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MANAGING "REQUEST-OFFER" NEGOTIATIONS UNDER THE GATS: AN INTERIM REPORT

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*The following paper is based on the work of a consultant, Dr Dorothy Riddle.
It has undergone an initial re-working by the Secretariat and is presented to Members as a WORK IN PROGRESS with a view to eliciting input for the next stage of revision and development.*

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NOTE BY THE SECRETARIAT

This project is aimed at assisting WTO Members, in particular developing countries, to successfully conduct the "request-offer" stage of the GATS negotiations. The project has two parts.

Part I looks at how countries might position themselves to be ready for the negotiations, in terms of both consultation with domestic stakeholders and necessary intra-governmental co-ordination. The study outlines practical steps countries could take both to develop a dialogue with key domestic stakeholders to determine their key negotiating interests under the GATS, and to improve the co-ordination between trade negotiators and other key departments and agencies which is essential for GATS negotiations.

Part II of the study, which is currently in very preliminary form, focuses on the development of a practical, operational checklist for negotiators covering a range of issues they need to "tick off" so as to make a success of the next – market access – phase of GATS negotiations. The purpose of the negotiating checklist is to provide officials with a comprehensive, horizontal road map of all measures and policy parameters that may affect the value of a scheduled commitment. It is designed to assist negotiators in gathering necessary information from their negotiating partners to assess the value of offers made and to frame appropriate requests. While useful for all WTO Members, the checklist could be particularly important as a technical assistance tool for developing country negotiators.

The study, as its title notes, is presently a work in progress. It is being presented at this stage in order to elicit input from Members. At this stage, it is proposed to supplement the existing material in Part I of the study with case studies and examples of "best practices and lessons learnt" by OECD Members in the context of developing their domestic consultations and intra-governmental co-ordination. Members are therefore invited to submit any such material to the Secretariat by 30 April. Part II requires considerable further development in order to serve as a technical assistance tool and Members' feedback here would also be most useful.

MANAGING “REQUEST-OFFER” NEGOTIATIONS UNDER THE GATS: AN INTERIM REPORT

Part I: Preparing for the GATS “Request-Offer” Negotiations

A. *Consultations with domestic stakeholders*

The challenges in domestic stakeholder consultations

1. WTO Members face numerous challenges in understanding how to maximise the benefits to their economies from services trade negotiations. There are several reasons for this. First, Members still have incomplete information about the current status of services trade activities. Most export development initiatives have focused on goods trade, and so service exporters have become used to operating independently of government programs. Government officials therefore typically have only anecdotal data on services export activities. Services trade statistics have historically been incomplete, in part because there is not a convenient check point (such as a border crossing) at which trade data can be collected for the majority of services but also because many service firms are unaware that they are exporters. Most WTO Members not only lack information about what services are being exported to which markets, but also lack a registry of service exporters to query.
2. Second, a related issue is that most Members do not collect detailed statistics on services that firms or households purchase and so do not have usefully disaggregated data on services inputs into national economic sectors, including as imports. This hinders efforts at measuring the impact on the domestic economy of either liberalising or restricting access to foreign services.
3. Third, at least 95 percent of service firms are small or very small and so are often under-represented in statistical surveys due to response burden. In addition, very small firms typically do not have staff dedicated to government relations and so do not participate actively in government trade consultations.
4. Fourth, services trade agreements are new and, as yet, have tended to offer relatively few actual liberalisation benefits, i.e. in the form of a rolling back of barriers to trade and investment, other than transparency. Thus, neither service exporters nor service importers have been highly motivated to participate in government consultations.
5. Finally, advocacy groups such as industry associations are still largely unaware of their smaller members’ service export activities and so are not always able to represent their interests. In many WTO Members, services industry associations are relatively less developed than their counterparts in manufacturing or agriculture.

Objectives of domestic stakeholder consultations

6. In order to negotiate effectively, WTO Members need to achieve the following objectives in consultations with domestic stakeholders:

- Learn who is already exporting which services to what markets

A major purpose of negotiations is to strengthen the competitive positioning of Members' service exporters. However, if a government is unaware of its economy's competitive strengths, it could inadvertently undermine them. Developing economies in particular have tended to assume that little export activity was occurring. However, research by the International Trade Centre (UNCTAD/WTO) has determined that their service firms are usually exporting a minimum of 40 different types of services to a range of export markets.

- Learn what will make a competitive difference for their service firms

To develop negotiating positions, WTO Members need to know what non-tariff or regulatory obstacles their service exporters are encountering (by mode of supply), both in their sector and in related sectors. They also need to determine priority export markets for the "request" process. This latter issue is challenging as the global competitive environment for services is rapidly changing, and service exporters typically operate in a wider range of markets than do goods exporters. Since it is easiest to enter a new service market if the firm has an advocate who knows the quality of the service being provided, important export markets include those from which foreign investors have come, those with significant expatriate populations, those that are common travel destinations, and those with whom there are economic integration agreements.

- Determine the role played by service imports and how to ensure economic benefits from more liberal market access

The competitiveness of all domestic enterprises, as well as the quality of life for citizens, depends on the type and quality of service inputs available to them. Having the option to import can provide a competitive incentive to improve quality and availability. In addition, foreign firms that elect to establish local offices may create jobs and other economic spin-offs.

Maximising the gains from the liberalisation may also involve regulatory reform to ensure that the necessary regulatory frameworks are in place, for example to ensure that liberalisation results in a genuinely competitive market or to that important public policy goals are met.

- Gauge the impact of various liberalisation strategies on the domestic economy

Services trade liberalisation affects both service exporters and domestic service suppliers, as well as making the business environment more attractive to foreign investors. Stakeholders also include those responsible for labour force development, labour conditions, consumer welfare, health and environmental impact, and safety and security.

- Build domestic support for liberalisation of services trade

Perhaps because the GATS is a complex trade agreement that touches on services that affect quality of life, it has become an international focal point for concerns about globalisation. Some civil society representatives are currently arguing that the GATS will infringe on sovereignty, disrupt basic services (such as education, health, utilities), force favouritism towards foreign investors, and limit environmental obligations. They overlook both the degree of choice involved in making sectoral commitments under the GATS and the actual role of service firms in creating the vast majority of new jobs. It is important to engender an informed public debate about services liberalisation, including by creating opportunities for dialogue between service exporters (especially small and very small firms) and representatives of relevant public interest groups.

