules set up by Council of Sworn Solicitors. Sworn notaries have to pass examination in accordance with order set up by the Minister of Justice in cooperation with the Council of Sworn Notaries.									
	4)	Unbound except as indicated in the horizontal section				4)	None				
- Consultancy on home country and international law	1)	None				1)	None				
	2)	None				2)	None				
	3)	None				3)	None				
	4)	Unbound except as indicated in the horizontal section				4)	None				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :											
Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments				Notes	
Poland											
		1. Business Services									
		A. Professional Services									
a) Legal services (CPC 861)	1)	None		1)	None						
	2)	None		2)	None						
	3)	Establishment subject to authorization. Nationality requirement.		3)	None						
	4)	Unbound except for horizontal measures. Nationality requirement.		4)	None						

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		1)Gross-border supply		2)Consumption abroad		3)Commercial presence		4) Presence of natural persons	
Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Romania									
		1. BUSINESS SERVICES#3							
		A. Professional Services							
a) Legal services (CPC 861)	1)	None		1)	None	#3 Commitments are generally classified in accordance with the Services Sectoral Classification (GATT document MTN/GNS/W/120 of 10 July 1991). The correspondence with the Provisional Central Product Classification List published by the United Nations in 1991, provided in brackets, is an indicative one.			
	2)	None		2)	None				
	3)	Unbound		3)	Unbound				
	4)	Unbound		4)	Unbound				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		1) Cross-border supply		2) Consumption abroad		3) Commercial presence		4) Presence of natural person	
Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Slovak Republic									
		1. Business Services							
		A. Professional Services							
a) Legal Services (CPC 861)	1)	None		1)	None				
	2)	None		2)	None				
	3)	No limitation involving foreign law. For activities involving national law acceptance in the Slovak Bar Association or in the Slovak Chamber of Commercial Lawyers is required.		3)	Barristers and commercial lawyers in Slovak law are required to be graduates of Slovak universities				
	4)	Unbound except as indicated in horizontal section		4)	Unbound except as indicated in horizontal section				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Slovenia				
	1. Business Services			
	A. Professional Services			
a) Legal Services (CPC 861)	1) Unbound for drafting of legal documents	1) Unbound for drafting of legal documents		
	2) None	2) None		
	3) Commercial presence is restricted to sole proprietorship or to a law firm with unlimited responsibility (partnership) only. Only lawyers with licence to practice may be partners. For activities involving national law acceptance into the Bar Association ("Odvetniška zbornica Slovenije") is required. Consent of the Bar Association is required for the establishment of any law firm.	3) Conditions for acceptance into the Bar Association for lawyers who are not Slovenian nationals and have a licence to practice in another Member, have to have a certificate of knowledge of the Slovenian law and must be proficient in the Slovenian language.		
	Conditions for acceptance into the Bar Association for lawyers who are not Slovenian nationals and have a licence to practice in another Member, have to have a certificate of knowledge of the Slovenian law and must be proficient in the Slovenian language.			
	Notaries Public are persons performing a public service. Concession rights can be acquired by licence.			
	4) Unbound except as indicated in Part I	4) Unbound except as indicated in Part I		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Antigua and Barbuda									
		1. Business Services							
		A. Professional Services							
a) Legal services: consulting in home law of the service provider and international law (CPC 861)	1)	None		1)	None				
	2)	None		2)	None				
	3)	Business Act		3)	Business Act				
	4)	As indicated under horizontal commitments		4)	None				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Argentina									
		1. Business Services							
		A. Professional Services							
a) Legal services (CPC 861)	1)	None		1)	None				
	2)	None		2)	None				
	3)	None		3)	None				
	4)	Unbound, except as indicated in the horizontal section		4)	Unbound, except as indicated in the horizontal section				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Modes of supply :		Modes of supply :		Modes of supply :		Modes of supply :	
Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Barbados									
		1. Business Services							
		A. Professional Services							
a) Legal services (CPC 86130 - legal documentation and certification services)	1)	Unbound		1)	Unbound				
	2)	Unbound		2)	Unbound				
	3)	Only a natural person can practice law		3)	Not applicable				
	4)	An attorney has to be admitted to the local Bar and registered as required under the Legal Profession Act		4)	None				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Sector or Sub-Sector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments	Notes
		Chile						
			BUSINESS SERVICES					
			Professional Services					
			International legal services#1					
			Without prejudice to what is stated in Section I (horizontal measures), the providers of professional services included in the present Schedule may be subject to assessment by the competent authorities in connection with which they must show that they fulfil the requirements designed to ensure that they perform competently in the sector.					
			If the implementation of the advice involves appearing or fulfilling formal procedures before a Chilean court of justice or administrative body then the appearance shall be made or the formal procedure executed by a professional recognized in Chile.					
Solely advice on matters of public international law and international commercial law. (CPC 86190)	1)	Unbound	1)	Unbound				#1 Refers solely and exclusively to matters relating to public international law. If the implementation of the advice involves appearing before a Chilean court of justice or administrative body, then the appearance must be made by a lawyer authorized to practise in Chile who fulfils the requirement of being a Chilean national. The same requirement must be fulfilled whenever there is a need for a written instrument or formal procedure to be executed by a professional recognized in Chile. The provision of the advice does not confer the right to use the title of Attorney and therefore
	2)	Unbound	2)	Unbound				
	3)	None	3)	None				
	4)	Unbound, except as indicated in the horizontal section	4)	Unbound, except as indicated in the horizontal section				

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

WTO Services Database Output

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
				does not include representation services in contentious or non-contentious matters.

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Colombia					
		1. Business Services			
		A. Professional Services			
a) Legal services (CPC 861)	1)	None	1)	None	
Only legal advisory services in foreign legislation and international legislation (excludes advice and litigation in national law)	2)	None	2)	None	
	3)	Unbound	3)	Unbound	
	4)	Unbound	4)	Unbound	
Legal advisory services relating to mining	1)	None	1)	None	
	2)	None	2)	None	
	3)	None	3)	None	
	4)	Unbound, except as indicated in the horizontal section	4)	Unbound, except as indicated in the horizontal section	

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Modes of supply :		Modes of supply :		Modes of supply :		Modes of supply :	
Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Cuba									
		1. Business Services							
		A. Professional Services							
a) Legal services	1)	Unbound	1)	Unbound					
	2)	None	2)	None					
	3)	None	3)	None					
	4)	Unbound, except as indicated in the horizontal section	4)	Unbound, except as indicated in the horizontal section					
Other legal advisory and information services (CPC 86190)	1)	Unbound	1)	Unbound					
	2)	None	2)	None					
	3)	None	3)	None					
	4)	Unbound, except as indicated in the horizontal section	4)	Unbound, except as indicated in the horizontal section					

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Dominican Republic									
		1. Business Services							
		A. Professional Services							
Legal advisory and information services (CPC 86190)	1)	None		1)	Unbound				
	2)	None		2)	Unbound				
	3)	None		3)	None				
	4)	Unbound		4)	Unbound				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Ecuador					
		1. Business Services			
		A. Professional Services			
a) Legal services (CPC 861). Only advisory services in foreign legislation and international legislation (excludes advice and litigation in national law).	1)	None	1)	None	
	2)	None	2)	None	
	3)	None	3)	None	
	4)	Unbound except as indicated in the horizontal section.	4)	Unbound except as indicated in the horizontal section.	

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
El Salvador					
		1. Business Services			
		A. Professional Services			
a) Legal services	1)	None	1)	None	
Solely: legal advisory and information services (CPC 86190)	2)	None	2)	None	
	3)	None	3)	None	
	4)	In order to practise as a lawyer, in other words, to act as an attorney in accordance with national law, the authorization of the Supreme Court of Justice is required. If a Salvadorian who has acquired his degree outside El Salvador applies to be authorized to practise law, he must present his duly authenticated degree and show that it is recognized by the University of El Salvador. A foreigner wishing to practise as a lawyer in El Salvador must be a graduate of a Salvadorian university. To practise as a notary it is necessary to be Salvadorian.	4)	Unbound, except as indicated in the horizontal section	

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Guyana											
				1. Business Services							
				A. Professional Services							
a) Legal Services		1)	None	1)	None						
		2)	None	2)	None						
		3)	None	3)	None						
		4)	Unbound, except as indicated in horizontal sections	4)	Non-CARICOM Commonwealth (BR) Nationals: Would be required to have their qualifications reviewed by the Council of Legal Education and also to undergo a six (6) month period of training at one of the Regional Law Schools Non-Commonwealth Nationals: Will have to have their qualifications reviewed by the Council of Legal Education which will determine the amount of retraining they would be required to undergo. Generally, total retraining is required						

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :		Modes of supply :		Modes of supply :		Modes of supply :		Modes of supply :	
Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Jamaica									
		1. Business Services							
		A. Professional Services							
a) Legal services: consultancy in home law of the service provider or international law. (CPC 861)	1)	None		1)	None				
	2)	None		2)	None				
	3)	None Local certification required: Attorneys from other jurisdictions cannot practice in Jamaica without acceptance by Jamaica Bar Association.		3)	None				
	4)	Unbound except as indicated in the horizontal section.		4)	Unbound except as indicated in the horizontal section.				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Malaysia					
		BUSINESS SERVICES#1			
		Professional Services			
Legal services covering advisory and consultancy services relating only to home country laws, international law and offshore corporation laws of Malaysia (CPC 8619)	1),2)	None	1),2)	None	#1 An asterisk against a CPC code number indicates that the corresponding service subsector in this schedule covers only a part or parts of the service subsector classified under the CPC concordance.
	3)	Only through a corporation incorporated in the Federal Territory of Labuan.	3)	None	
		Legal services shall only be supplied to offshore corporations established in the Federal Territory of Labuan.			
	4)	Unbound except as indicated in 1 a) and b) and 2 a) and c) in the horizontal section	4)	Unbound except for the categories of natural persons referred to under market access	

SECTOR-SPECIFIC COMMITMENTS

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Panama	1. Business Services A. Professional Services			
a) Legal services. Exclusively: legal consultancy on international law (excludes Panamanian law) and consultancy on law of the jurisdiction in which the service supplier is qualified as a lawyer.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal commitments.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal commitments.		
Does not include appearance in courts or administrative, judicial, maritime or arbitral authorities in Panama, nor the drafting of legal documents (part of CPC 861).				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments	Notes
Papua New Guinea						
	1. Business Services					
	A. Professional Services					
a) Legal Services (CPC 861)	1)	None	1)	None		
	2)	None	2)	None		
	3)	None	3)	None		
	4)	Unbound except as indicated in the horizontal section	4)	Unbound except as indicated in the horizontal section		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Modes of supply :						1/ cross-border supply 2/ consumption abroad 3/ commercial presence 4/ presence of natural person	
Sector or Sub-Sector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes
Thailand							
	1. Business Services						
	A. Professional Services						
a) Legal services (CPC 86111+86119+ 86120+86130+86190)	1)	Unbound	1)	Unbound			
	2)	None	2)	None			
	3)	None other than that indicated in the horizontal section	3)	No limitations as long as foreign equity participation does not exceed 49 per cent			
	4)	Unbound	4)	Unbound			

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Trinidad and Tobago					
		1. Business Services			
		A. Professional Services			
a) Legal Services Consultancy in International Law (CPC 86119)	1)	None	1)	None	
	2)	None	2)	None	
	3)	None	3)	None	
	4)	None	4)	None	

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments	Notes
Turkey						
	1.	Business Services				
	A.	Professional Services				
a) Legal services (advisory services on foreign and International Law only) (CPC 861*#2)	1)	None	1)	None		#2 Asterisks designate "part of".
	2)	None	2)	None		
	3)	None	3)	Representation in the Turkish Courts is assigned only to Turkish nationals.		
	4)	None	4)	None		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Venezuela					
		1. Business Services			
		A. Professional Services			
a) Legal advisory services (CPC 861)	1)	Unbound	1)	Unbound	
	2)	None	2)	None	
b) Accounting and auditing services (CPC 8621)	3)	Unbound	3)	Unbound	
d) Architectural services (CPC 8671)	4)	Unbound, except as indicated in the horizontal section	4)	Unbound, except as indicated in the horizontal section	
e) Engineering and integrated engineering services (CPC 8672-8673)					
f) Urban planning and landscape architectural services (CPC 8674)					

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment		Additional Commitments		Notes	
Gambia									
		1. Business Services							
		A. Professional Services							
A. Professional Services (CPC 861, 862, 863, 8671, 8672, 8673, 8674, 93191, 9312, 932)	1)	None		1)	None				
	2)	None		2)	None				
	3)	Unbound, except as indicated in the horizontal section		3)	None				
	4)	Unbound, except as indicated in the horizontal section		4)	Unbound, except as indicated in the horizontal section				

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access		Limitations on National Treatment	Additional Commitments	Notes
Lesotho						
		1. Business Services				
		A. Professional Services				
a) Legal services (advisory services in foreign and international law only) (CPC 861+)	1)	Unbound	1)	Unbound		
	2)	Unbound	2)	Unbound		
	3)	None	3)	None		
	4)	Unbound except as indicated in the horizontal section	4)	Unbound except as indicated in the horizontal section		
Legal services (domestic law only) (CPC 861+)	1)	Unbound	1)	Unbound		
	2)	Unbound	2)	Unbound		
	3)	Unbound except as indicated under horizontal section	3)	Unbound except as indicated under horizontal section		
	4)	Unbound except as indicated under horizontal section	4)	Unbound except as indicated under horizontal section		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector	Limitations on Market Access		Limitations on National Treatment		Additional Commitments	Notes
Rwanda						
	1. Business Services					
	A. Professional Services					
a) Legal services (CPC 861)	1)	None	1)	None		
	2)	None	2)	None		
	3)	None	3)	None		
	4)	None	4)	None		

SECTOR-SPECIFIC COMMITMENTS

WTO Services Database Output

Modes of supply :

1)Cross-border supply 2)Consumption abroad 3)Commercial presence 4)Presence of natural persons

Sector or Sub-Sector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments	Notes
Solomon Islands					
		1. Business Services			
		A. Professional Services			
a) Legal services, home country law, including public international law (CPC 861**)	1)	None	1)	None	
	2)	None	2)	None	
	3)	None, other than the commercial presence must take the form of a sole proprietorship or partnership.	3)	None, other than the commercial presence must take the form of a sole proprietorship or partnership.	
	4)	Unbound except as indicated in the horizontal section.	4)	Unbound except as indicated in the horizontal section.	

INTERNATIONAL BAR ASSOCIATION

**RESOLUTION IN SUPPORT OF A SYSTEM OF TERMINOLOGY FOR
LEGAL
SERVICES FOR THE PURPOSES OF INTERNATIONAL TRADE
NEGOTIATIONS**

Adopted at the IBA Council Meeting, San Francisco, September 2003

The International Bar Association:

seeking to uphold the Rule of Law;

noting the resolution passed by the Council in 1998 on *General Principles for the Establishment and Regulation of Foreign Lawyers*;

noting also that, within the framework of the Doha Round, international trade negotiations are taking place on the subject of cross-border legal practice;

reaffirming its commitment to further liberalisation of regulations affecting cross-border legal practice;

believing that there should be a neutral framework within which such negotiations should take place;

believing also that an appropriate system of terminology is one which:

- is consistent with the core values of the legal profession;
- provides a solid, neutral foundation for negotiations so that ambiguity and uncertainty are minimised;
- facilitates those negotiations without pre-determining the negotiated outcome; and
- assists in minimising disputes over what has actually been agreed through negotiation;

recognising that the elements of such a system may be used in formulating either commitments or reservations to commitments within the framework of the General Agreement on Trade in Services, and expressing no view as to which of the two approaches will more fully achieve the objectives described above;

recognising as well the role of law firms in cross-border legal practice, and reserving for further consideration the question whether additional standard terminology may facilitate negotiations on this important issue;

noting finally that the WTO Secretariat has reported that: *"As the UN CPC classification in this sector did not reflect the reality of trade in legal services, Members have preferred to adopt the following distinctions in scheduling GATS commitments, which appear better suited than the UN CPC to express different degrees of market openness in legal services: (a) host country law (advisory/*

*representation); (b) home country law and/ or third country law (advisory/ representation); (c) international law (advisory/ representation); (d) legal documentation and certification services; (e) other advisory and information services."*¹

RESOLVES to recommend that the following system of terminology be used for such purposes:

- (a) Home-country law
 - (i) advisory services
 - (ii) representation services
- (b) Third-country law
 - (i) advisory services
 - (ii) representation services
- (c) Host-country law
 - (i) advisory services
 - (ii) representation services
- (d) International law
 - (i) advisory services
 - (ii) representation services
- (e) International arbitration and mediation services.

RESOLVES FURTHER that the forgoing terminology should be understood in accordance with and qualified by the definitions set out in the schedule to these resolutions, and

RESOLVES FINALLY to invite all members of the World Trade Organization to adopt this terminology for the purposes of negotiations on trade in legal services.

¹ World Trade Organisation Council for Trade in Services Background Note by the Secretariat S/C/W/43, 6 July 1998.

SCHEDULE

- (a) "*Home country*" means, with reference to a particular lawyer, any country in the territory of which such lawyer is fully qualified and authorized to engage in the provision of legal services involving application and interpretation of the domestic laws of such country, and "Home country law" means the domestic law of such Home country.
- (b) "*Host country*" means, with reference to a particular lawyer, any country, other than a Home country, in the territory of which such lawyer provides legal services, and "Host country law" means the domestic law of such Host country.
- (c) "*Third country*" means, with reference to a particular lawyer providing legal services in the territory of a Host country, any other country which is not a Home country of such lawyer, and "Third country law" means the domestic law of such Third country.
- (d) "*International law*" means law established by international treaties and conventions as well as customary law.
- (e) "*Advisory services*" includes:
 - (i) provision of advice to and consultation with clients in matters, including transactions, relationships and disputes, involving the application or interpretation of the specified body of law;
 - (ii) participation with or on behalf of clients in negotiations and other dealings with third parties in such matters; and
 - (iii) preparation of documents governed in whole or in part by the specified body of law, and the verification of documents of any kind for purposes of and in accordance with the requirements of the specified body of law;
- (f) "*Representation services*" includes:
 - (i) preparation of documents intended to be submitted to courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of the specified body of law; and
 - (ii) appearance before courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of the specified body of law.
- (g) "*International arbitration and mediation services*" includes:
 - (i) serving as an arbitrator in any dispute involving parties from two or more countries, without regard to the body or bodies of law that may ultimately be determined to have a bearing on the dispute;
 - (ii) serving as a mediator in attempts to resolve any such dispute; and
 - (iii) preparation of documents to be submitted to, preparation for and appearance before, arbitrators, or mediators in any such dispute.



GATS

General Agreement on Trade in Services



A Handbook for
International Bar Association
Member Bars

IBA RESOLUTION ON DEREGULATING THE LEGAL PROFESSION

(Adopted 1998)

Having due regard to the public interest in deregulating the legal profession as presently under consideration by the World Trade Organisation (WTO) and the Organisation for Economic Co-operation and Development (OECD) with the aim of:

- amending regulations no longer consistent with a globalised economy and
- securing the provision of legal services in an efficient manner and at competitive and affordable prices,

the Council of the International Bar Association, considering that the legal profession nevertheless fulfils a special function in society, distinguishing it from other service providers, in particular with regard to:

- its role in facilitating the administration of and guaranteeing access to, justice and upholding the rule of law,
- its duty to keep client matters confidential,
- its duty to avoid conflicts of interest,
- the upholding of general and specific ethical and professional standards,
- its duty, in the public interest, of securing its independence, professionally, politically and economically, from any influence affecting its service,
- its duty to the Courts

HEREBY RESOLVES

- 1 that the preservation of an independent legal profession is vital and indispensable for guaranteeing human rights, access to justice, the rule of law and a free and democratic society and
- 2 that any steps taken with a view to deregulating the legal profession should respect and observe the principles outlined above.

