

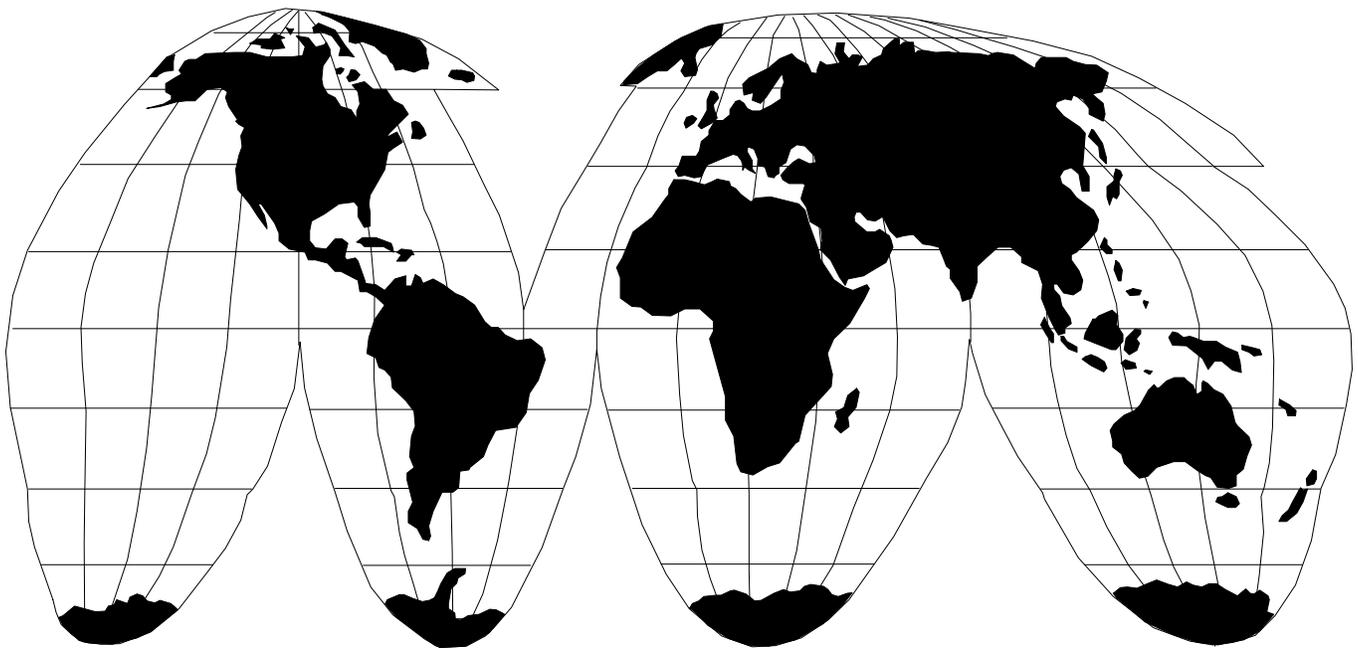
General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Eastern Europe, the European Free Trade Association, and Turkey

Investigation No. 332-385

Publication 3127

September 1998

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Lynn M. Bragg, Chairman

Marcia E. Miller, Vice Chairman

Carol T. Crawford

Jennifer A. Hillman

Stephen Koplan

Thelma J. Askey

Robert A. Rogowsky
Director of Operations

Vern Simpson
Director of Industries

Richard W. Brown
Division Chief

This report was prepared principally by the Office of Industries
Scott Ki, Project Leader
SKi@usitc.gov

Staff assigned:

Tsedale Assefa, Jennifer Baumert, James Brandon, Michael Bystry,
William Chadwick, Jr., Heidi Colby, Vincent DeSapio, Zachary Falls, Hugh Graham,
Christopher Johnson, Dennis Luther, Christopher Melly, and Amanda Yarusso

Support Staff:

Cindy Payne, Monica J. Reed, and Wanda A. Tolson

**Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436**

U.S. International Trade Commission

Washington, DC 20436

General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Eastern Europe, the European Free Trade Association, and Turkey

Investigation No. 332-385



CONTENTS

	<i>Page</i>
Preface	i
Executive Summary	xiii
Chapter 1: Introduction	1-1
Purpose and scope	1-1
Overview of the General Agreement on Trade in Services	1-2
The GATS framework	1-3
Schedules of commitments	1-3
Industry-specific commitments	1-5
Cross-industry commitments	1-6
Annexes and ministerial decisions	1-6
Methodological approach	1-8
Impediments to examining the GATS	1-10
Organization of report	1-11
Chapter 2: Overview of international trade in services ..	2-1
Introduction	2-1
Modes of supply	2-1
Cross-border trade	2-2
Sales by majority-owned affiliates	2-5
U.S. trade in services with subject trading partners	2-7
Cross-border services trade	2-7
Affiliate transactions	2-7
Chapter 3: Distribution Services	3-1
Introduction	3-1
International trade in distribution services	3-1
Cross-border transactions	3-1
Sales by majority-owned affiliates	3-2
Examination of commitments on distribution services	3-5
Bulgaria	3-20
Czech Republic	3-21
Hungary	3-22
Iceland	3-23
Liechtenstein	3-23
Norway	3-24
Poland	3-24
Romania	3-25

CONTENTS--Continued

Page

Chapter 3: Distribution Services--Continued

Slovak Republic	3-25
Slovenia	3-26
Switzerland	3-26
Industry opinion	3-27
Summary	3-29

Chapter 4: Education services

Introduction	4-1
International trade in education services	4-1
Cross border transactions	4-2
Examination of commitments on education services	4-4
Bulgaria	4-4
Czech Republic	4-11
Hungary	4-12
Liechtenstein	4-12
Norway	4-13
Poland	4-14
Slovak Republic	4-14
Slovenia	4-15
Switzerland	4-15
Turkey	4-16
Industry opinion	4-16
Summary	4-17

Chapter 5: Enhanced telecommunication services

Introduction	5-1
International trade in enhanced telecommunication services	5-1
Examination of commitments on enhanced telecommunication services	5-2
Bulgaria	5-3
Czech Republic	5-9
Hungary	5-9
Iceland	5-10
Liechtenstein	5-10
Norway	5-11
Poland	5-11
Romania	5-12
Slovak Republic	5-12
Slovenia	5-13

CONTENTS--*Continued*

Page

Chapter 5: Enhanced telecommunication services-- *Continued*

Switzerland	5-13
Turkey	5-14
Industry opinion	5-15
Summary	5-17

Chapter 6. Audiovisual services 6-1

Introduction	6-1
International trade in audiovisual services	6-1
Cross-border transactions	6-1
Sales by majority-owned affiliates	6-3
Examination of commitments on audiovisual services	6-3
Bulgaria	6-4
Czech Republic	6-10
Hungary	6-10
Iceland	6-10
Liechtenstein	6-10
Norway	6-11
Poland	6-11
Slovak Republic	6-11
Slovenia	6-12
Switzerland	6-12
Industry opinion	6-12
Summary	6-13

Chapter 7: Courier Services 7-1

Introduction	7-1
International trade in courier services	7-1
Examination of commitments on courier services	7-2
Czech Republic	7-2
Norway	7-4
Poland	7-4
Slovak Republic	7-4
Slovenia	7-5
Turkey	7-5
Industry opinion	7-5
Summary	7-7

CONTENTS--*Continued*

	<i>Page</i>
Chapter 8. Health care services	8-1
Introduction	8-1
International trade in health care services	8-1
Cross-border transactions	8-1
Sales by majority-owned affiliates	8-2
Examination of commitments on health care services	8-4
Bulgaria	8-12
Czech Republic	8-12
Hungary	8-13
Iceland	8-14
Norway	8-14
Poland	8-15
Slovak Republic	8-15
Slovenia	8-16
Switzerland	8-17
Turkey	8-17
Industry opinion	8-18
Summary	8-18
Chapter 9: Accounting services	9-1
Introduction	9-1
International trade in accounting and related services	9-1
Cross-border transactions	9-2
Sales by majority-owned affiliates	9-2
Examination of commitments on accounting services	9-2
Bulgaria	9-4
Czech Republic	9-4
Hungary	9-9
Iceland	9-9
Liechtenstein	9-10
Norway	9-10
Poland	9-11
Slovak Republic	9-11
Slovenia	9-12
Switzerland	9-12
Turkey	9-13
Industry opinion	9-13
Summary	9-15

CONTENTS--Continued

	<i>Page</i>
Chapter 10. Advertising Services	10-1
Introduction	10-1
International trade in advertising services	10-1
Cross-border transactions	10-1
Sales by majority-owned affiliates	10-2
Examination of commitments on advertising services	10-2
Bulgaria	10-4
Czech Republic	10-8
Hungary	10-8
Iceland	10-9
Liechtenstein	10-9
Norway	10-10
Poland	10-10
Slovak Republic	10-11
Slovenia	10-12
Switzerland	10-12
Turkey	10-12
Industry opinion	10-13
Summary	10-14

Chapter 11. Legal Services

Introduction	11-1
International trade in legal services	11-1
Cross border transactions	11-2
Sales by majority-owned affiliates	11-4
Examination of commitments on legal services	11-4
Bulgaria	11-4
Czech Republic	11-8
Hungary	11-8
Iceland	11-9
Liechtenstein	11-10
Norway	11-10
Poland	11-10
Romania	11-11
Slovak Republic	11-11
Slovenia	11-12
Switzerland	11-12
Turkey	11-13
Industry opinion	11-13
Summary	11-16

CONTENTS--*Continued*

Page

Chapter 12: Architectural, engineering, and construction services

	12-1
Introduction	12-1
International trade in architectural, engineering, and construction services	12-2
Cross-border transactions	12-2
Examination of commitments on AEC services	12-2
Commitments on architectural and engineering services	12-4
Bulgaria	12-4
Czech Republic	12-11
Hungary	12-12
Iceland	12-12
Liechtenstein	12-13
Norway	12-14
Poland	12-14
Romania	12-14
Slovak Republic	12-15
Slovenia	12-16
Switzerland	12-16
Turkey	12-17
Commitments on construction services	12-17
Bulgaria	12-26
Czech Republic	12-27
Iceland	12-27
Norway	12-28
Poland	12-28
Romania	12-29
Slovak Republic	12-29
Slovenia	12-30
Switzerland	12-30
Turkey	12-30
Industry opinion	12-31
Summary	12-33

Chapter 13: Land Transportation Services

	13-1
Introduction	13-1
International trade in land transportation services	13-1
Cross-border transactions	13-1
Sales by majority-owned affiliates	13-2
Examination of commitments on land transportation services	13-2
Bulgaria	13-15

CONTENTS--*Continued*

Page

Chapter 13: Land Transportation Services--*Continued*

Czech Republic	13-16
Hungary	13-17
Iceland	13-17
Liechtenstein	13-18
Norway	13-19
Romania	13-20
Slovak Republic	13-20
Slovenia	13-21
Switzerland	13-22
Turkey	13-23
Industry opinion	13-23
Summary	13-24

Chapter 14: Travel and Tourism Services

Introduction	14-1
International trade in travel and tourism services	14-1
Cross-border transactions	14-1
Sales by majority-owned affiliates	14-2
Examination of commitments on travel and tourism services	14-4
Bulgaria	14-4
Czech Republic	14-13
Hungary	14-13
Iceland	14-14
Liechtenstein	14-14
Norway	14-15
Poland	14-15
Romania	14-16
Slovak Republic	14-16
Slovenia	14-17
Switzerland	14-17
Turkey	14-18
Industry opinion	14-19
Summary	14-20

Chapter 15: Summary

Introduction	15-1
GATS overview	15-1

CONTENTS--Continued

Page

Chapter 15: Summary--Continued

Overview of schedules submitted by Eastern Europe, the Europe Free Trade Association and Turkey	15-2
Cross-industry commitments	15-2
Industry-specific commitments	15-6
MFN exemptions	15-9
Conclusion	15-14

Chapter 15: Annex

15-A-1

Methodology	15-A-1
Treatment of miscellaneous service groupings	15-A-1
Treatment of entries referencing cross-industry commitments	15-A-1
Table 15-A-2	15-A-4
Table 15-A-3	15-A-5

Appendices

A. Request letter	A-1
B. <i>Federal Register</i> notice	B-1
C. Glossary of terms	C-1
D. Concordance of industry classifications	D-1
E. Cross-industry commitments	E-1
F. Most-favored-nation (MFN) exemptions	F-1

Figures

1-1. Components of the General Agreement on Trade in Services	1-4
2-1. Modes of supply for international delivery of services	2-3
2-2. Private cross-border service transactions: U.S. exports, imports, and trade balance, 1987-96	2-3
2-3. U.S. merchandise, services, and current account balances, 1987-96	2-4
2-4. U.S. cross-border service exports and imports, by industry, 1996	2-4
2-5. Affiliate service transactions: U.S. sales, purchases, and balances, 1987-95	2-6
2-6. Affiliate service transactions: U.S. sales and purchases, by industry, 1995	2-6
2-7. U.S. services trade volume, by region	2-8
2-8. U.S. cross-border services trade with subject economies, by trading partner, 1996	2-8
3-1. Cross-border trade in franchise fees: U.S. exports, imports, and trade balance, 1991-96	3-2
3-2. Franchise fees: U.S. cross border exports, by principal markets, 1996	3-3

CONTENTS--Continued

Page

Figures--continued

3-3.	Wholesale service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95	3-3
3-4.	Retail services transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95	3-4
4-1.	Cross-border trade in education services: U.S. exports, imports, and trade balance, 1991-96	4-3
4-2.	Education services: U.S. cross-border exports, by principal markets, 1996	4-3
6-1.	Cross-border trade in audiovisual services: U.S. exports, imports, and trade balance of film and tape rentals, 1991-96	6-2
6-2.	Audiovisual services: U.S. cross border exports of film and tape rentals, by principal markets, 1996	6-2
6-3.	Audiovisual services transactions by majority-owned affiliates: U.S. sales, purchases of motion pictures, and balance 1991-95	6-3
8-1.	Cross-border health care services: U.S. exports, imports, and trade balance, 1991-96	8-2
8-2.	Health care services: U.S. cross-border exports, by principal markets, 1996	8-3
8-3.	Health care service transactions by majority-owned affiliates: U.S. sales, purchases, balance, 1991-95	8-3
9-1.	Cross-border trade in accounting and related services: U.S. exports, imports, and trade balance, 1991-96	9-3
9-2.	Accounting and related services transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95	9-3
10-1.	Cross-border trade in advertising services: U.S. exports, imports, and trade balance, 1991-96	10-2
10-2.	Advertising services: U.S. cross-border exports, by principal markets, 1996	10-3
10-3.	Advertising service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95	10-3
11-1.	Cross border trade in legal services: U.S. exports, imports, and trade balance, 1991-96	11-3
11-2.	Legal services: U.S. cross-border exports, by principal markets, 1996	11-3
12-1.	Cross-border trade in AEC services: U.S. exports, imports, and trade balance, 1991-96	12-3
12-2.	AEC services: U.S. cross-border exports, by principal markets, 1996	12-3
13-1.	Cross-border trade in land transportation services: U.S. exports, imports, and trade balance , 1991-96	13-3
13-2.	Land transportation services: U.S. cross-border exports, by principal markets, 1996	13-3
14-1.	Cross-border trade in travel and tourism services: U.S. exports, imports, and trade balance, 1991-95	14-2
14-2.	Travel and tourism services : U.S. cross-border exports, by principal markets, 1996	14-3
14-3.	Travel and tourism transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95	14-3
15-1.	Shares of total possible schedule entries, by country	15-8
15-2.	Shares of total possible schedule entries, by industry	15-9

CONTENTS--*Continued*

Page

Tables

1-1. Summary of industry-specific commitments scheduled by subject trading partners, by industry	1-7
1-2. Summary of cross-industry commitments, by trading partner	1-7
1-3. Summary of MFN exemptions, by trading partner	1-9
3-1. Highlights of industry-specific restrictions on distribution services	3-6
4-1. Highlights of industry-specific restrictions on education services	4-5
5-1. Highlights of industry-specific restrictions on enhanced telecommunication services	5-4
6-1. Summary of MFN exemptions on audiovisual services	6-5
7-1. Highlights of industry-specific restrictions on courier services	7-3
8-1. Highlights of industry-specific restrictions on health care services	8-5
9-1. Highlights of industry-specific restrictions on accounting services	9-5
10-1. Highlights of industry-specific restrictions on advertising services	10-5
11-1. Highlights of industry-specific restrictions on legal services	11-5
12-1. Highlights of industry-specific restrictions on architectural and engineering services	12-5
12-2. Highlights of industry-specific restrictions on construction services	12-18
13-1. Highlights of industry-specific restrictions on land transportation services	13-4
14-1. Highlights of industry-specific restrictions on travel and tourism services	14-5
15-1. Highlights of cross-industry commitments	15-3
15-2. Highlights of most-favored-nation exemptions pertaining to subject industries	15-10
15-A-1. Subject industries and corresponding subsectors found in the GATT Secretariat's Services Sectoral Classification List	15-A-2
15-A-2. The share of schedule entries binding full market access and national treatment	15-A-6
15-A-3. The share of schedule entries binding full or partial market access and national treatment	15-A-6

Executive Summary

On September 19, 1997, the United States Trade Representative requested that the U.S. International Trade Commission (USITC) examine the schedule of commitments submitted by 12 trading partners of Eastern Europe, the European Free Trade Association, and Turkey under the General Agreement on Trade in Services (GATS). The GATS provides a framework for government regulation of trade and investment in service industries and obligates signatories to establish schedules of commitments. These schedules, on an industry-by-industry basis, indicate the extent to which signatories accord market access and national treatment to foreign service providers. The 12 trading partners examined in this report are Bulgaria, the Czech Republic, Hungary, Iceland, Liechtenstein, Norway, Poland, Romania, the Slovak Republic, Slovenia, Switzerland, and Turkey. These countries accounted for 5 percent of total U.S. services trade in 1996, with the most significant U.S. export markets being Switzerland and Norway. The USITC was asked to explain the subject countries' commitments in nontechnical language as they relate to eight service industries, and to identify potential benefits and limitations to U.S. service providers as a result of implementation of the commitments. The eight industries are as follows:

- distribution services (defined as wholesaling, retailing, and franchising services);
- education services;
- communication services (defined as enhanced telecommunication, courier, and audiovisual services);
- health care services;
- professional services (defined as accounting, advertising, and legal services);
- architectural, engineering, and construction services;
- land-based transport services (defined as rail and trucking services); and
- travel and tourism services.

The GATS schedules confer benefits to foreign service providers by establishing benchmarks and improving transparency. Benchmarks comprise full and partial commitments that describe the extent of existing trade-impeding measures and prevent these measures from becoming more onerous in the future. Commitments are transparent when the nature and extent of all regulatory impediments to trade are explained clearly in their entirety. Where trade impediments remain unbound, no benchmarks have been established and signatories may introduce trade-impeding measures without penalty. Some countries, such as Norway and Switzerland, offered commitments on a broad range of service industries and provided a high degree of benchmarking and transparency. Other countries, such as Bulgaria and Romania, did not. The findings of this report are summarized broadly below, and a more detailed summation is presented in chapter 15.

