

COALITION OF SERVICE INDUSTRIES

ANALYSIS OF GATS NEGOTIATING PROPOSALS FOR PROFESSIONAL SERVICES¹ (as of June 18, 2001)

Country	Proposal/Objectives
<p><u>European Community</u> (S/CSS/W/33) 22 December 2000 <i>GATS 2000: Professional Services</i></p>	<p><u>GENERAL</u></p> <p>1. Proposal aims at "reducing unnecessary trade distortive barriers without affecting the quality of service, protection of consumers, public safety, as well as safeguarding the rule of law."</p> <p><u>DEFINITIONS/SCOPE</u></p> <p>2. Defines professional services to include the following sub-sectors:</p> <ul style="list-style-type: none">• Legal services (legal advice on home country and international public law)• Accounting, auditing and bookkeeping services• Taxation services (excluding representation in court/tribunals)• Architectural services• Engineering services• Integrated engineering services• Urban planning and landscape architectural services• Other (related scientific and technical consulting services) <p><u>PROPOSAL</u></p> <p>3. Council for Trade in Services, in Special Session, should initiate debate on broad aims for negotiations in the professional services sector.</p> <p>4. Criticizes nationality requirements as an inappropriate tool to control professional competence.</p> <p>5. States that the use of firm names is often restricted.</p> <p><i>Mode 1</i></p> <p>6. Proposes that residency requirements should be replaced by other, less trade restrictive measures, such as the appointment of a representative agent, or liability insurance.</p> <p>7. States that residency requirements are acceptable only for consumer protection</p>

¹ Proposals are available on the WTO website at http://docsonline.wto.org/gen_home.asp?language=1& =1.

	<p>purposes, and where other less trade restrictive measures are not applicable.</p> <p><u>Mode 2</u></p> <p>8. States that there is no justification for any restriction.</p> <p><u>Mode 3</u></p> <p>9. Seeks to minimize restrictions on forms of establishment.</p> <p>10. Eliminate restrictions on partnership with, or hiring of, local partners of same profession within same area of competence.</p> <p>11. Eliminate "unjustified restrictions on membership in professional societies."</p> <p><u>Mode 4</u></p> <p>12. Suggests further discussions on how to improve and facilitate the temporary movement of natural persons for the provision of specific services.</p> <p><u>OTHER</u> - exceptions to full commitments, MFN exemptions</p> <p>13. Exceptions are more likely due to fact that many sectors in professional services are highly regulated. Exceptions may therefore be accepted for, <i>inter alia</i>:</p> <ul style="list-style-type: none"> • Proof of professional qualification • Consideration of security issues • Consumer protection <p>14. Opposed to unrestricted deregulation of the professional services sector</p> <p>15. MFN exemptions should be eliminated since they are based on reciprocal recognition of professional qualifications. Reciprocal agreements are covered by GATS Article VII.</p>
--	---

Japan
(S/CSS/W/42)
22 December 2000
*The Negotiations on Trade in
Services*

GENERAL

1. Negotiations on trade in services should achieve "a progressively higher level of liberalization."

DEFINITIONS/SCOPE

2. Professional services covers lawyers, patent attorneys, accountants, architects and engineers.

PROPOSAL

3. Seeks improvement and discussion in the following areas:

- Nationality requirements
- Reciprocity on "permissions of qualification"
- Lack of legal framework for accepting professionals with foreign qualifications, or lack of internal consistencies of such a framework
- In the architecture and engineering services sector, prohibition of the establishment of offices and/or branches, restrictions on capital participation, joint business obligations, and limitations on the total ratio of foreign business

Canada
(S/CSS/W/52)
14 March 2001
Initial Negotiating Proposal on
Professional Services

GENERAL

1. Proposal aims to "stimulate discussions toward seeking improved conditions for the treatment of professional services in the context of the current round of the GATS negotiations."
2. Consumer protection and quality of service are important considerations.