**IBA Statement of General Principles
for the Establishment and Regulation of Foreign Lawyers**
(Adopted at IBA Council Meeting in Vienna, June 1998)

WHEREAS, the phenomenon known as globalisation has resulted in a dramatic increase in the movement of people, capital, goods and services across national borders; and

WHEREAS, the increase in cross-border activity of all types has posed particular challenges to the legal profession, one of the most important of which is the establishment in certain jurisdictions by foreign lawyers authorised to practice in other jurisdictions; and

WHEREAS, the IBA believes that it is desirable and in the public interest for its member organisations to review and consider the manner in which their respective regulatory regimes address all issues posed by cross-border legal practice, including, but not limited to, the issue of cross-border establishment by foreign lawyers; and

WHEREAS, the IBA recognises and acknowledges that in connection with such review and consideration, the legal profession in each of its member jurisdictions may take into account its own characteristics, influenced, *inter alia*, by its system of laws, historical factors and level of economic development, and, accordingly, legitimate approaches taken to issues of cross-border legal practice may differ in certain respects; and

WHEREAS, notwithstanding the differences among legal professions, certain essential principles are common to all legal professions, and these principles include:

- The commitment to the independence of lawyers and the legal profession;
- The commitment to preservation of client confidences;
- The prohibition against conflicts of interest in the practice of law;
- The maintenance of high ethical standards; and

WHEREAS, notwithstanding the differing approaches to regulation, the IBA believes that all regimes regulating the conduct of the legal profession should reflect and promote these common principles; and

WHEREAS, the IBA recognises that either of the following two approaches to the establishment of foreign lawyers, may be consistent with the foregoing principles, provided that they are adopted and administered in a manner which recognises the education and experience of foreign lawyers and facilitates the effective delivery of legal services, and these are:

- A regulation of foreign lawyers by allowing them to become fully licensed to practice the law of the host jurisdiction through examination or otherwise (the 'Full Licensing Approach'); and

- B regulation of foreign lawyers as practitioners of foreign law for the limited purpose of permitting them to practice the law of their home jurisdiction in the host jurisdiction without examination of full admission to the host bar (the 'Limited Licensing Approach'); and

WHEREAS, the IBA believes that for the jurisdictions represented by its member organisations which have not adopted regimes regulating this aspect of cross-border legal practice: (i) those with the authority to regulate should consider, and (ii) those without the authority to regulate should encourage, the adoption of rules which:

- A are consistent with the common principles described above;
- B promote the rule of law and the respect for lawyers of all jurisdictions; and
- C address the issue of cross-border establishment by adopting either the Full Licensing or the Limited Licensing Approach or appropriate combinations of both;

NOW THEREFORE BE IT RESOLVED THAT the IBA's Council hereby approves the 'Statement of General Principles for the Establishment and Regulation of Foreign Lawyers' set forth below as a statement which fairly describes the essential principles on which regulation of cross-border establishment of lawyers should be based; as one which emphasises and promotes principles which are common to the legal profession worldwide; and encourages those of its member organisations in jurisdictions which have not addressed the issue of cross-border establishment of lawyers to adopt, or encourage the adoption of, appropriate amendments to their regulatory regimes which are consistent with the Common Regulatory Principles and at least one of the licensing approaches set forth therein.

I Applicability; Certain Definitions

These General Principles apply to the establishment and regulation of 'Foreign Lawyers'. A 'Foreign Lawyer' is: (i) a person licensed or otherwise authorised to practice law in a given country, or internal jurisdiction thereof (the 'Home Jurisdiction'), and subject to regulation by a body with the authority to regulate the legal profession (the 'Home Authority'), who (ii) desires to become established and thereby authorised to practice law in a country, or internal jurisdiction thereof, other than his or her Home Jurisdiction (the 'Host Jurisdiction') by a body with the authority to regulate the legal profession in such jurisdiction (the 'Host Authority').

II Common Regulatory Principles

The Common Regulatory Principles set forth below should govern any regime regulating the establishment of Foreign Lawyers:

- A Authority to Regulate
The Host Authority has the legitimate right to regulate the establishment of Foreign Lawyers.

- B Fairness and Uniform Treatment
Regulation and/or admission of Foreign Lawyers should be fair, non-discriminatory, and based upon uniformly applied, objective criteria. Any restrictions on the practice of Foreign Lawyers should be justifiable in the public interest in the Host Jurisdiction.
- C Transparency
Applicable rules and regulations (including codes of ethics and professional responsibility) governing Foreign Lawyers should be clear and consistently applied.
- D Public Purpose
Regulation should be designed and administered in a manner which promotes the interests of clients and encourages and facilitates the effective delivery of legal services to the fullest extent practicable, consistent with the protection of the public in the Host Jurisdiction, the maintenance of professional standards and independence of the legal profession of the Host Jurisdiction.
- E Access
Regulation of Foreign Lawyers should promote access to competent legal advice in the Host Jurisdiction on foreign law, subject to appropriate safeguards consistent with these General Principles.

III Full Licensing Approach

A Conditions of Insurance of License

Under this approach, the Host Authority should admit to practice any Foreign Lawyer if the applicant:

- 1 is licensed or authorised to practice law by, and in good standing with, his or her Home Authority;
- 2 has satisfied reasonable minimum practice requirements;
- 3 is a person of good character and repute;
- 4 agrees to submit to the Code of Ethics, or its equivalent, and all other rules and regulations applicable to fully admitted lawyers in the Host Jurisdiction; and
- 5 has satisfied reasonable qualification requirements in the Host Jurisdiction, by examination or otherwise, provided that (a) due consideration shall be given to the Foreign Lawyer's knowledge and skills acquired through earlier training and experience (whether acquired in the Home Jurisdiction or elsewhere); and (b) any such requirements shall be no more than necessary for the protection of the public, and clients, and the maintenance of public confidence in the legal profession in the Host Jurisdiction.

B Scope of Practice

A Foreign Lawyer admitted by the Host Authority should have the same right to practice as all other duly admitted members of the Host Authority, and, in addition, should be expressly authorised by the Host Authority to render advice on the law of the Home Jurisdiction and as otherwise authorised by his or her Home Authority.

IV Limited Licensing Approach

A Conditions on Issuance of License

Under this approach the Host Authority should grant a license permitting the practice of foreign law if the applicant:

- 1 is licensed or authorised to practice law by, and in good standing with, his or her Home Authority;
- 2 has satisfied reasonable minimum practice requirements;
- 3 is a person of good character and repute;
- 4 agrees to submit to the Code of Ethics, or its equivalent, of the Host Authority;
- 5 carries liability insurance or bond indemnity or other security consistent with local law and which, if applicable, is no more burdensome than required by the Host Authority of fully licensed lawyers; and
- 6 consents to local service of legal process.

B Scope of Practice

The Host Authority may impose the following conditions and limitations on the scope of the practice of law by Foreign Lawyers to the extent necessary to protect the public:

- 1 Foreign Lawyers may be prohibited from appearing or pleading in courts or other judicial tribunals in the Host Jurisdiction;
- 2 Foreign Lawyers may be prohibited from rendering advice on the law of the Host Jurisdiction or other jurisdictions where the Foreign Lawyers are not fully qualified and licensed; and
- 3 Foreign Lawyers may be required to use a title and make disclosure reasonably designed to inform the public regarding their status.

Standards and Criteria for Recognition of the Professional Qualifications of Lawyers

(Agreed/ Adopted at IBA Council Meeting in Istanbul, June 2001)

1 Purpose

This document sets forth the recommendations of the International Bar Association ('IBA') concerning the standards and criteria that should be applied by a Member of the World Trade Organization ('WTO') which has undertaken market access commitments relating to legal services under Article XVI of the General Agreement on Trade in Services ('GATS') in determining whether, to what extent and for what purposes to recognize the professional qualifications of persons authorized or licensed to practice law in the territory of another Member (the 'Home Jurisdiction') for purposes of authorizing or licensing such persons to practice law in the territory of the Member called upon to recognize such qualifications (the 'Host Jurisdiction'). The document also includes certain related recommendations regarding the contents of mutual recognition agreements as contemplated by Article VII of the GATS.

These recommendations are offered in the belief that one of the principal obstacles to such recognition is the fear, justified or not, that the recognition by a Member of the qualifications of lawyers qualified to practice in the territories of one or more other Members automatically entails an obligation to accord most-favored-nation treatment, as provided in Article II of the GATS, in respect of lawyers qualified to practice in the territories of all other Members. This fear tends to defeat the purpose of the most-favored-nation clause by inhibiting, rather than encouraging, liberalization. While recognizing that the same may also be said of other professional services subject to the GATS, the IBA strongly believes that the particular characteristics and role of the legal profession, and the important differences in legal systems and systems of professional regulation as reflected in the Background Note of July 6, 1998 on Legal Services prepared by the Secretariat of the WTO Council for Trade in Services, not only justify but indeed require a more nuanced approach to the question of recognition of qualifications than would be possible were most-favored-nation principles to be applied indiscriminately. It is believed that these recommendations are fully consistent with the spirit and intent of the GATS.

In advancing these recommendations, the IBA does not intend to detract from the process of continuing negotiation of further market access commitments regarding legal services within the framework of GATS 2000. Mutual recognition agreements are no substitute for progressive liberalization, on a most-favored-nation basis, of domestic regulations that continue to create undue barriers to cross-border and established provision of legal services. However, the IBA believes that a clarification of the standards and criteria that may be applied, without violating the relevant provisions of the GATS, in the recognition of professional qualifications will encourage Members to liberalize beyond the limits of their binding commitments, present and future, if and to

the extent they deem prudent in light of the important differentiating factors in the respective legal systems and professions of other Members. This voluntary liberalization can serve as a valuable complement to, and in the longer term will help to accelerate, the process of liberalization through further market access commitments. The IBA finds support in this respect in the Decision on Disciplines relating to the Accountancy Sector adopted by the WTO Council for Trade in Services on December 14, 1998. Item VI.21 notes the role which mutual recognition agreements can play in facilitating the process of verification of qualifications and/or in establishing equivalency of education.

It is, accordingly, the hope of the IBA that these recommendations will be taken into account, not only in ongoing discussions within the WTO regarding the application to the legal profession of the current provisions of the GATS and the related commitments given by Members in the Uruguay Round negotiations, but also as a basis for the consideration of possible further liberalization of market access in respect of legal services, particularly as to those countries having made relatively fewer commitments as to legal services in the Uruguay Round, in the course of the GATS 2000 negotiations.

2 Relevant Provisions of the GATS

Article VI of the GATS deals with domestic regulation of trade in services. Article VI (1) provides that, in sectors where specific commitments are undertaken, each Member shall ensure that all measures affecting trade in services are administered in a reasonable, objective and impartial manner. Article VI (4) calls upon the Council for Trade in Services (the 'Council') of the WTO to develop disciplines to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services and that, in particular, such measures are (i) based on objective and transparent criteria, such as competence and the ability to supply the service; (ii) not more burdensome than necessary to ensure the quality of the service; and (iii) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

Article VII of the GATS concerns recognition of professional qualifications. In derogation of the general 'most favored nation' provision contained in Article II of the GATS, Article VII (1) provides that a Member may, in connection with the authorization, licensing or certification of services suppliers, recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country and that such recognition may be based upon an agreement with that country or accorded autonomously. Article VII (3) provides that a Member shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing or certification of services suppliers or a disguised restriction on trade in services. Finally, Article VII (5) provides that, wherever appropriate, recognition should be based on multilaterally agreed criteria and that, in

appropriate cases, Members shall work in cooperation with relevant intergovernmental and non-governmental organisations towards the establishment and adoption of common international standards and criteria for recognition.

3 Considerations Unique to the Legal Profession

The legal profession differs from other service professions in at least three major respects that are relevant to the question of recognition of professional qualifications.

a) The Special Role of the Legal Profession

The legal profession fulfils a special role or function in democratic societies, facilitating the administration of and guaranteeing access to justice and upholding the rule of law. Lawyers are at the same time officers of the courts and the guardians of the rights of citizens, public responsibilities that call for the utmost integrity and the strictest compliance with rules of ethics and professional conduct if effective operation of and public confidence in the system of justice are to be maintained. Accordingly, it is essential that standards and criteria for recognition of qualifications for the practice of law include not only the requisite elements of intellectual qualification, such as competence and ability to supply the service, but also those elements of ethical and moral qualification that are essential to the preservation of the integrity of the profession and, indeed, of the legal system itself. Were these elements to be excluded from legitimate consideration as differentiating factors in the decision whether or not to recognize professional qualifications, Article VII of the GATS would be without practical value insofar as the legal profession is concerned, as neither governments nor the profession would be willing to grant recognition without regard to these fundamental criteria.

b) Heterogeneity of Substantive Knowledge

The education, practical training and other qualifications of a lawyer relate, to a substantial extent, to a particular national legal system. Thus, unlike medicine or engineering, where the applicable principles are exactly the same from one country to another, or accounting, where the rules tend to vary somewhat in their details but are readily subject to reconciliation in accordance with common principles, law is highly variable from one jurisdiction to the next and, as an expression of the mores and mutual expectations of the citizens, is significantly cultural in its content.

c) The Regulatory Structure of the Legal Profession

For historical reasons, regulation of the legal profession is carried out in many countries at the level of political subdivisions rather than at the national level. Even where the regulatory framework is established on a

national basis, authority for admission to the profession and professional discipline frequently rests with local, state or provincial bodies, in some cases governmental and in others professional, acting pursuant to delegated authority. In consequence, implementation of the provisions of the GATS relative to legal services will necessarily involve cooperation between local, regional and national authorities of the Members involved. The term 'competent authorities' when used with reference to any Member must be read in this light.

4 Standards and Criteria for Recognition

Apart from the need to take into account the general considerations set forth above, the standards and criteria for the recognition of the qualifications of foreign lawyers should be tailored to the specific regime or regimes employed in the Host Jurisdiction for the authorisation or licensing of foreign lawyers. These vary considerably from one country to the next, as reflected in the differing commitments undertaken by various WTO Members in relation to legal services. Some countries require compliance with all qualification requirements under Host Jurisdiction procedures in order to license a foreign lawyer to practice the law of the Host Jurisdiction but permit a more limited scope of practice, including practice of the law of the Home Jurisdiction, under less stringent conditions. Others permit qualification to practice the law of the Host Jurisdiction based upon compliance with more limited requirements that take into account the education, training and experience of the applicant as a qualified practitioner of the law of the Home Jurisdiction. Whatever system is in use, the standards and criteria that may be applied in the recognition process, whether by mutual recognition agreement or autonomously, are the following:

a) Home Jurisdiction Regulation and Discipline

In making the decision to permit a foreign-qualified lawyer to practice law, even within a limited scope, in its own territory, a Host Jurisdiction necessarily relies to a significant extent upon the integrity and effectiveness of the system of professional regulation and discipline in place in the Home Jurisdiction. It is the very fact that the lawyer has been admitted to practice and remains in good standing in the Home Jurisdiction that enables to the Host Jurisdiction to permit the lawyer to carry on any sort of law practice in its territory. The Host Jurisdiction may therefore need to satisfy itself, possibly in the context of the negotiation of a mutual recognition agreement, that it is able to rely on the professional regulatory rules and processes of the Home Jurisdiction as an effective means of ensuring that applicants qualified in that jurisdiction meet the ethical standards of the Host Jurisdiction. A mutual recognition agreement may also include provision for cooperation between the competent authorities in the Home Jurisdiction with those of the Host Jurisdiction in dealing with violations of rules of professional conduct that are common to both.

b) Character and Fitness

The unique nature and responsibilities of the legal profession require that anyone licensed to practice law be of the highest moral and ethical character. Even where the license applied for would authorise the applicant to practice law only within a restricted scope of practice, the Host Jurisdiction has a legitimate interest in determining whether the applicant meets these requirements. The competent authorities of the Host Jurisdiction should satisfy themselves, as a predicate for the conclusion of a mutual recognition agreement, that their needs in this regard can adequately be met by a certificate of good standing issued by the competent authorities of the Home Jurisdiction. In the absence of such an agreement, the Host Jurisdiction may condition recognition of the applicant's qualifications upon submission by the applicant of satisfactory evidence as to character and fitness for the practice of law, including full information regarding such matters as prior disciplinary proceedings and any civil or criminal proceedings involving the applicant.

c) Education and/or Practical Training

The extent to which education and/or practical training may be taken into account in evaluating the qualifications of an applicant will depend upon the scope of practice authorized by the license for which the applicant is applying. The following are elements that may be considered.

1 Level and Duration of Legal Education

Recognition may be conditioned upon the applicant's having completed a specified number of years of university-level education in legal studies, either graduate or post-graduate, at institutions of higher learning recognised for this purpose by the Host Jurisdiction. The recognition for these purposes of institutions of higher learning in the two jurisdictions may be one of the subjects covered by a mutual recognition agreement.

2 Extent of Practical Training

Practical training of a specified duration and content may be accepted in substitution for some portion of the education requirement where the competent authorities of the Host Jurisdiction are satisfied that the program of practical training is properly specified and supervised by the competent authorities of the Home Jurisdiction and, taken together with the university-level education that is required for licensure in the Home Jurisdiction, is substantially equivalent to the level and duration of university-level education required by the Host Jurisdiction. These matters are appropriately dealt with in connection with the negotiation and conclusion of mutual recognition agreements.

3 Similarity of Legal Systems

Where the authorization or license for which the applicant applies includes the right to practice the law of the Host

Jurisdiction, recognition of all or any part of the applicant's qualifications may depend upon the degree of similarity between the legal system of the Home Jurisdiction and that of the Host Jurisdiction. The Host Jurisdiction may under these circumstances require fulfilment by the applicant of supplemental education or training requirements designed to cure deficiencies in the applicant's knowledge of the law of the Host Jurisdiction. The nature and extent of any such supplemental requirements may should be specified in any mutual recognition agreements.

4 **Specialized Education or Training Requirements**

Where the authorization or license for which the applicant applies includes the right to practice law other than that of the Home Jurisdiction, such as international law or the law of third countries, recognition may be conditioned upon completion of any education, training, experience or certification requirements imposed by the Host Jurisdiction upon members of its own legal profession as a condition of their right to engage in such practice.

d) **Professional Experience**

Recognition may be conditioned upon completion of a specified minimum period of experience in the practice of law. This period should not be longer than is reasonably necessary to establish the ability of the applicant to practice law competently and in accordance with the applicable rules of professional responsibility. The duration of this minimum period, and the circumstances under which such practice must be completed, are among the subjects that should be regulated by mutual recognition agreements.

5 Compatibility with the Relevant Provisions of the GATS

In the view of the IBA, the application by a Member of the standards and criteria set out in Part IV above in determining whether and for what purposes to recognize the qualifications of lawyers admitted to practice in the territory of another Member is fully in accordance with the spirit of Article VII of the GATS. While those standards and criteria include factors not specifically mentioned in Article VII (1), their application in the context of Article VII is clearly justified by the unique role of the legal profession and the objective differences that exist among the legal systems and legal professions of the world, as described in Parts III and IV above. That being so, the IBA believes that differences in treatment based upon objective application of such standards and criteria do not violate the most-favored-nation principle enshrined in Article II of the GATS, which does not apply to recognition of professional qualifications pursuant to Article VII, whether such recognition is autonomous or pursuant to a mutual recognition agreement.

The granting of such recognition is, of course, subject to the provisions of Article VII (2) of the GATS. That Article requires that a Member that is a party to a mutual recognition agreement concerning the qualifications of lawyers must afford adequate opportunity to other interested Members to negotiate accession to such an agreement or negotiate comparable agreements providing for recognition of the qualifications of lawyers admitted to practice in their own territories. It also requires that, where a Member accords recognition autonomously, it must afford adequate opportunity to any other Member to demonstrate that the qualifications of lawyers admitted to practice in its own territory should be recognized. Moreover, as provided in Article VII (3) of the GATS, a Member must not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards and criteria. However, the IBA takes the view that differences in treatment based upon objective application of the standards and criteria set out in Part IV above should not be regarded as violating any of such provisions. The IBA also notes that differences in treatment resulting from the establishment of agreements among some Members liberalizing trade in services between or among the parties to such an agreement and otherwise qualifying under the provisions of Article V of the GATS, as in the cases of the European Union and NAFTA, would not violate the provisions of Article VII even if such differences were not based solely, or at all, on those standards and criteria.