Examination of Industry-Specific Commitments

All 12 subject trading partners scheduled commitments pertaining to enhanced telecommunication, legal, architectural and engineering services, and travel and tourism services. Transportation and health care services received relatively few commitments while none of the subject countries made any commitments on audiovisual services. In broad terms, the commitments scheduled by the subject trading partners appear to reflect an inclination to open sectors of the economy that promote capital inflows and

infrastructure development. However, the Eastern European, European Free Trade Area, and Turkish schedules also tend to preserve governmental powers to control the mass media and to manage areas that influence public safety and welfare.

Examination of Cross-Industry Commitments

As was customary among most GATS signatories, commitments offered by subject trading partners concerning the entry and stay of business persons applied only to selected types of employees, typically senior managers and specialists. Measures affecting all other types of employees remain unbound. Poland noted that entry and stay may be contingent on a form of needs testing and Turkey restricted the practice of certain professional services to Turkish citizens or foreign citizens of Turkish origin. While it appears that foreign firms will be able to move essential employees as required, the presence of needs-testing and nationality restrictions generates uncertainty. It is unclear, for instance, that policies will be implemented consistently and that assessment criteria will be determined objectively.

Exemptions From Most-Favored-Nation Treatment

GATS signatories are generally obligated to accord foreign firms most-favored-nation (MFN) treatment. MFN treatment accords to one trading partner terms and conditions of trade that are no less favorable than those accorded to any other trading partner. MFN exemptions describe existing regulatory measures that violate these principals by according preferential treatment to selected countries or individuals. All subject trading partners listed MFN exemptions applicable to the service industries under examination, with a considerable amount of variation concerning the nature of the exemptions that apply across the entire service sector. In most cases, these exemptions only modestly influence the competitive position of foreign firms. For example, Norway and Iceland list measures that accord preferential financial support to other Nordic countries for programs that foster Nordic cooperation. Another common and fairly benign type of MFN exemption provides preferential treatment to countries with which bilateral tax or investment agreements already exist. Switzerland and Liechtenstein have scheduled such exemptions. However, with respect to audiovisual services, ten subject economies listed MFN exemptions that provide for preferential treatment in accordance with co-production agreements or other existing, or future, bilateral or plurilateral agreements. All such countries provide preferential treatment of audiovisual works of European origin in order to promote common cultural links and regional identity. By combining these MFN exemptions with the absence of any specific commitments on audiovisual services, the subject countries have effectively carved out this sector from the scope of the GATS.

Industry Viewpoint

U.S. service providers express interest in expanding their presence in Eastern Europe, the European Free Trade Area, and Turkey, and recognize that the GATS process of successive negotiations holds considerable promise for progressive market liberalization. Consequently, U.S. industry representatives express general satisfaction that subject trading partners are participating in the GATS. Industry representatives also note that actual

market access conditions may be more or less favorable than the commitments suggest. In some cases, the absence of industry-specific commitments does not reflect closed markets, while in others, full commitments do not necessarily reflect a fully open market. This indicates that specific commitments must be carefully assessed and cross-checked against current market conditions, which are rapidly evolving in many of the newly-emerging market economies. With respect to ongoing or future negotiations, U.S. service firms indicate that reducing barriers to foreign direct investment and improving recognition of professional qualifications are priority objectives for the region.

Conclusion

The commitments scheduled by the subject trading partners vary widely in terms of benchmarking and transparency. In addition, as was common practice during the first round of negotiations on services trade, the schedules include very few trade and investment liberalizing commitments, generally offering standstill positions instead. As a result, the commitments from subject trading partners offer little immediate benefit to U.S. service providers. However, by establishing benchmarks in certain industries, providing greater regulatory transparency, and supporting a framework for future services trade liberalization, the subject economies have helped to construct an effective foundation from which to achieve progressive liberalization. More tangible benefits for U.S. service providers, in the form of binding commitments to full market access and national treatment, may be achieved in future rounds of negotiations.

CHAPTER 1

Introduction

One of the significant achievements of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT)¹ was the conclusion of the General Agreement on Trade in Services (GATS). The GATS is the first multilateral, legally enforceable agreement covering international trade and investment in service industries. Key components of the agreement include national schedules of commitments submitted by all member countries. These schedules list commitments that accord market access and national treatment² to foreign service providers, subject to defined exceptions; and serve as benchmarks³ for future efforts to liberalize global trade in services.

Purpose and Scope

At the request of the United States Trade Representative (USTR), the United States International Trade Commission (USITC) has examined the schedules of commitments submitted by Bulgaria, the Czech Republic, Hungary, Iceland, Liechtenstein, Norway, Poland, Romania, the Slovak Republic, Slovenia, Switzerland, and Turkey. These 12 trading partners accounted for almost 5 percent of U.S. exports of services in 1995 (see chapter 2). This study is the fourth in a series of studies that examine the schedules of commitments submitted by various U.S. trading partners. The first study focused on the European Union, Japan, Canada, and Mexico. The findings were presented in a report entitled *General Agreement on Trade in Services: Examination of Major Trading Partners' Schedules of Commitments* (USITC publication 2940, Dec. 1995), which was submitted to the USTR in December 1995. The subject countries of the second report included Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru, Uruguay, and Venezuela. The second report, entitled *General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments* (USITC publication 3007, Dec. 1996), was submitted to the USTR in December 1996. The third

¹ The Uruguay Round was the most recent session of multilateral trade negotiations convened under the auspices of the GATT. The final Uruguay Round Agreements, including that establishing the World Trade Organization (WTO), were signed by most of the 125 participating governments in Marrakesh, Morocco on April 15, 1994. WTO members have since increased to 132. Found at Internet address <http://www.wto.org/>, posted Feb. 6, 1998, retrieved Feb. 12, 1998.

² National treatment generally accords to foreign firms the same rights and obligations accorded to domestic firms.

³ Benchmarks comprise full and partial commitments. Full commitments are obligations to accord foreign firms full market access and/or national treatment. Partial commitments are obligations to accord foreign firms at least some degree of market access and/or national treatment subject to specified limitations. Where GATS signatories have scheduled full and partial commitments, they may introduce new trade-impeding measures only if they are willing to compensate adversely affected parties. Where trade impediments remain unbound, no benchmarks have been established and signatories may introduce trade-impeding measures without penalty.

report, entitled *General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Asia/Pacific Trading Partners* (USITC publication 3053, Aug. 1997), was submitted to the USTR in August 1997. The subject countries of the third report included Australia, Hong Kong, India, Indonesia, Korea, Malaysia, New Zealand, the Philippines, Singapore, and Thailand.⁴

With respect to this report, the USTR asked the Commission (1) to examine the content of the foreign schedules of commitments and explain the commitments in nontechnical language, and (2) to identify the potential benefits and limitations that the subject trading partners have conferred or imposed on foreign service providers, emphasizing the effect on U.S. firms. The USTR asked that the Commission focus on the subject countries' commitments pertaining to the following service industries:⁵

- distribution services (defined as wholesaling, retailing, and franchising services);
- education services;
- communication services (defined as enhanced telecommunication, courier, and audiovisual services);
- health care services;
- professional services (defined as accounting, advertising, and legal services);
- architectural, engineering, and construction services;
- land-based transport services (defined as rail and trucking services); and
- travel and tourism services.

The USTR request letter indicates that upon delivery of this report, the USTR may request an additional study examining commitments scheduled by countries in the Middle East and Africa.

Overview of the General Agreement on Trade in Services

As noted, the GATS is the first legally enforceable, multilaterally negotiated agreement to establish obligations and disciplines pertaining to international trade and investment in services.⁶ It is an integral part of the Uruguay Round Agreements that entered into force

⁴ The full text of the schedules of commitments and exemptions to most-favored-nation (MFN) treatment may be obtained by ordering volumes 28-30, 32 and 34, of *Legal Instruments of the Uruguay Round* (price: SF 420) from the World Trade Organization, Publications Services, Centre William Rappard, Rue de Lausanne 154, CH-1211 Geneva, Switzerland. WTO publications are also available by telephone: (022) 7395208/5308; by fax: (022) 7395792; and through the Internet address: publications@wto.org.

⁵ For a complete list of service industries over which negotiations were held, see the GATT Secretariat's *Services Sectoral Classification List (MTN.GNS/W/120)*.

⁶ Uruguay Round Agreements Act Statement of Administrative Action (SAA), published in H. Doc. 103-316, 103d Cong., 2d Session, 1994. The SAA, which describes significant administrative actions proposed to implement the Uruguay Round Agreements, was submitted to Congress on September 27, 1994, in compliance with section 1103 of the Omnibus Trade and Competitiveness Act of 1988, and accompanied the implementing bill for the Agreement Establishing the World Trade Organization and the agreements annexed to that agreement (the Uruguay Round Agreements).

on January 1, 1995.⁷ Three elements constitute the text of the GATS: (1) a framework of rules for government regulation of trade and investment in services; (2) a set of national schedules wherein each country commits itself to apply the rules to specific industries, subject to defined exceptions; and (3) a series of annexes and Ministerial decisions that augment rules found in the framework and provide for follow-up activities or additional negotiations (figure 1-1).

The GATS Framework

The framework calls for parties to observe 14 general obligations and disciplines that are conducive to international trade in services. Foremost among these obligations are most-favored-nation (MFN) treatment⁸ (article II) and regulatory transparency (article III).⁹ Other important elements of the framework provide for international economic integration agreements such as the North American Free-Trade Agreement (article V); “reasonable, objective, and impartial” regulation (article VI); recognition of authorization, licensing, and certification standards and procedures (article VII); and safeguards on monopolies (article VIII) and subsidies (article XV). These obligations are binding on all GATS signatories, although exceptions are permissible subject to agreed rules. Important institutional provisions require countries to accord other signatories consultations on any matter affecting the operation of the GATS. Such consultation is to follow newly created dispute settlement procedures.¹⁰

Schedules of Commitments

National schedules specify commitments undertaken by signatories to accord market access and national treatment to foreign firms.¹¹ The schedules provide most of the detail of the final agreement and are bifurcated in structure. One section describes regulatory measures as they are applied on an industry-specific basis. The other section specifies cross-industry

⁷ The GATS and various other agreements negotiated during the Uruguay Round are set forth as annexes to the Agreement Establishing the World Trade Organization. The WTO replaced the GATT on January 1, 1995, as the institutional foundation of the multilateral trading system.

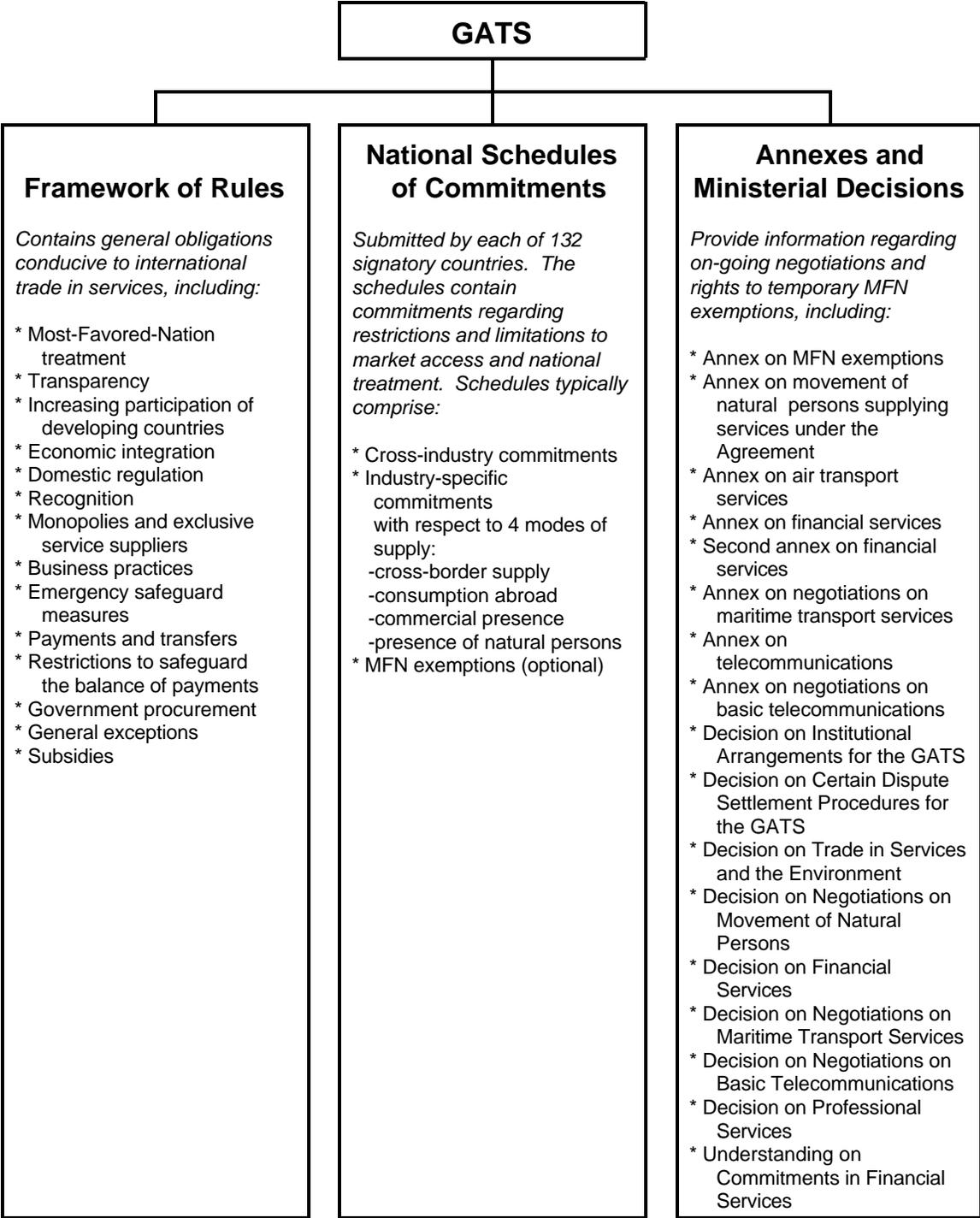
⁸ MFN status accords to one trading partner terms and conditions of trade that are no less favorable than those accorded to any other trading partner. Although signatories to the GATS assume a general obligation to extend other signatories MFN treatment, countries were allowed to submit a list of exemptions to the MFN obligation. Where commitments are scheduled, exemptions to MFN treatment permit more favorable treatment of selected countries. Where there are no commitments, MFN exemptions permit members to treat certain signatories less favorably. For more information, see the section later in this chapter on “Annexes and Ministerial Decisions.” See also appendix C for a glossary of terms.

⁹ Transparency exists when the nature and extent of all trade-impeding measures are explained in their entirety, with precision and clarity.

¹⁰ See USTR, *Final Texts of the GATT Uruguay Round Agreements Including the Agreement Establishing the World Trade Organization* (Washington, DC: GPO, 1994), p. 353.

¹¹ The obligation to develop national schedules is found in part IV, article XX of the GATS. See USTR, *Final Texts of the GATT Uruguay Round Agreements*, p. 299.

**Figure 1-1
Components of the General Agreement on Trade in Services (GATS)**



commitments, which are broad conditions and restrictions applicable across all industries listed in the schedule.¹²

Industry-Specific Commitments

The industry-specific section of the schedules essentially consists of a matrix wherein countries have identified market access and national treatment commitments on each service industry¹³ in relation to one or more possible delivery channels or “modes of supply.” There are four modes of supply:

1. Cross-border supply, whereby a service provider mails, electronically transmits, or otherwise transports a service across a national border;
2. Consumption abroad, whereby a consumer, such as a tourist, medical patient, or student, travels across national borders to consume a service;
3. Commercial presence, whereby a service supplier establishes a foreign-based corporation, joint venture, partnership, or other establishment, to supply services to foreign persons; and
4. Presence of natural persons, whereby an individual, functioning alone or in the employ of a service provider, travels abroad to deliver a service.

For each mode of supply, countries may offer one of two types of commitments on market access and/or national treatment. A “full commitment” creates the most liberal trading environment by guaranteeing unrestricted market access or national treatment to foreign service providers. Full commitments are denoted on the schedules by the word “none,” which indicates that no industry-specific market access or national treatment restrictions exist. A “partial commitment” guarantees partial market access or national treatment by explicitly describing any current limitations imposed on foreign firms, indicating implicitly that, except for these limitations, market access and national treatment is accorded. Both full and partial commitments are “binding” in the sense that no further trade or investment impediment may be introduced unless a country is willing to compensate parties adversely affected by the new measure. In the absence of a full or partial commitment, additional restrictions on market access and national treatment may be imposed in the future. The

¹² Cross-industry commitments are referred to as “horizontal” commitments in the GATS text. To simplify the discussion in this report, however, commitments that apply to all service sectors will be referred to as cross-industry commitments.

¹³ In preparing national schedules, countries were requested to organize and define service industries as noted in the GATT Secretariat’s *Services Sectoral Classification List*, which draws on the United Nations’ *Provisional Central Product Classification (CPC) System*. Accordingly, national schedules frequently make explicit references to the CPC numbers. A concordance of this report’s subject industries and their corresponding CPC classifications is provided in appendix D.

absence of a commitment is indicated by the word “unbound” in the appropriate cell of the matrix.¹⁴

Most commitments that were submitted by individual countries are, essentially, standstill commitments; i.e., a continuation of current policies.¹⁵ Although standstill commitments do not liberalize trade, they do meet important objectives of the first round of GATS negotiations. They establish benchmarks that identify trade impediments and, under the terms of the GATS, deter the implementation of further restrictions. In addition, standstill commitments may enhance the transparency, or clarity, of existing restrictions. Table 1-1 indicates which subject countries scheduled commitments for specific industries by displaying an ‘X’ in the relevant cell.

Cross-Industry Commitments

Most signatory countries scheduled cross-industry commitments to avoid repeating entries for measures that apply to every industry listed in the industry-specific section of the national schedules. These commitments generally summarize broad measures affecting investment, real estate transactions, government subsidies or taxation, and the entry and temporary stay of natural persons. Cross-industry commitments must be examined in conjunction with industry-specific commitments to assess the full extent of measures relating to a particular service industry. For example, to establish a commercial presence in Bulgaria, an accounting firm would need to consider both the industry-specific limitations found under “accounting,” as well as the cross-industry restrictions that apply broadly to investment and the presence of natural persons. Table 1-2 identifies areas in which the subject countries scheduled cross-industry commitments. These are described in further detail in appendix E.

Annexes and Ministerial Decisions

Eight annexes are attached to the GATS and form an integral part of the agreement. For the purpose of this discussion, the Annex on Article II Exemptions, which provides for MFN exemptions, may be the most important.¹⁶ This annex allows countries to attach a list of MFN exemptions¹⁷ to national schedules, although the annex stipulates that the duration of these exemptions may not exceed 10 years in principle, and must be reviewed within 5 years. About two-thirds of GATS signatories, including all of the countries examined in this report, attached MFN exemptions to their schedules. Signatories included MFN

¹⁴ In certain instances, the term “unbound” coupled with an asterisk (i.e., Unbound*) is used to identify modes of supply that are “technically infeasible” in an industry. Cross-border supply of many construction services, for example, may be perceived as technically infeasible.