Providing initial briefings

7. The GATS differs from the GATT in terms of the greater degree of flexibility afforded by its "bottom up" approach with regard to the sectors in which commitments are made and the nature of those commitments. These differences are at the heart of many misunderstandings about the GATS. Before useful consultations can take place, it is important to ensure that all participants have a solid basic understanding of the GATS, including the following issues: what constitutes a traded service (i.e., the four modes of supply); the scope of the agreement; what can and cannot be influenced in the negotiations; the nature of the scheduling process and the structure of GATS schedules; and the meaning of bound commitments.

8. In addition to specifically tailored material which might be developed at the national level (including statistics on that WTO Member's services exports), the following general materials can be helpful in providing a background on the agreement:

- GATS PowerPoint presentations for developing countries¹
- *GATS: Fact and Fiction* (WTO)²
- “An Introduction to the GATS” (WTO)³
- “Open Services Markets Matter” (OECD)⁴
- *Business Guide to the General Agreement on Trade in Services* (Commonwealth Secretariat and ITC)⁵.

1. Available at www.intracen.org.

2. Available at www.wto.org.

3. Available at www.wti.org.

4. Available as a forthcoming publication and at www.oecd.org.

5. Publication may be ordered via the ICT web-site - www.intracen.org. A limited number are available free of charge to official institutions and firms in developing and transition economies.

Who to include in the consultation process

9. One of the challenges in the consultation process is to obtain a representative cross-section of input. In contrast to manufacturers, service exporters are typically located throughout an economy, often in every community, rather than being concentrated in or around major urban areas. Also, it is important to have representation by size of firm. Typically it is larger firms that have the staff time to participate in consultations and that are located conveniently in the capital region. However, data from OECD⁶ and from Statistics Canada's Business Register indicate that 50 percent of U.S. and 93 percent of E.U. firms have fewer than 10 employees, and that 57 percent of Canadian service firms have fewer than five employees. If a Business Register is used to select service firms for surveys or consultative groups, the composition of the Register should first be checked to ensure that at least two-thirds of the businesses are service firms. If that is not the case, it is unlikely that the Register contains an adequate representation of service firms.

10. Because requests and offers are conducted by sector and by mode of supply, it is helpful to organise consultations by sectors or clusters of related sectors. There are five types of domestic stakeholders that it can be helpful to include (in addition to government ministries):

- Representative service exporters

In selecting representative firms, it is important to remember that services can be exported not only by private sector firms but also by government agencies (e.g., engineering services) and by non-profit organisations that provide for-fee services (e.g., training services).

- Representative foreign firms established in the local market

Because services are traded through local presence, it is helpful to talk to representatives of firms trading through Mode 3.

- Regulators of service suppliers

One of the key issues is ensuring the quality of services and the competence of the service suppliers; therefore, representation of licensing boards and other regulatory bodies is essential.

- Advocates for service suppliers

Trade and industry associations can play an important role in representing the interests and concerns of their members.

- Advocates for consumers

Services play a very important role in the lives of all citizens so it is important to have the consumer voice represented. Transnational NGOs may have the resources to provide excellent briefings on economic and social impacts in general. However, it will be important to ensure that representatives of such groups are from the domestic economy and are well versed in the actual circumstances for consumers in the particular country.

6. *Small and Medium-Sized Enterprises: Local Strength, Global Reach, OECD*. Policy Brief available at www.oecd.org. See also forthcoming publication *The OECD Small and Medium Sized Enterprise Outlook: 2000 edition*.

Equally, operators in other sectors of the economy - such as agriculture or manufacturing - are also important consumers of services (e.g., transportation or financial services) and their interests should also be represented.

- Advocates for those employed in the services sector

Services account for between 50-70% of employment in both developed and developing countries, encompassing both large firms and small and medium sized enterprises. Labour unions and other forms of worker representation would thus be important dialogue partners.

11. **Annex I** provides a suggested list of stakeholders to be included in consultations for a selected range of sectors. This list is indicative and designed to provoke discussion at the domestic level, as the relevant participants may vary by country.

Issues to be covered in the consultations

12. The consultations need to cover issues that are of particular interest to the stakeholders in order to be sure that they perceive the consultations as relevant and beneficial. In addition to the issues arising in the context of the range of objectives outlined above, the following are some of the issues of particular importance to small service exporters:

- Temporary business entry

For many small service firms, travel to the export market for business development and client service is essential to their success. A summary of some key issues on temporary business entry is provided in **Annex II**.

- Mutual recognition of professional credentials

In order to bid on contracts, professionals often need to be licensed in the export market. If the firm exports to a number of markets, obtaining multiple licenses can be time-consuming and costly. A summary of the issues is provided in **Annex III**.

- Removal of requirements for local presence/seeking broader commitments on mode 1 trade

During the Uruguay Round, the primary input from the private sector was from large service firms interested in investment abroad (Mode 3). For small service firms, a critical issue is not having to establish abroad in order to export, as well as not having a portion of fees withheld at source (which can negate potential profitability).

- E-trade/e-commerce

At the time that the GATS was developed, e-trade was not yet a significant commercial option; however, the explosive growth of the Internet and related communications technologies provides strong impetus for increased services trade and has also raised the issue of "technological neutrality" under the GATS.

13. Particular issues also arise for developing countries. To ensure that the GATS helps to serve and support development objectives, it will be important to identify positive interests for both export "requests" and import "offers" rather than simply on defensive positions. The following are examples of areas on which developing countries may wish to focus:

- Examples of export interests:
 - greater mode 4 access and/or better procedures (e.g., visas issues at border for business travel under 30 days; students and conference attendees with appropriate documentation);
 - recognition of professional credentials;
 - right to trade without a local establishment (subject to meeting consumer protection requirements);
 - identification of problems in areas of major export interest (tourism, energy services, construction services);
 - identification of niche export opportunities as the production chain goes global - e.g., back office processing;
 - mobility of health insurance to encourage greater export of health services.
- Examples of import interests:
 - possible contribution of FDI in improving infrastructure (e.g., transport, environmental services, telecommunications);
 - possible contribution of FDI to creation of a competitive market for important backbone services (telecommunications, financial services);
 - contribution of services imports to provision of quality services and technology transfer in key industries (e.g., tourism, health, education).