6 General Considerations Regarding the Content of Mutual Recognition Agreements

The use of mutual recognition agreements can provide an effective means of resolving many of the potential difficulties of reconciling the economic benefits of market access in the field of legal services with the social imperative of preserving the integrity of the legal profession of each WTO Member. In addition to the subject matter referred to above, there are a number of other matters that can usefully be included in such mutual recognition agreements, among them the following:

a) Scope of Practice Limitations

Where one or more of the Members proposing to enter into a mutual recognition agreement generally grants authorizations or licenses to foreign-qualified lawyers to practice law within its or their territories only within a limited scope of practice, the activities in which lawyers from a Home Jurisdiction are to be permitted to engage in the territory of a Host Jurisdiction pursuant to such an authorization or license should be set out in detail in the mutual recognition agreement. In particular, the agreement should be specific as to whether the authorization or license to be granted includes the right to advise on matters of international law, regional supranational law and/or the law of third jurisdictions. It should also be made clear whether and under what circumstances holders of such authorizations or licenses may communicate to clients advice

regarding the laws of the Host Jurisdiction given by lawyers qualified to practice the law of the Host Jurisdiction.

b) Forms of Association

Where one or more of the Members proposing to enter into a mutual recognition agreement generally restrict the forms in which lawyers qualified to practice law in their territories may associate with foreign-qualified lawyers who are not also fully qualified to practice in such Members' territories, the forms of association in which lawyers from a Host Jurisdiction are to be permitted to engage with lawyers from a Home Jurisdiction for the practice of law should be set out in the mutual recognition agreement. The agreement should be specific as to any limitations upon, or conditions to, the formation of partnerships or other associations, affiliations or cooperative arrangements and upon the sharing by such lawyers of fees, expenses, facilities and staff.

c) Regulatory and Disciplinary Matters

A mutual recognition agreement should contain provisions (i) delineating the circumstances under which the rules of professional conduct, as well as the disciplinary procedures, of the Host Jurisdiction will apply to members of the legal profession of the Home Jurisdiction who are authorized or licensed to practice law in the territory of the Host Jurisdiction and (ii) establishing rules, or procedures for consultation between regulatory authorities of the Home Jurisdiction and the Host Jurisdiction, to apply in the event that compliance with mandatory rules of the Host Jurisdiction entails a potential violation of the rules of the Home Jurisdiction.

d) Definition of Competent Authorities

Article VII of the GATS speaks of recognition by Members, which implies that mutual recognition agreements are to be concluded at the national level. However, in light of the decentralized regulatory structure of the profession in some countries, this may create practical problems, at least if the agreement is to be binding upon the governing bodies of the profession. These problems will have to be addressed on a case-by-case basis, in a manner compatible with the way in which the legal professions are organized and regulated in the territories of each of the Members party to a particular mutual recognition agreement, without prejudice to the right of a Member party to require that such agreement be operative throughout the territory(ies) of the other Member(s) party and that the other Member(s) party provide an assurance that the provisions of Article I(3)(a) of the GATS will apply to the undertakings of such other Member(s) party contained in that agreement.

7 Conclusion

The IBA respectfully commends the foregoing to the consideration of the WTO in the course of its study and deliberations regarding further

liberalization in the field of professional services and, in particular, of legal services and will be pleased to consult on this subject with the WTO and its constituent bodies as and whenever that appears useful.

**COMMUNICATION TO THE WORLD TRADE ORGANIZATION
ON THE SUITABILITY OF APPLYING TO THE LEGAL PROFESSION
THE WTO DISCIPLINES FOR THE ACCOUNTANCY SECTOR**

Adopted at the IBA Council Meeting, San Francisco, September 2003

WHEREAS, the phenomenon known as globalization has resulted in a dramatic increase in the movement of people, capital, goods and services across national borders; and

WHEREAS, central to the future development of the legal profession is the fact that international trade in legal services is now subject to the General Agreement on Trade in Services (“GATS”) and such development must be consistent with the basic concepts underlying GATS, which include transparency in regulation, non-discriminatory treatment of regulated parties, and the requirement that regulation should be no more burdensome than necessary to protect the public interest; and

WHEREAS, Article VI:4 of the GATS states that “With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Council for Trade in Services shall, through appropriate bodies it may establish, develop any necessary disciplines. Such disciplines shall aim to ensure that such requirements are, *inter alia*:

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
- (b) not more burdensome than necessary to ensure the quality of the service;
- (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service;” and

WHEREAS, pursuant to Article VI:4 of the GATS, WTO Member States have developed “Disciplines on Domestic Regulation in the Accountancy Sector” [document S/L/64, 17 December 1998]; and

WHEREAS, the WTO Working Party on Domestic Regulation currently is considering whether and how to develop “disciplines” for other service sectors, including legal services; and

WHEREAS, the WTO Member States agreed to solicit the opinion of the IBA concerning the suitability of applying to the legal profession the “Disciplines on Domestic Regulation in the Accountancy Sector (S/L/64)”;

WHEREAS, the WTO Secretariat sent the IBA a letter in December 2002, in which it sought input by February 2003 on three questions:

“ - Are there any elements of the disciplines which you consider are not appropriate for your profession? If so, please set out which and why you consider they are inappropriate. Please also suggest what changes would make them appropriate;

- Are there any points or areas which you consider are missing from the disciplines and which you feel should be included? If so, please indicate clearly what these are and why they should be included;

- Are there any elements of the disciplines which you feel need to be improved? If so, please set them out and why;” and

WHEREAS, the IBA believes that it is desirable and in the public interest for its member organizations to participate in the developments at the WTO by responding to this letter directed to the IBA; and

WHEREAS, the IBA recognizes and acknowledges that in connection with such review and consideration, the legal profession in each of its member jurisdictions may take into account its own characteristics, influenced, *inter alia*, by its system of laws, historical factors and level of economic development; and

WHEREAS, the IBA affirms that, while the legal profession performs a unique and valuable service in each of their societies, lawyers from all over the world share common core values of the profession which must be given due respect when we negotiate the trade in legal services among the WTO member States; and

WHEREAS, IBA Member Bars were invited to participate in the GATS Forum in Brussels, Belgium on May 30, 2003; and

WHEREAS, the IBA WTO Working Group circulated drafts of its papers before the GATS Forum and received comments, which were extensively discussed at the GATS Forum; and

WHEREAS, the papers that were circulated built heavily on the prior resolutions adopted by the IBA Council, which noted that notwithstanding the differences among legal professions, certain essential principles are common to all legal professions; and

WHEREAS, Exhibits A and B represent the results of the May 30, 2003, GATS Forum and the votes taken at that time;

NOW, THEREFORE, BE IT RESOLVED, that the IBA Council hereby approves Exhibits A (Suggested Changes to the WTO Disciplines for the Accountancy Sector) and B (Explanatory Memorandum to Accompany the “Suggested Changes to the WTO Disciplines for the Accountancy Sector”) and authorizes transmission of these documents to the WTO and its Member organizations for their consideration.

**EXHIBIT A: CHANGES THE IBA RECOMMENDS BE MADE TO
THE WTO ACCOUNTANCY DISCIPLINES
BEFORE APPLYING THEM TO THE LEGAL PROFESSION**

The WTO Member States have solicited the views of the International Bar Association (IBA) concerning any changes that would need to be made to the WTO *Disciplines on Domestic Regulation in the Accountancy Sector*, S/L/64 (17 December 1998) before they could be applied to the legal profession. The IBA has taken no position on whether disciplines are indeed necessary or whether disciplines for the legal profession should have, as their model, the disciplines developed for the accountancy sector. If the *Disciplines on Domestic Regulation for the Accountancy Sector* are used as the basis for disciplines for the legal profession, the IBA responds to the WTO's inquiry by recommending the following underlined changes be made before applying to the legal profession the *Disciplines on Domestic Regulation for the Accountancy Sector*:

1. Change Article II(2) so that it states:

"Members shall ensure that measures not subject to scheduling under Articles XVI or XVII of the GATS, relating to licensing requirements and procedures, technical standards and qualification requirements and procedures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary barriers to trade in legal services. For this purpose, Members shall ensure that such measures are not more trade-restrictive than necessary to fulfil a legitimate objective. For the purpose of defining what is "necessary" in the context of legal services, it is recognised that in many Member States, lawyers play an essential role in protecting individual political, civil and economic rights and that the rule of law and integrity of the legal system, promoted by lawyers, is vital and important to the highest degree. Therefore, it is recognised that those entities involved in the regulation of lawyers have an area of reasonable discretion in making decisions which involve the protection of those core values of the profession which fall within legitimate objectives. Legitimate objectives are, inter alia, the protection of consumers (which includes all users of legal services and the public generally), the quality of the service, professional competence, the protection of the independence of the profession, the protection of confidentiality and the professional secret, the avoidance of conflicts of interest, and the integrity of the profession."

2. Change Article III(3) and (4) so that they state:

III(3) Members shall make publicly available, including through the enquiry and contact points established under Articles III and IV of the GATS, the names and addresses of competent authorities (i.e. governmental or non-governmental

entities responsible for the licensing and/or disciplining of professionals or firms).”

III(4) Members shall make publicly available, or shall ensure that their competent authorities make publicly available, including through the enquiry and contact points:

- (a) where applicable, information describing the activities and professional titles which are regulated or which must comply with specific technical standards including ethical rules and rules of professional conduct;*
- (b) requirements and procedures to obtain, renew or retain any licences or professional qualifications and the competent authorities' monitoring arrangements for ensuring compliance;*
- (c) information on technical standards, including ethical rules and rules of professional conduct; and*
- (d) upon request, confirmation that a particular professional or firm is licensed to practise within their jurisdiction.*

3. Change Article IV(8) so that it states:

IV(8) Licensing requirements (i.e. the substantive requirements, other than qualification requirements, to be satisfied in order to obtain or renew an authorisation to practice) shall be pre-established, and publicly available, including licensing requirements in relation to temporary services provided under home title, and in relation to permanent establishment under home title and shall consider any disciplinary sanctions imposed on applicant lawyers by the relevant professional bodies in their home countries. 'In this and subsequent articles where the words 'qualification' and 'licensing' appear, they shall have the following meanings: 'qualification' shall mean the substantive requirements that a lawyer is required to fulfill to obtain a certification or license, such as education, examination requirements, practice training and experience or language requirements. Licensing requirements are those substantive requirements, other than qualification requirements, with which a lawyer must comply in order to obtain formal permission to supply legal services. Thus, a WTO Member State may have both qualification and licensing requirements and procedures for: (i) 'full licensing' systems, which grant access to the full local title of lawyer; (ii) 'limited licensing' systems which grant access to something less than the full local title of lawyer; and (iii) requirements that address temporary services provided under home title.'

4. Change Article IV(12) so that it states:

'Members shall ensure that requirements regarding professional indemnity insurance for foreign applicants take into account any existing insurance coverage, in so far as it covers activities in its territory or the relevant

jurisdiction in its territory and is consistent with the legislation of the host Member, subject to Members being permitted to put the burden, including the costs of the exercise, on to foreign applicants to show the extent of their existing insurance, and the solvency and security of the company providing such insurance. The same principles shall apply to any existing pension or social security arrangements or fidelity fund for which Members have requirements covering foreign applicants.

5. Change Article VI(19) so that it states:

19. *A Member shall ensure that, whether or not the Member adopts the “full licensing” system or the “limited licensing” system, its competent authorities take account of qualifications acquired in the territory of another Member, on the basis of equivalency of education, experience and/or examination requirements.”*

6. Delete Article VI(20)

7. Change and Renumber Paragraphs 25 and 26 of Article VII so that it states:

24. *Members shall ensure that measures relating to technical standards are prepared, adopted and applied only to fulfill legitimate objectives. In the context of legal services, the term “technical standards” refers not only to technical standards in the narrow sense, but also ethical rules and rules of professional conduct.*
25. *In determining whether a measure is in conformity with the obligations under paragraph 2, account shall be taken of any internationally recognized technical standards (such term to mean not only technical standards in the narrow sense, but also ethical rules and rules of professional conduct) of relevant international organizations¹ applied by that Member.”*

¹ The term "relevant international organizations" refers to international bodies whose membership is open to the relevant bodies of at least all Members of the WTO.

Discussion Paper for the IBA WTO Working Group:

Possible Points of Agreement about a WTO Legal Services Classification System

Discussion Paper Dated October 4, 2004

Prepared for the IBA WTO Working Group by Laurel Terry and Jonathan Goldsmith
This paper is NOT IBA policy and has not been endorsed by the IBA Council or the IBA
WTO Working Group

A. BACKGROUND INFORMATION REGARDING THE ISSUES

1. The Uruguay Round GATS negotiations were the first time that services, rather than goods, were included in the WTO/GATT negotiations. In the Uruguay Round, countries were encouraged, but not required, to schedule their service commitments using the categories provided in WTO Document MTN.GNS/W/120 (10 July 1991)[“W/120”].¹
2. WTO Document W/120 was prepared by the WTO Secretariat and entitled “[Services Sectoral Classification List](#).” With respect to legal services, WTO Document W/120 cross-referenced the [Provisional U.N. Central Product Classification 861](#), which was the UN category for legal services. (The U.N. CPC had several subcategories, but these subcategories were not specifically listed in WTO Document W/120.)
3. In its [Legal Services Sectoral Analysis](#), the WTO Secretariat reported on the use of the UN CPC categories for scheduling commitments during the Uruguay Round. According to the WTO Secretariat, “the UN CPC classification in this sector did not reflect the reality of trade in legal services” and countries “preferred to adopt the following distinctions in scheduling GATS commitments, which appear better suited than the UN CPC to express different degrees of market openness in legal services: (a) host country law (advisory/representation); (b) home country law and/or third country law (advisory/representation); (c) international law (advisory/representation); (d) legal documentation and certification services; (e) other advisory and information services.”
4. Table 4, on pages 36-30 of the OECD June 2004 paper called [Managing Request-Offer Negotiations Under the GATS: The Case of Legal Services](#), (Job (04/77)) shows WTO Members’ Uruguay Round commitments according to home, host, international and other law, available. Pages 26-30 of the WTO Legal Services Sectoral Analysis also includes tables analyzing Uruguay Round commitments.

5. In its **Legal Services Sectoral Analysis**, the WTO Secretariat asked: “*Should the revision of the UN CPC take account of the Uruguay Round scheduling distinctions in legal services in re-defining classification in the sector?*”
6. Following publication of the **Legal Services Sectoral Analysis**, WTO Members received several proposals about the proper definition of legal services to use in W/120, the **WTO Services Sectoral Classification List**. Because governments are taking a position on the proper classification of legal services, it is appropriate for the IBA to further consider the classification issue.
7. In March 2001, the WTO Council for Trade in Services adopted the **Guidelines for the Scheduling of Specific Commitments Under the General Agreement on Trade in Services**, S/L/92. Paragraphs 23-24 of these **Guidelines** state that in the Doha Round, as in the Uruguay Round, there would not be a harmonized classification system for services, although “in general” commitments should be based on the Secretariat’s Sectoral Classification List [W/120] :

The legal nature of a schedule as well as the need to evaluate commitments, require the greatest possible degree of clarity in the description of each sector or sub-sector scheduled. In general the classification of sectors and sub-sectors should be based on the Secretariat's Services Sectoral Classification List. Each sector contained in the Secretariat list is identified by the corresponding Central Product Classification (CPC) number. Where it is necessary to refine further a sectoral classification, this should be done on the basis of the CPC or other internationally recognised classification (e.g. Financial Services Annex). A breakdown of the CPC, including explanatory notes for each sub-sector, is contained in the UN Provisional Central Product Classification.

If a Member wishes to use its own sub-sectoral classification or definitions it should provide concordance with the CPC in the manner indicated in the above example. If this is not possible, it should give a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment.

8. Prior IBA experience has shown that when lawyers from different countries use the words “license” and “qualification,” they may mean different things. Lawyers and legal services regulators on the one hand and trade experts on the other hand tend to use these terms in very different ways. The IBA and the WTO have, on occasion, used substantially different definitions for related terms.² Therefore, any use of these words must carefully explain what is meant, in order to avoid ambiguity.
9. The WTO Secretariat Paper, OECD paper, WTO documents and other documents related to legal services classification issue, are available on the ABA GATS webpage, whose content is provided by Laurel Terry. See http://www.abanet.org/cpr/gats/track_one_class.html. She welcomes suggestions and contributions for additional content to this webpage.

B. ISSUE 1: WTO MEMBERS WILL HAVE TO CHOOSE BETWEEN USING AN “OPT-IN” AND AN “OPT-OUT” APPROACH TO THE CLASSIFICATION SYSTEMS

10. As a philosophical matter, WTO Members will schedule their legal services commitments using an “*opt-in*” approach or an “*opt-out*” approach. A variation of the opt-out approach is an “all-or-nothing” approach, in which a country might choose to either schedule legal services in their entirety – or not. Another way to express this choice available to countries is to refer to a “positive list” [*opt-in*] approach or a “negative list” [*opt-out*] approach.
11. If a country uses a “positive list” or “*opt-in*” approach to scheduling legal services, this means that the country identifies the particular subcategories of legal services for which it is willing to make commitments. If a country uses a “negative list” or “*opt-out*” approach, this means that the country would commit to the legal services sector, subject to the exceptions specified in one of the columns of the country’s Schedule. It is also theoretically possible for countries to make their commitments on an “all-or nothing” basis, in which a country would choose to schedule the entirety of legal services without any qualifications in the first column of a Schedule. For example, a country might make an unqualified commitment to provisional UN CPC 861 in the first column of its *Schedule*. (A country choosing this “all-or-nothing” approach could, of course, place limitations in the market access or national treatment columns of its *Schedule*.)
12. The question of whether to use a positive list “*opt-in*” approach, a negative list “*opt-out*” approach, or an “all-or-nothing” approach when making commitments is a separate and independent question from the question of the appropriate WTO classification system for legal services. On the other hand, there might be some relationship between these two separate and independent questions. A country might believe that a particular classification system would make it easier (or more difficult) to schedule commitments in a positive list manner or in a negative list manner and on that basis, prefer a particular classification system.
13. WTO Member States disagree about whether a positive list approach, a negative list approach, or an all-or-nothing approach will lead to greater liberalization in the trade in legal services.
14. The IBA believes that flexibility is very important to have in the GATS process and accordingly, does not believe that WTO Members should be **required** by WTO rules to use a positive list *opt-in* approach, a negative list *opt-out* approach or an all-or-nothing approach. Nevertheless, the IBA believes that it is useful to have a discussion of this issue within the IBA (and to seek consensus, if possible) so that IBA Member Bars may participate in discussions of this point with their trade negotiators.

C. ARGUMENTS OFFERED IN FAVOR OF THE POSITIVE LIST/OPT-IN APPROACH, THE NEGATIVE LIST/OPT-OUT APPROACH AND THE “ALL-OR-NOTHING” APPROACH TO MAKING COMMITMENTS

15. Proponents of a positive list, *opt-in* system approach claim that it will lead to greater liberalization because countries will not be intimidated from making commitments. Positive list *opt-in* proponents argue that if an *opt-out* approach is used, countries may choose not to commit anything because they are worried that they may inadvertently commit to something that they do not want.
16. Proponents of a negative list *opt-out* approach claim that it will lead to greater liberalization because if each *opt-out* needs to be specifically named and justified, this will force each country to have an internal dialogue about whether the *opt-out* is desired and warranted. Thus, an *opt-out* approach is less likely to result in legal services exclusions that are not particularly desired by the country, but only inadvertently omitted.
17. Proponents of an all-or-nothing approach claim that it reflects market reality because a lawyer qualified in one jurisdiction should be able to provide all legal services that come together with that qualification, that it is better suited for law firms (e.g. if it is impossible to acquire the qualification in the given country, a law firm could still employ local lawyers with that qualification) and that systemic reasons require that qualification and licensing issues not be mixed in determining activities.
18. The GATS Article VI:4 *Disciplines* issue is one reason why a country might prefer to use a negative list approach, which lists exemptions in the first column of its *Schedule*, rather than an “all-or-nothing” approach that lists exemptions in the second and third columns of a *Schedule*. For example, the 2001 *WTO Guidelines* indicate that licensing and qualification requirements, such as membership in a professional organization, are frequently stipulated as conditions to obtain a licence, but should not be scheduled as market access or national treatment limitations if they are non-discriminatory and not covered by Article XVI. Moreover, current work in the WTO WPDR suggests that future *Disciplines* might only apply to sectors or sub-sectors that a country lists in its *Schedule*. Therefore, if a country had a non-discriminatory, non Art.XVI license requirement, but did not want that license requirement to be subject to *Disciplines*, it would have to exclude that applicable sub-sector from its *Schedule*. But if the requirement is truly non-discriminatory and not an Art. XVI measure, it wouldn’t make sense for the WTO Member to list the license requirement in the market access or national treatment columns of its *Schedule*.