¹⁵ Negotiations on financial services, basic telecommunication services, and maritime transport services are exceptions to this rule. Because financial, maritime transport, and basic telecommunication services affect so many sectors of the economy, countries sought actual liberalization of these service markets in the first round of negotiations.

¹⁶ See USTR, *Final Texts of the GATT Uruguay Round Agreements*, p. 305.

¹⁷ Most MFN exemptions list measures that are accorded preferentially to selected countries in all or some service industries. A lesser number indicate that certain signatories will be subject to less favorable treatment.

Table 1-1
Summary of industry-specific commitments scheduled by subject trading partners, by industry

	Bulgaria	Czech Republic	Hungary	Iceland	Liechtenstein	Norway	Poland	Romania	Slovak Republic	Slovenia	Switzerland	Turkey
Distribution	X	X	X	X	X	X	X	X	X	X	X	
Education	X	X	X		X	X	X		X	X	X	X
Enhanced telecommunication	X	X	X	X	X	X	X	X	X	X	X	X
Audiovisual												
Courier		X				X	X		X	X		X
Health care	X	X	X			X	X		X	X	X	X
Accounting	X	X	X	X	X	X	X		X	X	X	X
Advertising	X	X	X	X	X	X	X		X	X	X	X
Legal	X	X	X	X	X	X	X	X	X	X	X	X
Architectural, engineering, and construction	X	X	X	X	X	X	X	X	X	X	X	X
Land-based Transportation	X	X	X	X	X	X		X	X	X	X	X
Travel/Tourism	X	X	X	X	X	X	X	X	X	X	X	X

Source: Compiled by the staff of the U.S. International Trade Commission.

Table 1-2
Summary of cross-industry commitments, by trading partner

	Bulgaria	Czech Republic	Hungary	Iceland	Liechtenstein	Norway	Poland	Romania	Slovak Republic	Slovenia	Switzerland	Turkey
Use of nuclear energy for peaceful purposes	X											
Investment	X		X	X		X	X	X	X	X	X	X
Real estate acquisition	X	X	X	X	X	X	X	X	X	X	X	X
Subsidies and/or taxation	X		X	X	X	X	X			X	X	
Entry and temporary stay of natural persons	X	X	X	X	X	X	X	X	X	X	X	X

Source: Compiled by the staff of the U.S. International Trade Commission.

exemptions because of concerns regarding “free-ridership.”¹⁸ For the service industries examined in this report, most of the MFN exemptions apply either to all service sectors, to audiovisual services, or to land-based transportation (table 1-3). Measures that apply to all sectors generally accord preferential treatment to selected trading partners in order to comply with previously existing agreements, to promote regional economic development, or to impose reciprocity on other trading partners. With respect to audiovisual services, most MFN exemptions allow for preferential treatment of co-produced works on the basis of current or future co-operative arrangements, and for preferential treatment of audiovisual services produced within Europe in accordance with extant programs or agreements. The subject countries typically include audiovisual exemptions for cultural reasons. Except for Iceland, all of the subject countries listed MFN exemptions affecting road and/or rail transportation services. In general, these MFN exemptions are meant to safeguard the environment and infrastructure, and to accommodate any extant agreement or future co-operation which affects this industry. A detailed presentation of MFN exemptions listed by the subject countries may be found in appendix F.

Other annexes and ministerial decisions define the scope of certain industries for the purposes of further negotiations, establish the modalities of ongoing and future negotiations, establish future work programs, and set timetables for concluding negotiations rolled over from the Uruguay Round.¹⁹

Methodological Approach

Since published analysis of the content of GATS schedules is limited, USITC staff collected information through primary sources. The Commission conducted extensive in-person and telephone interviews with, and made telefax inquiries of, domestic and foreign service providers, principal service industry associations, and U.S. and foreign regulatory authorities (appendix H).

Each industry discussion begins by defining the scope of the services covered and identifying the principal channels through which service providers deliver services to

¹⁸ Bernard Hoekman, *Tentative First Steps: An Assessment of the Uruguay Round Agreement on Services*, paper presented at The Uruguay Round and the Developing Economies Conference of the World Bank, Washington, DC, Jan. 26-27, 1995, p. 6. Free-riders enjoy beneficial terms and conditions of trade in foreign markets, but do not accord similar benefits to foreign individuals and firms operating in their own markets.

¹⁹ Negotiations on financial services, basic telecommunication services, and maritime transport services were not concluded during the Uruguay Round, but provisions were made for them to continue. Negotiations on financial services concluded with an agreement among 102 countries in December 1997. Negotiations on maritime services concluded June, 28, 1996, with no agreement, although negotiations in this area may recommence in January 2000. WTO negotiations on basic telecommunication services concluded with an agreement among 69 countries in February 1997.

Table 1-3
Summary of MFN exemptions, by trading partner

	Bulgaria	Czech Republic	Hungary	Iceland	Liechtenstein	Norway	Poland	Romania	Slovak Republic	Slovenia	Switzerland	Turkey
All services				X	X	X	X				X	X
Professional Services												X
Accounting												X
Audiovisual	X	X	X	X	X	X	X		X	X	X	
Construction					X							
Distribution					X						X	
Health care	X											
Land-based Transportation	X	X	X		X	X	X	X	X	X	X	X
Legal	X											
Telecommunication												X

Source: Compiled by the staff of the U.S. International Trade Commission.

foreign consumers.²⁰ To identify these channels, staff reviewed the best available statistical estimates of international service transactions, published by the Bureau of Economic Analysis of the U.S. Department of Commerce.²¹ A brief presentation regarding the volume of trade in the subject service industries is included in each discussion.

The industry discussions then turn to an examination of the commitments and MFN exemptions submitted by each trading partner. An overview summarizes all pertinent measures and references a table that summarizes the industry-specific commitments listed by each trading partner. Detailed discussions of the individual schedules follow. These discussions focus on the nature and effects of industry-specific and cross-industry

²⁰ With three exceptions, service industries identified in the request letter are discussed and analyzed separately. The nature of the distribution industry and the commitments regarding distribution services favored broad treatment of the industry, rather than discrete discussions of retailing, wholesaling, and franchising services. Similarly, the nature of commitments regarding architectural, engineering, and construction services favored simultaneous treatment of these services. Also, the nature of commitments regarding land transportation services (i.e., rail and trucking) favored broad treatment of the industry.

²¹ Among the member countries of the Organization for Economic Cooperation and Development (OECD), only the United States compiles data on sales of services through foreign affiliates. As discussed in chapter 2, this channel of delivery is a principal component of trade in services. See OECD, *Services: Statistics on International Transactions* (Paris: OECD, 1996), p. 5.

commitments.²² Each discussion concludes with a summary that identifies the principal benefits conferred, and limitations imposed, on U.S. service exporters by the subject trading partners. The summary is qualitative, rather than quantitative in nature, drawing on staff analysis and input provided by U.S. industry representatives. In some cases, anecdotal information gathered from industry interviews has revealed impediments to trade that are not apparent from an examination of the schedules. In other cases, industry representatives have indicated that the trade environment is more open than some national schedules suggest.

Impediments to Examining the GATS

As noted above, the GATS breaks new ground by comprehensively covering services trade in a multilateral framework. As a consequence of the agreement's broad coverage and recent conclusion, an examination of this nature encounters certain impediments. The principal obstacle is the sheer complexity of the agreement, which reflects the diversity of the industries covered and the technical nature of government regulation pertaining to certain service industries (e.g., telecommunication). This difficulty is compounded further by the imprecise language used in the schedules, which was intended to provide for rapid technological and regulatory change, and signatories' desire for latitude in implementing scheduled commitments. These factors combine to make precise interpretation of certain commitments difficult.

Another complicating factor is that the schedules do not necessarily provide information on all impediments to trade and investment in services. The GATS employed a "positive listing" approach to scheduling commitments, which required countries to list in their national schedules only those sectors in which they accord foreign service providers either market access or national treatment, with respect to at least one mode of supply. Thus, if a signatory offered no market access or national treatment commitment for any mode of supply within a sector, then that sector does not appear in its national schedule and trade impediments remain unbound. As such, signatories may impose new or additional trade restrictions pertaining to this sector in the future, but need not provide any information regarding current restrictions, if any, in their schedules.

In addition, country schedules do not necessarily address all trade impediments that are applied on a cross-industry basis, because no protocol was established for scheduling such measures. For industry-specific measures, the GATT Secretariat issued a Services Sectoral Classification List that delineates service industries that were the subject of negotiations during the Uruguay Round. Thus, industries that do not appear in a country's schedule are understood to be subject to unbound restrictions affecting market access and/or national treatment. No corresponding list, however, was developed to indicate which cross-industry issues should be addressed in national schedules. Consequently, where cross-industry commitments on issues like investment, real estate transactions, subsidies and taxes, and

²² Cross-industry commitments apply to all industries in a signatory's schedule and must be referenced when discussing certain industry-specific commitments. It is important to note that cross-industry commitments do not apply to industries for which no industry-specific commitments were scheduled or where unbound limitations are specified. Repeated references to cross-industry commitments may result in some redundancy across chapters, but improve the discussion in terms of clarity and comprehensiveness.

business visas are absent, it is unclear whether these areas are subject to no restrictions, or subject to unbound restrictions.

Finally, as noted earlier, identifying the difference between *de facto* and *de jure*²³ restrictions emerged as another difficulty in analyzing the GATS. In some cases, trading partners have listed restrictions that may not be enforced in practice. In this instance, a country may appear to be more restrictive than it actually is. Conversely, some trading partners impose informal regulatory practices on foreign service providers that constitute effective trade barriers, yet do not appear in country schedules. Staff attempted to identify all such regulations and practices through interviews with industry representatives and government officials.

Organization of Report

Chapter 2 provides an overview of U.S. trade in services, both by industry and by trading partner. Chapters 3 through 14 examine specific service industries. Finally, chapter 15 provides an overall perspective on the accomplishments of the Uruguay Round with respect to services, and highlights significant aspects of the 12 trading partners' schedules with respect to cross-industry commitments, industry-specific commitments, and exemptions from most-favored-nation treatment. Chapter 15 employs quantitative techniques to summarize the extent of binding commitments undertaken by the subject countries.

²³ *De facto* restrictions are restrictions that are imposed in practice, whereas *de jure* restrictions are those that are imposed by law, but which may not be applied in practice.

CHAPTER 2

Overview of International Trade in Services

Introduction

This chapter provides some context for the industry-specific discussions that follow in chapters 3 through 14. Examined first is the relationship between the “modes of supply” framework used in the General Agreement on Trade in Services (GATS), reviewed briefly in chapter 1, and the framework used by data collection agencies to report on U.S. trade in services. Presented next is an overview of U.S. trade in services and an examination of the relative importance of the subject trading partners and industries.¹

Modes of Supply

Official trade data pertaining to services are generally classified as either cross-border sales or sales through affiliates located in foreign markets. In both cases, sales receipts are reported before deductions for expenses and taxes, as gross sales figures are most directly comparable across countries, industries, and firms. Cross-border service transactions are explicitly delineated in a nation’s balance of payments. By contrast, transactions through affiliates are not. Instead, the income derived by the parent firm from sales by its foreign-based affiliates enters the balance of payments as investment income.² With respect to affiliate transactions, this report covers only affiliate sales reported by majority-owned affiliates.³ Data regarding sales by affiliates in which U.S. persons hold only minority interests are not available on an industry-specific basis.

¹ This presentation is based substantively on official trade statistics prepared by the U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA). The methodological difficulties inherent in collecting information on cross-border and affiliate trade in services are implicit in this presentation. Namely, trade data in the detail required for this report are available only through 1995 for affiliate transactions, and only through 1996 for cross-border transactions. In addition, the availability and comparability of information on certain industries vary according to the mode of delivery and year, reflecting the reporting obligations of service providers, the suppression of confidential data, and improvements in BEA’s estimation and reporting methodologies.

² The balance of payments records income from both majority-owned affiliates and minority-owned affiliates.

³ Majority-owned foreign affiliates of U.S. firms are defined as foreign affiliates for which the combined direct and indirect ownership interest of all U.S. parents exceeds 50 percent. Majority-owned U.S. affiliates of foreign firms are U.S.-based affiliates for which the combined direct and indirect ownership interest of all foreign parents exceeds 50 percent. For reporting purposes, the country in which the U.S.-based affiliate’s “ultimate beneficial holder” resides receives credit for sales to U.S. persons. An ultimate beneficial holder of a U.S. affiliate is the entity, proceeding up the affiliate’s ownership chain, that is not owned more than 50 percent by another person.

Services trade is categorized somewhat differently in the GATS, which identifies four different modes of delivering services. These four modes of supply are cross-border supply, consumption abroad, commercial presence, and the presence of natural persons (figure 2-1).

Cross-border trade encompasses three of the four GATS modes of supply: cross-border supply, consumption abroad, and the presence of natural persons. For example, when U.S. firms mail, electronically transmit, or otherwise transport services across a national border, the payment received is recorded as a cross-border export in the U.S. balance of payments. So, too, are transactions completed through consumption abroad, whereby services like tourism or education are purchased outside the consumer's home country. Sales made by U.S. persons who have entered a foreign market temporarily (presence of natural persons) are also counted as cross-border exports. Such sales take place, for instance, when a U.S. attorney briefly travels abroad to provide legal services to a foreign-based client, and then returns to the United States.

Sales through affiliates are equated with the last GATS mode of supply, commercial presence. A commercial presence exists when, for example, an advertising agency establishes a foreign-based affiliate to sell its services to other firms located in the foreign market. Sales receipts from majority-owned affiliates of U.S. parents are reported by data collection agencies and the income returned to the U.S.-based parent enters the U.S. balance of payments as investment income.

Cross-Border Trade

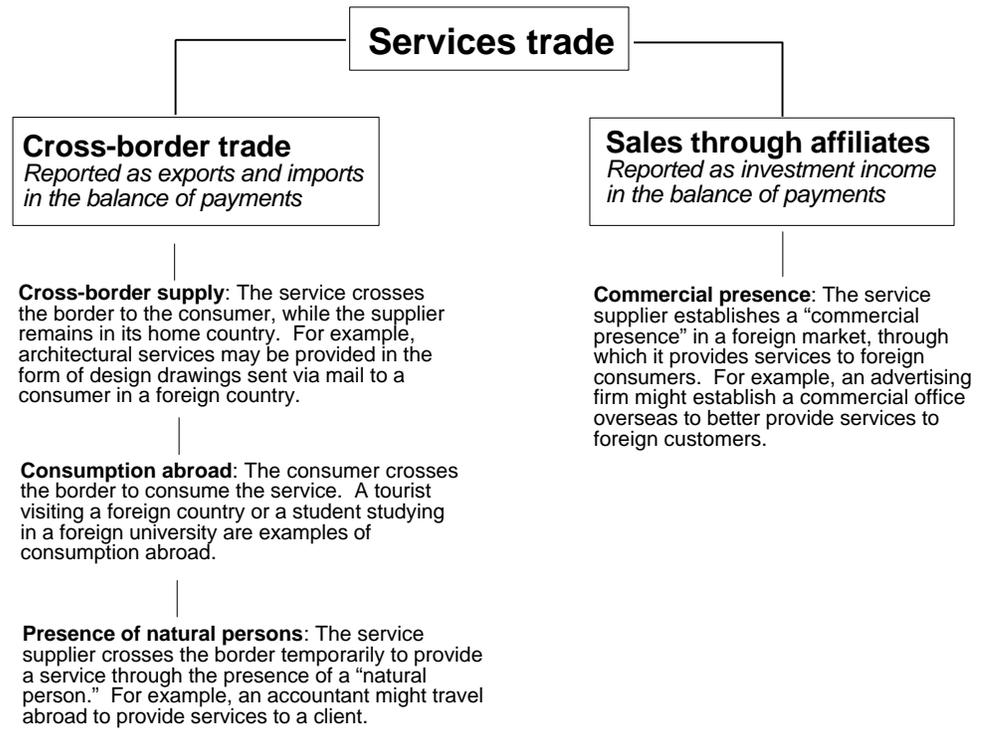
U.S. cross-border exports of services have consistently exceeded imports, resulting in a surplus on the services trade account (figure 2-2). The U.S. surplus on private cross-border trade in services increased from \$11 billion in 1987 to \$78 billion in 1996. As a result, trade in services has significantly reduced the deficit on the current account of the U.S. balance of payments (figure 2-3).⁴ Cross-border trade in services largely reflects travel and tourism, freight transportation, and passenger fares (predominantly air fares). Taken together, these industries accounted for 53 percent of service exports and 65 percent of service imports in 1996 (figure 2-4).

Private cross-border service exports grew by an average annual rate of 11 percent during 1987-96, increasing from \$87 billion in 1987 to \$221 billion in 1996. The strongest growth in exports occurred in the professional service industries, which recorded average annual export growth of 19 percent during this period. Intellectual-property-related exports, measured by the collection of royalties and license fees, also increased rapidly, by 13 percent per year. Receipts from tourism and passenger fares grew by 13 percent per annum during the period, reflecting an overall rise in the number of tourists visiting the United States.⁵

⁴ The current account is one component of the balance of payments. The current account reflects cross-border trade in merchandise and services, international flows of investment income, and unilateral transfers (e.g., U.S. Government grants).

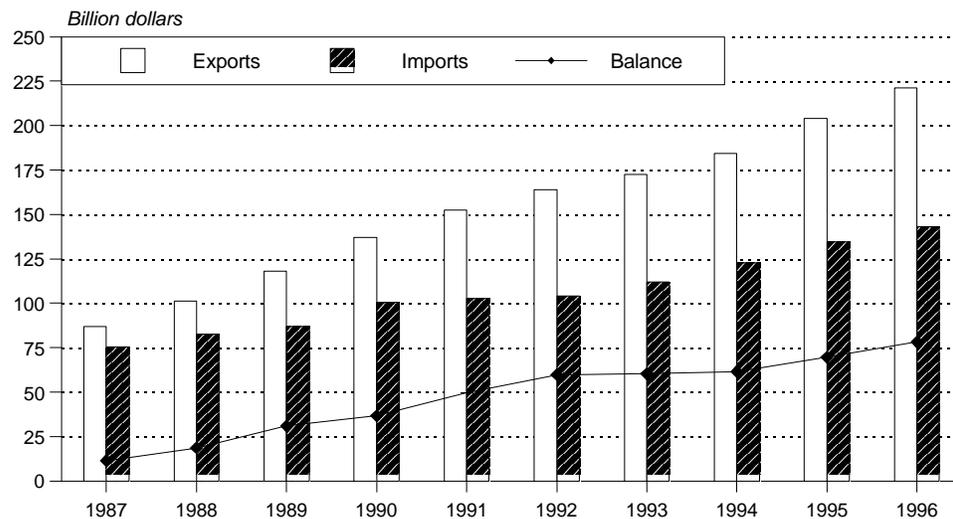
⁵ This trend slowed somewhat in 1993 as recessions in foreign economies discouraged inbound tourism in the United States.