14. In order for the consultations to be useful for negotiations, the input is needed, to the extent possible, by sector, mode of supply, and export market. Government negotiators need information both on impediments that are not yet scheduled for liberalisation and on whether or not scheduled liberalisation is actually being implemented. Position statements from private sector groups in other WTO Members are available via the Global Services Network (GSN) which has both individual and organisational members, including national coalitions of service industries.⁷

15. To help with the process of consultation, the International Trade Centre UNCTAD/WTO has published a “GATS Consultation Kit,”⁸ which contains a series of questions organised in three groupings: (a) barriers encountered related to the general principles in the GATS, (b) barriers encountered by mode of supply, and (c) possible market access impediments encountered in domestic regulations and their implementation. These questions may need to be adapted to make sure that all the information needed to assess the impact of services liberalisation and to formulate requests and offers is being captured in the consultation process.

7. See www.GlobalServicesNetwork.com.

8. This can be found either in the *Business Guide to the General Agreement on Trade Services* (op cit.) or online at www.intracen.org.

16. The issues upon which input is needed is covered in more detail in Part II of this study, which contains a preliminary checklist for assessing negotiating options. Clearly, the two processes are interdependent - the process of shaping requests and offers rests upon information gathered via consultations, and the process of assessing requests and offers received requires feedback from ongoing processes of co-ordination and consultation.

How to structure the consultation process

17. Indeed, effective consultation is an ongoing, two-way process – i.e., stakeholders provide initial input and receive initial feedback, then comment on negotiating alternatives, and receive feedback on the negotiations as they progress. If the consultation is only one-way, exporter stakeholders will soon lose interest and critics or groups with a defensive or rent-protecting agenda may gain disproportionate influence.

18. Countries differ in terms of the resources and technology available to manage the consultation process. Ideally, it is helpful to have a dedicated official, marketing or public relations person in charge of an ongoing consultation process. If the process is being managed by a government with few resources, using automated consultation mechanisms (like e-mail) can work well. Most service exporters use e-mail and will respond to brief requests for information. More detailed questions would need to be handled via phone calls or personal interviews. Alternatively, governments may work with associations, such as local Chambers of Commerce, to conduct in-person consultations.

19. In order to ensure a representative cross-section of stakeholders, five main mechanisms can be used:

- ‘Virtual’ consultation via e-mail

Since virtually all service exporters use e-mail, this mechanism offers an opportunity to get input from a wide range of service firms throughout the country. To be successful, the questions should be answerable in a few minutes by return e-mail. A summary of the responses, with assistance in addressing problems raised, can then be e-mailed back to participants.

- In-person focus/discussion groups

This mechanism allows for more detailed input, provided that the facilitator is skilled, groups are organised throughout the country, and participants are representative of key sectors and firm size and other key stakeholder groups (i.e., NGOs, labour unions, university researchers, and other networks or consultative bodies). Written feedback should be provided, similar to that provided for the virtual consultation.

- Periodic topical surveys (by mail or online)

This is a commonly used mechanism. However, as responses are primarily from large firms or international NGOs with staff available to answer surveys, results may not always be representative.

- Op-ed pieces or other regular media content, seeking reactions

Developing a regular print or audio-visual forum can be very helpful. Government Ministers or officials can describe the aims or outcomes of trade negotiations, identify the pros and cons, and invite comment.

- Online discussion groups (managed by service industry associations)

This mechanism can supplement other strategies and, if well moderated, can keep stakeholders engaged over time.

- Ongoing sectoral advisory groups

This mechanism is an important supplement for advice to lead negotiators. Advisory groups can be constituted by sector, drawing from the stakeholders listed in Table 1 and chaired by the relevant government ministry(ies).

20. In general, public consultations should aim to bring together stakeholders with differing views so that different groups are exposed to the full range of factors which the government must take into account and balance in the negotiating process. It may also be helpful to have public debates between domestic service exporters, service importers, and public interest groups to help clarify the actual economic consequences of trade and investment liberalisation under the GATS and of regulatory reform issues. Such debates may help to address possible misconceptions and misunderstandings in the public policy debate over liberalisation and reform issues.

Supporting the development of a national services coalition

21. While there are policy issues specific to each service industry, there are also a number of common, cross-sectoral, issues. For example, professional service industries are generally concerned with the harmonisation of standards and/or the mutual recognition of professional credentials. Other common issues include temporary business travel abroad, export finance, and access to government procurement contracts.

22. Having a national federation of service industry associations, or a national services coalition, can help streamline the consultation process. In many developing countries, only a few services have their own association (e.g., accountants, engineers, lawyers). By helping an umbrella organisation, like the Chamber of Commerce, create such a federation, a country's services negotiators can help build private sector capacity to identify and represent the business interests of all service exporters and users.

23. During the 1980s, a number of countries developed coalitions of service industries to ensure that the concerns of service firms were well represented in the Uruguay Round discussions. The earliest of such entities was the U.S. Coalition of Service Industries, comprising major international firms such as American Express and Citibank. Among the other active coalitions are the following: British Invisibles, Hong Kong Coalition of Service Industries, and the Irish Coalition of Service Industries. Similar organisations have been formed in Argentina, Uganda, and the Caribbean. The coalitions have sponsored regular international conferences to discuss trade policy issues with trade officials and negotiators, and to share best practices with each other. Any beginning federation can get technical advice from the Global Services Network (see footnote 7).

B. Intra-governmental co-ordination

24. A major challenge in the GATS negotiations is that in virtually all economies there is no single government agency responsible for all services. Instead a wide range of agencies, regulatory bodies and

ministries are involved, directly and indirectly. Moreover, in countries with federal political systems, much of the regulation of services occurs at sub-federal levels (state/province). In most countries, services markets will also encounter regulation at the municipal level and in some instances (e.g., professional licensing), regulation has been delegated to private sector organisations. A related challenge is the fact that there are a minimum of 150 service sub-sectors covered by the GATS, and trade officials may lack the necessary expertise to understand the key issues for negotiations in each sub-sector.

Why co-ordination is important

25. Given the regulatory intensity of many service activities and the range of sectors involved, proper co-ordination across various government agencies is critical. This co-ordination is important for six reasons:

- To create a whole of government positions

GATS negotiations are highly information intensive. Co-ordination is essential to develop negotiating positions based on a complete assessment of key national priorities, and to ensure that negotiators are well informed of the full range of factors influencing the domestic services market.