D. ADDITIONAL BACKGROUND INFORMATION: THE EXISTING UN CPC LEGAL SERVICES CLASSIFICATION SYSTEM COULD BE USED IN A POSITIVE LIST OPT-IN APPROACH, A NEGATIVE LIST OPT-OUT APPROACH, OR AN ALL-OR-NOTHING APPROACH

19. The W/120 classification system used in the original GATS negotiations was neutral with respect to the issue of using a positive versus a negative list approach. This is because the UN CPC system, which is cross-referenced in W/120, could be employed in a positive list *opt-in* manner, in a negative list *opt-out* manner, or in an “all-or-nothing” manner. This is described in greater detail below.
20. If a country wanted to use a positive list *opt-in* approach and if it also wanted to use the provisional UN CPC classification system, then the country probably would include either the 4-digit or 5 digit UN CPC categories in its **Schedule**. Thus, a WTO Member State could choose to “*opt-in*” for some (but not all) of the 4-digit or 5-digit UN CPC legal services subcategories. Under this view, a WTO Member State would assume obligations only for the UN CPC subcategories that the country identified.
21. If a country wanted to use a negative list *opt-out* approach and if it also wanted to use the provisional UN CPC classification system, then the country could probably do so by specifying a 3-digit, 4-digit, or 5-digit UN CPC classification category. For example, a country might commit to legal services using the 3 digit UN CPC category, except as noted otherwise. Alternatively, a country could commit to a 4-digit UN CPC, except as noted. Or, it could commit to a 5 digit category of legal services, except as noted.
22. A third alternative is to use the existing UN CPC 3 digit classification system as the basis for an “all-or-nothing” approach to classification. WTO Member States might decide that they will either list the 3-digit UN CPC 861 legal services category in the first column of their **Schedules of Specific Commitments** or they will not. Under this “all-or-nothing” approach, a country could choose, of course, include qualifications to the commitment in the market access or national treatment columns of its **Schedule**.

E. **ISSUE 2: SELECTING A CLASSIFICATION SYSTEM FOR LEGAL SERVICES**

23. Although WTO Member States may depart from the legal services classifications found in W/120 during the Doha negotiations, Members agreed in the 2001 **Guidelines** that “in general,” commitments should be based on W/120, which is the Secretariat’s Sectoral Classification List.
24. WTO Member States currently are engaged in discussions about whether to modify the legal services classification system currently found in W/120.
25. Because governments are engaged in ongoing discussions about the legal services classification issue and whether to modify W/120, it is appropriate for the IBA to

revisit the classification issue, even though in 2003, there was no IBA consensus about which legal services classification system to recommend.

26. Proponents of the existing W/120 system, which refers to the UN CPC system, argue that changing classification systems mid-stream will lead to confusion about prior commitments. They also argue that the UN CPC legal services classification system provides sufficient flexibility for countries to express their commitments in either a positive list *opt-in* approach or a negative list *opt-out* approach.
27. Proponents of changing W/120 for legal services, for example, by expanding the UN CPC system to include terminology similar to that found in the IBA Terminology Resolution, argue that the UN CPC system does not correspond well to the realities of modern law practice. They cite as support the WTO Secretariat's observation that the UN CPC categories do not correspond to the realities of international trade in legal services. These proponents have urged WTO members to adopt a legal services classification system that corresponds to the realities of law practice and regulation (such as those contained in the IBA definitions).

F. ISSUE 3 – IF COUNTRIES USE A NEGATIVE LIST *OPT-OUT* APPROACH, SHOULD THEY, IN GENERAL, USE STANDARD TERMINOLOGY THEIR EXCEPTIONS?

28. If a WTO Member uses a negative list *opt-out* approach and if it wants to qualify its commitment in the first column of its *Schedule*, then the next logical question to ask is whether a country should use standard language in order to explain its “*opt-out*.” Such standard “*opt-out*” language might consist of the language found in the UN CPC subcategories, the language in the IBA Terminology Resolution, or perhaps other language, to be agreed upon.
29. The arguments in favor of using standardized language to express the negative list *opt-out* provisions in the first column a *Schedule* include the same arguments that are offered in support of having a classification system to begin with. As the 2001 *Guidelines* stated: “The legal nature of a schedule as well as the need to evaluate commitments, require the greatest possible degree of clarity in the description of each sector or sub-sector scheduled. . . . If a Member wishes to use its own sub-sectoral classification or definitions it should provide concordance with the CPC in the manner indicated in the above example. If this is not possible, it should give a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment.” Even if countries are not required to use the classification system to express their opt-outs, the availability of, and encouragement to us, standard categories make it easier for countries to understand each others commitments and exceptions.

30. The arguments against using standardized language to express the *opt-out* provisions in a negative list approach include the argument having standardized language for *opt-out* provisions reduces a country's flexibility. In addition, the standard categories might not match the type of legal practice the country wants to exempt and may make it more difficult for the country to describe the types of commitments it is – and is not - prepared to make.
31. An issue that is different than, but related to, Issue 3 above is the question of what happens if a country chooses to qualify its commitments by placing an exception not in the first column of its *Schedule*, but in the market access or national treatment columns of its *Schedule*. The IBA believes that the legal services classification system used in W/120 and referred to in the *Guidelines* is intended to apply to the identification of sectors or sub-sectors in the first column of its *Schedule*. Paragraph 10 of the *Guidelines*, for example, suggests that country-specific, nonstandard language may be used to describe market access limitations. For this reason, if a country uses an “all-or-nothing” approach to making commitments in the first column of its *Schedule*, but thereafter places limitations on market access or national treatment in the second columns of its *Schedule*, it likely will use context-specific, nonstandard terminology (rather than standard terminology) to express these market access and national treatment limitations.

G. THE IBA TERMINOLOGY RESOLUTION, LIKE THE UN CPC, IS NEUTRAL. IF ADOPTED AS ALL OR PART OF A CLASSIFICATION SYSTEM, ITS DEFINITIONS COULD BE USED IN A POSITIVE LIST *OPT-IN* APPROACH OR A NEGATIVE LIST, *OPT-OUT* APPROACH

32. The IBA Terminology Resolution took no position on Issue 1 about whether a positive list *opt-in* approach or a negative list *opt-out* approach was preferable. One of the introductory paragraphs to the IBA Terminology Resolution recognized “that the elements of [a system of terminology] may be used in formulating either commitments or reservations to commitments within the framework of the General Agreement on Trade in Services, and expressing no view as to which of the two approaches will more fully achieve the objectives described above.”
33. The categories in the IBA Terminology Resolution are neutral. If this terminology were used as all or part of a legal services classification system, the definitions on the *IBA Resolution Schedule* could be used in either a positive list *opt-in* approach or a negative list *opt-out* approach.
34. To use these IBA Terminology Resolution categories in a positive list approach, a country would simply list those IBA categories in the first column of its *Schedule*.
35. To use the IBA categories in a negative list approach, a country could indicate that it was committing to Category 1(A) (a) of W/120 [legal services] except as noted and list the IBA categories as the exceptions.

H. THE IBA TERMINOLOGY RESOLUTION DID NOT ENDORSE A CLASSIFICATION SYSTEM BUT SET FORTH PRINCIPLES THAT WILL BE USEFUL IN SELECTING A LEGAL SERVICES CLASSIFICATION SYSTEM

36. The 2003 IBA Terminology Resolution took no position on **Issue 2** about whether the W/120 legal services classification system should be modified in the Doha Round.
37. Although the IBA Terminology Resolution did not endorse a particular classification system, it identified principles that determine “an appropriate system of terminology.”
38. According to the IBA Terminology Resolution, “an appropriate system of terminology is one which is consistent with the core values of the legal profession; provides a solid, neutral foundation for negotiations so that ambiguity and uncertainty are minimised; facilitates those negotiations without pre-determining the negotiated outcome; and assists in minimising disputes over what has actually been agreed through negotiation.”
39. The principles identified in the IBA Terminology Resolution would be useful principles for WTO Members to use when deciding whether to modify the legal services entry in W/120 and useful in determining the preferred legal services classification system for the Doha Round. These same principles could help IBA Member Bars advise their own governments about legal services negotiations.
40. The IBA Terminology Resolution was the result of careful thought among experts and was adopted unanimously by the IBA Council. Therefore, the points of agreement in this Resolution could provide a useful basis for going forward in the WTO and developing a consensus regarding legal services classification.

I. CONCLUSIONS

41. **With respect to Issue 1**, the IBA believes that flexibility is important. Flexibility will allow countries to choose their philosophical approach and implement it. Therefore, the IBA recommends that WTO Members should be free to choose either a positive list *opt-in* approach or a negative list *opt-out* approach to making legal services commitments. The IBA believes that flexibility is particularly important with respect to the GATS because WTO Member States have relatively little history or experience with trade agreements that involve services.
42. The IBA believes that it is useful for its Member Bars to better understand the advantages and disadvantages of a positive list *opt-in* approach and a negative list *opt-out* approach in order to communicate more effectively with their government trade negotiators.

43. If there was a strong preference among IBA Members regarding whether to use a positive list *opt-in* approach, a negative list *opt-out* approach, or the all-or-nothing variation, it would be useful to identify that preference so that Member Bars could communicate the fact of that preference to their government negotiators.
44. Most IBA Member Bars prefer a [pick *opt-in*, *opt-out* or *all-or-nothing*] approach when making commitments regarding legal services.
45. **With respect to issue 2**, the IBA believes that principles identified in its Terminology Resolution are relevant to the issue of whether to retain or modify the current legal services classification system found in W/120. Accordingly, an appropriate system of classification is one which is consistent with the core values of the legal profession; provides a solid, neutral foundation for negotiations so that ambiguity and uncertainty are minimised; facilitates those negotiations without pre-determining the negotiated outcome; and assists in minimising disputes over what has actually been agreed through negotiation.”
46. The IBA endorses the approach identified in the 2001 *Guidelines*, which permit flexibility by countries and refuses to adopt a harmonized system of classification for services. However, as noted in the *Guidelines*, a Member who departs from the W/120 or UN CPC system should give a sufficiently detailed definition to avoid any ambiguity as to the scope of the commitment. If a country does not use the agreed-upon classifications to write its ***Schedule*** commitments, it risks having its commitments misunderstood by other WTO Members and possibly the WTO Appellate Body.
47. The IBA believes that it is useful for its Member Bars to better understand the advantages and disadvantages of the different classification systems in order to communicate more effectively with their government trade negotiators.
48. If there was a strong preference among IBA Members Bars regarding the preferred legal services classification system for the Doha GATS Round, it would be useful to identify that preference so that Member Bars could communicate that preference to their government negotiators.
49. If WTO Members wanted to adopt the IBA Terminology Resolution categories as part of a revision to W/120, there are several different ways in which they could do so. The two major choices would be to either: a) substitute the IBA categories entirely for the UN CPC subcategories; or b) to use the IBA categories to supplement the UN CPC subcategories.
50. If WTO Members decide to modify W/120 to include the IBA definitions, they would need to resolve several technical issues. These technical issues include whether to treat the IBA definitions as subsets of the provisional UN CPC category of 861 (now 821) or include the IBA definitions as additional or replacement subcategories under 861 (now 821).

51. Because technical issues are involved, it would be useful for the IBA to participate in a dialogue with the UN, as well as the WTO, regarding the proper classification of legal services.
52. Most IBA Member Bars would like to [retain or revise] W/120's existing classification system for legal services.
53. **With respect to issue 3**, the IBA believes that, in general, if countries use a negative list *opt-out* approach when making commitments and if they list their exemptions in the first column of their *Schedule*, then it would be useful to have countries refer to W/120's legal services classifications when identifying those legal services for which they are not making any commitments. Consistent with the principles set for in the *Guidelines*, a WTO Member would remain free to use its own sub-sectoral classification or definitions in specifying its opt-out provisions, but would be encouraged to use the classifications set forth in W/120.

¹ This non-harmonized approach to services classification differs from the approach used for trade in goods, for which there is a harmonized classification system. For example, when WTO Member States prepare their WTO Schedules of Tariff Concessions, they must use the Harmonised System for tariffs in goods (HS), which is run by the World Customs Organisation (WCO). The HS requires harmonization to the 6 digit level; Members have discretion beyond the six digit level.

² During the May 2003 *IBA GATS Forum*, the IBA WTO Working Group originally suggested the following definitions: '*qualification*' shall mean '*the route to access to the full local title of lawyer*' and '*licensing*' shall mean '*the route to access to something less than the full local title of lawyer.*'

On the other hand, the WTO Secretariat has offered definitions of the related terms "qualification requirements, qualification procedures, licensing requirements and licensing procedures" that are very different from the original definitions proposed by the IBA WTO Working Group:

Qualification requirements: these comprise substantive requirements which a professional service supplier is required to fulfil in order to obtain certification or a licence. They normally relate to matters such as education, examination requirements, practical training, experience or language requirements.

Qualification procedures: these are administrative or procedural rules relating to the administration of qualification requirements. They include procedures to be followed by candidates to acquire a qualification, including the administrative requirements to be met. This covers inter alia where to register for education programmes, conditions to be respected to register, documents to be filed, fees, mandatory physical presence conditions, alternative ways to follow an educational programme (e.g. distance learning), alternative routes to gain a qualification (e.g. through equivalences) and organizing of qualifying examinations, etc.

Licensing requirements: these are substantive requirements, other than qualification requirements, with which a service supplier is required to comply in order to obtain formal permission to supply a service. They include measures such as residency requirements, fees, establishment requirements, registration requirements, etc.

Licensing procedures: these are administrative procedures relating to the submission and processing of an application for a licence, covering such matters as time frames for the processing of a licence, and the number of documents and the amount of information required in the application for a license.

See The Relevance of the Disciplines of the Agreements on Technical Barriers to Trade (Tbt) and on Import Licensing Procedures to Article VI.4 of the General Agreement on Trade in Services: Note by the Secretariat, S/WPPS/W/9 (11 Sept. 1996) at ¶ 4. These definitions were repeated in the Secretariat's Paper Article VI:4 of the GATS: Disciplines on Domestic Regulation Applicable to all Services, Note by the Secretariat, S/C/W/ 96 (1 March 1999) at ¶ 4.

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Detailed structure and explanatory notes

CPCprov code [861](#)[Profile](#) [Structure](#)

Hierarchy

- Section: [8](#) - Business services; agricultural, mining and manufacturing services
- Division: [86](#) - Legal, accounting, auditing and book-keeping services; taxation services; market research and public opinion polling services; management and consulting services; architectural, engineering and other technical services
- Group: **861 - Legal services**

Breakdown:

This Group is divided into the following Classes:

- [8611](#) - Legal advisory and representation services in the different fields of law
- [8612](#) - Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.
- [8613](#) - Legal documentation and certification services
- [8619](#) - Other legal advisory and information services

No explanatory note available for this code.

TABLE: Legal Services Classifications in the U.N. Provisional CPC

Excerpt from Laurel S. Terry, *What's In a Name? The Classification of Legal Services in the WTO and Elsewhere*, © 2004 (Work in progress) (LTerry@psu.edu)

Group Name & Code	Class Name & Code	Subclass Name & Code	Definition/Explanatory Note	Correspondence
861 - Legal services			No explanatory note available for this code.	
	8611 - Legal advisory and representation services in the different fields of law		No explanatory note available for this code.	
		86111 - Legal advisory and representation services concerning criminal law	Legal advisory and representation services during the litigation process, and drafting services of legal documentation in relation to criminal law. Generally, this implies the defence of a client in front of a judicial body in a case of criminal offence. However, it can also consist of acting as a prosecutor in a case of criminal offence when private legal practitioners are hired on a fee basis by the government. Included are both the pleading of a case in court and out-of-court legal work. The latter comprises research and other work for the preparation of a criminal case (e.g. researching legal documentation, interviewing witnesses, reviewing police and other reports), and the execution of post-litigation work, in relation to criminal law.	ISIC Rev.3 code(s) 7411
		86119 - Legal advisory and representation services in judicial procedures concerning other fields of law	Legal advisory and representation services during the litigation process, and drafting services of legal documentation in relation to law other than criminal law. Representation services generally consist of either acting as a prosecutor on behalf of the client, or defending the client from a prosecution. Included are both the pleading of a case in court, and out-of-court legal work. The latter comprises research and other work for the preparation of a case (e.g. researching legal documentation, interviewing witnesses, reviewing police and other reports), and the execution of post-litigation work, in relation to law other than criminal law.	ISIC Rev.3 code(s) 7411
	8612 - Legal advisory and representation services in statutory procedures of quasi-judicial		No explanatory note available for this code.	

	tribunals, boards, etc.			
		86120 - Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.	Legal advisory and representation services during the litigation process, and drafting services of legal documentation in relation to statutory procedures. Generally, this implies the representation of a client in front of a statutory body (e.g. an administrative tribunal). Included are both the pleading of a case in front of authorized bodies other than judicial courts, and the related legal work. The latter comprises research and other work for the preparation of a non-judicial case (e.g. researching legal documentation, interviewing witnesses, reviewing reports), and the execution of post-litigation work.	ISIC Rev.3 code(s) 7411
	8613 - Legal documentation and certification services		No explanatory note available for this code.	
		86130 - Legal documentation and certification services	Preparation, drawing up and certification services of legal documents. The services generally comprise the provision of a number of related legal services including the provision of advice and the execution of various tasks necessary for the drawing up or certification of documents. Included are the drawing up of wills, marriage contracts, commercial contracts, business charters, etc.	ISIC Rev.3 code(s) 7411
	8619 - Other legal advisory and information services		No explanatory note available for this code.	
		86190 - Other legal advisory and information services	Advisory services to clients related to their legal rights and obligations and providing information on legal matters not elsewhere classified. Services such as escrow services and estate settlement services are included.	ISIC Rev.3 code(s) 7411



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CPC Ver.1.0 code [821](#)

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Hierarchy

- Section: [8](#) - Business and production services
- Division: [82](#) - Professional, scientific and technical services
- Group: [821](#) - Legal services**

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Breakdown:

This Group is divided into the following Classes:

- [8211](#) - Legal advisory and representation services in the different fields of law
- [8212](#) - Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.
- [8213](#) - Legal documentation and certification services
- [8219](#) - Other legal services

No explanatory note available for this code.