DEFINITIONS/SCOPE

3. Sub-sectors covered by proposal:
 - Engineering services (including integrated engineering)
 - Architectural services
 - Urban planning and landscape architectural services
 - Accounting, auditing and bookkeeping services
 - Taxation services (excluding legal services)
 - Foreign legal consultancy services (advisory services on foreign and international public law)
 - Real estate appraisal services
 - Management consulting services
 - Land surveying services

PROPOSAL

Modes 1, 2, 3 & 4

4. Wants improvements in quantity and quality of commitments.
5. Seeks elimination of "overt discriminatory requirements in the form of nationality and citizenship requirements, and alternatives to permanent residency and residency" to the extent that other, less restrictive means are available.
6. Proposes improvements in the coverage for the temporary entry and stay of foreign professions. Refer to Canada's separate submission on Mode 4.
7. Recommends further development of mutual recognition agreements between professional regulators. Proposes using "Guidelines for Mutual Agreements or Arrangements in the Accountancy Sector" as a starting point.
8. Encourages improved transparency in architecture, engineering, legal, urban planning, real estate appraisal, and land surveying sectors.
9. Seeks to examine the need for rules to allow for the temporary admission of professional equipment necessary to carry out services in foreign markets.

Switzerland

(S/CSS/W/75)

4 May 2001

GATS 2000: Professional Services

GENERAL

1. Aims to contribute to the discussions on reducing barriers which cause trade distortions, while preserving service quality and consumer protection.
2. Primary concerns are Mode 1 and Mode 4.

DEFINITIONS/SCOPE

3. Professional services proposal covers the following sub-sectors:
 - Legal services (advisory services concerning home country law and public international law)
 - Accounting, auditing and bookkeeping services
 - Taxation services
 - Architectural services
 - Engineering services
 - Integrated engineering services
 - Urban planning and landscape architectural services

PROPOSAL

4. Proposes elimination of nationality and residency requirements, and adjusting those of others, particularly, those concerning membership of local professional associations and forms of establishment. Many restrictions in force can be replaced by less discriminatory measures.
5. Proposes discussion on ways and means of reducing obstacles to movement of persons (Mode 4).
6. Seeks emphasis on domestic regulation issues which may impede the liberalization of trade in services and the securing of effective market access. As such, states that the relevance of GATS Article VI measures for effective market access will "inevitably become greater."
7. Asserts that concepts of necessity and transparency are linked, and must "not be treated as an end in itself, but rather as a tool with which to implement the needs test effectively."

	<p>8. Advocates the creation of disciplines in more sectors (particularly in sectors "where there are regulatory constraints that substantially affect the conditions of trade") so that there is a basis for additional commitments. Suggests the need for specific disciplines in individual sectors, particularly in sectors. Points to the reference paper for telecommunication services and the Article VI disciplines on accountancy services as examples.</p>
--	---

Chile
(S/CSS/W/88)
14 May 2001
The Negotiations on Trade in Services

GENERAL

1. Believes that general services negotiations should "improve market access significantly for developed and developing countries."
2. Considers the launch of a new round, "balanced and broad" in scope, could contribute to the above.
3. Points out that professional services "provide an effective way of conducting cross-border trade in services, without necessarily being linked to commercial presence," for developing countries.

DEFINITIONS/SCOPE

4. None specified

PROPOSAL

5. Seeks liberalization of protectionist practices, such as: nationality requirements, residency requirements, lack of transparency in formalities for professional licensing.
6. Proposes a "standardized minimum commitment to not apply trade-restrictive nationality or permanent residency requirements as a condition for meeting qualification and licensing requirements for service providers, except in exceptional cases."
7. Emphasizes need to have agreements between professional groups in Member countries, which could benefit other Members "in accordance with the provisions of Article VII, paragraph 2, of the GATS."
8. Suggests Secretariat report on cases where Article VII:2 of the GATS has been applied, and a "precise procedure required to request 'accession' to a recognition agreement between several Members."
9. Emphasizes the need for strong and transparent disciplines and the importance of the work conducted by the Working Party on Domestic Regulation.

Tabulation of issues addressed in proposals: ²	European Community	Japan	Canada	Switzerland	Chile
1) Improve market access & national treatment commitments	X				X
2) MFN exemptions	X				
3) Mode 1 (cross-border supply)	X	X	X	X	X
4) Mode 2 (consumption abroad)	X		X		
5) Mode 3 (commercial presence)	X	X	X		
6) Mode 4 (movement of natural persons)	X	X	X	X	X
7) Nationality and residency requirements	X	X	X	X	X
8) Consumer protection and quality of service	X		X	X	
9) Use of firm names	X	X			
10) Domestic regulation	X	X	X	X	X
11) Transparency			X	X	X

² For countries whose proposals on professional services are part of a larger proposal on services in general, only those issues which are discussed in the professional services section of that particular country's proposal are marked. Issues discussed in the introductory or cross-cutting section of the proposal are not tabulated above. General and cross-cutting issues are examined in other CSI analyses.