- To create an information base on measures affecting trade in services

One of the obligations of the GATS is to be able to provide trading partners with accurate information on the domestic regulatory environment affecting trade in services for all four modes of supply. This can be assisted by the creation of a central inventory, or focal point (and, preferably, a database), of the various regulatory measures, and a means for keeping that inventory up to date.

- To identify and analyse the effects of specific measures on the achievement of economic or social policy objectives

Governments at all levels need to periodically review the effectiveness of existing domestic policies and regulations in achieving underlying economic and social policy objectives. This may include an analysis of the trade or investment effects of regulatory measures. **Annex IV** provides an outline of some questions to consider in ensuring that liberalisation is accompanied by any necessary regulatory reform (e.g., the creation of a genuinely competitive market) and that important public policy goals (e.g., universal service) are achieved.

- To create an awareness of the impact of GATS disciplines on regulatory conduct in sectors where commitments are scheduled, including in respect of notification requirements

In developing new policy initiatives, all parts of government need to be sensitised to the need to take into account current services trade commitments, to consider incorporating international standards where applicable, and to meet notification requirements and disciplines on regulatory conduct. **Annex V** provides an outline of such requirements and disciplines.

- To avoid duplication in domestic consultations

Especially among small and very small service firms, it is important to avoid unnecessary surveying in order to retain their co-operation. If a particular government entity needs to consult with firms under its direct mandate, that consultation should be co-ordinated with the trade ministry to include any GATS-related issues instead of re-surveying the firms specifically about GATS.

- To contribute to an ongoing assessment of the impact of services trade liberalisation

In most countries, data for impact analysis is the responsibility of the national statistical agency. However, such a task is challenging for several reasons and recourse to anecdotal information can be useful. First, services trade agreements address the issue of the *flow* of services, while data collection is typically focused on populations of *service industries*. Second, services trade agreements cover four modes of supply, while data collection is typically focused on cross-border trade (Modes 1 and 4), a limited portion of in-country trade such as tourism or education services (Mode 2), and very little of foreign affiliate trade (Mode 3). Third, a particular service may also be exported by goods manufacturers and firms in related service industries; simply surveying one particular service industry may therefore not always give a complete picture of export activity. Goods trade statistics include services that are exported by manufacturers, including both services bundled with goods (e.g., maintenance or training agreements) and stand-alone services sold by manufacturers to foreigners (e.g., financial services, consulting services). “Bundled” services sold to foreigners need to be distinguished from domestic service transactions that are embedded in exported goods and so are not service exports.

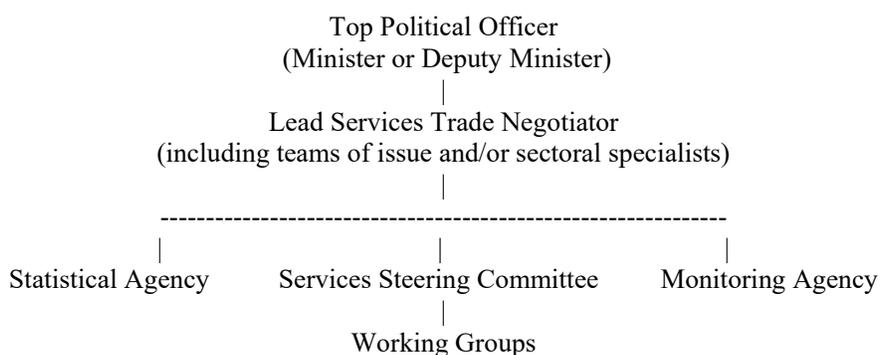
The various parts of government that participate in data collection should be alert to the relevant issues for assessment and the consequent data requirements. **Annex VI** provides a suggested framework for assessing the impact of services trade liberalisation.

Structure of the co-ordination

26. From an organisational perspective, a structure is needed which includes the following functions/roles:

- senior political authority to reinforce that the GATS is an important trade agreement and that services trade more broadly is important to the national economy;
- a Services Steering Committee that allows for co-ordination among the various Working Groups and support functions;
- 16 Working Groups (see **Annex VII**);
- a statistical or other relevant agency to contribute to impact assessment;
- an entity (e.g., an Auditor-General) to monitor and review policy implementation.

27. A possible organisational structure could look something like the following:



28. The structure outlined above, and the 16 working groups (see **Annex VII**), may not be feasible for governments with significant human resource constraints. Governments may choose to create fewer working groups by merging some of them. For example, the following would be a possible set of four working groups:

- business services, construction, education, environmental services, health;
- communications, distribution, transport;
- recreation/culture/entertainment, sports, tourism;
- cross-cutting issues.

29. Governments could also choose to focus only on selected priority sectors, though this can raise challenges since sectors are often highly inter-related.

Types of co-ordination

30. Given the multitude of sub-sectors and measures arising from services trade, it is important not to inundate key departments and agencies with too much communication. At the same time it is important to engage intra-governmental partners as needed. Co-ordination can be of four types:

- in-person briefings;
- in-person discussions and consensus on a negotiating approach;
- news briefs coded as:
 - "For Your Information"
 - "For Your Action"
 - "For Your Authorisation";
- regularly updated intranet site (see **Annex VIII**).

Links with domestic stakeholder consultations

31. Through the lead services trade negotiator and the teams of sectoral specialists, it will be critical to feed in and disseminate the results of stakeholder consultations and avoid parallel consultative initiatives.