TABLE: Legal Services Classifications in the U.N. CPC, Version 1.0

Excerpt from Laurel S. Terry, *What's In a Name? The Classification of Legal Services in the WTO and Elsewhere*, © 2004 (Work in progress) (LTerry@psu.edu)

Group Name & Code	Class Name & Code	Subclass Name & Code	Definition/Explanatory Note	Correspondence
821 - Legal services			No explanatory note available for this code.	
	8211 - Legal advisory and representation services in the different fields of law		No explanatory note available for this code.	
		82111 - Legal advisory and representation services concerning criminal law	This subclass includes: - advice, representation, drafting of documents and related services (defence, search for evidence, witnesses, experts, etc.) concerning criminal law	ISIC Rev.3 code(s) 7411; COICOP12.7.0
		82119 - Legal advisory and representation services in judicial procedures concerning other fields of law	This subclass includes: - legal advisory and representation services during the litigation process - drafting services for legal documentation in relation to law other than criminal law. Representation services generally consists of either acting as a prosecutor on behalf of the client, of defending the client from a prosecution - pleading of a case in court - out-of-court legal work: - research - other work for the preparation of a case (e.g. researching legal documentation, interviewing witnesses, reviewing police and other reports) - execution of post-litigation work in relation to law other than criminal law	ISIC Rev.3 code(s) 7411; COICOP12.7.0
	8212 - Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.		No explanatory note available for this code.	
		86120 - Legal advisory and representation services in statutory procedures of	This subclass includes: - legal advisory and representation services during the litigation process, and drafting services for legal documentation in relation to statutory procedures. Generally, this implies the representation of a client in front of a	ISIC Rev.3 code(s) 7411; COICOP12.7.0

		quasi-judicial tribunals, boards, etc.	<p>statutory body (e.g. an administrative tribunal)</p> <ul style="list-style-type: none"> - pleading of a case in front of bodies other than judicial courts - related legal work: - research - other work for the preparation of a non-judicial case (e.g. researching legal documentation, interviewing witnesses, reviewing reports) and execution of post-litigation work 	
	8213 - Legal documentation and certification services		No explanatory note available for this code.	
		82130 - Legal documentation and certification services	<p>This subclass includes:</p> <ul style="list-style-type: none"> - patent, trademark, copyright and other intellectual property rights consultancy services - preparation, drafting and certification services concerning patents, copyrights and other intellectual property rights - provision of a number of related legal services, including the provision of advice and the execution of various tasks necessary for the drawing-up or certification of patents, copyrights and other intellectual property rights - preparation, drafting and certification services for legal documents, other than for patents, copyrights and other intellectual property rights - provision of a number of related legal services, including provision of advice and the execution of various tasks necessary for the drawing-up or certification of documents such as wills, marriage contracts, commercial contracts, business charters, etc. 	ISIC Rev.3 code(s) 7411; COICOP12.7.0
	8219 - Other legal services		No explanatory note available for this code.	
		82191 - Arbitration and conciliation services	<p>This subclass includes:</p> <ul style="list-style-type: none"> - assistance services involving arbitration or mediation for the settlement of a dispute between labour and management, between businesses or between individuals <p>This subclass does not include:</p> <ul style="list-style-type: none"> - representation services on behalf of one of the parties in the dispute, cf. 82120 	ISIC Rev.3 code(s) 7414; COICOP12.7.0
		82199 - Other legal services n.e.c.	<p>This subclass also includes:</p> <ul style="list-style-type: none"> - escrow services and estate settlement services 	ISIC Rev.3 code(s) 7411; COICOP12.7.0



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CPC Ver.1.1 code [821](#)

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Hierarchy

- Section: [8](#) - Business and production services
- Division: [82](#) - Legal and accounting services
- Group: 821 - Legal services**

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Breakdown:

This Group is divided into the following Classes:

- [8211](#) - Legal advisory and representation services in the different fields of law
- [8212](#) - Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.
- [8213](#) - Legal documentation and certification services
- [8219](#) - Other legal services

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No explanatory note available for this code.

TABLE: Legal Services Classifications in the U.N. CPC, Version 1.1

Excerpt from Laurel S. Terry, *What's In a Name? The Classification of Legal Services in the WTO and Elsewhere*, © 2004 (Work in progress) (LTerry@psu.edu)

Group Name & Code	Class Name & Code	Subclass Name & Code	Definition/Explanatory Note	Correspondence
821 - Legal services			No explanatory note available for this code.	
	8211 - Legal advisory and representation services in the different fields of law		No explanatory note available for this code.	
		82111 - Legal advisory and representation services concerning criminal law	This subclass includes: - advice, representation, drafting of documents and related services (defence, search for evidence, witnesses, experts, etc.) concerning criminal law	ISIC Rev.3.1 code(s) 7411
		82119 - Legal advisory and representation services in judicial procedures concerning other fields of law	This subclass includes: - advice, representation, drafting and certification of documents and other related legal services in judicial procedures concerning other fields of law	ISIC Rev.3.1 code(s) 7411
	8212 - Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.		No explanatory note available for this code.	
		82120 - Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.	This subclass includes: - advice, representation, drafting and certification of documents and other related legal services in statutory procedures of quasi-judicial tribunals, boards, etc.	ISIC Rev.3.1 code(s) 7411
	8213 - Legal documentation and certification services		No explanatory note available for this code.	

		82130 - Legal documentation and certification services	<p>. This subclass includes:</p> <ul style="list-style-type: none"> - advice, representation, drafting and certification of documents and other related legal services concerning patents, copyrights and other intellectual property rights - advice, representation, drafting and certification of documents and other related legal services concerning other legal documents, such as wills, marriage contracts, commercial contracts, business charters, etc. 	ISIC Rev.3.1 code(s) 7411
	8219 - Other legal services		No explanatory note available for this code.	
		82191 - Arbitration and conciliation services	<p>This subclass includes:</p> <ul style="list-style-type: none"> - assistance services involving arbitration or mediation for the settlement of a dispute between labour and management, between businesses or between individuals <p>This subclass does not include:</p> <ul style="list-style-type: none"> - representation services on behalf of one of the parties in the dispute, cf. 82120 	ISIC Rev.3.1 code(s) 7414
		82199 - Other legal services n.e.c.	<p>This subclass also includes:</p> <ul style="list-style-type: none"> - escrow services and estate settlement services 	ISIC Rev.3.1 code(s) 7411



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Hierarchy

- Section: [K](#) - Real estate, renting and business activities
- Division: [74](#) - Other business activities
- Group: [741](#) - Legal, accounting, bookkeeping and auditing activities; tax consultancy; market research and public opinion polling; business and management consultancy
- **Class: 7411 - Legal activities**

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Explanatory note

This class includes:

- legal representation of one party's interest against another party, whether or not before courts or other judicial bodies by, or under supervision of, persons who are members of the bar:
 - advice and representation in civil cases
 - advice and representation in criminal actions
 - advice and representation in connection with labour disputes
- general counselling and advising, preparation of legal documents:
 - articles of incorporation, partnership agreements or similar documents in connection with company formation
 - patents and copyrights
 - preparation of deeds, wills, trusts etc.
- other activities of notaries public, civil law notaries, bailiffs, arbitrators, examiners and referees

This class excludes:

- law court activities, see 7523

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Hierarchy

- Section: [L](#) - Public administration and defence; compulsory social security
- Division: [75](#) - Public administration and defence; compulsory social security
- Group: [752](#) - Provision of services to the community as a whole
- **Class: 7523 - Public order and safety activities**

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Explanatory note

This class includes:

- administration and operation of regular and auxiliary police forces supported by public authorities and of port, border, coastguards and other special police forces, including traffic regulation, alien registration, operation of police laboratories and maintenance of arrest records
- firefighting and fire prevention:
 - administration and operation of regular and auxiliary fire brigades supported by public authorities in fire prevention, firefighting, rescue of persons and animals, assistance in civic disasters, floods, road accidents etc.
- administration and operation of administrative civil and criminal law courts, military tribunals and the judicial system, including legal representation and advice on behalf of the government or when provided by the government in cash or services
- rendering of judgements and interpretations of the law
- arbitration of civil actions
- prison administration and provision of correctional services, including rehabilitation services
- provision of supplies for domestic emergency use in case of peacetime disasters

This class excludes:

- *forestry fire-protection services, see 0200*
- *private firefighting and fire-prevention services in factories, see section D*
- *firefighting and fire-prevention services at airports, see 6303*
- *advice and representation in civil, criminal and other cases, see 7411*
- *administration and operation of military armed forces, see 7522*
- *activities of prison schools, see division 80*
- *activities of prison hospitals, see 8511*

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Detailed structure and explanatory notes

ISIC Rev.3 code 7411

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Hierarchy

- Tabulation Category: [K](#) - Real estate, renting and business activities
- Division: [74](#) - Other business activities
- Group: [741](#) - Legal, accounting, book-keeping and auditing activities; tax consultancy; market research and public opinion polling; business and management consultancy
- **Class: 7411 - Legal activities**

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Explanatory note

This class includes advice and representation in civil, criminal and other cases, i.e. representation of one party's interest against another party, whether or not before courts or other judicial bodies. These activities are generally performed by, or under supervision of, persons who are members of the bar. Civil cases involve infringements of an individual's or corporate's private or civil rights such as liability cases, divorce cases, etc. Criminal actions are cases involving offences against the state and are usually instigated by the government. Provision of advice in connection with labour disputes, general counseling and advising, preparation of legal documents which do not directly involve a legal suit or which are related to articles of incorporation, partnership agreements or similar documents in connection with company formation. Also included are activities in connection with patents and copyrights, with the preparation of deeds, wills, trusts, etc., and the activities of notary public, arbitrators, examiners and referees.

Exclusions: Law court activities are classified in class 7523 (Public order and safety activities).

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COICOP code [12.7.0](#)[Profile](#) [Structure](#) [Notes](#)

Hierarchy

- Division: [12](#) - Miscellaneous goods and services
- Group: [12.7](#) - Other services n.e.c.
- **Class: 12.7.0 - Other services n.e.c. (S)**

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- International family of classifications
- International cooperation in classifications
- Products and resource services/Site map

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- ISIC Rev.3.1
- ISIC Rev.3
- CPC Ver.1.1
- CPC Ver.1.0
- COFOG
- COICOP
- COPNI
- COPP
- SITC Rev.3
- more ...
- ISIC 3 index

Explanatory note

- Fees for legal services, employment agencies, etc.;
- charges for undertaking and other funeral services;
- payment for the services of estate agents, housing agents, auctioneers, salesroom operators and other intermediaries;
- payment for photocopies and other reproductions of documents;
- fees for the issue of birth, marriage and death certificates and other administrative documents;
- payment for newspaper notices and advertisements;
- payment for the services of graphologists, astrologers, private detectives, bodyguards, matrimonial agencies and marriage guidance counsellors, public writers, miscellaneous concessions (seats, toilets, cloakrooms), etc.



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Classification of Individual Consumption According to Purpose, (COICOP)

COICOP

 [Click here to view the Classification](#)

Status in the Family of International Classifications: Reference Classification

References

Classifications of Expenditure According to Purpose: Classification of the Functions of Government (COFOG); Classification of Individual Consumption According to Purpose (COICOP); Classification of the Purposes of Non-Profit Institutions Serving Households (COPNI); Classification of the Outlays of Producers According to Purpose (COPP), ST/ESA/STAT/SER.M/84, E.00.XVII.6
 , F.00.XVII.6

Language availability: Arabic, Chinese, English, French, Russian, Spanish

Purpose

To classify the purpose of individual consumption expenditures incurred by three institutional sectors, namely households, non-profit institutions serving households and general government

Custodian

UNSD
 Statistical Classifications
 Fax: 212 963 1374
 Email: chl@un.org

Revision Status

Year of last revision: 1999

Years between revisions:

Revision number:

Revision status remarks: New classification

Available indexes

Alphabetical index: no

Numeric index: yes

Relationship with international classifications: Correspondence with CPC is available; Division 13 of COICOP corresponds to COPNI; Division 14 of COICOP corresponds to COFOG.

Other correspondences/links:

Correlation between revisions:

Remarks: 1993 System of National Accounts

Classification Unit: Transactions

Classification Structure

Structure Level 1: Divisions (two-digit)

Structure Level 2: Groups (three-digit)

Structure Level 3: Classes (four-digit)

Availability in machine readable form: Arabic, Chinese, English, French, Russian and Spanish versions available.

Last updated: 2/2/2002

DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS
STATISTICS DIVISION

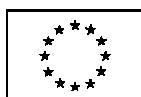
STATISTICAL PAPERS

SERIES M No. 86

MANUAL
on STATISTICS of
INTERNATIONAL TRADE in SERVICES



United Nations



European Commission



International Monetary Fund



Organisation for Economic
Co-operation and
Development



United Nations Conference
on Trade and Development



WORLD TRADE
ORGANIZATION
World Trade Organization

Geneva, Luxembourg, New York, Paris, Washington, D.C., 2002

3.26. The consistency between the existing classifications and the EBOPS classification is further reinforced in the coding system recommended in the present *Manual* for compilation and reporting purposes. The codes shown in the table in Annex II are the standard codes that are used by IMF, OECD, Eurostat and many country compilers when referring to balance of payments trade in services statistics.

3.27. The various classifications of services (BPM5, the Joint Classification of OECD and Eurostat, and EBOPS) are all primarily product-based classifications, and insofar as they are may be described in terms of the international classification of products, CPC. BPM5 describes the various services components in terms of the Provisional CPC, which was published in 1989. A similar, but more detailed, approach has been used in the present *Manual*, and annex III provides a detailed correspondence between EBOPS and CPC, Version 1.0, which was published in 1998. However, as in BPM5 and

the Joint Classification, there are a number of EBOPS components for which a correspondence with CPC, Version 1.0 cannot be established. In these areas, *travel*, *construction services* and *government services, n.i.e.*, a wide range of goods and services may be traded or consumed. Those three areas of EBOPS, which are discussed further below, emphasize the mode of consumption of goods and services rather than the type of product consumed. Further, it should be noted that it is not possible to establish a one-to-one correspondence between EBOPS and CPC, Version 1.0 because in places CPC, Version 1.0 calls for more detail than is shown in EBOPS, while in a few areas the reverse is true. In addition to the correspondence provided in annex III, further work that is anticipated after the publication of the present *Manual* on the convergence of EBOPS and CPC will potentially increase the harmonization of statistics compiled on services that are domestically produced and those that are internationally negotiated and traded.

Table 2. Extended Balance of Payments Services Classification, including memorandum items

Classification components
1 Transportation
1.1 Sea transport
1.1.1 Passenger
1.1.2 Freight
1.1.3 Other
1.2 Air transport
1.2.1 Passenger
1.2.2 Freight
1.2.3 Other
1.3 Other transport
1.3.1 Passenger
1.3.2 Freight
1.3.3 Other
Extended classification of other transport
1.4 Space transport
1.5 Rail transport
1.5.1 Passenger
1.5.2 Freight
1.5.3 Other
1.6 Road transport
1.6.1 Passenger
1.6.2 Freight
1.6.3 Other
1.7 Inland waterway transport
1.7.1 Passenger
1.7.2 Freight

- 1.7.3 Other
- 1.8 Pipeline transport and electricity transmission
- 1.9 Other supporting and auxiliary transport services
- 2 Travel**
 - 2.1 Business travel
 - 2.1.1 Expenditure by seasonal and border workers
 - 2.1.2 Other
 - 2.2 Personal travel
 - 2.2.1 Health-related expenditure
 - 2.2.2 Education-related expenditure
 - 2.2.3 Other
- 3 Communications services**
 - 3.1 Postal and courier services
 - 3.2 Telecommunications services
- 4 Construction services**
 - 4.1 Construction abroad
 - 4.2 Construction in the compiling economy
- 5 Insurance services**
 - 5.1 Life insurance and pension funding
 - 5.2 Freight insurance
 - 5.3 Other direct insurance
 - 5.4 Reinsurance
 - 5.5 Auxiliary services
- 6 Financial services**
- 7 Computer and information services**
 - 7.1 Computer services
 - 7.2 Information services
 - 7.2.1 News agency services
 - 7.2.2 Other information provision services
- 8 Royalties and license fees**
 - 8.1 Franchises and similar rights
 - 8.2 Other royalties and license fees
- 9 Other business services**
 - 9.1 Merchanting and other trade-related services
 - 9.1.1 Merchanting
 - 9.1.2 Other trade-related services
 - 9.2 Operational leasing services
 - 9.3 Miscellaneous business, professional, and technical services
 - 9.3.1 Legal, accounting, management consulting, and public relations
 - 9.3.1.1 Legal services
 - 9.3.1.2 Accounting, auditing, bookkeeping, and tax consulting services
 - 9.3.1.3 Business and management consulting and public relations services
 - 9.3.2 Advertising, market research, and public opinion polling
 - 9.3.3 Research and development
 - 9.3.4 Architectural, engineering, and other technical services
 - 9.3.5 Agricultural, mining, and on-site processing services

Table A.III.1. EBOPS - CPC, Version 1.0 - GNS/W/120 correspondence

EBOPS				
CPC, Version 1.0		GNS/W/120		
73129	Leasing or rental services concerning other machinery and equipment without operator n.e.c.	1. Business Services	E. Rental/Leasing Services without Operators	<i>d. Relating to other machinery and equipment</i>
73210	Leasing or rental services concerning televisions, radios, video cassette recorders and related equipment and accessories	1. Business Services	E. Rental/Leasing Services without Operators	<i>e. Other</i>
73230	Leasing or rental services concerning furniture and other household appliances	1. Business Services	E. Rental/Leasing Services without Operators	<i>e. Other</i>
73240	Leasing or rental services concerning pleasure and leisure equipment	1. Business Services	E. Rental/Leasing Services without Operators	<i>e. Other</i>
73250	Leasing or rental services concerning household linen	1. Business Services	E. Rental/Leasing Services without Operators	<i>e. Other</i>
73260	Leasing or rental services concerning textiles, clothing and footwear	1. Business Services	E. Rental/Leasing Services without Operators	<i>e. Other</i>
73270	Leasing or rental services concerning do-it-yourself machinery and equipment	1. Business Services	E. Rental/Leasing Services without Operators	<i>e. Other</i>
73290	Leasing or rental services concerning other goods n.e.c.	1. Business Services	E. Rental/Leasing Services without Operators	<i>e. Other</i>
273	Miscellaneous business, professional, and technical services	Miscellaneous business, professional, and technical services comprises subcomponents 274: Legal, accounting, management consulting and public relations, 278: Advertising, market research, and public opinion polling, 279: Research and development, 280: Architectural, engineering, and other technical services, 281: Agricultural, mining and on-site processing services, 284: Other business services, and 285: Services between affiliated enterprises n.i.e.		
274	Legal, accounting, management consulting and public relations	Legal, accounting, management consulting and public relations comprises subcomponents 275: Legal services, 276: Accounting, auditing, book-keeping and tax consulting services, and 277: Business and management consultancy and public relations services		
275	Legal services			
82111	Legal advisory and representation services concerning criminal law	1. Business Services	A. Professional Services	<i>a. Legal services</i>
82119	Legal advisory and representation services in judicial procedures concerning other fields of law	1. Business Services	A. Professional Services	<i>a. Legal services</i>
82120	Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.	1. Business Services	A. Professional Services	<i>a. Legal services</i>
82130	Legal documentation and certification services	1. Business Services	A. Professional Services	<i>a. Legal services</i>
82191	Arbitration and conciliation services	1. Business Services	F. Other Business Services	<i>d. Services related to management consulting</i>
82199	Other legal services n.e.c.	1. Business Services	A. Professional Services	<i>a. Legal services</i>
276	Accounting, auditing, book-keeping and tax consulting services			
82211	Financial auditing services	1. Business Services	A. Professional Services	<i>b. Accounting, auditing and bookkeeping services</i>

Joint OECD-EUROSTAT Trade in Services Classification

(The items marked * represent Standard Components and Services Sub-items of the IMF Balance of Payments Manual, Fifth Edition 1993, pages 43 and 50)

	<u>CODE</u>
*1. Transportation	205
*1.1 Sea transport	206
*1.1.1 Passenger	207
*1.1.2 Freight	208
*1.1.3 Other	209
*1.2 Air transport	210
*1.2.1 Passenger	211
*1.2.2 Freight	212
*1.2.3 Other	213
1.3 Other transport	214
1.3.1 Passenger	215
1.3.2 Freight	216
1.3.3 Other	217
Extended classification of Other transport (1.3)	
1.4 Space transport	218
1.5 Rail transport	219
1.5.1 Passenger	220
1.5.2 Freight	221
1.5.3 Other	222
1.6 Road transport	223
1.6.1 Passenger	224
1.6.2 Freight	225
1.6.3 Other	226
1.7 Inland waterway transport	227
1.7.1 Passenger	228
1.7.2 Freight	229
1.7.3 Other	230
1.8 Pipeline transport	231
1.9 Other supporting and auxiliary transport services	232
<u>Memorandum items</u>	
Freight transportation on the basis of an ex works valuation of merchandise	950
Sea freight	951
Air freight	952
Road freight	953
Other freight	954

Classification conjointe OCDE-EUROSTAT des échanges de services

(Les rubriques marquées * correspondent à des composantes types et à des sous-catégories de services du Manuel de la balance des Paiements du FMI, Cinquième édition, pages 46 et 53)