Figure 2-1
Modes of supply for international delivery of services



Source: Compiled by the staff of the U.S. International Trade Commission.

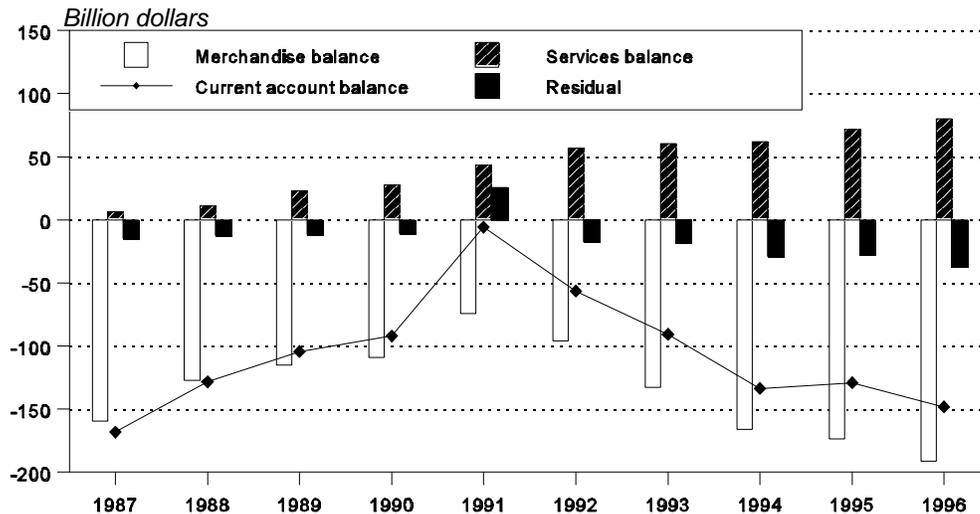
Figure 2-2
Private cross-border service transactions: U.S. exports, imports, and trade balance, 1987-96¹



¹ Data exclude public sector transactions.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, July 1997, p. 65.

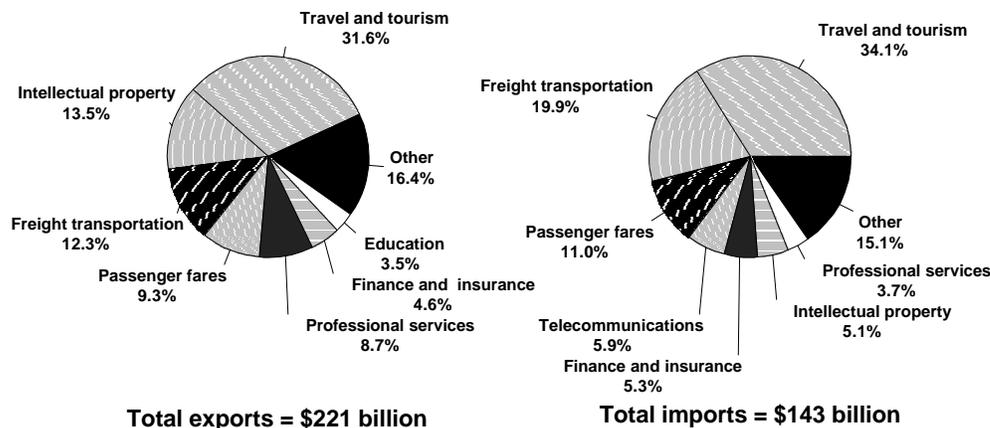
Figure 2-3
U.S. merchandise, services, and current account balances, 1987-96¹



¹ The balance on trade in services recorded in the balance of payments includes public sector and intracorporate trade. The residual reflects the sum of net unilateral transfers and net investment income. The current account balance reflects the sum of total net merchandise trade, net services trade, net unilateral transfers, and net investment income.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, July 1997, p. 65.

Figure 2-4
U.S. cross-border service exports and imports,¹ by industry, 1996²



¹ Data excludes public sector transactions.

² Due to rounding, figures may not add to 100 percent.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997, pp. 108-109.

Cross-border service imports expanded less quickly than exports. During 1987-96, U.S. cross-border service imports grew by an average annual rate of 7 percent, increasing from \$76 billion in 1987 to \$143 billion in 1996. As with exports, imports of professional and intellectual-property-related services were the fastest growing, with average annual growth rates of 18 percent and 17 percent, respectively, during 1987-96. With respect to the professional services of interest in this report, imports of legal and accounting services grew most quickly, by 33 percent and 29 percent, respectively. Also similar to exports, travel and tourism services represented the largest category of imports, accounting for 34 percent of all cross-border service imports in 1996. Growth in this sector measured 6 percent per year during 1987-96.

Sales by Majority-Owned Affiliates

Since many services require continuous contact between service providers and customers, a large share of international trade in services takes place through foreign-based affiliates. In 1995, 48 percent of total U.S. service sales⁶ were accounted for by foreign affiliates of U.S. firms, and 54 percent of total U.S. service purchases were accounted for by U.S.-based affiliates of foreign firms.⁷ U.S. direct investment abroad increased the ranks of foreign affiliates by almost 280 firms in 1995⁸ and sparked a 20-percent increase in sales of services (figure 2-5).⁹

During 1987-95, sales by U.S.-owned affiliates in foreign markets grew by an average annual rate of over 13 percent, from \$72 billion in 1987 to nearly \$192 billion in 1995. Insurance firms, wholesalers, securities firms, and certain professional service firms, such as computer and data processing firms, accounted for the largest shares of sales through U.S.-owned affiliates (figure 2-6). Meanwhile, U.S. purchases of services through U.S.-based affiliates of foreign firms expanded less rapidly than sales, growing by an average annual rate of under 13 percent during 1987-95, from \$63 billion in 1987 to \$159 billion in 1995. Once again, insurance affiliates represented by far the largest source of U.S. purchases in 1995 with 36 percent, reflecting the strong presence of foreign-owned insurance companies in the U.S. market. Transportation affiliates accounted for the next largest share of U.S. purchases, 7 percent, followed closely by real estate firms, with just under 7 percent of total purchases.

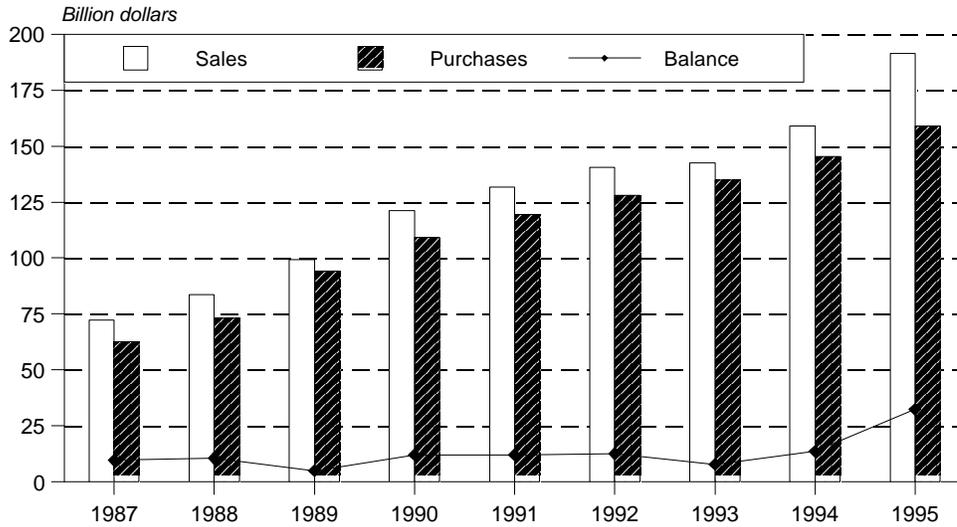
⁶ Includes both cross-border sales (exports) and affiliate sales.

⁷ Trade figures referenced in this discussion include transactions between a foreign affiliate and unaffiliated foreigners, a foreign affiliate and its U.S. parent company, and transactions among different affiliates of the parent.

⁸ USDOC, BEA, *Survey of Current Business*, Oct. 1997, p. 54.

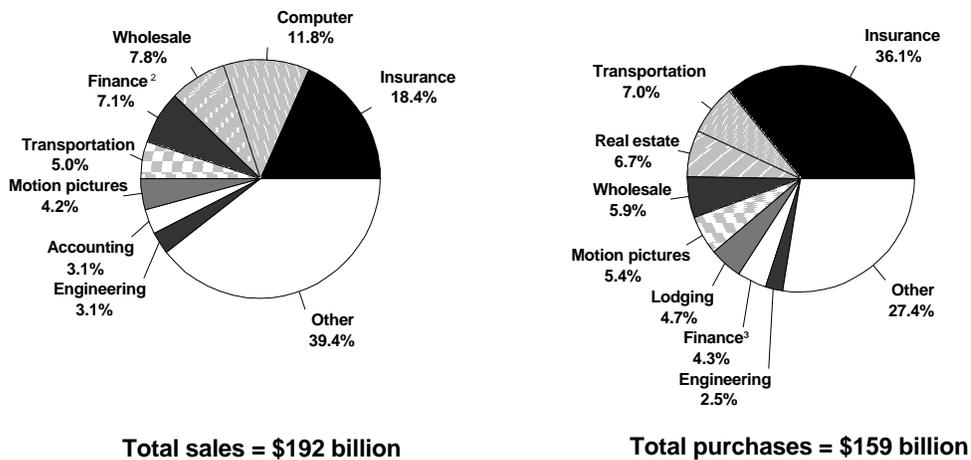
⁹ Comparable data for U.S. trade in services through affiliates are available only for the time period 1987-95.

Figure 2-5
Affiliate service transactions: U.S. sales, purchases, and balances, 1987-95



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997, p. 96.

Figure 2-6
Affiliate service transactions: U.S. sales and purchases, by industry, 1995¹



¹ Due to rounding, figures may not add to 100 percent.

² Excludes transactions by depository institutions.

³ Excludes banking transactions.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997, pp. 137-138.

U.S. Trade in Services with Subject Trading Partners

In 1996, cross-border services trade with the 12 subject trading partners¹⁰ represented an estimated 5 percent of U.S. cross-border trade volume (figure 2-7).¹¹ By comparison, cross-border services trade with the European Union (EU) accounted for 32 percent of total cross-border services trade, while trade with Latin America and Japan accounted for 18 percent and 13 percent, respectively. The subject economies represent a slightly larger portion of affiliate trade in services. In 1995, the volume of affiliate trade with the 12 subject trading partners accounted for an estimated 7 percent of total U.S. affiliate trade in services. As with cross-border trade, affiliate transactions in services were dominated by trade with the EU, which accounted for 52 percent of affiliate trade in 1995. Canada and Japan represented the second- and third-largest trading partners, accounting for 13 percent and 11 percent of service transactions through affiliates, respectively.

Cross-Border Services Trade

The United States recorded a surplus in cross-border services trade with the subject economies of over \$2 billion, or 3 percent of the total U.S. surplus in cross-border services trade. Among the subject economies, Switzerland is clearly the largest trading partner and the greatest contributor to the U.S. surplus. Switzerland alone accounts for 38 percent of total U.S. exports to the subject countries, 32 percent of total U.S. imports from these countries, and 57 percent of the surplus in cross-border services trade with these countries. Eastern Europe and Norway account for 29 percent and 13 percent of subject country exports, and 28 percent and 16 percent of subject country imports, respectively (figure 2-8).

Affiliate Transactions

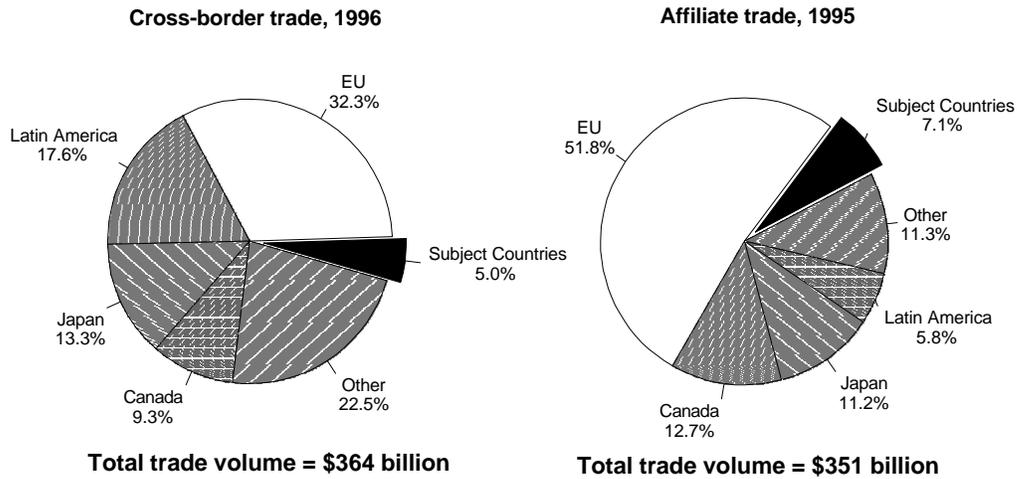
The United States purchases more services through U.S.-based affiliates from the subject countries than it sells. In 1995, U.S. purchases of services through affiliates exceeded sales by \$13 billion.

This principally stems from affiliate service transactions with Switzerland, a consequence of Swiss insurers' penetration of the U.S. market. In 1995, Swiss insurers collected premiums of \$12.4 billion from U.S. policyholders, whereas U.S. insurance firms collected premiums of only \$48 million from Swiss clients.

¹⁰ Data pertaining to U.S. trade with most of the subject trading partners is not reported separately. Trade data providing the basis for estimates is that reported for the European continent, minus that reported for the European Union. This data captured U.S. trade with the subject countries, as well as trade with Albania and the former Soviet Republics. Consequently, staff estimates overstate the subject countries' volume of trade with the United States.

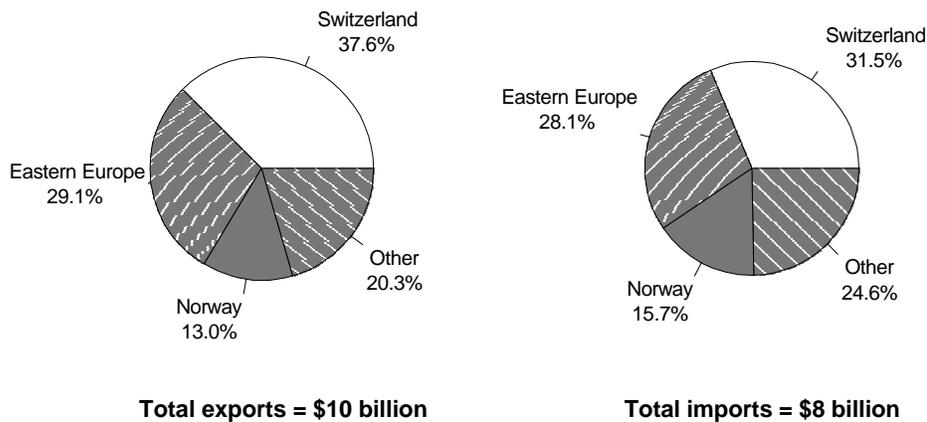
¹¹ The volume of cross-border services trade is the sum of U.S. exports and imports of services, and the volume of affiliate trade is the sum of sales and purchases through foreign affiliates.

Figure 2-7
U.S. services trade volume, by region¹



¹ Due to rounding, figures may not add to 100 percent.
 Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997, pp. 110-111 and p. 136.

Figure 2-8
U.S. cross-border services trade with the subject economies, by trading partner, 1996¹



¹ Due to rounding, figures may not add to 100 percent.
 Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997 pp. 110-111.

CHAPTER 3

Distribution Services¹

Introduction

The distribution industry provides four major services: commission agents' services, wholesale trade services, retail trade services, and franchising services.² Distinctions are as follows: commission agents sell products supplied and typically owned by others to retailers, wholesalers, or other individuals; wholesalers take title to products supplied by others and subsequently resell them to retailers; retailers sell goods and services mostly to individual consumers and households; and franchisors sell certain rights and privileges, such as the right to use a retail business format or a trademark. In addition to selling merchandise, wholesalers and retailers often provide inventory maintenance, credit, and advertising services.

International Trade in Distribution Services

Trade in distribution services comprises both affiliate and conventional cross-border transactions. The two largest providers of distribution services, wholesalers and retailers, predominantly conduct transactions through majority-owned, foreign-based affiliates. Franchisors conduct trade on a cross-border basis, receiving royalties and licensing fees in exchange for the right to use business formats, trademarks, and other intellectual property. Commission agents' services may take place on both a cross-border and affiliate basis. However, since commission agents typically are individuals or small businesses whose sales are difficult to capture in national data surveys, trade data on commission agents' services are unavailable.

Cross-Border Transactions

Franchising is the only distribution service that data collection agencies track on a cross-border basis. In 1996, the United States received \$425 million in franchising fees (exports)

¹ Among the individuals consulted by the United States International Trade Commission staff in preparation of this report were those affiliated with the following organizations: Home Depot; Office Depot; Pepsi-Cola; Estee Lauder; Tricon Restaurants International; Unisys Corp.; Toys R Us; J.C. Penney; Liz Claiborne; Wal-Mart Stores; International Franchise Association; Law Offices of Rudnick, Wolfe, Epstien & Zeidman; International Mass Retail Association; International@Counsel; the U.S./ASEAN Business Council; the American Chamber of Commerce; and the Bureau of Economic Analysis (BEA), U.S. Department of Commerce (USDOC).

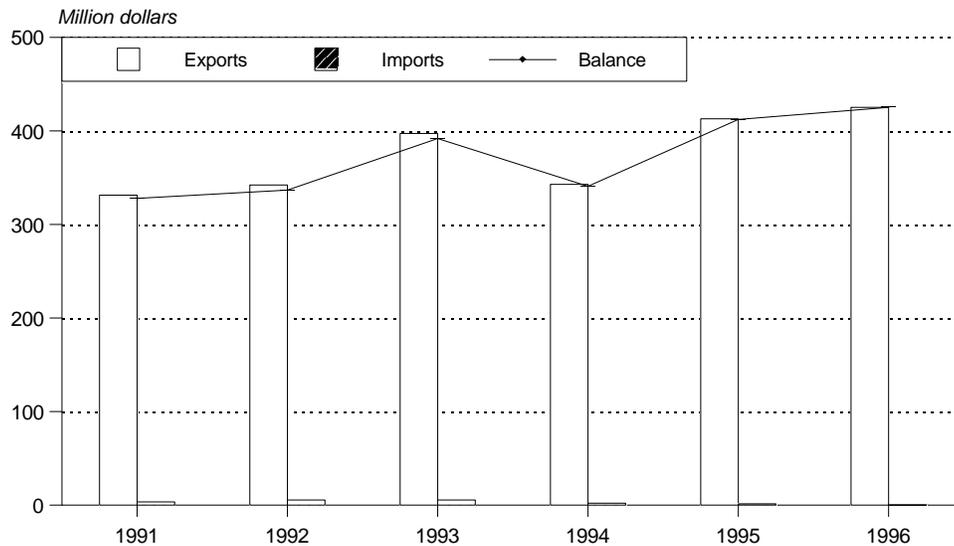
² These services are captured in the U.N. Central Product Classification (CPC) codes 621, commission agents' services; 622, wholesale trade services; 631, 632, 6111, 6113, and 6121, retailing services; and 8929, franchising services.

while paying out less than \$500,000 (figure 3-1). After rebounding sharply in 1995, export growth moderated in 1996, registering an increase of 3 percent.³ In 1996, the European Union accounted for 36 percent of U.S. franchising exports, making it the largest regional market for U.S. cross-border exports (figure 3-2). The 12 trading partners examined in this study accounted for approximately \$11 million in export franchising fees, or about 4 percent of total U.S. franchising exports. Among these countries, Norway and Switzerland were most prominent, each accounting for exports of \$2 million.