**ANNEX I: SAMPLE LIST OF DOMESTIC STAKEHOLDERS IN ADDITION TO
GOVERNMENT MINISTRIES**

GATS Sector	Exporters	Other Stakeholders
Business services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Professional services associations Professional licensing registrars Service Industry associations Real Estate Board Convention Board National Research Council Unions
Communication services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Service industry associations Telecommunications regulator National Film Board National News Service Unions Producers in other sectors which consume these services
Construction & related engineering services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Construction Association Engineering Association Architectural Association Housing Authority Environmental Impact Safety Standards Unions Producers in other sectors which consume these services
Distribution services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Retailers Association Wholesalers Association Importers Association Franchise Association Duty-Free Shops Unions
Education and training services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Teachers Unions Association of Private Schools Association of Community Colleges Career Guidance Association Student Associations
Environmental services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Environmental Services Association Environmental Impact Agency Unions Environmental NGOs Producers in other sectors which consume these services Consumer groups

GATS Sector	Exporters	Other Stakeholders
Financial services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Bankers Association Brokers Association Insurance Association Central Bank/Finance Ministry Security Exchange/Stock Market Securities Regulator Unions Producers in other sectors which consume these services
Health-related & social services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Hospital Association Outpatient Clinics Association Health advocates Social welfare advocates Unions
Recreational, cultural, entertainment & sporting services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Major sports team managers National museum National library and archives National performing arts groups Council for the Arts Unions
Tourism and travel-related services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Travel agencies association Tour guides association Hotel association Restaurant association Parks Authority Environmental Impact Agency Unions
Transport services	Small & large national firms who sell by each mode TNC subsidiaries (Mode 3) Government agencies Non-profit organisations	Airport Authority Air Traffic Controllers Association Port Authority Vehicle licensing authority Unions Producers in other sectors which consume these services
Other (energy services)	Utility companies Energy trading companies	Utility regulators Industry associations (including from other sectors which consume these services) User/consumer advocates Environmental NGOs Unions

ANNEX II: TEMPORARY ENTRY OF SERVICE SUPPLIERS - MODE 4

32. Temporary movement of services suppliers under GATS mode 4 covers a range of activities, for example:

- “business visitors” moving across borders in order to attend conferences, develop business, deliver services, and report to clients;
- intra-corporate transferees going abroad to serve a term in a foreign branch of their company (closely linked to the operation of a commercial presence governed by commitments under Mode 3);
- independent service suppliers going abroad to provide services on a contractual basis to a domestic firm or foreign established supplier (mode 3).

33. To date, six proposals have been tabled on mode 4 trade by Canada, Colombia, the European Communities and their Member States, India, Japan, and the United States. Additionally, mode 4 has also been raised in the omnibus proposal submitted by Kenya, as well as in the context of a number of sector-specific proposals. Proposals on mode 4 vary in scope and ambition. The following sets out some of the issues that have been raised:

- The range of occupational groups to be granted easier cross-border movement

A number of proposals focus on improving access for “key business personnel,” meaning senior employees with significant management responsibility plus professional staff and others with “high or uncommon qualifications or knowledge.” Other proposals seek to expand the range of mode 4 commitments to include middle and lower level professionals (e.g., research staff, marketing staff, executive support staff, staff in training for professional or technical positions), using definitions from the International Standard Classification of Occupations (ISCO-88).

- Economic Needs Tests (ENTs)

Some proposals seek greater transparency in the criteria used in ENTs and the conditions under which they would apply in order to increase predictability of market access and decrease the scope for arbitrary application. Others also seek to limit the number of sectors in which ENTs would apply.

- A possible “GATS Visa”

This would be available to certain types of mode 4 workers, with the objective of facilitating temporary entry over the life of a particular service contract and clearly separating mode 4 entry from the more onerous procedures associated with applications for permanent migration.

- Transparency in, and simplification of, mode 4 procedures

A number of proposals suggest ways in which information on mode 4 market access opportunities and the necessary procedures to be followed to take advantage of that access can be made more readily available and accessible. Additionally, streamlining of the procedures and information required has also been proposed.

34. Proposals on mode 4 have also been developed by a number of industry groups. For example, the European Services Forum has proposed a Model Schedule Covering the Temporary Entry of Natural Persons under the GATS, which can be viewed on its web-site (www.esf.be). Similar proposals have also been developed by the United States Coalition of Service Industries, including in the context of their comments on possible free trade agreements between the United States and Chile, and the United States and Singapore [see *Inside US Trade*, January 18, 2002].

ANNEX III: MUTUAL RECOGNITION OF PROFESSIONAL CREDENTIALS

35. For professional services, one of the main barriers to services trade is a lack of recognition of professional qualifications. To some extent, this issue can be addressed by working with local partners in export markets. However, such an approach may limit the competitive options of exporters of professional services. The European Union already has considerable experience in the harmonisation and mutual recognition of professional requirements as part of its development of a single internal market. At issue are equivalencies between different educational programs and requirements; what knowledge and skills are generic and which are jurisdiction-specific; how to assess professional competence in areas where formal qualifications or university degrees may not be the only or main qualification (e.g., some positions in the field of information and communications technology); the specific means through which professionals can be held accountable across borders for unprofessional conduct; and how mutual recognition agreements (MRAs) are to be developed and enforced.

36. At the present time, most MRAs are between developed economies, although there is work underway that involves both developed and developing countries (e.g., in the context of NAFTA and APEC). It can be helpful to have service industry associations take the lead in creating MRAs, supported by international professional associations and their standards of practice.

37. The GATS does not so much require development of MRAs as permit them. Article VII (Recognition) provides that Members may recognise the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. This recognition may be achieved via harmonisation or otherwise, and may be based on an agreement/arrangement or extended autonomously. Other Members must be afforded adequate opportunity to negotiate their accession to any such agreement, to negotiate comparable agreements or, where recognition is extended autonomously, to demonstrate their claims to similar recognition. Members cannot accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for authorisation, licensing or certification, or a disguised restriction on trade in services. Current requirements on MRAs are relatively limited and relate mainly to notification and providing other Members with the opportunity to participate in MRA negotiations. In addition, Members must:

- inform the Council for Trade in Services (CTS) of existing recognition measures;
- promptly inform the CTS when they adopt new recognition measures or significantly modify existing ones;
- promptly inform the CTS as far in advance as possible of the opening of negotiations on an MRA in order to provide adequate opportunity to any other Member to indicate their interest in participating in the negotiations before they enter a substantive phase.

38. Similarly, while the GATS does not require the use of international standards it states that, whenever appropriate, recognition should be based on multilaterally agreed criteria. Members are also encouraged to work towards the development of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions.

ANNEX IV: DOMESTIC REGULATION

39. All governments have the right and responsibility to regulate services given the likelihood of market failures or the need to achieve social policy objectives. Most regulatory environments have developed without much thought being given to the trade impact of domestic regulatory conduct. In addition, many developing economies have regulatory gaps that need to be addressed through regulatory reform efforts, sometimes as a precursor or as an accompaniment to services trade and investment liberalisation.