*1. Transports	
*1.1 Transports maritimes	
*1.1.1 Passagers	
*1.1.2 Fret	
*1.1.3 Autres	
*1.2 Transports aériens	
*1.2.1 Passagers	
*1.2.2 Fret	
*1.2.3 Autres	
1.3 Autres transports	
1.3.1 Passagers	
1.3.2 Fret	
1.3.3 Autres	
Classification étendue des Autres transports (1.3)	
1.4 Transports spatiaux	
1.5 Transports ferroviaires	
1.5.1 Passagers	
1.5.2 Fret	
1.5.3 Autres	
1.6 Transports routiers	
1.6.1 Passagers	
1.6.2 Fret	
1.6.3 Autres	
1.7 Transports par voies navigables	
1.7.1 Passagers	
1.7.2 Fret	
1.7.3 Autres	
1.8 Transports par conduites	
1.9 Autres services annexes et auxiliaires des transports	
<u>Pour mémoire</u>	
Transports de marchandises sur la base de la valeur départ usine des biens transportés	
Fret maritime	
Fret aérien	
Fret routier	
Autre fret	

*2. Travel	236	*2. Voyages	
*2.1 Business	237	*2.1 A titre professionnel	
2.1.1 Expenditure by seasonal and border workers	238	2.1.1 Dépenses des travailleurs saisonniers et frontaliers	
2.1.2 Other	239	2.1.2 Autres	
*2.2 Personal	240	*2.2 A titre personnel	
*2.2.1 Health-related	241	*2.2.1 Dépenses liées à des raisons de santé	
*2.2.2 Education-related	242	*2.2.2 Dépenses liées à des raisons éducatives	
*2.2.3 Other	243	*2.2.3 Autres	
<u>Memorandum items</u>		<u>Pour mémoire</u>	
Tourists	955	Touristes	
Goods purchased in the frontier area by travellers	956	Achats effectués en zone frontalière par les voyageurs	
Hotel and restaurant services	957	Services d'hôtellerie et de restauration	
*3. Communications services	245	*3. Services de communication	
3.1 Postal and courier services	246	3.1 Services de poste et de messagerie	
3.2 Telecommunication services	247	3.2 Services de télécommunications	
<u>Memorandum items</u>		<u>Pour mémoire</u>	
Postal services	958	Services de poste	
Courier services	959	Services de messagerie	
*4. Construction services	249	*4. Services de bâtiment et travaux publics	
4.1 Construction abroad	250	4.1 A l'étranger	
4.2 Construction in the compiling economy	251	4.2 Dans l'économie déclarante	
*5. Insurance services	253	*5. Services d'assurance	
5.1 Life insurance and pension funding	254	5.1 Assurance-vie et services des caisses de retraite	
5.2 Freight insurance	255	5.2 Assurance-fret	
5.3 Other direct insurance	256	5.3 Autres assurances directes	
5.4 Reinsurance	257	5.4 Réassurance	
5.5 Auxiliary services	258	5.5 Services auxiliaires de l'assurance	
<u>Memorandum items</u>		<u>Pour mémoire</u>	
Gross insurance premiums	960	Primes brutes	
Gross insurance claims	961	Indemnités brutes	
*6. Financial services	260	*6. Services financiers	
*7. Computer and information services	262	*7. Services d'informatique et d'information	
7.1 Computer services	263	7.1 Services d'informatique	
7.2 Information services	264	7.2 Services d'information	
*8. Royalties and license fees	266	*8. Redevances et droits de licence	

*9. Other business services	268	*9. Autres services aux entreprises	
*9.1 Merchanting and other trade-related services	269	*9.1 Négoce international et autres services liés au commerce	
9.1.1 Merchanting	270	9.1.1 Négoce international	
9.1.2 Other	271	9.1.2 Autres	
*9.2 Operational leasing ⁴ services	272	*9.2 Location-exploitation	
*9.3 Miscellaneous business, professional, and technical services	273	*9.3 Services aux entreprises, spécialisés et techniques divers	
*9.3.1 Legal, accounting, management consulting, and public relations	274	*9.3.1 Services juridiques, de comptabilité, de conseil en gestion et relations publiques	
9.3.1.1 Legal services	275	9.3.1.1 Services juridiques	
9.3.1.2 Accounting, auditing, book-keeping and tax consulting services	276	9.3.1.2 Services de comptabilité, vérification des comptes, tenue des livres et conseil en fiscalité	
9.3.1.3. Business and management consultancy and public relations services	277	9.3.1.3 Conseil aux entreprises et conseil en gestion, services de relations publiques	
*9.3.2 Advertising, market research, and public opinion polling	278	*9.3.2 Publicité, études de marché et sondages d'opinion	
*9.3.3 Research and development	279	*9.3.3 Recherche et développement	
*9.3.4 Architectural, engineering and other technical services	280	*9.3.4 Architecture, ingénierie et autres services techniques	
*9.3.5 Agricultural, mining and on-site processing services	281	*9.3.5 Services aux activités agricoles, aux industries extractives et services de traitement sur place	
9.3.5.1 Waste treatment and depollution	282	9.3.5.1 Traitement des déchets et dépollution	
9.3.5.2 Other	283	9.3.5.2 Autres	
*9.3.6 Other	284	*9.3.6 Autres	
9.3.7 Services between affiliated enterprises, n.i.e.	285	9.3.7 Services entre entreprises affiliées, n.c.a.	
<u>Memorandum items</u>		<u>Pour mémoire</u>	
Merchanting gross flows	962	Flux bruts du négoce international	
Agricultural services	964	Services aux activités agricoles	
Mining services	965	Services aux industries extractives	
*10. Personal, cultural, and recreational services	287	*10. Services personnels, culturels et relatifs aux loisirs	
*10.1 Audiovisual and related services	288	*10.1 Services audiovisuels et connexes	
*10.2 Other personal, cultural and recreational services	289	*10.2 Autres services personnels, culturels et relatifs aux loisirs	
*11. Government services, n.i.e.	291	*11. Services fournis ou reçus par les administrations publiques, n.c.a.	
11.1 Embassies and consulates	292	11.1 Ambassades et consulats	
11.2 Military units and agencies	293	11.2 Unités et organes militaires	
11.3 Other	294	11.3 Autres	

**TABLE: Legal Services Classifications in the Working Draft of the NAPCS,
Phase III**

Excerpt from Laurel S. Terry, *What's In a Name? The Classification of Legal Services in the WTO and Elsewhere*, © 2004 (Work in progress)(Chart based on a working draft of NAPCS that I saw in October 2004) (LTerry@psu.edu)

Industry Subject Area	Working Group Code & Name	Class Code & Name	Subclass Code & Name	English Definition
5411	1.0 Legal Services			Providing legal expertise in a range of or in specific areas of law, such as criminal law, corporate law, family and estate law, patent law, real estate law, or tax law.
5411	1.1 Criminal Legal Services			Providing legal advice, representation, drafting of documents and related services (defense, search for evidence, witnesses, experts, etc.) concerning criminal law. Criminal law may include all legal services related to criminal charges. Representation services generally consists of either acting as a prosecutor on behalf of the client or of defending the client from a prosecution: pleading of a case in court; out of court legal work: research, or other work for the preparation of a case (eg researching legal documentation, interviewing witnesses, reviewing police and other reports); and execution of post-litigation work.
5411			1.1.1 Criminal Legal Services, Individuals	Providing legal advice, representation, drafting of documents and related services (defense, search for evidence, witnesses, experts, etc.) to individuals concerning criminal law. Criminal law may include all legal services related to criminal charges. Representation services generally consists of either acting as a prosecutor on behalf of the client or of defending the client from a prosecution: pleading of a case in court; out of court legal work: research, or other work for the preparation of a case (eg researching legal documentation, interviewing witnesses, reviewing police and other reports); and execution of post-litigation work. Excludes criminal legal services for corporate and other clients.
5411			1.1.2 Criminal Legal Services, Corporate and Other Clients	Providing legal advice, representation, drafting of documents and related services (defense, search for evidence, witnesses, experts, etc.) to corporate and other clients concerning criminal law. Criminal law may include all legal services related to criminal charges. Representation services generally consists of either acting as a prosecutor on behalf of the client or of defending the client from a prosecution: pleading of a case in court; out of court legal work: research, or other work for the preparation of a case (eg researching legal documentation, interviewing witnesses, reviewing police and other reports); and execution of post-litigation work. Excludes criminal legal services for individuals.

5411	1.2 Civil Legal Services			Providing legal advice, representation, drafting of documents and related services (defense, search for evidence, witnesses, experts, etc.) concerning civil law. Includes antitrust, bankruptcy, civil rights, consumer, employment, intellectual property rights, family, health, personal injury, immigration, real estate, taxation, wills and probate, trusts and estates, and other legal services.
5411			1.2.1 Antitrust Legal Services	Includes full-service capabilities with regard to mergers and acquisitions, general counseling on company structure, competition litigation (representation of plaintiffs and defendants in civil and criminal actions and government investigations), competitive relief (advocating with respect to competitor practices), legislative affairs (representation before Congress and state legislatures regarding trade practices), consumer protection (representation in private consumer litigation and government investigations of deceptive or unfair practices), and international counsel (representation on competition issues on international basis).
5411			1.2.1.1 Mergers and Acquisitions	Analyzing prospective acquisition targets, evaluating antitrust risks, structuring transactions to minimize the prospect of an antitrust challenge, complying with the pre-merger notification under the Hart-Scott-Rodino Antitrust Improvements Act and the European Union Merger Control Regulation, assisting in negotiations, and handling preacquisition or postacquisition investigations by US government or European Merger Control Task Force.
5411			1.2.1.2 Antitrust Counseling Services	Providing general counseling on antitrust issues, such as: establish and implement antitrust compliance programs; assess implications of particular pricing, marketing, or distribution practices; implement avoidance and defense strategies; present policy issues to congressional bodies and government agencies.
5411			1.2.1.3 Antitrust Litigation Services	Defending and prosecuting actions in various antitrust proceedings. Representing respondents in connection with government investigations and proceedings related to competition law and consumer protection issues, such as antitrust trials, grand jury investigations, representation of witnesses, immunity negotiations, plea bargains and sentencing.
5411			1.2.1.4 Competitive Relief Services	Compiling a comprehensive analysis of competitive conditions within a specific industry; assessing the impact of the proposed transaction on the industry from legal and economic perspectives; developing legal theories of liability in opposition to a specific transaction; and monitoring investigations conducted by government agencies.
5411			1.2.1.5 Consumer Protection Litigation Services	Representing client in private consumer litigation and consumer protection enforcement actions by the Federal Trade Commission (FTC) and by state and local law enforcement officials, including the investigation of companies for deceptive or unfair acts or practices.

5411			1.2.1.6 International Competition Litigation and Counseling Services	Representing clients on an international basis regarding competition issues, such as before the European Commission's Directorate General for Competition on various issues over which it has jurisdiction and before the Russian State Committee on Antimonopoly Policy.
5411			1.2.1.7 Other Antitrust Legal Services, nec	Other antitrust legal service, nec.
5411		1.2.2 Bankruptcy Legal Services		Providing legal advice, representation, drafting of documents and related services to facilitate bankruptcy actions.
5411			1.2.2.1 Bankruptcy Legal Services, Individuals	Providing legal advice, representation, drafting of documents and related services to individuals to facilitate bankruptcy actions under Chapter 7 or Chapter 13.
5411			1.2.2.2 Bankruptcy Legal Services, Corporate and Other Clients	Providing legal advice, representation, drafting of documents and related services to corporate and other clients to facilitate bankruptcy actions.
5411		1.2.3 Civil Rights Legal Services		Providing legal advice, representation, drafting of documents and related services to individuals on civil rights issues, such as alleged violations of housing, disability, education, employment, voting, and criminal civil rights.
5411		1.2.4 Consumer Legal Services		Providing legal advice, representation, drafting of documents and related services to individuals on consumer issues, such as consumer fraud, unsafe products, warranties, consumer contracts, and minor civil disagreements argued in small claims court. Excludes criminal matters.
5411		1.2.5 Employment Legal Services		Providing legal advice, representation, drafting of documents and related services concerning employment issues, such as disability accommodation, discrimination, employee benefits, sexual harassment, social security disability, workers compensation, and wrongful termination.
5411		1.2.6 Intellectual Property Rights Legal Services		Providing legal advice, representation, drafting of documents and related services on issues concerning ownership and use of intellectual property, including copyrights, intellectual property rights, and licensing agreements.
5411		1.2.7 Family Legal Services		Providing legal advice, representation, drafting of documents and related services for family legal issues, such as adoption, child custody, child support, divorce, domestic violence, visitation rights, prenuptial agreements, and guardianships.

5411		1.2.8 Health Legal Services		Providing legal advice, representation, drafting of documents and related services for health issues such as elder care (Power of Attorney, Healthcare Power of Attorney, Guardianships, Representative or Protective Payee, Revocable or Living Trust, Social Security Disability Benefits Appeals), medical malpractice, and nursing home abuse.
5411		1.2.9 Personal Injury Legal Services (overlap with Health Legal Services)		Providing legal advice, representation, drafting of documents and related services for personal injury issues, such as automobile accidents, dog bites, legal malpractice, sexual abuse, slip and fall, wrongful death, medical malpractice, railroad accidents, construction accidents (overlap with Health Legal Services)
5411		1.2.10 Immigration Legal Services		Providing legal advice, representation, drafting of documents and related services for immigration issues, such as nonimmigrant (temporary) visas, immigrant (permanent - green card) visas, deportation, and citizenship.
5411		1.2.11 Real Estate Legal Services		Providing legal advice, representation, drafting of documents and related services concerning real estate, such as buying or selling property, construction, eminent domain, environmental, landlord and tenant, zoning and land use.
5411			1.2.11.1 Real Estate Legal Services, Individuals	Providing legal advice, representation, drafting of documents and related services concerning real estate to individuals, such as buying or selling property, construction, eminent domain, environmental, landlord and tenant, zoning and land use. Excludes corporate and other clients.
5411			1.2.11.2 Real Estate Legal Services, Corporate and Other Clients	Providing legal advice, representation, drafting of documents and related services concerning real estate, such as buying or selling property, construction, eminent domain, environmental, landlord and tenant, zoning and land use. Excludes individuals.
5411		1.2.12 Taxation Legal Services		Providing legal advice, representation, drafting of documents and related services concerning tax matters, such as IRS audits, property tax appeals, and tax planning services.
5411			1.2.12.1 Taxation Legal Services, Individuals	Providing legal advice, representation, drafting of documents and related services concerning tax matters for individuals, such as IRS audits, property tax appeals, and tax planning for individuals.
5411			1.2.12.2 Taxation Legal Services, Corporate and Other Clients	Providing legal advice, representation, drafting of documents and related services concerning tax matters for corporate and other clients, such as IRS audits, property tax appeals, and tax planning for corporate and other clients.

5411		1.2.13 Wills and Probate		The preparation of: (a) simple (non-trust) wills; (b) wills with non-tax trusts; (c) wills with tax-related trusts; (d) inter vivos funded third party revocable *Services include all conferences; preparation of documents; and attendance at execution of documents. Additional charges may be made for unusual services such as numerous client conferences, designation of beneficiaries, changes in documents, unusual trusts (e.g., charitable trusts); etc.
5411		1.2.14 Trusts and Estates		Providing legal advice, representation, drafting of documents and related services
5411		1.2.15 Other Civil Legal Services, not elsewhere classified		Providing legal advice, representation, drafting of documents and related services on other civil matters, n.e.c.
5411	1.3 Notary Public Services			Drafting, approving, and executing legal documents such as real estate transactions, wills, and contracts, and receiving, indexing, and storing such documents.
5411	1.4 Title, Abstract and Settleme nt Services			Title, abstract and settlement services include researching public land records to gather information relating to real estate titles; preparing documents necessary for the transfer of the title, financing and settlement, conducting final real estate settlements and closings; and filing legal and other documents relating to the sale of real estate. Includes provision of title and mortgage insurance.
5411		1.4.1 Real Estate Related Insurance Services		
5411			1.4.1.1 Title Insurance Services	
5411			1.4.1.2 Mortgage Life Insurance Services	
5411			1.4.1.3 Other Real Estate Related Insurance Services	
5411		1.4.2 Settlement Services		
5411			1.4.2.1 Settlement Services for Individuals	

5411			1.4.2.2 Settlement Services for Businesses	
5411		1.4.3 Other Settlement Services, not elsewhere classified		Includes settlement services provided to others such as government agents. Excludes settlement services provided to individuals and businesses.
5411	1.5 Paralega l Services			
5411	1.6 Other Legal Services , n.e.c			
5411		1.6.1 Patent Agent Services		Patent filing and searching services
5411		1.6.2 Process Server Services		
5411		1.6.3 Process Serving Services		
5411	1.6 Alternati ve Dispute Resoluti on			Providing alternative dispute resolution services, a process to settle disputes out of court due to rising costs of litigation. Includes assistance services involving arbitration or mediation for the settlement of a dispute between labor and management, between businesses or between individuals. Excludes representation services on behalf of one of the parties in the dispute.
5411		1.6.1 Arbitration and Mediation Services		Providing arbitration services and mediation services. Arbitration services are a method of dispute resolution where a neutral third party agrees to review the case of evidence of arbitration between two parties, where the conclusion is binding. Mediation services are a method of non-binding dispute resolution involving a neutral third party who tries to help disputing parties reach a mutually agreeable solution.
5411	2.0		Related Services	

North American Product Classification System



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Work Plan for Phase III of NAPCS

[NAICS](#)

During its May 5-9, 2003, the Trilateral Steering Committee on Economic Classification reached the following agreements with respect to Phase III:

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- We will attempt to cover all remaining industries within the 'Services' area of NAICS.
- The industries will be divided into those for which a high level of effort—similar to the current subcommittee levels of effort—will be required, and those for which a lower level of effort—independent research with no to very little travel or face-to-face meetings—will be required.
- Asking subcommittees to operate on these two levels would be too burdensome; therefore, only those industries requiring a high level of effort will be assigned to the subcommittees. A specific strategy for handling the lower priority industries will have to be worked out within each country, and then among the countries. Identifying resources for this work is an issue.
- In keeping with the earlier discussion on NAPCS structure, and the impact planning on the subcommittee's work, it was agreed that the industries assigned to the subcommittees for Phase III should take into account similarities, and the possibilities for combining multiple industries on single product lists. After much discussion of priorities, the following four subcommittees and work assignments (groupings of industries) were agreed upon:

Subcommittee 1: balance of NAICS 48-49 industries, with industries in NAICS 487 reassigned from Phase II to Phase III.

Subcommittee 2: industries in NAICS 5612, 5616, 5617, 531, 532, and 811

Subcommittee 3: balance of NAICS 54 industries

Subcommittee 4: balance of NAICS 56 industries and industries in NAICS 812 and 533.

It was further agreed that the industries in the following NAICS sectors and subsectors would be covered at a lower level of effort: the balance of NAICS sector 51, sector 55, subsector 813, subsector 814, and public administration (US NAICS 92). The detailed industries covered by Phase III are identified in the [Industries Covered](#) link under Phase III on the [NAPCS Home Page](#).