Sales by Majority-Owned Affiliates

Wholesale trade services represent the largest component of distribution services as well as a significant portion of all U.S. sales through foreign affiliates. Wholesale trade sales by foreign affiliates of U.S. firms stood at \$15 billion in 1995, while purchases amounted to \$9.4 billion (figure 3-3). U.S. sales through foreign-based affiliates increased by 9 percent in 1995, reversing the overall negative trend recorded during 1991-94 when sales declined at an average annual rate of 3 percent (despite a modest increase in 1992). European markets accounted for 57 percent of wholesale trade sales by foreign-based affiliates of U.S. firms in 1995. Among the countries studied in this report, only Switzerland receives separate treatment in official trade data. In 1995, Switzerland accounted for 5 percent of all sales through U.S.-owned wholesaling affiliates.

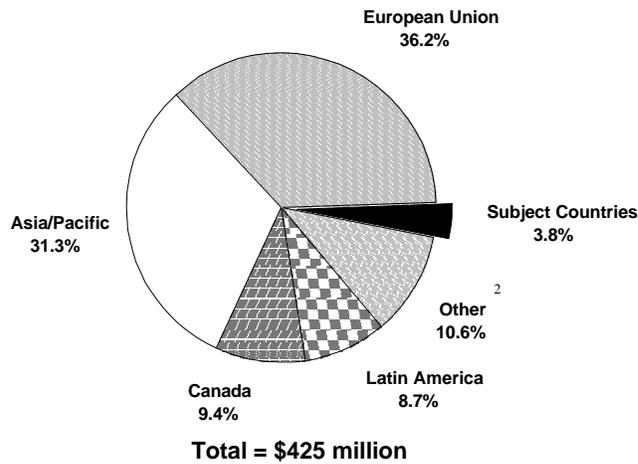
Figure 3-1
Cross-border trade in franchise fees: U.S. exports, imports, and trade balance, 1991-96



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Sept. 1994, Nov. 1996, and Oct. 1997.

³ In a 1994 realignment of statistical data, BEA removed credit card enterprises that sell their logos and systems to banks from franchise lists and reassigned them to financial data lists. This accounts for much of the drop in exports. BEA representative, telephone interview by USITC staff, Jan. 28, 1997.

Figure 3-2
Franchise fees: U.S. cross-border exports, by principal markets, 1996¹

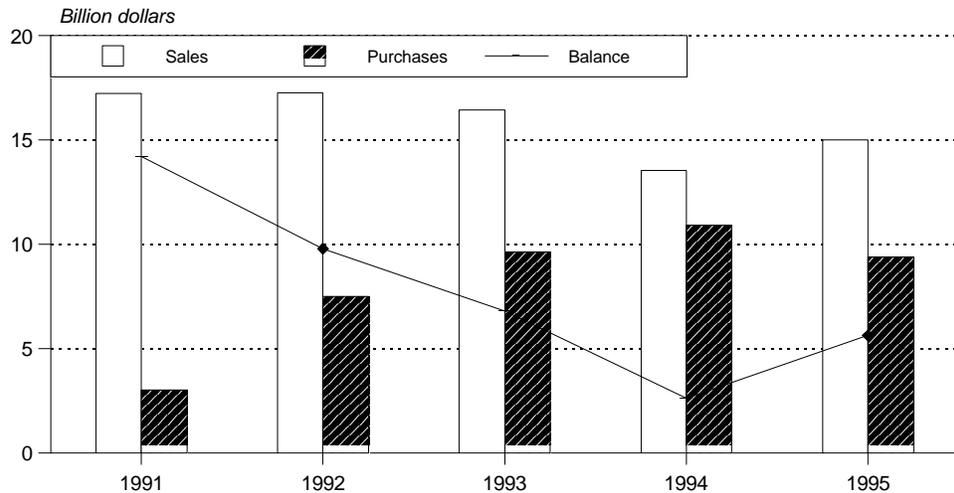


¹ Due to rounding, figures may not add to 100 percent.

² Principally includes the Middle East and Africa.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Figure 3-3
Wholesale service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95¹



¹ Data for 1991 understate U.S. purchases because selected data were suppressed in order to avoid disclosing information about the operations of individual firms.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Sept. 1993, Sept. 1994, Sept. 1995, Nov. 1996, and Oct. 1997.

In 1995, wholesale trade services provided by U.S.-based affiliates of foreign firms declined by 9 percent, reversing the trend of 51-percent average annual growth recorded during 1991-94. U.S. wholesale trade sales increased by 9 percent to \$15 billion during 1995, rebounding from a low of \$13.8 billion in 1994.

Revenues generated by retailers constitute a much smaller proportion of total trade in distribution services than those by wholesalers. In 1995, U.S. sales and purchases of services through retailing affiliates amounted to only \$1.1 billion and \$576 million, respectively (figure 3-4). In 1995, sales of services through foreign retailing affiliates of U.S. firms continued the growth trend recorded during 1991-94, although limitations on sales data published for 1994 preclude precise estimation of the growth rate in 1995.⁴ Purchases increased by 29 percent in 1995, after falling markedly by 45 percent, in 1994.

On a regional basis, Europe accounted for 69 percent of service sales through retailing affiliates of U.S. parents in 1995. Germany and the United Kingdom accounted for 23 percent and 9 percent, respectively. Among the countries examined in this report, only Switzerland appears separately in the transactions data. In 1995, foreign retailing affiliates of U.S. firms sold services valued at \$30 million in Switzerland, while U.S.-based affiliates of Swiss firms registered sales of \$4 million.

Figure 3-4
Retail services transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95¹



¹ Data for 1994 understate U.S. sales because selected data were suppressed in order to avoid disclosing information about the operations of individual firms.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Sept. 1994, Sept. 1995, Nov. 1996, and Oct. 1997.

⁴ Data for 1994 are believed to understate U.S. sales through foreign affiliates because selected data were suppressed by BEA in order to avoid disclosing information about the operation of individual firms.

Examination of Commitments on Distribution Services

The schedules of commitments address a number of legislative or regulatory measures that affect trade in distribution services (table 3-1). These measures generally limit the ability of foreign distributors to establish a commercial presence in the subject markets and to staff their establishments with nationals from their home country. Among the four types of distributors, wholesalers and retailers rely most heavily on the freedom to establish commercial presence in the form of a foreign affiliate. Consequently, barriers to commercial presence adversely affect these distribution services most. Franchising and commission agents' services tend to be less affected by commercial presence barriers because local residents typically own such establishments.

The primary barriers to commercial presence include limitations on the size of sales area, restrictions on equity holdings, and product or service exclusions due to state monopolies or national interest. Restrictions regarding natural persons include nationality quotas, residence requirements, and limitations on length of stay. Trade barriers to distribution services may appear in the schedules as either cross-industry restrictions or industry-specific restrictions, depending upon how each country completed its schedule.⁵

Limitations on the activities of distribution service firms have a variety of effects. Restrictions on equity investment, for example, may limit the ability of foreign distribution service firms to retain control over their foreign affiliates. Limits on the size of sales area may prevent certain large-scale retailers and wholesalers from entering the market. State monopolies on the distribution of selected products and exclusion from product or service areas considered to be of national interest may adversely affect service firms by limiting product mix. Finally, restrictions on the temporary entry and stay of natural persons, such as nationality quotas, residence requirements, and limits on the length of stay, may restrict the ability of distribution firms to select and manage staff.

Of the 12 countries examined in this report, only Turkey declined to schedule commitments on distribution services. As a result, Turkey may impose additional market access and national treatment limitations on foreign distribution service firms in the future without penalty. Of the remaining countries, Poland and Bulgaria scheduled the most restrictive commitments. Iceland and Slovenia scheduled the most favorable commitments on distribution services; however, both Iceland and Slovenia exclude certain product categories. U.S. distribution firms identify Switzerland, Poland, Hungary and the Czech Republic as more important markets. Bulgaria and Romania also are of great interest U.S. distributors, but the uncertain economic climate in these countries may deter significant investment at this time.

⁵ See appendix E for a detailed presentation of the cross-industry commitments. In addition, general exemptions to most-favored-nation treatment are listed in appendix F.

Table 3-1
Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria ²	COMMISSION AGENTS' SERVICES: Market Access: Unbound National Treatment: Unbound	COMMISSION AGENTS' SERVICES: Market Access: None National Treatment: None	COMMISSION AGENTS' SERVICES: Market Access: None National Treatment: None	COMMISSION AGENTS' SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 62113 (part) - Sales on a fee or contract basis of building materials and industrial and technical chemicals. CPC 62114 (part) - Sales on a fee or contract basis of machinery, industrial equipment and vehicles other than motor vehicles, bicycles, and motorcycles. CPC 62115 - Sales on a fee or contract basis of furniture, household goods, hardware, and ironmongery. CPC 62116 - Sales on a fee or contract basis of textiles, clothing, and footwear. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 62111 - Sales on a fee or contract basis of agricultural raw materials and live animals. CPC 62112 - Sales on a fee or contract basis of food products, beverages, and tobacco. CPC 62113 (part) - Sales on a fee or contract basis of fuels, metals, ores, and timber. CPC 62114 (part) - Sales on a fee or contract basis of medical and surgical equipment and orthopedic devices. CPC 62117 - Sales on a fee or contract basis of pharmaceutical and medical goods and cosmetics. CPC 62118 - Sales on a fee or contract basis of goods not elsewhere classified.

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria ² (<i>continued</i>)	WHOLESALE TRADE SERVICES: Market Access: Unbound National Treatment: Unbound	WHOLESALE TRADE SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE SERVICES: Market Access: <ul style="list-style-type: none"> License required for specialized wholesaling services. Access may be limited subject to an economic needs test.³ National Treatment: Unbound	WHOLESALE TRADE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 61111 - Wholesale trade of motor vehicles. CPC 6113 (part) - Wholesale trade of parts and accessories of motor vehicles. CPC 6121 - Wholesale trade of motorcycles, snowmobiles, and related parts and accessories. CPC 622 (part) - Wholesale trade services. These commitments exclude: <ul style="list-style-type: none"> CPC 6113 (part) - Wholesale trade of unspecified parts and accessories of motor vehicles. CPC 62211 - Wholesale trade of grain oilseeds and oleaginous fruits, seeds, and animal feed. CPC 62213 - Wholesale trade of unmanufactured tobacco. CPC 62226 (part) - Wholesale trade of alcoholic beverages. CPC 62228 - Wholesale trade of tobacco products. CPC 6225 - Wholesale trade of pharmaceutical and medical goods and cosmetics. CPC 62265 (part) - Wholesale trade of jewelry with precious stones. CPC 6227 - Wholesale trade of non-agricultural intermediate products, waste, scrap, and materials for recycling.

Table 3-1, continued
Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria ² (continued)	RETAILING SERVICES: Market Access: Unbound National Treatment: Unbound	RETAILING SERVICES: Market Access: None National Treatment: None	RETAILING SERVICES: Market Access: <ul style="list-style-type: none"> License required for specialized wholesaling services. Access may be limited subject to an economic needs test.³ National Treatment: None	RETAILING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 61112 - Retailing services of motor vehicles. CPC 6113 (part) - Retailing services of parts and accessories of motor vehicles. CPC 6121 (part) - Retailing services of motorcycles, snowmobiles, and related parts and accessories. CPC 631 (part) - Retailing services of food. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 6113 (part) - Retailing services of unspecified parts and accessories of motor vehicles. CPC 63107 - Retailing services of beverages not consumed on the spot. CPC 63108 - Retailing services of tobacco products. CPC 632 - Retailing services of non-food items. In light of the exclusion of the following subsectors, Bulgaria's exclusion on this broad sector may be unintentional. CPC 63211 - Retailing services of pharmaceutical, medical, and orthopedic goods. CPC 63292 (part) - Retailing services of watches, clocks, and jewelry. CPC 63297 - Retailing services of fuel oil, bottled gas, coal, and wood.

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria ² (<i>continued</i>)	<p>FRANCHISING SERVICES: Market Access:</p> <ul style="list-style-type: none"> Access is granted to juridical persons only. <p>National Treatment: None</p>	<p>FRANCHISING SERVICES: Market Access: None National Treatment: None</p>	<p>FRANCHISING SERVICES: Market Access: Unbound National Treatment: None</p>	<p>FRANCHISING SERVICES: Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>With respect to CPC 63297, it appears that Bulgaria transposed the '2' and the '9', as the schedule lists CPC 63927, a code which does not exist.</p> <p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 8929 - Other non-financial intangible assets (Franchising services).
Czech Republic	<p>WHOLESALE TRADE SERVICES: Market Access: None National Treatment: None</p>	<p>WHOLESALE TRADE SERVICES: Market Access: None National Treatment: None</p>	<p>WHOLESALE TRADE SERVICES: Market Access: None National Treatment: None</p>	<p>WHOLESALE TRADE SERVICES: Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 622 - Wholesale trade services.
	<p>RETAILING SERVICES: Market Access:</p> <ul style="list-style-type: none"> Unbound except for mail order, for which there are no limitations. <p>National Treatment: None</p>	<p>RETAILING SERVICES: Market Access: None National Treatment: None</p>	<p>RETAILING SERVICES: Market Access: None National Treatment: None</p>	<p>RETAILING SERVICES: Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 6111 - Sales of motor vehicles. CPC 6113 - Sales of parts and accessories of motor vehicles. CPC 6121 - Sales of motorcycles and snowmobiles and related parts and accessories. CPC 631 - Food retailing services. CPC 632 - Non-food retailing services.

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Czech Republic (<i>continued</i>)	FRANCHISING SERVICES: Market Access: None National Treatment: None	FRANCHISING SERVICES: Market Access: None National Treatment: None	FRANCHISING SERVICES: Market Access: None National Treatment: None	FRANCHISING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8929 - Other non-financial intangible assets (Franchising services). These commitments exclude: <ul style="list-style-type: none"> Trade in arms, ammunition, explosives, some chemical products, drugs, and precious metals for all distribution services. The Czech Republic did not schedule commitments on: <ul style="list-style-type: none"> CPC 621 - Commission agents' services.
Hungary	WHOLESALE TRADE, RETAILING, AND FRANCHISING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE, RETAILING, AND FRANCHISING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE, RETAILING, AND FRANCHISING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE, RETAILING, AND FRANCHISING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 6111 - Sales of motor vehicles. CPC 6113 - Sales of parts and accessories of motor vehicles. CPC 6121 - Sales of motorcycles and snowmobiles and related parts and accessories. CPC 622 - Wholesale trade services. CPC 631 - Food retailing services. CPC 632 - Non-food retailing services. CPC 8929 - Other non-financial intangible assets (Franchising services). Hungary did not schedule commitments on: <ul style="list-style-type: none"> CPC 621 - Commission agents' services.

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Iceland	<p>ALL DISTRIBUTION SERVICES: Market Access: None National Treatment: None</p>	<p>ALL DISTRIBUTION SERVICES: Market Access: None National Treatment: None</p>	<p>ALL DISTRIBUTION SERVICES: Market Access: None National Treatment: None</p>	<p>ALL DISTRIBUTION SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 6111 - Sales of motor vehicles. CPC 6113 - Sales of parts and accessories of motor vehicles. CPC 6121 - Sales of motorcycles and snowmobiles and related parts and accessories. CPC 621 - Commission agents' services. CPC 622 - Wholesale trade services. CPC 631 - Food retailing services. CPC 632 - Non-food retailing services. CPC 8929 - Other non-financial intangible assets (Franchising services). <p>These commitment exclude:</p> <ul style="list-style-type: none"> Trade in arms, alcoholic beverages, tobacco, and pharmaceutical products for all distribution services.
Liechtenstein	<p>COMMISSION AGENTS' SERVICES: Market Access: None National Treatment: None</p>	<p>COMMISSION AGENTS' SERVICES: Market Access: None National Treatment: None</p>	<p>COMMISSION AGENTS' SERVICES: Market Access: None National Treatment: None</p>	<p>COMMISSION AGENTS' SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. </p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 621 - Commission agents' services.

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Liechtenstein (<i>continued</i>)	WHOLESALE TRADE AND RETAILING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE AND RETAILING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE AND RETAILING SERVICES: Market Access: Restrictions are maintained on the permissible size of the sales area. National Treatment: None	WHOLESALE TRADE AND RETAILING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 6111 - Sales of motor vehicles. CPC 6113 - Sales of parts and accessories of motor vehicles. CPC 6121 - Sales of motorcycles and snowmobiles and related parts and accessories. CPC 622 - Wholesale trade services. CPC 631 - Food retailing services. CPC 632 - Non-food retailing services. These commitments exclude: <ul style="list-style-type: none"> Retailing through mobile sales units.
	FRANCHISING SERVICES: Market Access: None National Treatment: None	FRANCHISING SERVICES: Market Access: None National Treatment: None	FRANCHISING SERVICES: Market Access: None National Treatment: None	FRANCHISING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8929 - Other non-financial intangible assets (Franchising services). These commitments exclude: <ul style="list-style-type: none"> Services related to goods that are subject to import authorization. Services related to pharmaceuticals, toxics, explosives, weapons, ammunition, and precious metals. MFN exemption: <ul style="list-style-type: none"> Preferential treatment is accorded in granting work permits to employees of enterprises of member countries of the Convention establishing the European Free Trade Association.

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Norway	WHOLESALE TRADE AND FRANCHISING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE AND FRANCHISING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE AND FRANCHISING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE AND FRANCHISING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 622 - Wholesale trade services. CPC 8929 - Other non-financial intangible assets (Franchising services).
	RETAILING SERVICES: Market Access: None National Treatment: None	RETAILING SERVICES: Market Access: None National Treatment: None	RETAILING SERVICES: Market Access: None National Treatment: <ul style="list-style-type: none"> 2 years prior residency in Norway required for the branch manager of a foreign company and for the majority of the board members of a foreign-controlled company. 	RETAILING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 2 years prior residency in Norway required for the branch manager of a foreign company. 	These commitments cover: <ul style="list-style-type: none"> CPC 6111 - Sales of motor vehicles. CPC 6113 - Sales of parts and accessories of motor vehicles. CPC 6121 - Sales of motorcycles and snowmobiles and related parts and accessories. CPC 631 - Food retailing services. CPC 632 - Non-food retailing services. These commitments exclude: <ul style="list-style-type: none"> Import and trade in alcohol, arms, pharmaceuticals, fish, and grain for all distribution services. Norway did not schedule commitments on: <ul style="list-style-type: none"> CPC 621 - Commission agents' services.