40. To help with the process of regulatory review and development, a number of issues may need to be addressed. The list of questions and factors to be considered below is indicative only and is certainly not exhaustive. Members may not view all the points raised as being important, or may assign different degrees of importance to different factors. This list is intended as a guide, a contribution to the process of considering the interface between regulation and liberalisation.

- What is the purpose of the regulation? Common objectives include the following:
 - consumer protection;
 - fiduciary prudence and fiscal policy;
 - equitable (and universal) access to service;
 - quality assurance and safety standards;
 - environmental protection;
 - reducing income and regional disparities;
 - ensuring competition.
- What criteria should be used to ensure an effective and non-discriminatory regulation? For example, considerations might include:
 - reasonable and necessary;
 - objective and impartial in its application;
 - transparent (easy to find, easy to understand);
 - proportional in its impact to the objective to be achieved;
 - linked to international standards;
 - technologically neutral.
- How is the regulation implemented?
 - transparent and impartial procedures;

- applicants able to get timely information on the status of their application;
- possibility to provide input or comments prior to the adoption of regulatory measures.
- What recourse does a service supplier have with regard to the appeal of administrative decisions?

41. Consideration and weighing of these different factors, while essential for effective liberalisation which serves national objectives, including development objectives, can be a challenging process. Many WTO Members will require technical assistance in terms of regulatory capacity building, as well as training and assistance regarding the implementation of regulations.

ANNEX V: NOTIFICATION REQUIREMENTS AND DISCIPLINES ON DOMESTIC REGULATION UNDER THE GATS

Notification Obligations

- Within 12 months of the GATS taking effect, notify to the Council for Trade in Services:
 - the Member’s existing recognition measures and whether or not they are based on a mutual recognition agreement [Article VII:4a].
- Within 24 months of the GATS taking effect, notify to the Council for Trade in Services:
 - the Member’s Enquiry Point [Article III:4];
 - the Member’s Contact Point, if the Member is a developed country [Article IV:2].
- Promptly notify to the Council for Trade in Services:
 - any economic integration agreement to which the Member becomes a party, or “any enlargement or significant modification” of an economic integration agreement [Article V:7a];
 - the opening of negotiations on a mutual recognition agreement [Article VII:4b];
 - the adoption, or significant modification, of recognition measures [Article VII:4c].
- Promptly notify to the General Council:
 - any restrictions on trade in services adopted or maintained due to serious balance-of-payments or external financial difficulties or threat thereof [Article XII:4].
- Periodically notify to the Council for Trade in Services:
 - the implementation progress of any economic integration agreement to which the Member is a party which is being implemented on the basis of a time-frame [Article V:7b].
- Give 90 days advance notice to the Council for Trade in Services of:
 - intentions to “withdraw or modify a specific commitment inconsistently with the terms and conditions set out in its Schedule” due to becoming a party to an economic integration agreement [Article V:5];

- intentions to grant monopoly rights or an exclusive service supplier status [Article VIII:4];
- intentions to modify or withdraw a commitment in the Member's Schedule [Article XXI:1b];
- Annually notify to the Council for Trade in Services:
 - the introduction of any new, or any changes to existing laws, regulations for administrative guidelines which significantly affect trade in services covered by a Member's specific commitments [Article III:3].
- At the end of an MFN exemption period, notify to the Council for Trade in Services:
 - that the inconsistent measure has been brought into conformity with GATS MFN provisions [Annex on Article II Exemptions:7].

Disciplines on Domestic Regulation

- *In sectors where specific commitments are undertaken*, regulations are to be administered in a reasonable, objective, and impartial manner (Article VI:1).
- Members are to maintain judicial, arbitral or administrative tribunals or procedures to provide, at the request of an affected service supplier, for the prompt review of and, where justified, appropriate remedies for, administrative decisions affecting trade in services. Where these procedures are not independent of the agency entrusted with the administrative decision concerned, the Member shall ensure that the procedures in fact provide for objective and impartial review. However, this does not require a Member to institute such tribunals or procedures where this could be inconsistent with its constitutional structure or the nature of its legal system.
- Where authorisation is required to supply a service *on which a specific commitment has been made*, the competent authorities of a Member shall, within a reasonable period after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the Member shall provide, without undue delay, information concerning the status of the application.
- To ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, Article VI:4 mandates the development of disciplines to ensure that such requirements are, *inter alia*:
 - based on objective and transparent criteria;
 - not more burdensome than necessary to ensure the quality of the service;
 - in the case of licensing procedures, not in themselves a restriction on the supply of the service.

- Pending the entry into force of these disciplines, *in sectors where they have made specific commitments*, Members shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific commitments in a manner which (Article VI.5):
 - does not comply with the three criteria outlined above;
 - could not reasonably have been expected of that member state the time the specific commitments were made.
- In sectors where commitments for professional services have been made, provide for adequate procedures to verify the competence of professionals of any other Member (Article VI.6). (See also Annex III on recognition).

ANNEX VI: SAMPLE FRAMEWORK FOR ASSESSING THE IMPACT OF SERVICES TRADE LIBERALISATION

42. The following table sets out some preliminary thinking on how the impact of services trade liberalisation might be measured and the kinds of data that might be required. It is indicative only at this stage. It should also be noted that much of the required data may not currently be available for a number of WTO Members and that some of the suggested data sources may not have an exact fit with GATS sectors or commitments.

GATS Objective	Performance Measure	Data Available or Needed
<i>Economic benefits</i>		
Development of the Member's economy	GDP growth Increase in GDP growth Increase in per capita GDP	Annual GDP data Annual population data
Expansion of the Member's services exports	Growth in each services trade category Growth in the number of service exporters Increase in the range of services exported Growth in the number of services export markets Reduction in barriers abroad	Central bank or IMF data on services (total), transport, travel, & other services Enumeration of number of service exporters* Enumeration of the services being exported** List of the markets to which services are being exported** Reports from exporters**
Strengthened domestic services capacity & competitiveness	Increase in service industry GDP growth Increase in the number of service industry associations Increase in the number of associations addressing services trade issues Increase in number of ISO 9000 registered service firms Increased ability to attract foreign investment	GDP by industry Enumeration of associations Reports on association activities** Number of ISO 9000 registered firm by industry Increase in foreign investment activity
Employment creation	Increase in net new jobs Reduction in unemployment	Number of jobs gained/lost Unemployment rate
Increased skill levels	Increase in number of licensed professionals Increase in percent with secondary and post-secondary	Enumeration of licensed professionals % with secondary education % with post-secondary