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Professional, Scientific, and Technical Services

2002 NAICS Code	2002 NAICS Title
<u>54</u>	Professional, Scientific, and Technical Services
<u>541</u>	Professional, Scientific, and Technical Services
<u>5411</u>	Legal Services
<u>54111</u>	Offices of Lawyers
<u>541110</u>	Offices of Lawyers
<u>54112</u>	Offices of Notaries
<u>541120</u>	Offices of Notaries
<u>54119</u>	Other Legal Services
<u>541191</u>	Title Abstract and Settlement Offices
<u>541199</u>	All Other Legal Services
<u>5412</u>	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
<u>54121</u>	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
<u>541211</u>	Offices of Certified Public Accountants
<u>541213</u>	Tax Preparation Services
<u>541214</u>	Payroll Services
<u>541219</u>	Other Accounting Services

TABLE: Legal Services Classifications in the 2002 NAICS

Excerpt from Laurel S. Terry, *What's In a Name? The Classification of Legal Services in the WTO and Elsewhere*, © 2004 (Work in Progress; based on <http://www.census.gov/epcd/naics02/def/NDEF541.HTM#N5411>) (LTerry@psu.edu)

Group Name & Code	Class Name & Code	Subclass Name & Code	Definition/Explanatory Note
5411 Legal Services			No explanatory note available for this code.
	54111 Offices of Lawyers		See industry description for 541110 below.
		541110 Offices of Lawyers	<p>This industry comprises offices of legal practitioners known as lawyers or attorneys (i.e., counselors-at-law) primarily engaged in the practice of law. Establishments in this industry may provide expertise in a range or in specific areas of law, such as criminal law, corporate law, family and estate law, patent law, real estate law, or tax law.</p> <p>Cross-References. Establishments of legal practitioners (except lawyers or attorneys) primarily engaged in providing specialized legal or paralegal services are classified in Industry 54119, Other Legal Services.</p>
	54112 Offices of Notaries		See industry description for 541120 below.
		541120 Offices of Notaries	<p>This industry comprises establishments (except offices of lawyers and attorneys) primarily engaged in drafting, approving, and executing legal documents, such as real estate transactions, wills, and contracts; and in receiving, indexing, and storing such documents.</p> <p>Cross-References.</p> <ul style="list-style-type: none"> Establishments of lawyers and attorneys primarily engaged in the practice of law are classified in Industry 541110, Offices of Lawyers; and Establishments of notaries public engaged in activities, such as administering oaths and taking affidavits and depositions, witnessing and certifying signatures on documents, but not empowered to draw and approve legal documents and contracts, are classified in U.S. Industry 541199, All Other Legal Services.
	54119		<p>This industry comprises establishments of legal practitioners (except lawyers and attorneys) primarily engaged in providing specialized legal or paralegal services.</p> <p>Cross-References.</p> <ul style="list-style-type: none"> Establishments of lawyers and attorneys primarily engaged in the practice of law are classified in Industry 541110, Offices of Lawyers; and Establishments (except offices of lawyers, attorneys, and paralegals) primarily engaged in providing arbitration and conciliation services are classified in Industry 541990, All Other

			Professional, Scientific, and Technical Services.
		541191 Title Abstract and Settlement Offices _	<p>This U.S. industry comprises establishments (except offices of lawyers and attorneys) primarily engaged in one or more of the following activities: (1) researching public land records to gather information relating to real estate titles; (2) preparing documents necessary for the transfer of the title, financing, and settlement; (3) conducting final real estate settlements and closings; and (4) filing legal and other documents relating to the sale of real estate. Real estate settlement offices, title abstract companies, and title search companies are included in this industry.</p> <p>Cross-References. Establishments of lawyers and attorneys primarily engaged in the practice of law are classified in Industry 541110, Offices of Lawyers.</p>
		541199 All Other Legal Services	<p>This U.S. industry comprises establishments of legal practitioners (except offices of lawyers and attorneys, settlement offices, and title abstract offices). These establishments are primarily engaged in providing specialized legal or paralegal services.</p> <p>Cross-References.</p> <ul style="list-style-type: none"> • Establishments of lawyers and attorneys primarily engaged in the practice of law are classified in Industry 541110, Offices of Lawyers; • Establishments (except offices of lawyers and attorneys) primarily engaged in researching public land records for ownership or title; preparing documents necessary for the transfer of the title, financing, and settlement; conducting final real estate settlements and closings; and/or filing legal and other documents relating to the sale of real estate are classified in U.S. Industry 541191, Title Abstract and Settlement Offices; and • Establishments (except offices of lawyers, attorneys, and paralegals) primarily engaged in providing arbitration and conciliation services are classified in Industry 541990, All Other Professional, Scientific, and Technical Services.

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SIC to NAICS

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U.S. Census Bureau



North American Industry Classification System (NAICS)

The North American Industry Classification System (NAICS) has replaced the U.S. Standard Industrial Classification (SIC) system. NAICS will reshape the way we view our changing economy.

NAICS was developed jointly by the U.S., Canada, and Mexico to provide new comparability in statistics about business activity across North America.



NAICS 2002 includes substantial revisions within the Construction and Wholesale Trade sectors, and a number of revisions for the Retail and Information sectors. NAICS 2002 will be implemented in the [2002 Economic Census](#).

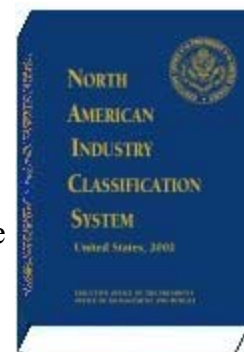
A new [North American Product Classification System](#) (NAPCS) is presently under development, with initial focus on products of [service industries](#). (NAPCS will focus on manufacturing products at a later date; for existing census codes, see the [Numerical List](#).)



Federal Register notice describing proposed changes for NAICS 2007 is coming in Dec / Jan.



The official **2002 US NAICS Manual** *North American Industry Classification System--United States, 2002* includes definitions for each industry, tables showing correspondence between 2002 NAICS and 1997 NAICS for codes that changed, and a comprehensive index--features also available on this web site. To order the 1400-page *2002 Manual*, in print, call NTIS at (800) 553-6847 or (703) 605-6000, or check the [NTIS web site](#). The 1250-page *1997 Manual*, showing correspondence between 1997 NAICS and 1987 SIC, is also available. The 2002 and 1997 versions of NAICS are available on CD-ROMs, which can be ordered at NTIS.



Also available at this site are lists of [2002 NAICS codes](#) (with links to definitions), [1997 NAICS codes](#), tables showing [correspondence between NAICS 97 and SIC](#), tables showing [correspondence between NAICS 97 and NAICS 02](#), and other files for [downloading](#).

A summary of [NAICS supporting documents](#) cites Federal Register Notices, issues papers, and other reports about NAICS.

NAICS was developed in cooperation with the [US Economic Classification Policy Committee](#), [Statistics Canada](#), and Mexico's [Instituto Nacional de Estadística, Geografía e Informática](#).

Improving the Consultation Process with the Legal Profession

Comments by Professor Laurel S. Terry (LTerry@psu.edu)

I recently received an email from staff members at the American Bar Association (ABA) asking me to comment on the consultation the ABA had received from the U.S. Bureau of Labor Statistics. This consultation sought the ABA's assistance in developing the North American Product Classification System (NAPCS). The email I received stated in part:

Though the gross domestic product of the service-producing industries (of which legal services is a part) in the US is now about three times as large as that for goods-producing industries, there is little information about the products produced by service industries in the US and elsewhere. The development of the NAPCS is a significant step toward obtaining product statistics for the legal industry. This information would be helpful for us and for our members.

- 1. Has the BLS accurately identified the legal services sold in the US? If not, what services need to be added or modified?*
- 2. How can the definitions be improved?*
- 3. What are the most useful groupings of products that might be included in this product list, in terms of ability of firms to provide revenue data by these product groupings and in terms of usefulness of the data to the industry? For example, should we have higher level groupings such as "transactional services," "litigation services," or "taxation services" and if so, what individual services should go beneath these higher level groupings?*

Although I am more knowledgeable about international trade in legal services than many U.S. lawyers, I was uncertain how to respond to this request when I received it.

I recommend that in order to improve the quantity and quality of responses from consultations with the legal profession, additional background information be provided. Knowing the context in which classifications will be used makes it easier for lawyers to respond to a question such as: "Should we have higher level groups such as transactional services, litigation services or taxation services." In particular, I would have found it helpful to be told **how** the NAPCS categories will be used by practicing lawyers once developed. For example:

- When lawyers are engaged in international trade in legal services, will they need to fill out some sort of form that indicates the appropriate NAPCS category for their services?
- If lawyers must fill out a form and indicate a NAPCS category, what triggers this obligation? Must it be completed for every transnational

phone call, email or fax? For every transnational trip? For every foreign client served in the home country? For every client or transaction that occurs in the branch office of a Host country?

- In filling out these forms, are lawyers allowed to select more than one category? For example, in the draft NAPCS, “Trusts and Estates (5411-1.2.14) was a different category than Taxation Legal Services – Individual (54111-1.2.12.1). I don’t practice in this area, but I believe it is true that the goal of setting up a trust often is the avoidance of taxes. Therefore, if a lawyer may designate only one category, then having Trusts and Estates and Taxation –Individual as separate categories may result in inaccurate data. This is because the two tasks often are intermingled, but if forced to choose only one box, lawyers may choose differently.

The frequency and context in which lawyers will have to use the NAPCS categories will help determine whether the categories are detailed enough to yield useful statistics or so detailed to be burdensome and possibly ineffective. Therefore, I recommend that you provide as much concrete detail as possible regarding how a lawyer would use these classifications once they are developed. Moreover, I think you should assume that the legal profession has ***absolutely no familiarity whatsoever*** with trade statistics, the existing classification systems, or the manner in which classification systems will be used.

In addition, I recommend that that in order to improve the quantity and quality of responses from consultations with the legal profession, a more detailed explanation be given regarding the importance of participating in the consultation. Most lawyers I know are not familiar with classification systems. This lack of familiarity creates a high barrier for participation, which means that lawyers need to be motivated to participate and overcome their unfamiliarity. For example, I believe that more lawyers might be motivated to respond if they were told that:

- 1) the GATS was the first world trade agreement to apply to trade in services, rather than trade in goods, and the GATS is only 10 years old;
- 2) perhaps because of point #1 above, up until now, there haven’t been many or extensive systems for collecting statistics about trade in legal services;
- 3) efforts currently are underway in several different contexts to develop statistics about international trade in legal services;
- 4) lawyers currently have an opportunity – which may be a limited window of opportunity - to participate in developing the manner in which legal services statistics are collected; and
- 5) statistics about international trade in legal services (or the lack of statistics) ultimately will drive policy decisions that affect the legal profession.

The "Hypotheticals" that follow were prepared during the past ten years for various U.S. conferences. The primary purpose of these "Hypotheticals" was to provide a basis for discussing U.S. lawyer regulatory or ethics issues.

These "Hypotheticals" may be useful to the TSG to illustrate some of the "products" that could be involved when international trade in legal services occurs.

As you can see, lawyers often are retained to assist clients to accomplish a particular task or purpose, rather than simply advise on one type of law. A single assignment or retention often will require a team of lawyers to address multiple types of law.

MJP FROM WALL STREET TO MAIN STREET

Issues for all American Lawyers Hypothetical scenarios for discussion at the Committee Roundtable on Regulating the Transnational Lawyer American Bar Association Section of International Law and Practice Committee on Transnational Legal Practice San Francisco, Saturday, August 9, 2003 Background Information

The Roundtable is to discuss U.S. implementation of Recommendations 8 and 9 of the ABA's Commission on Multijurisdictional Practice, adopted by the House of Delegates at the 2202 Annual Meeting of the ABA. The first Recommendation urges each State to adopt a rule permitting a lawyer admitted and in good standing in a foreign country, without further local examination of legal competence, to establish an office within the State or to be employed by, employ or join in another form of recognized association with a lawyer in the State. Such lawyers are called "foreign legal consultants" (FLCs) and may practice law in which they are competent, presumed to be primarily the law of the jurisdiction in which they are admitted, but may also include international law and third country law. Their practice of the law of the "host" State would be limited, however and no right to appear in court would be provided except through traditional *pro hac vice* admission by the court. The ABA adopted in 1993 a "Model Rule" for States to use in accepting this idea. Uniformity of the rules is regarded as important for U.S. lawyers seeking comparable rights abroad.

The second recommendation of the Commission urges each State to adopt a rule permitting a lawyer admitted and in good standing in a foreign country, without further local examination of legal competence, to enter the State for the "temporary" provision of legal services. The scope of such a lawyer's temporary practice would be similar to that granted to FLCs, but they would not be required to register, but could "fly in/fly out" as the Commission recommended and many States are now adopting for U.S. lawyers from other States. In other words, "FIFO" practice would, in essence, be permitted for all visiting lawyers.

The following hypothetical situations are intended to illuminate some of the many ways in which US lawyers and clients will benefit from the adoption of the proposed Rules - - quite aside from the "need" for U.S. jurisdictions to adopt such rules if U.S. lawyers are to be able credibly to request similar rights from our trading partners. International trade depends on concepts of reciprocity. Our requests for access to foreign markets - - for our clients and ourselves - - will ring hollow if we are unprepared to offer reciprocal rights to foreigners in our home market.

Wall Street needs FLCs and FIFO
Background

Probably no transactions illustrate better than project finance the "globalization" of industry, the interests of major U.S. commercial and financial entities to participate actively in "world scale" deals and the reality of MJP" for US lawyers. This type of transaction generally involves a large construction effort to build a dam or a power station or a highway, the creation of an entity to own the project and to operate it after completion and the contribution of large sums of money for both the construction and later operational phases of the project. The sponsors of such projects often hope that the project will "pay for itself." That is, the project is regarded as feasible and attracts the financing needed both short time and "permanently" because the revenues from operation are anticipated to be adequate to cover all operating and maintenance costs and to retire what is largely debt financing. Although funds from governments and the international financing institutions, such the World Bank or the US Export-Import Bank, are often also available, these are more and more in the form of loans to assure those institutions that they will be able to recycle their investments into new projects in the future. To the extent that one of these projects can be kept "off budget" by the sponsoring country it reduces pressures on the government with respect to its foreign debt obligations - - and their impact on domestic prices, the international value of that country's currency and its ability to borrow added funds for other purposes.

In the real world, successful projects in the less-developed countries in which they may be most needed, have been rare. The reasons are manifold, ranging for less-than-candid feasibility studies prepared by parties with financial or political reasons for assuring construction, to inadequate local workers willing or able to be employed, lack of infrastructure to permit efficient construction. Inadequate off-take capabilities for the energy or products produced, interference from local regulators with their own agendas and inadequately prepared foreign companies and workers.

Fact Pattern

For this hypothetical consider your client to be a publicly traded US company in Ohio that produces cryogenic equipment designed, among other things, to cool and keep at very cold conditions a product such as Liquid Natural Gas (LNG). LNG is the preferred fuel for a power station may be built on the coast of an African country. (A coastal location is regarded as desirable as the fuel is transported on large, specially-designed tankers, and overland transport in an under-developed country could be difficult.) The power station will cost \$2 billion to build and would serve the city in which it will be located that presently lacks an efficient power distribution grid. Residents have never paid for electricity.

The client will need advice on at least the following issues:

- Can it present its capabilities to the English engineering company that will conduct the feasibility study for the country and the World Bank? Selection of its equipment as the "model" may enhance the chances that the project will be based on its technology and, thus, enhance its selection as the provider of the goods it produces.

- Can it make representations to the host country regarding its products and capabilities in an effort to "shape" the study and selection criteria?
- What financial aid is available from non-commercial US sources to help the client finance production, delivery and installation of its products? What types of insurance are available for both the commercial and political risks in securing timely payments for the products it delivers for the project?
- If asked to deliver, install and maintain its equipment in Africa, should be establish a subsidiary for that purpose, and, if so, one held directly by the Ohio company or by an intermediary US sub, off-shore such as a U.S. Foreign Sales Corporation, or a new entity formed in the Channel Islands?

This transaction will require the client to have information about institutions and the legal systems of a number of jurisdictions. It would be desirable if the in-house or outside counsel of the company had access locally (or at least nearby) to lawyers who specialize in these types of projects, who know about the web of related contracts that require negotiation, including with the suppliers of LNG that implicate the selection and use of the client's products from the outset, and with the agencies or companies that are to "take" the electricity produced, but who may be delayed or unable to collect payments and reduce or cease the "off take." How secure are the obligations to pay for the equipment if the plant operator temporarily closes?

MJP Questions to Consider

- How much of the legal work for this representation can be done by the Ohio firm that normally represents the client in its large commercial transactions?
- Can the Ohio firm rely on FLCs in Ohio from the UK as the law of the African country is based on UK principles since that country was once a British colony?
- Can the firm bring to Ohio a lawyer from the African country to advise the client in Ohio?
- Can the firm deal with the World Bank in Washington, DC, large banks in New York, Chicago and London on the financial aspects that might affect the client's rights?
- Can firm lawyers go to Africa to meet with the Electricity Board to discuss the "off take" problem for the project? Can they go to Indonesia, the most likely source of the LNG, or to Taiwan, as the tankers are likely to come from there, to discuss interface between the

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client's products and the products and services of the foreign participants?

- How should firm lawyers negotiate with a California-based project manager that will select the subcontractors?

**Main Street Needs FLCs and FIFO
Background**

ABA statistics indicate that more than 70% of all US lawyers practice in firms of less than five lawyers. While few of them will be involved in the type of project outlined above, it is unlikely that in today's world even the smallest firm can avoid some understanding of international transactions and the relationship of US law to the law of other countries.

Fact Pattern #1

Assume that Middletown USA is excited by the new offering at its old coffee shop of "real" espresso and "true" cappuccino. These delicious additions to its menu are made possible by a large brass machine that superheats water. The café owner bought the machine while on a holiday in Naples. The equipment has now arrived. Its tubing is a bit dented and the coupling devices for water supply seem to be threaded in ways that cannot be hooked properly into the pipes in the café. The café owner, your client, is troubled by his difficulty in reading installation or operating instructions written in a very poor English or following metric measurements, even though the machine maker in Italy provided a prolonged demonstration of the proper hook up (five months ago).. The client paid the machine maker in American Express travelers checks and asked the shipper to arrange for its delivery in Middeltown. No insurance was discussed and no policy was obtained by the shipper. The customs entry documents show the terms of sale to be "DDP, INCOTERMS 2000" and, apparently the shipper did arrange the payment of customs duties by the freight forwarder.

The owner decided to bang out the dents before installing the machine. He used its best judgment, based on dealing with US coffeemaking equipment for 20 years, to hook up the machine. At the opening promotion, the café was crowded with regular customers. Unhappily, after the machine was turned on for the first cup, super-heated steam and water quickly spewed forth and badly burned Grandma Aaron, who had been provided a particularly close seat because of her loyal patronage and failing eyesight. Her small grandson, age 3, was also burned and the café owner was scalded before if could turn off the machine.

Your client is worried about his liability to the Aaron family. He is anxious to know what recourse he has against the Italian machine maker, the implication of the "DDP" sale and whether his actions to fix the dents or disregard the foreign threading of the connectors prevent him from claiming defects. What are the implied warranties of the machine maker in Italy as no express warranties were provided? What are the implications of the client's inability to read Italian or request better instructions before installing it? What are the implications of the client's self-help regarding the dented equipment? Would US or Italian law govern this issue? If "US," is the international carriage of the goods an issue of state law or federal law? Does the U.N. Convention on the International Sale of Goods, to which Italy and the US are parties, apply to the facts and, if so, how?

MJP Questions

- Should Middletown Law Firm turn this matter over to another law firm?
- Can Middletown Firm seek FLC assistance in its state or in New York?

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- Should Middletown Firm seek association with a foreign lawyer in Italy to assist in bringing a claim there?
- If a suit were brought locally, should Middletown Firm seek Italian counsel to advise on the enforcement of any judgment that might be obtained in a US court before you initial litigation?

Fact Pattern #2

Assume that Long-Time Client approached Middletown firm. Client is a second-generation immigrant from Italy. Client tells you that his Aunt has just died in Italy and that he has inherited some property from her. He asks for your advice.

MJP Questions

- Should Middletown Law Firm turn this matter over to another law firm?
 - Can Middletown Firm seek FLC assistance in its state or in New York?
- Should Middletown Firm seek association with a foreign lawyer in Italy? How will Middletown Firm go about finding such a lawyer?

Fact Pattern #3

Assume that Long-Time Client approached Middletown firm. Client asks you to handle her divorce. Client is currently married to resident-alien, who is homesick and would like to return to his country. Client and her husband have a five year son. Client is worried that her husband may want to move back to his home country and may flee with their son and that her husband's country may allow him to stay there with their child. Client seeks your advice about the divorce and about steps she can take to ensure that her child is not taken away from her.

MJP Questions

- Should Middletown Law Firm turn this matter over to another law firm?
- Can Middletown Firm seek FLC assistance in its state or in New York?
- Should Middletown Firm seek association with a foreign lawyer in the husband's country? How will Middletown Firm go about finding such a lawyer?

Summary of Global Multijurisdictional Practice Rules

Prepared by Professor Laurel S. Terry May 22, 2001, LTerry@psu.edu
Submitted to the ABA Commission on Multijurisdictional Practice

Available at http://www.abanet.org/cpr/mjp-comm_terry2.doc

An * means an answer is qualified; a — means the issue is not addressed. See the charts summarizing the individual MJP rules for additional information.

