

COMMUNICATION FROM SWITZERLAND

GATS 2000: Professional Services

The following communication has been received from the delegation of Switzerland with the request that it be circulated to members of the Council for Trade in Services.

I. IMPORTANCE OF THE SECTOR

1. Professional services are very wide ranging and heterogeneous, but form an important group of services in which delivery is experiencing increasingly dynamic growth.
2. Their characteristics differ markedly from one sector to another. The legal services sector, for example, has experienced steady 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. The profession has become internationalized, and more and more frequently lawyers are having to conduct transactions extending across national borders and involving several jurisdictions.
3. In the accounting services sector, the market is dominated by large multinational firms which have succeeded in establishing an international network of companies so that local specificities, still very common in this sector, can be accommodated. These multinationals currently employ nearly half a million people worldwide. Architectural and engineering services, on the other hand, tend traditionally to be local or regional.
4. The increasingly widespread development of the Internet is opening up new prospects for all professions and will lead to strong growth in cross-border trade (mode 1) in these services.
5. The professional services sector is of particular importance to Switzerland, where there is a high density of small and medium-sized enterprises or individual firms active in this high-value-added sector. In view of the high level of knowledge available in numerous countries, open markets in countries which traditionally import this type of service would be an incentive to the transfer of know-how and hence benefit many countries.

II. CLASSIFICATION ISSUES

This proposal covers the following services:

- 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.

III. PROPOSAL ON SPECIFIC COMMITMENTS

(i) Existing commitments

6. Generally speaking, professional services are a sector in which broad commitments have been made in respect of the GATS market access and national treatment. Depending on the activity, the number of Members who have made such commitments varies between 60 and 90. Approximately half the Members have made full commitments, and the other half have entered some reservations with their commitments. On that basis, it can be estimated that approximately 90 per cent of world trade in professional services is covered by specific commitments. The latter are nonetheless accompanied by reservations which need to be eliminated.

(ii) Obstacles to liberalization

7. The first point to be noted is that in the various professional service subsectors, there are numerous obstacles to the development of trade that have to do with countries' local characteristics. Local conditions can vary greatly from one market to another, and very often it is difficult for foreign service suppliers to understand them and use them to best-effect. And their difficulties do not end there. Quite apart from the question of the recognition of their qualifications, acquired in another country, foreign service suppliers come up against nationality or residency requirements and restrictions on investment and forms of commercial presence. Residency requirements may be perceived as particularly burdensome at a time of explosive growth in the Internet and services supplied under mode 1 (cross-border). Lastly, foreign service suppliers have to overcome obstacles to the movement of persons (mode 4).

(iii) Objectives

8. Switzerland proposes eliminating nationality and residency requirements and adjusting certain others, particularly, those concerning membership of local professional associations and forms of establishment. Many such restrictions currently in force can be replaced by measures which are less discriminatory yet suited to ensuring observance of the constraints referred to in the previous paragraph.

9. Furthermore, Switzerland acknowledges that the movement of persons is particularly important for the professional services sector and proposes that Members discuss ways and means of reducing obstacles to the movement of persons in order to facilitate the supply of this type of service by natural persons.

10. Switzerland's aim in submitting this proposal is to contribute to the discussions on reducing barriers which cause trade distortions. It is not a question of endangering the service quality or consumer protection.

IV. PROPOSAL ON REGULATORY DISCIPLINES

11. Improving Members' specific commitments in the areas of market access and national treatment is only a first step towards real liberalization. Current work in the Working Party on Domestic Regulation (WPDR) has shown that domestic regulation issues are becoming an increasingly important aspect of the liberalization of trade in services in order to secure *effective* market access. Experience clearly shows that measures pertaining to the definition and implementation of licensing and qualification requirements and procedures as well as of technical standards can seriously affect the actual conditions of access for foreign services and foreign service suppliers. Generally speaking, with a growing level of market access and national treatment commitments, the relevance of GATS Article VI measures for effective market access will inevitably become greater.

12. The ongoing discussion in the WPDR on concepts relating to the development of regulatory disciplines is very useful as a means of clarifying the important concepts of necessity and transparency. In Switzerland's view, these two concepts are obviously linked and transparency must not be treated as an end in itself, but rather as a tool with which to implement the needs test effectively.

13. In addition to the general principles that Article VI is meant to provide, the discussions have shown the need for specific disciplines in individual sectors, particularly in sectors where there are regulatory constraints that substantially affect the conditions of trade. The services industry is known to be highly regulated, so that effective access to foreign markets by service suppliers may require, at least in some subsectors, some degree of specification of the general principles contained in GATS Article VI. The reference paper for telecommunication services and the Article VI disciplines on accountancy services are examples. We believe that further disciplines of this kind should be envisaged in other sectors and could provide a basis for additional commitments. Recent consultations with professional services organizations tend to show that the disciplines on accountancy services could be transposed, with some changes, to other sectors.