Table 3-1, continued
Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Poland	WHOLESALE TRADE SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE SERVICES: Market Access: <ul style="list-style-type: none"> License required to establish a company that provides wholesale trade in imported consumer goods. National Treatment: None	WHOLESALE TRADE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 622 - Wholesale trade services, except as indicated below. These commitments exclude: <ul style="list-style-type: none"> CPC 62226 - Wholesale trade services of beverages. CPC 62228 - Wholesale trade services of tobacco products. CPC 62251 - Wholesale trade services of pharmaceutical and medical goods. CPC 62252 - Wholesale trade services of surgical and orthopedic instruments and devices.
	RETAILING SERVICES: Market Access: Unbound National Treatment: Unbound	RETAILING SERVICES: Market Access: None National Treatment: None	RETAILING SERVICES: Market Access: None National Treatment: None	RETAILING SERVICES: Market Access: None National Treatment: None	RETAILING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Poland (<i>continued</i>)					<p>Poland did not schedule commitments on:</p> <ul style="list-style-type: none"> • CPC 6111 - Sales of motor vehicles. • CPC 6113 - Sales of parts and accessories of motors vehicles. • CPC 6121 - Sales of motorcycles and snowmobiles and related parts and accessories. • CPC 621 - Commission agents' services. • CPC 8929 - Other non-financial intangible assets (Franchising services).
Romania	<p>COMMISSION AGENTS', WHOLESALE TRADE, AND RETAILING SERVICES: Market Access: None National Treatment: None</p>	<p>COMMISSION AGENTS', WHOLESALE TRADE, AND RETAILING SERVICES: Market Access: None National Treatment: None</p>	<p>COMMISSION AGENTS', WHOLESALE TRADE, AND RETAILING SERVICES: Market Access: None National Treatment: None</p>	<p>COMMISSION AGENTS', WHOLESALE TRADE, AND RETAILING SERVICES: Market Access:</p> <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> • None except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> • CPC 621 - Commission agents' services. • CPC 622 - Wholesale trade services. • CPC 631 - Food retailing services. • CPC 632 - Non-food retailing services. <p>These commitments exclude:</p> <ul style="list-style-type: none"> • Distribution of arms, ammunition, explosives, narcotics and medicines containing narcotics, tobacco products and paper for cigarettes, alcohol and spirits. <p>Romania did not schedule commitments on:</p> <ul style="list-style-type: none"> • CPC 6111 - Sales of motor vehicles. • CPC 6113 - Sales of motor vehicle parts and accessories. • CPC 6121 - Sales of motorcycles, snowmobiles and their parts and accessories. • CPC 8929 - Other non-financial intangible assets (Franchising services).

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Slovak Republic	WHOLESALE TRADE AND FRANCHISING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE AND FRANCHISING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE AND FRANCHISING SERVICES: Market Access: None National Treatment: None	WHOLESALE TRADE AND FRANCHISING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 622 - Wholesale trade services. CPC 8929 - Other non-financial intangible assets (Franchising services).
	RETAILING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except for mail order, for which there are no limitations. National Treatment: Unbound	RETAILING SERVICES: Market Access: None National Treatment: None	RETAILING SERVICES: Market Access: None National Treatment: None	RETAILING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 631 - Food retailing services. CPC 632 - Non-food retailing services. CPC 6111 - Sales of motor vehicles. CPC 6113 - Sales of motor vehicle parts and accessories. CPC 6121 - Sales of motorcycles, snowmobiles and their parts and accessories. These commitments exclude: <ul style="list-style-type: none"> Trade in arms, ammunition, explosives, some chemical products, drugs, and precious metals. The Slovak Republic did not schedule commitments on: <ul style="list-style-type: none"> CPC 621 - Commission agents' services.

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Slovenia	<p>ALL DISTRIBUTION SERVICES: Market Access: None National Treatment: None</p>	<p>ALL DISTRIBUTION SERVICES: Market Access: None National Treatment: None</p>	<p>ALL DISTRIBUTION SERVICES: Market Access: None National Treatment: None</p>	<p>ALL DISTRIBUTION SERVICES: Market Access:</p> <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> • CPC 61112 - Retail sales of motor vehicles. • CPC 6113 - Sales of parts and accessories of motor vehicles. • CPC 6121 - Sales of motorcycles and snowmobiles and related parts and accessories. • CPC 621 - Commission agents' services. • CPC 622 - Wholesale trade services. • CPC 631 - Food retailing services. • CPC 632 (part) - Non-food retailing services. • CPC 8929 - Other non-financial intangible assets (Franchising services). <p>These commitments exclude:</p> <ul style="list-style-type: none"> • Distribution of pyrotechnical goods, ignitable articles and blasting devices, firearms, ammunition and military equipment, toxic substances and certain medical substances. • CPC 61111 - Wholesale trade services of motor vehicles. • CPC 63211 - Retail sales of pharmaceutical, medical, and orthopedic goods.

Table 3-1, continued
Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Switzerland	COMMISSION AGENTS', WHOLESALE TRADE, AND RETAILING SERVICES: Market Access: None National Treatment: None	COMMISSION AGENTS', WHOLESALE TRADE, AND RETAILING SERVICES: Market Access: None National Treatment: None	COMMISSION AGENTS', WHOLESALE TRADE, AND RETAILING SERVICES: Market Access: <ul style="list-style-type: none"> Some cantons have restrictions on the size of the sales area. National Treatment: None	COMMISSION AGENTS', WHOLESALE TRADE, AND RETAILING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 6111 (part) - Retail sales of motor vehicles. CPC 6113 (part) - Sales of parts and accessories of motor vehicles. CPC 6121 (part) - Sales of motorcycles and snowmobiles and related parts and accessories. CPC 621 (part) - Commission agents' services. CPC 622 (part) - Wholesale trade services. CPC 631 (part) - Food retailing services. CPC 632 (part) - Non-food retailing services. These commitments exclude: <ul style="list-style-type: none"> Services related to goods subject to import authorization. Services related to pharmaceuticals, toxics, explosives, weapons, ammunition, and precious metals. Retailing through mobile sales units.

Table 3-1, *continued*

Highlights of industry-specific restrictions on distribution services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Switzerland (<i>continued</i>)	FRANCHISING SERVICES: Market Access: None National Treatment: None	FRANCHISING SERVICES: Market Access: None National Treatment: None	FRANCHISING SERVICES: Market Access: None National Treatment: None	FRANCHISING SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8929 - Other non-financial intangible assets (Franchising services). MFN exemption: <ul style="list-style-type: none"> Preferential treatment is accorded in granting work permits to employees of enterprises of member countries of the Convention establishing the European Free Trade Association.

¹ Turkey did not offer any commitments on distribution services.

² With respect to all distribution services, Bulgaria's commitments exclude:

- Wholesale or commission agents' trade services supplied at commodity exchange markets operated on a permanent basis.
- Distribution services of tobacco and tobacco products; alcoholic beverages; pharmaceutical, medical and orthopedic goods; weapons, munitions, and military equipment; precious metals, precious stones, and articles thereof; petroleum and petroleum products.

³ Criteria for economic needs tests: the number of, and the impact on, existing stores; population density; geographic spread; and impact on traffic conditions.

Bulgaria

Bulgaria's commitments on distribution services are complex as they exclude many discrete services and product areas. Bulgaria's commitments do not apply to commission agents' and wholesale services supplied at commodity exchange markets operated on a permanent basis. In addition, the commitments exclude all measures affecting distribution of tobacco and tobacco products;⁶ alcoholic beverages; pharmaceutical,⁷ medical and orthopedic goods; weapons, munitions, and military equipment; precious metals, precious stones, and articles thereof; and petroleum and petroleum products.

For commission agents' services, Bulgaria's commitments cover sales on a fee or contract basis of building materials; industrial and technical chemicals; most machinery and industrial equipment; vehicles other than motor vehicles, bicycles, and motorcycles; furniture, household goods, hardware, and ironmongery; and textiles, clothing, and footwear.⁸ Commission agents who sell these products through commercial presences receive full market access and national treatment. Commission agents providing services through cross-border supply however, are subject to unbound restrictions.

Bulgaria's commitments on wholesale trade services apply to the wholesale trade of motor vehicles and related parts and accessories; motorcycles, snowmobiles and related parts and accessories; and most non-agricultural and non-pharmaceutical products.⁹ Restrictions on wholesale services provided through cross-border supply remain unbound, while services provided through a commercial presence may be subject to licensing procedures and economic needs tests.¹⁰

Bulgaria's commitments on retailing services are nearly identical to those on wholesaling services. Retailing commitments pertain to motor vehicles and related parts and accessories; motorcycles, snowmobiles, and related parts and accessories; food; and apparently most non-

⁶ Licensing by the Ministry of Finance is required for the production and distribution of tobacco and tobacco products. Bulgarian Government official, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

⁷ The Ministry of Health is responsible for licensing wholesale and retail trade of pharmaceuticals. Bulgarian Government official, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

⁸ Bulgaria's commitments on commission agents' services do not apply to sales on a fee or contract basis of motor vehicles, related parts and accessories; agricultural raw materials and live animals; food products, beverages, and tobacco; fuels, metals, ores, and timber; medical and surgical equipment and orthopedic devices; and pharmaceutical and medical goods and cosmetics.

⁹ Bulgaria's commitments on wholesale trade services exclude wholesale trade of some unspecified parts and accessories of motor vehicles; grain oilseeds and oleaginous fruits, seeds, and animal feed; unmanufactured tobacco; alcoholic beverages; tobacco products; pharmaceutical and medical goods and cosmetics; jewelry with precious stones; and non-agricultural intermediate products.

¹⁰ The criteria for economic needs tests include the number of and the impact on existing stores, population density, geographic spread, and traffic conditions.

food items.¹¹ Measures affecting services provided through cross-border supply remain unbound. For services provided through a commercial presence, market access may be subject to licensing procedures and economic needs tests, but national treatment is guaranteed.

Bulgaria's commitments on cross-border supply of franchising services indicate that national treatment is guaranteed, but that market access is granted only to juridical persons. In other words, the franchisor must be established as a corporation or other legal business entity. For franchising services provided through a commercial presence, Bulgaria guarantees national treatment but leaves measures affecting market access unbound. This means that Bulgaria may impose existing or future limitations on market access, but any such measures will apply equally to domestic and foreign firms. Reportedly, franchising in Bulgaria is treated similarly to financial leasing and at present there are no restrictions.¹²

Bulgaria's commitments regarding the presence of natural persons are delineated in its cross-industry commitments. Intra-corporate transfers of senior executives and specialists employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.¹³ Residence and work permits are required for such intra-corporate transferees. Additional personnel engaged in sales negotiations or arrangements pertaining to the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa.

Czech Republic

The Czech Republic scheduled fairly broad commitments pertaining to wholesale, retail, and franchising services. However, the Czech Republic excluded commission agents' services from the scope of its schedule, which means that trade limitations on this form of distribution remain unbound. In addition, the Czech Republic's commitments exclude trade in arms, ammunition, explosives, some chemical products, drugs, and precious metals.

For wholesale trade of all other products, the Czech Republic accords full market access and national treatment to foreign firms offering services through the most important modes of supply, cross-border supply and commercial presence. For retailing services, the Czech Republic accords full market access and national treatment to foreign firms operating as commercial presences, while leaving measures affecting cross-border supply unbound except for mail order services, for which there are no restrictions. Finally, with respect to franchising services, the Czech Republic guarantees full market access and national treatment for both key modes of supply.

With respect to wholesaling, retailing, and franchising services, the Czech Republic leaves limitations pertaining to natural persons unbound except for cross-industry measures permitting

¹¹ Bulgaria's retailing commitments exclude unspecified parts and accessories of motor vehicles; beverages not consumed on the spot; tobacco products; pharmaceutical, medical, and orthopedic goods; watches, clocks, and jewelry; fuel oil, bottled gas, coal, and wood.

¹² Bulgarian Government officials, interviews by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

¹³ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

the entry and temporary stay of personnel. Senior executives and specialists¹⁴ with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves. However, the Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁵ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary

Hungary made broad commitments to accord full market access and national treatment to foreign wholesalers, retailers, and franchisors providing services through cross-border supply and commercial presence. Hungary's commitments apply to all product categories, but do not cover services provided by commission agents.

Hungary's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,¹⁶ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are granted stays for the duration of the invitation. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

However, Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁷ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

¹⁴ Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

¹⁵ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993 (MTN.GNS/W/164/Add.1).

¹⁶ Senior officials are defined as managers who have the highest rank within an organization.

¹⁷ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

Iceland

Iceland's commitments accord full market access and national treatment to foreign providers of all distribution services through both cross-border supply and commercial presence. Iceland's commitments apply to all product categories except for arms, alcoholic beverages, tobacco, and pharmaceutical products. Aside from these product exclusions, Iceland's commitments are more extensive than other countries in this study.

With respect to the presence of natural persons, Iceland's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Iceland declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Iceland may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁸ Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Liechtenstein

Liechtenstein accords full market access and national treatment to foreign providers of most distribution services through most modes of supply, but its commitments do not apply to distribution of pharmaceutical products, toxic chemicals, explosives, weapons, ammunition and precious metals. Liechtenstein accords full market access and national treatment to foreign commission agents and franchisors providing services through cross-border supply and commercial presence. Liechtenstein also grants full market access and national treatment to retailers and wholesalers that provide services through cross-border supply, but with regard to commercial presence, both wholesalers and retailers face restrictions on the permissible size of the sales area. However, since national treatment is accorded, measures regarding sales areas will affect foreign and domestic retailers and wholesalers alike. Liechtenstein's commitments also exclude retailing through mobile sales units. Under an MFN exemption, Liechtenstein grants, on a preferential basis, work permits to employees of enterprises based in member countries of the European Free Trade Association.

Liechtenstein's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of intra-corporate transferees and business visitors. Executives, senior managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year preceding entry. Intra-corporate transferees are granted a 3-year period of stay. Liechtenstein declined to specify permissible lengths of stay for business visitors, but under the terms of the GATS, it may not impose conditions that nullify the benefits accorded to these providers by industry-specific commitments.¹⁹ Liechtenstein's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. In addition, business visitors are required to possess residence and work permits, the latter of which may be available to foreign service providers only in limited numbers.

¹⁸ Ibid.

¹⁹ Ibid.

Norway

Norway scheduled commitments on wholesaling, retailing, and franchising, but declined to schedule commitments on commission agents' services, thereby leaving restrictions on the latter unbound. In addition, Norway's schedule indicates that unbound restrictions apply to the distribution of alcohol, arms, pharmaceuticals, fish, and grain.

Norway's commitments accord full market access and national treatment to foreign wholesalers and franchisors providing services through cross-border supply and commercial presence. Norway accords the same guarantee for retailing services provided through cross-border supply. However, for retailing services provided through a commercial presence, Norway requires 2-years prior residency for branch managers of a foreign-controlled company. The 2-year prior residency rule also applies to the majority of a foreign-controlled company's board members.

With respect to the presence of natural persons, Norway's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

Poland

Poland scheduled commitments that accord market access and national treatment to foreign providers of wholesale and retail services only. Poland declined to schedule commitments on commission agents' or franchising services, thereby leaving restrictions affecting these services unbound. In addition, Poland's commitments exclude the wholesaling of beverages, tobacco products, pharmaceuticals, medical goods, cosmetics, surgical instruments and devices, and orthopedic instruments and devices. Poland also excludes retail trade of beverages not consumed immediately, tobacco products, and pharmaceutical, medical and orthopedic goods. With respect to wholesale trade in nonrestricted products, there are no limitations on cross-border supply, but foreign wholesalers must be licensed to distribute imported goods through a commercial presence. With respect to retail services, Poland imposes no restrictions on commercial presence, but indicates that restrictions on cross-border supply remain unbound.

Poland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on a market test.²⁰ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify

²⁰ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate, which may affect the establishment of distribution outlets.

Romania

Romania scheduled fairly broad commitments that accord market access and national treatment to foreign providers of commission agents', wholesale, and retail services. However, Romania excluded franchising services from the scope of its schedule, which means that restrictions remain unbound. In addition, Romania's commitments exclude trade in arms, ammunition, explosives, narcotics and medicines containing narcotics, tobacco products and paper for cigarettes, alcohol and spirits, motor vehicles, motor vehicle parts and accessories, and motorcycles and snowmobiles and related parts and accessories. For retailing, wholesaling, and commission agents' services, Romania accords full market access and national treatment for services provided through cross-border supply and commercial presence.

With respect to the presence of natural persons, Romania's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of managers and experts.²¹ Romania declined to specify permissible lengths of stay, but under the terms of the GATS, Romania may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.²² Romanian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovak Republic

The Slovak Republic scheduled fairly broad commitments to accord market access and national treatment to foreign providers of wholesale, retail, and franchising services. However, the Slovak Republic excluded commission agents' services from the scope of its schedule, which means that any applicable restrictions remain unbound. In addition, the Slovak Republic's commitments exclude trade in arms, ammunition, explosives, some chemical products, drugs, and precious metals. With respect to franchising and wholesale trade of nonrestricted products, the Slovak Republic scheduled commitments to accord full market access and national treatment to foreign firms offering services through both cross-border supply and commercial presence. With respect to retailing services, the Slovak Republic scheduled commitments to accord full market access and national treatment for services provided through commercial presence. However, market access restrictions affecting cross-border supply remain unbound except for mail order services, for which there are no restrictions. This indicates that the Slovak Republic has retained some discretion to limit cross-border retailing services in the future.

The Slovak Republic's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without

²¹ Experts are defined as persons who have university degrees in the specialty of the position they occupy.

²² GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

meeting the 1-year employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but do not make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.²³ The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovenia

Slovenia's commitments accord full market access and national treatment to foreign service providers of all distribution services through both cross-border supply and commercial presence. However, Slovenia's commitments exclude all sales of pyrotechnical goods, ignitable articles and blasting devices, firearms, ammunition and military equipment, toxic substances and certain medical substances; retail sales of pharmaceutical, medical, and orthopedic goods; and the wholesale trade of motor vehicles.

Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Switzerland

Switzerland scheduled fairly broad commitments that accord market access and national treatment to foreign providers of all distribution services through cross-border supply and commercial presence. However, Switzerland's commitments exclude distribution of goods subject to import authorization, pharmaceutical products, toxics, explosives, weapons, ammunition, and precious metals. Switzerland lists one measure that may limit market access in the wholesaling, retailing and commission agents' sectors; some Swiss cantons (i.e., States) restrict the permissible size of sales areas. In addition, retailers may not operate mobile sales units. With respect to franchising, Switzerland accords full market access and national treatment to foreign firms operating through cross-border supply and commercial presence. Under an MFN exemption, Switzerland also grants, on a preferential basis, work permits to employees of enterprises based in member countries of the European Free Trade Association.

Switzerland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers,

²³ Ibid.

specialists, and business visitors. Senior executives, managers, and specialists employed by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of a commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the two periods of stay in Switzerland.