	EC 77/249 Services	EC 98/5 Establish- ment	EC 89/48 Generic Establish- ment	Canada Protocol - Appendix 1 Temporary	Canada Protocol - App. 2&3 Permanent	GATS	NAFTA	NAFTA not-adopted Model FLC Rule	ABA Model FLC Rule	ABA- Brussels Agreement	IBA -Full license	IBA- Limited License
1. General												
Applies to temporary practice?	YES	NO	NO	YES-temp & occasional	NO	YES*	YES	NO	NO	NO	NO	NO
Applies to permanent pr.?	NO	YES	YES	NO	YES* & FLC	YES*	YES	YES	YES	YES	YES	YES
Defines temp./permanent?	NO	NO	NO	YES	YES for FLC	---	NO	NO	SORT OF*	YES	NO*	NO
Is reciprocity mentioned?	NO	NO	NO	NO*	NO*	NO*	YES & NO*	YES & NO*	YES	YES	NO	NO
Is registration required?	NO	YES	YES*	NO for 10-20-12; YES*	YES for both	----	----	YES	YES	YES	YES	YES
2. Ethics & Discipline												
Use Host State rules?	YES*	YES	---	YES	YES -FLC	----	----	YES	YES	YES*	YES	YES
Use other rules?	YES*	YES*	----	----	----	----	----	---	----	YES*	----	----
May Host discipline?	YES	YES	----	YES	YES -FLC	----	----	YES	YES	YES*	YES	YES
Any provisions about Home discipline?	----	YES	----	YES	----	----	----	----	----	----	----	----

	EC 77/249 Services	EC 98/5 Establish ment	EC 89/48 Establish ment	Canada Protocol - Appendix 1 Temporary	Canada Protocol- App. 2&3 - Permanent	GATS	NAFTA	NAFTA Model FLC Rule	ABA Model FLC Rule	ABA- Brussels Agreement	IBA -Full license	IBA- Limited License
3. Scope of Practice												
May lawyer advise on Host State law?	YES	YES	----	YES*	NO- FLC	----	----	NO*	NO*	NO*	YES	YES*
Is estate work a possible preclusion?	YES	YES	----	----	----	----	----	----	YES	----	----	----
Is real estate a possible preclusion?	YES	YES	----	----	----	----	----	----	YES	----	----	----
May litigation be precluded?	----	----	-----	-----	----	----	----	YES	YES	YES*	----	YES
May Host require lawyer in litigation “in conjunction with” Host lawyer?	YES	YES	----	YES* in some courts	----	----	----	----	----	----	----	----
Other scope of practice limits?	YES*- introduce L.	YES* - specialist crt	----	YES* - for corp.counsel	FLC- only lists Home law; ---	----	----	YES* - see rule	YES* - family law	YES* re - EU law	-----	----
4. Forms of Association												
Which title is used when practicing in Host State?	Home State	HOME OR HOST**	HOST STATE	HOME STATE	HOME & FLC titles	----	----	HOME & FLC title	HOME & FLC	HOME*	HOST	Need fair disclosure
Any rules about acceptable law firm names?	NO	YES	NO	NO* but see App. 4	NO* but see App. 4	NO	NO	YES	YES	YES	NO	NO
Any other limitations?	YES- salaried L's	YES - MDPs & salaried L's	NO	NO	NO	NO	NO	YES* - re Host e'ees, Partners	YES* - re Host e'ees & partners	YES*	NO* - just the regular rules	NO
5. Details about Admission requirements												
Must lawyer have a “fresh” certif from the Home State?	---	YES	YES	----	----	----	----	----	----	----	----	----
May Host require an office in Host state?	---	---	----	----	----	----	----	YES	YES	YES	----	----
May Host require lawyer to submit to jurisdiction?	-----	-----	----	YES* (implicitly)	YES	----	----	YES	YES	----	----	YES

	EC 77/249 Services	EC 98/5 Establish ment	EC 89/48 Establish ment	Canada Protocol - Appendix 1 Temporary	Canada Protocol- App. 2&3 - Permanent	GATS	NAFTA	NAFTA Model FLC Rule	ABA Model FLC Rule	ABA- Brussels Agreement	IBA -Full license	IBA- Limited License
5. Details about Admission Requirements (con't)												
May Host require lawyer to have practiced for a designated number of years?	---	---	----	----	YES*; 3 years or work w/ another FLC	----	----	YES	YES	----	YES	YES
May Host require an adaptation period?	----	YES*	YES	----	YES- App.2 NO - FLC	----	----	----	----	----	----	----
May Host require an exam?	----	YES*	YES*	----	YES-App.2 NO-FLC	----	----	----	----	----	YES*	NO
May proof of good moral character/good standing be required?	----	----	YES	YES; in good standing	YES for both	----	----	YES	YES	----	YES	YES
May proof of physical or mental health be required?	----	----	YES	----	----	----	----	YES	YES* - "fitness"	----	----	----
May indemnity insurance be required?	---	YES	----	YES	YES for FLC; - ---	----	----	YES	----	YES	----	YES
May Host require lawyer to contribute to security funds?	----	----	----	YES	YES for FLC; - ---	----	----	YES	----	----	----	----
May Host require lawyer to notify it of problems in the Home jurisdiction?	----	----	----	NOTE - bars agree to notify	YES for FLC; - --	----	----	YES	YES	----	----	----
Must Host decide promptly & inform?	----	YES	YES	----	----	----	YES	----	----	----	YES* - see transparency	YES* - see transparency
Does lawyer have a remedy for denial?	----	YES	YES	----	----	NO -just the country	NO- just the country	----	----	YES	----	----
Any other requirements?	----		YES - oath must be ok	YES*; fees competence,	YES* - credit given for articling; bar course; pre-call training	----	----	YES* - definition	YES* - fees, age letter	YES*	YES*- principles	YES* - principles

6. Miscellaneous												
Does it encourage development of joint standards/cooperation?	----	----	----	YES; & Western Provinces eliminated permit 180 days w/o registration.	----	YES	YES	----	----	YES	----	----
Any additional provisions?	YES*	YES*		YES*; no trust account	YES for FLC-fees, renewal & can impose other conditions	YES*	----	---	YES*	YES* - privilege	YES*	YES*



GATS

General Agreement on Trade in Services



A Handbook for
International Bar Association
Member Bars


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Documents Relevant to Proper Classification of Legal Services in Ongoing GATS Negotiations

The [WTO Secretariat's Legal Services Sectoral Analysis](#) raised the issue of whether WTO Member States should develop a new definition of legal services to use in the ongoing GATS — Track 1 Negotiations. Australia responded to this invitation by submitting a paper suggesting alternative terminology. The European Union thereafter submitted its own proposal. In addition to these official documents submitted by WTO Member States, the International Bar Association and Law Council of Australia also have submitted suggestions. Thus, WTO Member States currently have several different proposals they may consider with respect to the classification or terminology they should use when negotiating with respect to legal services. None of these classification systems is intended to create substantive obligations.

Official WTO Documents Regarding Classification of Legal Services

- [WTO Document W/120](#) ("Classifications" Used in Original GATS Negotiations)
- [WTO Document S/L/92](#) (Guidelines for Scheduling Commitments in the Doha Round)
- [Australia's Proposed Definitions](#) of Legal Services to Use in GATS Negotiations
- [European Union's Response](#) to Australia's Proposed Classification for Legal Services

U.N. Documents on which the Existing WTO Classification System Is Based

- [United Nations Provisional Central Product Classification \(CPC\) 861 - Legal Services](#)

Page 4 of the [WTO Secretariat's Legal Services Sectoral Analysis](#) explained as follows the relationship between the WTO Sectoral Classification system in [W/120](#) and the [United Nation's CPC](#) classification system:

"In the WTO "Services Sectoral Classification List" (document MTN.GNS/W/120), "(a) legal services" are listed as a sub-sector of "(1) business services" and "(A) professional services". This entry corresponds to the CPC number 861 in the United Nations Provisional Central Product Classification. In the UN CPC the entry "legal services" is sub-divided in "legal advisory and representation services concerning criminal law" (86111), "legal advisory and representation services in judicial procedures concerning other fields of law" (86119), "legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc." (86120), "legal documentation and certification services" (86130) and "other legal and advisory information" (8619)." The United Nations' CPC provides explanatory notes for these five sub-categories of legal services; excerpts of these notes are included in footnote 3 of the [WTO Secretariat's Legal Services Sectoral Paper](#). The revision of the UN CPC approved by the UN statistical committee in February 1997 leaves the legal services classification substantially unchanged. However, it includes as a subclass of legal services ["Arbitration and conciliation services,"](#) previously part of management consultancy services."

•[Current U.N. Central Product Classification \(821\) - Legal Services](#)
(Version 1.1)

International Bar Association Resolution on Legal Services "Terminology"

The [International Bar Association](#) is a dual membership organization, comprising both individual lawyers and bar associations and law societies. On May 30, 2003, the IBA held a GATS Forum. One of the two issues discussed was the terminology that WTO Member States should use when engaged in GATS negotiations that concern legal services. On September 18, 2003, the Council of the IBA unanimously approved a terminology resolution, subject to further minor changes. In adopting this Terminology Resolution, the IBA specifically declined to endorse any of the competing legal services classification proposals. After submission of the final document to the IBA Council, the Terminology resolution was transmitted to the WTO Secretariat on behalf of the IBA.

- [IBA Resolution](#) (Transmitted November 2003)

Documents on Classification Prepared by Bar Associations and Other Organizations

- [OECD Trade Policy Working Paper No. 2](#), MANAGING REQUEST-OFFER NEGOTIATIONS UNDER THE GATS: THE CASE OF LEGAL SERVICES, TD/TC/WP(2003)40/FINAL (June 14, 2004) submitted to the WTO Committee on Specific Commitments as JOB(04)/77 (June 2004)

Paragraphs 17-23 on pages 12-13 address the issue of classification of legal services. The OECD noted that the "classification system used in the Doha Round will have a significant influence on the evolution of the international market for legal services. It is crucial that the terminology employed in the negotiations be clear and consistent with the reality of modern trade in legal services."

- [Law Council of Australia's Paper](#) on Classification of Legal Services

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Materials about the GATS and Other International Agreements

The ABA Center for Professional Responsibility expresses its gratitude to Professor Laurel S. Terry, Penn State Dickinson School of Law, for her invaluable assistance in the creation and support of this webpage.

Although many U.S. lawyers are unaware of the fact, the General Agreement on Trade in Services applies to legal services. By joining the World Trade Organization in 1994, the U.S. agreed to be bound by the GATS. There currently are two "tracks" of activities of which U.S. lawyers should be aware. "Track 1" is the current round of negotiations to further liberalize trade in legal services. These negotiations are required by the GATS. "Track 2" involves the question of whether to extend to the legal profession the 1998 "Disciplines for the Accountancy Sector."

If you are just encountering the issue of the GATS and legal services, you may want to begin by reading the [Executive Summary of the International Bar Association GATS Handbook](#). For assistance deciphering the citation system used for WTO documents or learning how to locate these documents, [click here](#).

Negotiations for the U.S. are coordinated by the Office of the U.S. Trade Representative. USTR representatives have indicated that they do not intend to displace state regulation of lawyers and have made efforts to consult with U.S. lawyers concerning these events. To date, however, the USTR has heard from relatively few U.S. lawyers concerning these important issues. This website has been established in order to increase awareness about the GATS and the implications it has for the delivery of legal services. Comments on the website and additional submissions are welcome.

Background Information

- The ABA GATS Task Force

In 2003, ABA President A.P. Carlton appointed an ABA GATS Task Force. This Task Force is responsible for coordinating ABA efforts regarding the GATS.

- [The GATS Agreement](#)

- [The "Legal Services" Sector Webpage of the WTO Website](#)

By joining the World Trade Organization in 1994, the U.S. agreed to be bound by the provisions of the GATS Agreement.

- [Council for Trade in Services, Background Note by the Secretariat: Legal Services, S/C/W/ 43 \(July 6, 1998\)](#)

This 30-page analysis prepared by the WTO Secretariat (staff) provides extremely detailed and useful information about the GATS commitments on legal services made by WTO Member States in 1994. It is a "must read" for anyone interested in this topic.

- [International Bar Association, GATS: A Handbook for International Bar Association Members](#)

This question-and-answer format handbook is designed to tell you everything you need to know about the GATS and legal services. The five-page Executive Summary provides an overview of the issues. The remaining 45 pages explain the technical trade terms that are necessary to fully understand all of the GATS issues. The last pages of the IBA Handbook include a list of URLs.

"Action" Documents Related to the GATS that U.S. Lawyers and States Should Consider

- [The Legal Services Portion of the 1994 U.S. Schedule of Specific Commitments](#)

This document includes the provisions to which the U.S. bound itself in 1994. The current round of GATS negotiations likely will result in changes to this document. Thus, states should examine this document in order to check its accuracy for their state and to indicate whether states are willing to offer any additional commitments (because, for example, they now have a Foreign Legal Consultant rule.)

- [U.S. Trade Representative State "Point of Contact" List](#)

The USTR has identified one individual in each state with whom it will communicate information about the ongoing GATS negotiations, including the "requests" and "offers." State Supreme Courts and bar associations may want to contact their "State Point of Contact Person" for their state to make sure they are notified of any events, requests or offers relevant to legal services.

- [ABA MJP Commission Recommendation Regarding Adoption of the ABA Model Foreign Legal Consultant Rule](#)

The ABA MJP Commission recommendation that states adopt the ABA Model Rule Respecting Legal Consultants was approved by the House of Delegates in August 2002. State action on this recommendation may affect the success of U.S. GATS negotiations and the ability of U.S. clients to obtain the services of U.S. lawyers in other countries.

- [ABA MJP Commission Recommendation Regarding Adoption of the Model Rule for Temporary Practice by Foreign Lawyers](#)

The ABA MJP Commission recommendation that states adopt the ABA Model Rule for Temporary Practice by Foreign Lawyers was approved by the House of Delegates in August 2002. State action on this recommendation may affect the success of U.S. GATS negotiations and the ability of U.S. clients to obtain the services of U.S. lawyers in other countries.

[Track 1 of the GATS](#) - the Ongoing Doha Negotiations Originally Scheduled to End January 1, 2005

There currently are two "tracks" of GATS activities of which U.S. lawyers should be aware. "Track 1" is the current round of negotiations to further liberalize trade in legal services. Article XIX of the GATS requires WTO Member States to engage in ongoing negotiations to further liberalize trade in services. This link includes various documents relevant to "Track 1" and the ongoing GATS/legal services negotiations.

[Track 2 of the GATS](#) - Whether to Extend to the Legal Profession the "Disciplines for Domestic Regulation in the Accountancy Sector" (S/L/64)

There currently are two "tracks" of GATS activities of which U.S.

lawyers should be aware. "Track 2" raises the question of whether and how WTO Member States will implement Article VI(4) of the GATS, which requires the development of "any necessary disciplines." In particular, WTO Member States currently are considering whether it would be appropriate to apply to the legal profession (and other services) the "Disciplines for Domestic Regulation in the Accountancy Sector" (S/L/64). This link includes various documents relevant to "Track 2" and the "disciplines" issue.

[Articles of Interest](#)

[Miscellaneous - Other Items Relevant to the GATS](#)

[Other International Trade Agreements](#)

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Web links for Materials
Submitted by Professor Laurel S. Terry (LTerry@psu.edu)
Representing the International Bar Association

to the Technical Subgroup (TSG) of the Expert Group
on International Economic and Social Classifications,
U.N. Statistics Division (October 18, 2004)

1. Legal Services Classification Section of WTO, [*Services Sectoral Classification List, Note by the Secretariat*](#), MTN.GNS/W/120 (July 10, 1991)(used in the Uruguay Round GATS negotiations; it incorporates by reference Provisional UN CPC 861)
2. [*Guidelines for the Scheduling of Specific Commitments Under the General Agreement on Trade in Services \[in the ongoing GATS Doha Round Negotiations\]*](#) S/L/92 (28 March 2001)(recommends continued use of W/120)
3. Excerpts on Classification and Legal Services Trade Statistics from WTO Council on Trade in Services, [*Legal Services Background Note by the Secretariat*](#), S/C/W/43 (6 July 1998)
4. Excerpts on Classification from OECD, [*Managing Request-Offer Negotiations under the GATS: The Case of Legal Services*](#), Job 04/77 (June 2004)
5. WTO, [*Communication From Australia, Negotiating Proposal: Legal Services Classification Supplement*](#), S/CSS/W/67/Suppl.2 S/CSC/W/32 (11 March 2002)
6. WTO, [*Communication from the European Communities: Classification of Legal Services*](#) S/CSC/W/39 (24 March 2003)
7. [*WTO Services Database*](#), Predefined Reports, Legal Services Commitments for Developed, Transition, Developing, and Least Developed Countries
8. [*International Bar Association \(IBA\) Resolution Regarding the Terminology to Use in "Track 1" of the GATS*](#) (Adopted San Francisco, 2003)
9. Other IBA Resolutions and Materials Relevant to Trade in Services
 - a. [*International Bar Association, GATS: A Handbook for International Bar Association Members*](#) (2002)
 - b. [*IBA Resolution on GATS and Deregulation of the Legal Profession*](#) (Adopted Vienna, 1998)[known as Core Values Resolution]
 - c. [*IBA Statement of General Principles for the Establishment and Regulation of Foreign Lawyers*](#) (Adopted Vienna, 1998)
 - d. [*IBA Standards and Criteria for Recognition of the Professional Qualifications of Lawyers*](#) (Adopted Istanbul, 2001)
 - e. [*IBA Resolution Regarding Suitability of Using the Accountancy Disciplines in "Track 2" of the GATS*](#) (Adopted San Francisco, 2003)

***The following items have not been reviewed or endorsed
by the International Bar Association.
They are submitted by Professor Laurel Terry in her individual capacity.***

10. Laurel Terry and Jonathan Goldsmith, *Discussion Paper for the IBA WTO Working Group: Possible Points of Agreement about a WTO Legal Services Classification System* (October 4, 2004)(This paper has not yet been reviewed by IBA Council or IBA WTO Working Group)
11. Provisional UN CPC – legal services classifications in [861](#) (incorporated by reference into the GATS Services Sectoral Classification List, GNS/W/120)*
12. UN CPC Version 1.0 (1997) – legal services classifications in [821](#)*
13. UN CPC Version 1.1 (2002) – legal services classifications in [821](#)*
14. ISIC Revision 3.1 - legal services classifications in [7411](#) and [7523](#)
15. COICOP - legal services' inclusion in [12.7.0](#)
16. Extended Balance of Payment EBOPS (1996) and Balance of Payments Manual (BPM5) - legal services classification [9.3.1.1](#) (with 275 as the internationally accepted code for reporting balance of payment components)
17. Joint OECD-Eurostat Trade in Services Classification, [9.3.1.1](#)
18. North American Product Classification System, [Phase III](#), Working Draft - legal services classifications in 5411*
19. NAICS 2002 – legal services classifications in [5411](#)*
20. Improving the Consultation Process with the Legal Profession
21. Hypothetical examples of international trade in legal services - from U.S. conferences
22. Examples of Regulatory Measures for International Legal Services – [Terry Submission to ABA Commission on Multijurisdictional Practice \(Summary\)](#)
23. Resources about GATS, Legal Services and Statistics
 - a. [International Bar Association, GATS: A Handbook for International Bar Association Members](#) (2002), available at <http://www.ibanet.org/pdf/gats.pdf>
 - b. Classification Page of the ABA GATS Webpage, available at http://www.abanet.org/cpr/gats/track_one_class.html
 - c. ABA GATS Webpage, available at http://www.abanet.org/cpr/gats/gats_home.html
 - d. You may want to contact Julia Nielson at the OECD a copy for her paper entitled *The Effects of Liberalizing Legal Services Markets on the Wider Economy*, Cameron May Conference on Legal Services and the WTO, London, 14 Feb. 2003. It contains a useful analysis of the strengths and weaknesses of legal services statistics.

* The information and tables contained in the asterisked items were prepared by Professor Laurel S. Terry, Penn State Dickinson School of Law, USA, for a law review article she is preparing entitled: Laurel S. Terry, *What's In a Name? The Classification of Legal Services in the WTO and Elsewhere*. The Tables are based on information obtained from the webpages of the U.N. Statistics Division and the U.S. Census Bureau.