GATS Objective	Performance Measure	Data Available or Needed
	education	education
Reduction in “brain drain”	Reduction in the net number of expatriates abroad	Number of nationals moving abroad or returning
<i>Development benefits</i>		
Improved quality of life	Increased life expectancy Reduced infant mortality Increased literacy rate Increase in range of services available	Life expectancy rates Infant mortality rates Literacy rates Report of availability**
Participation of women	Increased % literate women Increased % women business owners	Literacy rates by gender Business ownership by gender
Reduction of poverty	Reduced income disparity Reduced number below poverty level Increased % with potable water Increased % with phones	Population by income Number below poverty level % with potable water Phones per population
Equitable access to services	Increase in services employment outside urban areas Increase in range of services offered outside urban areas Reduced ratio of physicians or nurses per 100 population	Service employment by geographic location Report of available services** Ratio of physicians or nurses to population

*Requires a database of service exporters, linked to a Business Registry.

**Collected through domestic stakeholder consultations.

ANNEX VII: SUGGESTED COMPOSITION OF THE WORKING GROUPS

Working Group	Working Group Composition	
	Government Agency	Responsibilities That May Have Been Privatised
Business services	Ministry of Industry Ministry of Agriculture Ministry of Fisheries Ministry of Forestry Ministry of Mining Ministry of Justice	Real Estate Board Professional Licensing Registrar Government Printer National Research Council
Communication services	Ministry of Communications Ministry of Industry Ministry of Culture	Internet Service Suppliers Telecommunications Regulator Postal Service National Film Board National News Service
Construction and related engineering services	Ministry of Public Works Ministry of Industry	Housing Authority Planning & Zoning Authority
Distribution services	Ministry of Industry Customs Authority	
Educational services	Ministry of Education Ministry of Industry	
Environmental services	Ministry of the Environment Ministry of Industry	Waste Disposal Authority Recycling Authority
Financial services	Ministry of Finance Central Bank Insurance Registrar Securities Regulator	Securities Exchange/Stock Market
Health-related and social services	Ministry of Health Ministry of Social Welfare Ministry of Women & Families	Natural Disaster Agency Infectious Disease Authority Vocational Rehabilitation
Recreational, cultural, entertainment and sporting services	Ministry of Culture Ministry of Sports Parks Authority Recreation Centres Copyright Agency	National Museum National Library Council for the Arts
Tourism and travel-related services	Ministry of Tourism Parks Authority	
Transport services	Ministry of Transportation Vehicle Licensing	Port Authority Airport Authority
Other services	Utilities Regulator	Public utilities (water, gas, electricity)

Working Group	Working Group Composition	
	Government Agency	Responsibilities That May Have Been Privatised
Cross-Sector: Modes of Supply & E-Trade	Immigration Authority Investment Authority Export Development Authority Company Registry Land Title Registry Ministry of Trade	
Cross-Sector: Standards & Professional Credentials	Standards Agency Employment Standards Worker's Compensation Board Licensing & Work Permits Ministry of Trade	
Cross-Sector: Co-ordination among Levels of Government	Ministry of Trade	
Cross-Sector: Economic and Labour Force Development	Human Resource Development Human Rights Commission Micro-Enterprises Taxation Authority Planning & Zoning Authority Ministry of Labour	

ANNEX VIII: SAMPLE CONTENTS OF A SERVICES TRADE INTRANET

1. Inventory of measures by:
 - Sector;
 - Mode of supply;
 - Market access;
 - National treatment.
2. Existing GATS schedule.
3. Proposed additions to the GATS schedule.
4. Existing GATS schedules of key trading partners.
5. Proposed requests of trading partners.
6. Implementation timetable and responsibilities, including:
 - Training/orientation schedule;
 - Monitoring schedule.
7. Status of notifications to the Council for Trade in Services.
8. Negotiations checklist (see Part II).
9. Calendar of key dates, including:
 - Key benchmarks for negotiations;
 - WTO meeting schedules;
 - Industry and civil society consultations;
 - Bilateral meetings with trading partners (including in the context of RTAs).
10. Summary outcomes of recent meetings/state of play in negotiations.

Part II: Checklist for Assessing Negotiating Options

43. The purpose of the Services Trade Negotiation Checklist is to help officials of WTO Members ensure that any commitments ultimately scheduled under the GATS are both commercially meaningful and are not nullified or impaired by other measures and/or missing “links” in the liberalisation chain. The Services Trade Negotiation Checklist is intended to be used under the following circumstances:

- developing a Member’s own offer (autonomous, or linked to a request);
- assessing a request from a Member’s trading partner;
- assessing an offer from a Member’s trading partner;
- formulating a request of a Member’s trading partner;
- assessing whether or not to sponsor a position developed by another WTO Member.

44. The requests or offers involved could be any of the following:

- removal of a scheduled restriction;
- removal of an unscheduled restriction;
- scheduling of existing liberal practices;
- scheduling of new liberalisation commitments (immediate, or phased in);
- scheduling of existing restrictions;
- implementing a scheduled liberalisation commitment.

45. The Services Trade Negotiation Checklist is presented in three parts:

- Part A: Formulation of the liberalisation request or offer

This part focuses on the specifics of the request or offer, how it relates to identified priority benefits or defensive concerns, and what other issues need to be considered such as underlying regulatory conditions and commitments.

- Part B: Questions to be answered about the value of the request or offer

This part begins with the link to national policy objectives and expected economic impacts. It then covers other GATS issues such as whether or not international standards are being used [GATS Article VII:5], the rationale for any applicable economic needs test [GATS, Article XVI], the presence and potential trade- and/or investment inhibiting effects of monopolies or exclusive service providers [GATS Article VIII], measures affecting market access [GATS Article XVI], measures affecting national treatment [GATS Article XVII], cross-cutting measures, the manner in which regulations are implemented [GATS Articles VI and VII], and any preferential treatment arising from economic integration agreements [GATS Article V].

- Part C: Additional questions

This part contains questions that may vary across sectors. The first set has to do with the implications of making an offer or responding to a request. The second set is specific to responding to requests to support a particular position submitted by a trading partner.