Industry Opinion

Despite the continued globalization of the distribution services industry, particularly in the retail and franchising subsectors, U.S. distribution firms are not well-represented in the subject countries. This is partially due to demographic factors, as many of the subject countries have an aging consumer base and low birth rates.²⁴ In addition, few of the subject countries have more than a single city with a population in excess of 1 million people. The Slovak Republic's largest city, Bratislava, has a population of only 440,400.²⁵ Consequently, some of these markets are too small to justify large investments by distribution firms. In addition, U.S. distribution firms have been deterred from market entry because of strong competition from a large number of well-entrenched European retailers.²⁶ European firms such as Tesco, Julius Meinl International, Billa, and Tengelmann have made an early and aggressive push into the subject countries.

A number of other factors also present market impediments to U.S. distribution service providers. In some of the subject countries, permit application processes are costly and time consuming and available sales locations are small and of low quality.²⁷ Permits and licensing are often contingent on U.S. firms upgrading infrastructure for an entire neighborhood, in addition to upgrading their individual sales location. Competing indigenous firms reportedly do not have such requirements. In addition, U.S. distribution firms have reported difficulties in purchasing and leasing land. In some cases, such as Bulgaria, foreign firms can only acquire property rights, not actual property.²⁸ Obtaining the right to occupy property is complicated, in part because there are questions as to current ownership.²⁹ Weak infrastructure and immature distribution, financial, and transportation systems also pose obstacles in certain markets. For example, in Poland, distribution networks are relatively new and even large producers experience difficulty stocking shelves. U.S. firms often must create their own retail networks as a result.³⁰ With respect to the financial sector, U.S. franchisors report that franchisees often lack start-up capital.³¹ In Hungary, franchisees have difficulty obtaining credit because of high

²⁴ Coopers and Lybrand, "Global Retailing: Assignment Eastern Europe and the Commonwealth of Independent States," *Chain Store Age*, January 1997, Section 3, p. 2.

²⁵ Ibid.

²⁶ Ibid.; and industry representative, telephone interview by USITC staff, Jan. 21, 1998.

²⁷ Industry representatives, telephone interviews by USITC staff, Jan. 7 and 8, 1998.

²⁸ Bulgarian Government official, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

²⁹ Industry representatives, telephone interviews by USITC staff, Jan. 7 and 8, 1998.

³⁰ USDOC, "Country Commercial Guide: Poland," Stat-USA Database, found at Internet address <http://iepnt1.itaiep.doc.gov/>, posted June 1997, retrieved Mar. 6, 1998.

³¹ Industry representative, telephone interview by USITC staff, Dec. 30, 1997.

interest rates and limited available capital;³² in Poland, banks consider loans to franchisees imprudent investments.³³

Other issues of concern to U.S. distributors are subfederal regulations and measures that limit product sourcing options. Subfederal practices in Switzerland raise market entry costs for U.S. retailers, who may have to accommodate different regulatory regimes at each store location.³⁴ Regulations subject to variation include those for taxation, building codes, advertising, and operating hours, all of which could potentially have a negative impact on success in the Swiss market.³⁵ Sourcing limitations include customs and import policies. For example, in Poland, imported merchandise reportedly has been delayed at Polish customs for extended periods of time. As a result, U.S. retailers eventually find it easier to market Polish products only or to source merchandise through Polish distributors, with both approaches adversely affecting their competitive position. In Turkey, major local beef producers have successfully pressed the government to proscribe beef imports with the result that fast food franchises such as McDonald's face beef costs that are 400 percent higher than those in the United States.³⁶ Other franchises face higher expenses due to import restrictions and duties.³⁷ For example, the costs absorbed by TGI Friday's in Turkey have increased as 50 percent of the restaurant's menu consists of imported items.³⁸

Despite this list of obstacles to doing business in the region, U.S. franchisors have also reported that certain of the subject markets pose significant business opportunities. Poland in particular is a large market for U.S. franchisors. Tricon Restaurants International, the company formed to operate Pepsico's spun-off fast food restaurants, currently manages 56 food outlets in Poland and plans to open 150 new Pizza Hut, KFC, and Taco Bell outlets over the next five years.³⁹ Other U.S. distributors that have established a presence in the region include Alpha Graphics, Coca-Cola, Estee Lauder, KFC, IBM, L.A. Gear, McDonald's, Office Depot, Pepsi-Cola, Pizza Hut, Taco Bell, TGI Fridays, Toys R Us, and Unisys. U.S. distribution service firms generally believe that conditions are improving across the region and they are hopeful that the GATS may contribute by encouraging transparency and harmonization of regulatory policies and by fostering broader economic development.

³² USDOC, "Hungary-Franchising-ISA960901," Stat-USA Database, found at Internet address <http://www.stat-usa.gov/>, posted Sept. 1, 1996, retrieved Dec. 24, 1997.

³³ USDOC, "Poland-Franchising Market-ISA970401," Stat-USA Database, found at Internet address <http://www.stat-usa.gov/>, posted Apr. 1, 1997, retrieved Dec. 29, 1997.

³⁴ Industry representative, telephone interview by USITC staff, Jan. 6, 1998.

³⁵ USDOC, "Switzerland-Investment Climate-IMI970613," Stat-USA Database, found at Internet address <http://www.stat-usa.gov/>, posted June 6, 1997, retrieved Mar. 9, 1998.

³⁶ USDOC, "Turkey - Fast Food Franchising -ISA9512," found at Internet address <http://www.stat-usa.gov/>, posted Dec. 1995, retrieved Jan. 2, 1998; and industry representative, telephone interview by USITC staff, Jan. 9, 1998.

³⁷ USDOC, "Turkey - Fast Food Franchising - ISA9512."

³⁸ USDOC, "Turkey - U.S. Restaurant Opens-IMI970710," found at Internet address <http://www.stat-usa.gov/>, posted July 10, 1997, retrieved Jan. 2, 1998.

³⁹ USDOC, "IM 10/31Poland TRI Plans to Build Restaurants," Stat-USA Database, found at Internet address <http://www.stat-usa.gov/>, posted Oct. 31, 1997, retrieved Dec. 24, 1997.

Summary

The schedules of commitments submitted by the subject countries varied considerably in terms of scope, ranging from Turkey, which did not offer any commitments on distribution services, to Iceland and Slovenia, which scheduled the broadest commitments to market access and national treatment. Other countries fell somewhere in between, with commitments applicable only to certain product categories or specific modes of supply. As a result of this wide variation, the GATS achieved only moderate success in terms of establishing benchmarks and improving transparency.

Industry sources suggest that, while the GATS is perceived as a positive development, many of the most significant difficulties they encounter are addressed only tangentially by the agreement. These included problems with importing and customs clearance procedures, domestic regulatory policies, and infrastructure weakness. In addition, industry sources noted that some of the subject countries were more open to foreign participation than indicated by their commitments. For example, Poland scheduled some of the least liberal commitments, and yet in practice it appears to offer a relatively open market. Future rounds of negotiations would therefore be beneficial if they afford the opportunity to bring commitments closer to current practice and if they foster further regulatory harmonization.

CHAPTER 4

Education Services¹

Introduction

Education services principally entail formal academic instruction in primary, secondary, and higher education institutions such as colleges and universities.² In addition, education services include adult and other education services, with the latter including, for example, English language instruction. Formal foreign study programs sponsored by colleges and universities account for approximately 90 percent of U.S. trade in education services.³

International Trade in Education Services

Trade in education services occurs predominantly through the cross-border exchange of students. U.S. cross-border exports reflect the estimated tuition and living expenses of foreign residents enrolled in U.S. colleges and universities.⁴ U.S. cross-border imports of education services represent the estimated tuition and living expenses of U.S. residents who study abroad in foreign educational institutions.⁵

Although relatively uncommon, affiliate transactions in education services occur when U.S. institutions locate facilities abroad to provide courses to foreign students, or when foreign institutions locate facilities in the United States to provide education to U.S. citizens. U.S. institutions operating abroad usually provide English language courses or corporate-sponsored management and technical training to foreigners. In some instances, U.S. universities offer accredited undergraduate or graduate courses to foreigners through affiliate institutions established abroad. Official data on affiliate transactions are not

¹ Among the individuals contacted by USITC staff in preparation of this report were those affiliated with Alliance for International Education and Cultural Exchange, American Association of Community Colleges, American University in Bulgaria, Council on International Education Exchange, Graduate and Professional Educational Testing Services (ETS), Institute of International Education (IIE), Maryland English Institute (University of Maryland), and NAFSA: Association of International Educators.

² The corresponding U.N. Central Product Classification (CPC) codes are 921, primary education services; 922, secondary education services, including technical and vocational education services below the university level; 923, higher education services, including post-secondary technical and vocational education services and education services leading to a university degree or its equivalent; 924, adult education services; and 929, other unspecified education services.

³ USITC staff estimates based on interviews with U.S. Department of Commerce (USDOC) officials, Mar. 1997.

⁴ Foreign residents do not include U.S. citizens, immigrants, or refugees.

⁵ U.S. residents must receive credit from accredited U.S. institutions to be included in trade data; those who do not transfer foreign academic credit to U.S. institutions, or who study abroad on an informal basis, are not included.

available in sufficient detail to provide any insight into growth trends or regional significance.

Cross-Border Transactions

In 1996, U.S. exports of education services totaled \$7.8 billion (figure 4-1), an increase of 4 percent over the 1995 total of \$7.5 billion.⁶ Although U.S. exports of these services rose in 1996, the growth rate was below the 7-percent average annual growth rate experienced during 1991-95. Like exports, expenditures by U.S. students in pursuit of language skills and experience abroad increased in 1996, to \$1 billion.⁷ This reflected growth of 10 percent, compared with 8-percent average annual growth during 1991-95. On balance, trade in education services generated a surplus of \$6.8 billion in 1996. The trade surplus on U.S. education services grew a modest 3 percent in 1996, down from average annual growth of 7 percent during 1991-95. U.S. export growth continues to decline as educational institutions in the United States face increasing competition abroad.

The Asia/Pacific region was overwhelmingly the leading export market for U.S. education services in 1996, accounting for \$4.5 billion, or 58 percent of total U.S. exports of these services (figure 4-2). In comparison, the 12 trading partners addressed in this report accounted for approximately \$651 million, or 8 percent of U.S. exports of education services during the same year. Among the 12 subject countries, Turkey was the leading consumer of U.S. education services, sending 7,678 students to study in the United States.⁸ With respect to U.S. imports of such services, Europe was the leading supplier, accounting for U.S. expenditures of \$663 million or 66 percent of the total in 1996. The subject countries accounted for approximately \$69 million, or about 7 percent of total U.S. imports of education services in 1996. Among the 12 subject countries, Switzerland hosted the most U.S. students with 754, accounting for \$3 million in U.S. imports of education services.⁹

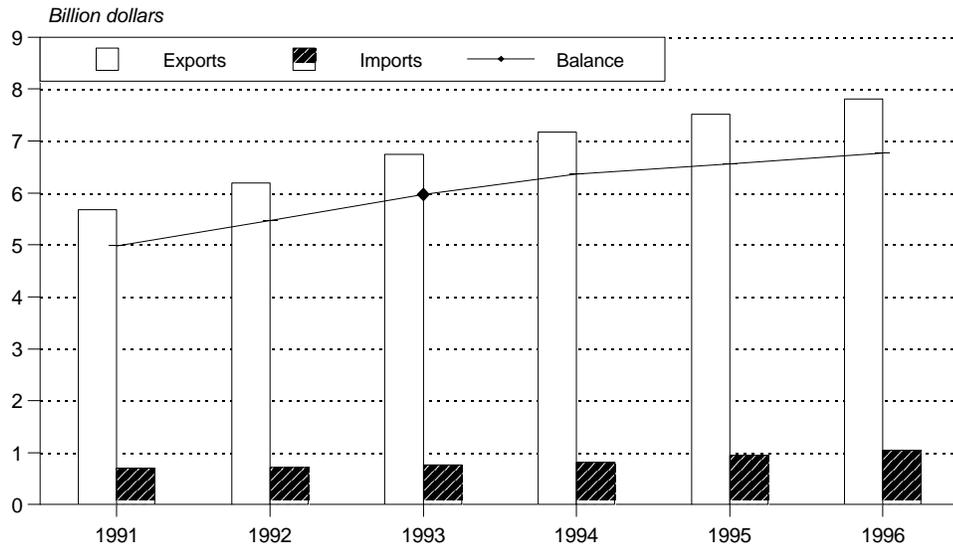
⁶ USDOC, Bureau of Economic Analysis (BEA), *Survey of Current Business*, Oct. 1997. Official trade data reported for 1996 on education services include services provided during the 1995-96 academic year. The same pattern of reporting holds for each year beginning in 1989, which spans the 1988-89 academic year.

⁷ Amy Magaro Rubin, "Colleges Offer Financial Help to Encourage Foreign Travel," *The Chronicle of Higher Education*, Nov. 1, 1996, p. A41; Amy Magaro Rubin, "Study-Abroad Programs for Americans Had Boom Year in 1994-95," *The Chronicle of Higher Education*, Dec. 6, 1996, p. A66; "Researchers Say Study Abroad is Key to Learning Languages," *The Chronicle of Higher Education*, Feb. 7, 1997, p. A45; and Katherine S. Mangan, "Business Schools Promote International Focus, but Critics See More Hype Than Substance," *The Chronicle of Higher Education*, Sept. 12, 1997, p. A14.

⁸ A dollar figure for exports to Turkey is not available. Norway was second with 2,246 students, accounting for \$40 million. Todd M. Davis, ed., *Open Doors, 1995/96* (New York: Institute of International Education, 1996), pp. 27-28; and USDOC, BEA, *Survey of Current Business*, Oct. 1997.

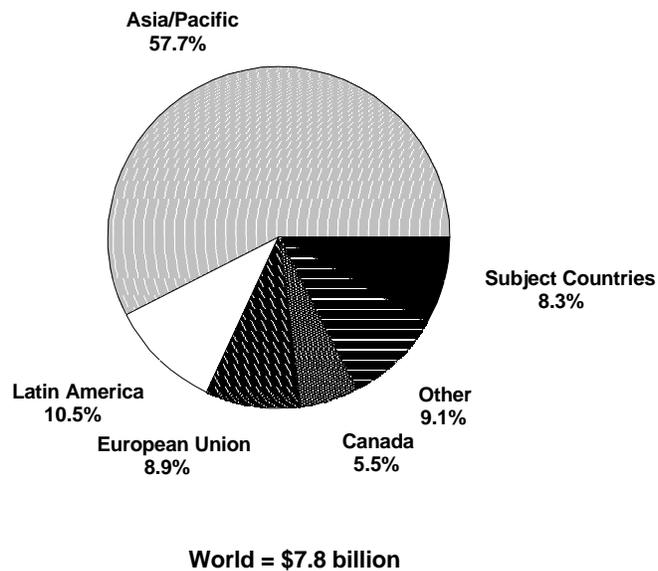
⁹ The Czech Republic was next, hosting 600 U.S. students during the 1995/96 academic year. Enrollment figures for U.S. students studying abroad provided by Todd M. Davis, Director of Research, Institute of International Education, and editor of *Open Doors*.

Figure 4-1
Cross-border trade in education services: U.S. exports, imports, and trade balance, 1991-96



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Figure 4-2
Education services: U.S. cross-border exports, by principal markets, 1996



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Examination of Commitments on Education Services

As noted in the preceding section, trade in education services occurs primarily through cross-border exchange of students. Consequently, an open regime for consumption abroad is critical for trade in education services. To a lesser extent, international transactions in education services transpire when institutions provide services through foreign affiliates and when scholars travel abroad to teach or conduct research. Commercial presence and the presence of natural persons, therefore, are also important modes of trade in education services. The principal means by which countries might restrict trade in education services include limitations on international payments and capital movements, nationality requirements, or discriminatory criteria for professional certification, licensing, and accreditation.

Of the 12 subject trading partners, only Iceland and Romania declined to schedule commitments on education services (table 4-1). With the exception of Liechtenstein and Switzerland, the subject countries made full commitments with respect to consumption abroad of specified education services. The Czech Republic, Hungary, Poland, the Slovak Republic, and Slovenia made full commitments with respect to cross-border supply as well. Except for cross-industry commitments permitting the entry and temporary stay of selected personnel, measures concerning the presence of natural persons were left unbound by the majority of subject countries.¹⁰

Bulgaria

Bulgaria's commitments address three categories of private education services: primary, secondary, and adult education. Notably, Bulgaria's commitments do not cover higher education and other unspecified education services.¹¹ As mentioned previously, higher education programs, especially those programs associated with colleges and universities, account for the overwhelming bulk of U.S. trade in education services.

Bulgaria places no restrictions on the provision of private primary and secondary education services through consumption abroad. Bulgaria also accorded full market access and national treatment to foreign entities for the provision of private adult education services through cross-border supply and commercial presence. However, Bulgaria left unbound market access conditions on cross-border supply of private primary and secondary education services. Additionally, Bulgaria placed market access restrictions on the provision of private primary and secondary education services through commercial presence. Specifically, private primary schools must be established as juridical persons and must receive authorization to operate from the Council of Ministers. Further, schools providing primary and secondary education services must comply with state education and health regulations.

¹⁰ See appendix E for a detailed presentation of cross-industry commitments.

¹¹ See U.N. CPC 929: Other Education Services. Other education services are "education services at the first and second levels in specific subject-matters not elsewhere classified, and all other education services that are not definable by level."

Table 4-1
Highlights of industry-specific restrictions on education services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria	Market Access: Unbound National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Private primary schools constituted as juridical persons subject to authorization by Council of Ministers. Must comply with state educational and health requirements. Unbound for natural persons and associations. National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Private primary schools constituted as juridical persons subject to authorization by Council of Ministers. Must comply with state educational and health requirements. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Bulgarian citizenship required. Foreign citizens must be permanent residents, and their education and professional qualification must be recognized. 	These commitments cover: <ul style="list-style-type: none"> CPC 921 - Primary education services in private institutions only. CPC 922 - Secondary education services in private institutions only.
	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 924 - Adult education services in private institutions only. These commitments exclude: <ul style="list-style-type: none"> CPC 923 - Higher education services. CPC 929 - Other education services.

Table 4-1, *continued*

Highlights of industry-specific restrictions on education services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Czech Republic	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Foreign nationals subject to authorization to teach, and to establish and direct an educational institution. Conditional upon ensuring quality and level of education and suitability of school facilities. <p>National Treatment:</p> <ul style="list-style-type: none"> None except a majority of board members must be of Czech nationality. 	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 921 - Primary education services in private institutions only. CPC 922 - Secondary education services in private institutions only. CPC 92310 - Post-secondary technical and vocational education services in private institutions only. CPC 924 - Adult education services in private institutions only. CPC 929 - Other education services in private institutions only. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 9239 - Other higher education services.
Hungary	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Establishment of a school requires a license from the local (or in the case of high schools, from the central) authorities. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 921 - Primary education services. CPC 922 - Secondary education services. CPC 923 - Higher education services. CPC 924 - Adult education services. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 929 - Other education services.
Liechtenstein	<p>Market Access: Unbound National Treatment: None</p>	<p>Market Access: Unbound National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Foreigners may establish commercial presence only when organized as juridical persons according to Liechtenstein law. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 921 - Compulsory primary education services in private institutions only. CPC 922 - Compulsory secondary education services in private institutions only.