A. *Formulation of the liberalisation request or offer*

46. The GATS provides for a range of choices in making specific commitments. Members can choose to make no commitment for a sector; or to maintain a horizontal restriction. Where they choose to make a commitments, Members can:

- exclude parts of a sector or sub-sector or a particular mode of supply;
- limit access in any sector and/or mode by scheduling market access restrictions;
- discriminate against foreign suppliers in any sector and/or mode by scheduling limitations on national treatment;
- discriminate amongst foreign suppliers where an MFN exemption has been taken or where they are party to a regional trade agreement which meets the requirements of GATS Article V;
- bind at less than the status quo;
- pre-commit to liberalisation at a future date;
- make additional commitments (e.g., with regard to good regulatory practices per the Reference Paper on Basic Telecommunications).

47. In deciding the type of access to request and offer, three issues need to be addressed:

- benefits to be achieved;
- concerns to be addressed;
- required regulatory framework or regulatory reform.

48. Gains and losses can affect different groups in society, and careful assessment needs to take account of the impact on different groups. Therefore, the indicative table below includes factors to consider regarding the benefits and concerns for the country as a whole, for consumers and for business in the process of framing requests and offers.

Table 1: Factors to consider in formulating a request or offer

Group	Possible benefits	Concerns to be addressed, including by regulatory reform
Country/economy in general	<ul style="list-style-type: none"> • More efficient use of resources • Attract more foreign investment • Expanded job opportunities; reduced “brain drain” • Enhanced labour force skills • Increased foreign exchange earnings • Increased tax revenues • Economic diversification • Increased services efficiency • Increased technology transfer • Increased economic growth throughout the economy 	<ul style="list-style-type: none"> • Ensure good quality services • Ensure adequate infrastructure for business activities • Avoid pollution • Avoid duplication of infrastructure • Able to regulate and monitor adequately • Restrict illegal activities • Maintain a stable political and economic environment • Adequate control over large foreign companies • Ensure adequate tax revenues to government • Ensure adequate resources to address labour force retraining needs
Consumers	<ul style="list-style-type: none"> • Lower prices for services (leading to better standard of living) • Better quality of service (including convenience, responsiveness, timeliness) • More choices; new services available 	<ul style="list-style-type: none"> • Regulate to ensure local/universal access to the service, plus adequate quality & reliability • Safeguard consumer rights, and provide redress for complaints • Ensure sensitivity to local needs
Business	<ul style="list-style-type: none"> • Lower costs of doing business; increased profitability • Ready availability of capital; reduced cost of funds • Greater ability to own & dispose of assets • Fewer exchange limits; ability to repatriate profits • Infusion of new technologies and innovation • Greater adherence to international standards • More opportunities for mergers and strategic alliances • Remove red tape; increase transparency regarding regulations • Access to skilled labour and expertise (locally & from abroad) • Access to larger markets; more competitive • Access to cheaper services inputs, increasing efficiency and competitiveness 	<ul style="list-style-type: none"> • Allow local firms to recoup initial investment • Encourage reinvestment in improved services • Ensure the growth of local enterprises • Ensure acceptance of locally-produced services • Ensure availability of appropriately-skilled workers • Ensure job opportunities, plus vertical mobility into management positions • Ensure disclosure of financial information by foreign firms • Ensure financing at competitive rates • Ensure effective professional (service industry) associations

B. Questions to be answered about the value of the request or offer

Question	Effect on the Value of the Request or Offer	
	Enhances	Limits
What national policy objectives are relevant: <ul style="list-style-type: none"> - Consumer protection - Fiduciary prudence & fiscal policy - Equitable (universal) access to service - Quality assurance and safety standards - Environmental impact - Reducing income and regional disparities 		
What is the expected economic impact?		
What, if any, international standards are being used?		
What are the existing regulatory measures directly relevant to the sector?		
Is there an economic needs test requirement? <ul style="list-style-type: none"> - why? - how is it conducted? 		
Are there monopolies or exclusive service providers?		
What are the existing measures that affect modes of supply for Market Access: <ul style="list-style-type: none"> Mode 1 – Is local presence required? Mode 2 – Are there restrictions on travel, payments and transfers, insurance? Mode 3 – Are there quantitative restrictions; restrictions on legal form? Mode 4 – What categories of persons are allowed temporary visas? 		
What are the existing measures that affect modes of supply for National Treatment: <ul style="list-style-type: none"> - Nationality requirements - Residency requirements - Licensing & qualification requirements - Registration requirements - Authorization requirements - Differential financial fees - Technology transfer requirements - Local content requirements - Land ownership restrictions 		
What are the Market Access restrictions on related sectors: <ul style="list-style-type: none"> - Telecommunications - Internet access - Insurance - Finance/transfer of capital, profits - Transportation - Distribution 		

Question	Effect on the Value of the Request or Offer	
	Enhances	Limits
What are the National Treatment restrictions on related sectors: <ul style="list-style-type: none"> - Telecommunications - Internet access - Insurance - Finance/transfer of capital, profits - Transportation - Distribution 		
What cross-cutting measures exist: <ul style="list-style-type: none"> - exchange controls - licensing restrictions - customs regulations affecting temporary duty-free entry of equipment or “tools of the trade” - taxation differentials - treatment under competition law - mandatory local purchase requirements - subsidies (by size of firm, nationality) - government procurement restrictions - technical standards 		
How are the relevant measures implemented? (administrative discretion; opportunity for prior comment by all interested parties; independent regulatory authority)		
If licenses or visas are granted, for how long?		
Are there specific service standards that are enforced? If so, by whom?		
How will implementation be monitored and assessed?		
What recourse for the appeal of administrative decisions exists?		
What special arrangements already exist with trading partners: <ul style="list-style-type: none"> - MRAs? - Economic integration agreements? 		

C. Additional questions of relevance to the negotiations

Issue	Response
<i>Optional questions regarding the Member's own offer or response to a request</i>	
What are the notification requirements?	
What are the transparency requirements?	
How will possible adjustment costs be addressed (e.g., retraining, investment grants)?	
What is the predicted impact on low income consumers, on disadvantaged regions?	
What is the predicted impact on health, on the environment?	
What is the predicted safety/security impact? The predicted impact on corruption and fraud?	
<i>Optional questions regarding requests for support for another Member's position</i>	
What benefits will come from supporting the other country's position?	
What potential problems could come from supporting the position?	
What would be lost by not supporting the position?	
What changes, if any, would be required in domestic services regulations if the position were adopted?	