Table 4-1, *continued*

Highlights of industry-specific restrictions on education services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Liechtenstein (<i>continued</i>)	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Foreigners may establish commercial presence only when organized as juridical persons according to Liechtenstein law. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> • CPC 922 - Non-compulsory secondary education services in private institutions only. • CPC 923 - Higher education services in private institutions only. • CPC 924 - Adult education services in private institutions only. <p>These commitments exclude:</p> <ul style="list-style-type: none"> • CPC 929 - Other education services.
Norway	<p>Market Access:</p> <ul style="list-style-type: none"> • Authorization may be given to foundations and other legal entities to offer parallel or specialized education on a commercial or non-commercial basis. Financial assistance is only available for studies at certified establishments. <p>National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Authorization may be given to foundations and other legal entities to offer parallel or specialized education on a commercial or non-commercial basis. Financial assistance is only available for studies at certified establishments. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. Teaching qualifications from abroad may be recognized, and an exam must be passed. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> • CPC 921 - Primary education services leading to State recognized exams and/or degrees. • CPC 922 - Lower and upper secondary education services. • CPC 923 - Higher education services. • CPC 924 - Adult education services.
	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> • Educational services not leading to State recognized exams and/or degrees.

Table 4-1, *continued*

Highlights of industry-specific restrictions on education services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Poland	<p>Market Access:</p> <ul style="list-style-type: none"> Educational services supplied from abroad limited to private institutions. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Educational services supplied from abroad limited to private institutions. <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 921 - Primary education services in private institutions only. CPC 922 - Secondary education services in private institutions only. CPC 923 - Higher education services in private institutions only. CPC 924 - Adult education services in private institutions only. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 929 - Other education services.
Slovak Republic	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Authorization required to establish and direct an educational institution. Qualification and material requirements needed to teach. <p>National Treatment:</p> <ul style="list-style-type: none"> None except a majority of board members must be Slovak citizens. 	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 921 - Primary education services. CPC 922 - Secondary education services. CPC 9231 - Post-secondary technical and vocational education services. CPC 924 - Adult education services. CPC 929 - Other education services. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 9239 - Other higher education services.
Slovenia	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> None except a majority of board members must be of Slovenian nationality. 	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 922 - Secondary education services in private institutions only. CPC 923 - Higher education services in private institutions only.

Table 4-1, *continued*

Highlights of industry-specific restrictions on education services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Slovenia <i>(continued)</i>	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 924 - Adult education services. These commitments exclude: • CPC 921 - Primary education services. • CPC 929 - Other education services.
Switzerland	Market Access: Unbound National Access: Unbound	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: Unbound National Treatment: Unbound	These commitments cover: • CPC 921 - Compulsory primary education services in private institutions only. • CPC 922 - Compulsory secondary education services in private institutions only.
	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 922 - Non-compulsory secondary education services in private institutions only. • CPC 923 - Higher education services in private institutions only. • CPC 924 - Adult education services in private institutions only. These commitments exclude: • CPC 929 - Other education services.
Turkey	Market Access: • Real and juridical foreign persons, directly or in partnership with Turkish citizens, may establish international educational institutions (including vocational and technical schools) only for foreign students. National Treatment: None	Market Access: None National Treatment: None	Market Access: • Real and juridical foreign persons, directly or in partnership with Turkish citizens, may establish international educational institutions (including vocational and technical schools) only for foreign students. National Treatment: None	Market Access: • Foreign teachers may work in primary and secondary educational institutions after obtaining permission from the Ministry of Education. National Treatment: None	These commitments cover: • CPC 921 - Primary education services. • CPC 922 - Secondary education services. • CPC 929 - Other education services.

Table 4-1, *continued*

Highlights of industry-specific restrictions on education services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Turkey (<i>continued</i>)	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Private universities must be established by foundations with the permission of the Council of Ministers. The majority of the foundation administrators must be Turkish citizens. National Treatment: None	Market Access: None National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 923 - Higher education services. These commitments exclude: <ul style="list-style-type: none"> CPC 924 - Adult education services.

¹ Iceland and Romania did not schedule commitments on education services.

Additionally, Bulgarian citizenship is generally required in order to teach primary and secondary education although foreign citizens may do so if they have established permanent residency in Bulgaria and their education and professional qualifications are recognized by the Bulgarian Government. Also, market access restrictions on the provision of private primary and secondary education services through commercial presence are unbound for associations.

With respect to the presence of natural persons, market access and national treatment restrictions on the provision of private primary, secondary, and adult education services are unbound, except as indicated in the cross-industry commitments. These measures designate permissible lengths of stay for senior executives, specialists¹² and other business professionals. Intra-corporate transfers of senior executives and specialists employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.¹³ Residence and work permits are required for such intra-corporate transferees. Additional personnel engaged in sales negotiations or arrangements pertaining to the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa.

Czech Republic

The Czech Republic's commitments exclude "other higher education services," namely those education services leading to a university degree or its equivalent. The Czech Republic provides full market access and national treatment with regard to private primary and secondary education services, private post-secondary technical and vocational education services, private adult education services, and other unspecified education services via cross-border supply and consumption abroad. With respect to establishing a commercial presence, foreign nationals must receive authorization from the Czech Government in order to teach, or to establish and operate an educational institution. The Czech Republic also requires that a majority of board members of any institution be Czech nationals.

With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel. Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or to supply the service themselves.

¹² Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

¹³ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁴ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary

Among the subject countries, Hungary offers the most comprehensive and liberal commitments. Hungary's commitments accord full market access and national treatment for the provision of primary, secondary, higher, and adult education services through cross-border supply and consumption abroad. With respect to commercial presence, Hungary provides full market access and accords national treatment subject to the attainment of a license from the local or, in the case of high schools, central authorities. Hungary's commitments exclude other unspecified education services.

Hungary's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,¹⁵ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are granted stays for the duration of the invitation. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁶ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Liechtenstein

Liechtenstein's schedule addresses private compulsory education services, which include primary and secondary education services; private non-compulsory secondary education services; private higher education services; and private adult education services. Liechtenstein generally places no restrictions on cross-border supply and consumption abroad. The sole exception pertains to compulsory education services, for which market access restrictions remain unbound. With respect to establishing a commercial presence for

¹⁴ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993 (MTN.GNS/W/164/Add.1).

¹⁵ Senior officials are defined as managers who have the highest rank within an organization.

¹⁶ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

the provision of education services, Liechtenstein requires that foreign entities organize as juridical persons under Liechtenstein law.

Liechtenstein's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of intra-corporate transferees and business visitors; and certain conditions on national treatment. Executives, senior managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year preceding entry. Intra-corporate transferees are granted a 3-year period of stay. Liechtenstein declined to specify permissible lengths of stay for business visitors. Although no binding is undertaken with respect to business visitors, Liechtenstein may not impose conditions that nullify the benefits accorded to these providers by industry-specific commitments.¹⁷ Liechtenstein's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. In addition, business visitors are required to possess residence and work permits, the latter of which may be available to foreign service providers only in limited numbers.

In terms of national treatment for services provided through the presence of natural persons, Liechtenstein stipulates that intra-corporate transferees and business visitors are subject to legislative provisions regarding immigration, entry, stay, and employment. In addition, enterprises that employ foreign service providers must cooperate with Liechtenstein authorities in the enforcement of these measures.

Norway

Norway's bindings on education services encompass primary, secondary, higher, and adult education, but differentiate between services that culminate in state-recognized exams and/or degrees, and those that do not. With respect to the latter, Norway accords full market access and national treatment for all means of supply except the presence of natural persons. With respect to the former, Norway accords full market access and national treatment for education services only when provided via consumption abroad. With regard to cross-border supply and commercial presence, Norway indicates that it may authorize foundations and other juridical persons to offer "parallel or specialized education." In addition, Norway specifies that financial assistance is only available for studies at certified establishments.

With respect to the presence of natural persons, Norway states that foreigners wishing to teach in primary, secondary, higher, and adult education institutions may do so, but they must pass an examination and their foreign credentials are subject to recognition by the Norwegian Government. Norway's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

¹⁷ Ibid.

Poland

Poland's commitments guarantee full market access and national treatment for the provision of private education services at the primary, secondary, higher, and adult levels via all modes of supply except the presence of natural persons. Poland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on a market test.¹⁸ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate.

Slovak Republic

The Slovak Republic provides full market access and national treatment for the supply of primary, secondary, post-secondary technical and vocational, adult, and other unspecified education services through cross-border supply and consumption abroad. With regard to establishing a commercial presence and operating an educational institution, market access is contingent upon receiving authorization and teachers must meet certain unspecified qualifications. The Slovak Republic accords national treatment for the provision of the above-named education services through a commercial presence, except for a requirement that Slovak citizens constitute the majority of the board of directors of an educational institution.

The Slovak Republic's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁹ The Slovak Republic's regulatory bodies presumably

¹⁸ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

¹⁹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovenia

Slovenia provides full market access and national treatment for the supply of privately-funded secondary and higher education services through cross-border supply and consumption abroad. Slovenia also guarantees full market access and national treatment for the provision of adult education through these modes of supply, as well as through commercial presence. However, for the provision of private secondary and higher education services through commercial presence, Slovenia's commitments stipulate that a majority of board members must be Slovenian nationals. This is the only restriction for the provision of these services through a commercial presence.

Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Switzerland

Switzerland places unbound restrictions on foreign supply of compulsory primary and compulsory secondary education services, except when supplied through a privately funded commercial presence. However, Switzerland's commitments provide full market access and national treatment for the supply of private non-compulsory secondary education, private higher education, and private adult education services via all means of delivery except the presence of natural persons.

Switzerland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers, specialists, and business visitors. Senior executives, managers, and specialists employed by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the 2 periods of stay in Switzerland.

Turkey

Turkey scheduled commitments to accord full market access and national treatment for the provision of higher education services via all modes of supply except commercial presence. Establishment of a private university in Turkey by foreign firms is limited to foundations that have secured permission from the Council of Ministers. In addition, the majority of the foundation administrators must be Turkish citizens. With regard to primary, secondary, and other unspecified education services, Turkey maintains some limitations on market access via cross-border supply, commercial presence, and the presence of natural persons. With regard to provision of these services through cross-border supply and consumption abroad, Turkey allows foreign natural or juridical persons, directly or in partnership with Turkish citizens, to establish “international educational institutions,” but only for foreign, or non-Turkish, students. Also, foreign teachers must obtain permission from the Ministry of Education in order to work in Turkish primary and secondary educational institutions.

With respect to the presence of natural persons, Turkey’s limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers; and certain significant restrictions concerning national treatment. Executives, managers, and specialists are required to obtain work and residence permits in order to receive a 2-year term of stay which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits.

Industry Opinion

Industry sources generally approve of the GATS and the manner in which governments, especially the U.S. Government, approach international education exchanges as a trade issue. Efforts by governments to lower barriers to international exchanges complement the academic community’s efforts to promote international exchange on intellectual and cultural levels.²⁰

As mentioned earlier, trade in education services is primarily a cross-border activity. That is, students studying abroad, whether foreign students in the United States or U.S. students in foreign countries, account for the overwhelming majority of the trade. Cross-border trade in education services with the subject countries is characterized as being generally unrestricted. With respect to affiliate transactions, U.S. institutions have a relatively small presence in the subject countries. According to those few U.S. institutions that have established a commercial presence, the major difficulties encountered stem from institutional weakness rather than any direct limitations on education services. For example, in Bulgaria the government has yet to develop a regulatory framework that addresses the non-profit sector, leaving educational institutions without a clear status under law.²¹ As a result, the current system does not confer special status for non-profits as is often the case in other countries. This has significant implications with respect to taxation, as there is no special income tax status for non-profit organizations. Similarly, educational

²⁰ Industry representatives, telephone interviews by USITC staff, Oct. 16, 1997.

²¹ Industry representative, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

institutions wishing to import textbooks must pay the same customs duties as profit-making enterprises. Even providing dining services for students has proven nettlesome, as one institution had to convince officials that dining halls are part of the overall package of educational services in order to avoid paying taxes for the sale of food services.²² Industry representatives stressed that these problems are not intentionally targeted at education service providers, they are just symptomatic of under-developed legal or regulatory systems.

Another factor influencing affiliate trade in educational services is that countries often consider education to be one of the primary responsibilities of the government. In Turkey, officials emphasize that education remains a matter of government responsibility, and no changes in the Turkish educational system should be expected.²³ As mentioned above, however, under certain circumstances foreign companies may establish private educational institutions in Turkey and such institutions may obtain a non-profit foundation status if they serve social and/or cultural functions. This illustrates that, while governments are likely to retain close control over the educational system, there appears to be growing support for permitting a mix of private and public education.²⁴

Summary

Ten of the 12 subject trading partners offered generally liberal commitments on education services, with Hungary's commitments accomplishing most in terms of establishing liberal benchmarks and enhancing transparency. Only Iceland and Romania declined to schedule commitments on education services. Although there currently are significant numbers of students from these two countries in the United States, absent any formal commitments on education services, these countries may choose to impose restrictions on consumption abroad in the future without penalty. Furthermore, without commitments on education services, it is unclear what barriers may impede U.S. institutions wishing to establish affiliates in these countries.

U.S. industry representatives report that the subject countries maintain few direct restrictions on trade in education services. In addition, the difficulties encountered by U.S. institutions are typically the unintended consequences of the under-developed economic and regulatory environment. Trade in education services with the subject countries is expected to continue increasing, with the greatest growth coming from East European countries as political and cultural ties with the United States strengthen, and as their economies and governmental institutions develop.²⁵

²² Ibid.

²³ Turkish Government officials, interviews by USITC staff, Ankara, Turkey, Feb. 25, 1998.

²⁴ Industry representative, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

²⁵ Yale Richmond, "The Russians are Coming, and the East Europeans, Too;" and industry representatives, telephone interviews by USITC staff, Oct. 16 and 30, 1997.

CHAPTER 5

Enhanced Telecommunication Services

Introduction¹

Enhanced telecommunication services include a wide range of services that add value to the transmission of basic voice and data signals over telecommunication networks.² This chapter examines enhanced telecommunication services as defined in the GATS, including electronic mail, voice mail, on-line information and data base retrieval, electronic data interchange (EDI), enhanced/value-added facsimile services (including store and forward, and store and retrieve), code and protocol conversion, and on-line information and/or data processing (including transaction processing).

International Trade in Enhanced Telecommunication Services

Enhanced telecommunication services, also called value-added services, are delivered to foreign customers via public and private telecommunication networks. Service providers develop private networks by leasing lines from a multitude of telecommunication carriers.³ Leased lines may provide a permanent link between two points or be adapted as either part of a wider private network, sometimes called closed user groups, or linked to the public switched network to form an international virtual private network.⁴

Users may connect to an enhanced telecommunication network to access services such as electronic mail or EDI through a number of methods. Typically, the customer will dial directly from a personal computer into the network using a local or toll-free number provided by the enhanced telecommunication service provider. When a local connection is not available, users may access the network through direct long-distance dialing, by using

¹ Among the individuals consulted by USITC staff in preparation of this report were those affiliated with the following organizations: AT&T, MCI, GlobalOne (Sprint), General Electric (GE), Advantis (IBM subsidiary), the Bureau of Economic Analysis (BEA), and U.S. Department of Commerce (USDOC).

² Enhanced telecommunication services are captured under the U.N. Central Product Classification (CPC) codes 7523, electronic mail, voice mail, on-line information and database retrieval, electronic data interchange (EDI), enhanced/value-added facsimile services (including store and forward, store and retrieve); and 843, on-line information and/or data processing (including transaction processing). The GATS also encompasses code and protocol conversion, for which there is no applicable CPC code.

³ Lyle Deixler, "Millions of Minutes," *Teleconnect*, Feb. 1997, pp. 116-117.

⁴ International Telecommunications Union (ITU), *World Telecommunication Development Report* (Geneva: ITU, 1995), p. 60.

an Integrated Services Digital Network (ISDN)⁵ connection through the local telephone network, or through arrangements with the local telephone company to connect to a public data network. The provision of such services is complex, and a single message may be transmitted across several national borders. Leading global suppliers of enhanced telecommunication services include: IBM Global Network, AT&T and partners, GE Information Services, Sprint International and partners, SITA (Société Internationale de Telecommunication Aéronautiques, a European consortium), Concert (United Kingdom), Infonet (a predominantly European consortium), and Cable & Wireless Business Networks (United Kingdom).

Aggregate data pertaining to cross-border supply of enhanced telecommunication services are not categorized by country and are not compiled on a yearly basis. The most recent surveys on enhanced services by the U.S. Government were completed in 1986 and 1991. The 1986 survey reported that the United States registered a cross-border trade surplus of \$31 million in enhanced telecommunication services. This figure doubled during the next 5 years, to \$60 million in 1991.⁶ Unfortunately, since data pertaining to foreign affiliate sales of telecommunication services are not available, it is not known if cross-border trade is larger or smaller than sales by affiliates. Data provided by other sources indicate that the European market for value-added network services accounted for \$3.8 billion in revenues in 1996.⁷ Multinational businesses and large corporate users continue to be the primary customers and the driving force behind the industry, contributing a majority of enhanced telecommunication providers' revenue.⁸

Examination of Commitments on Enhanced Telecommunication Services

Enhanced telecommunication services are supplied to foreign customers across borders or through a foreign commercial presence. Some of the major impediments affecting these delivery channels include restrictive licensing requirements;⁹ explicit prohibitions on the provision of certain services; limitations on foreign ownership and participation in joint ventures; discriminatory access to, and non-cost-based pricing¹⁰ of, leased telecommunication lines; and technical difficulties caused by underdeveloped or unreliable

⁵ ISDN provides high capacity digital transmission of information using an internationally accepted standard for voice, data, and signaling.

⁶ USDOC, BEA, *Survey of Current Business*, Oct. 1988, pp. 27-29, and Sept. 1992, p. 84.

⁷ Steve Wallage, *European VANS markets: 1997 Edition* (New York: McGraw-Hill, June 1997), p. 5.

⁸ Industry representative, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998; Budapest, Hungary, Feb. 20, 1998.

⁹ To guard against potential bottlenecks posed by foreign public telecommunication network carriers, the GATS, through provisions outlined in the Telecommunications Annex, ensures a signatory member "access to and use of public telecommunication transport networks and services" when such services or facilities are required to supply a service included in its national schedule. Under the terms of the Annex, firms must be provided access on "reasonable and nondiscriminatory terms and conditions," but the annex does not impose disciplines in this area.

¹⁰ Leased lines are often subject to volume-sensitive, rather than flat-rate, pricing. Volume sensitive pricing does not accurately reflect the public operator's cost of leasing the line.

telecommunication infrastructure.¹¹ Among the subject countries, regulatory limitations vary widely.

All 12 of this report's subject countries scheduled commitments pertaining to enhanced telecommunication services. Those countries that bound the most open environments with respect to these services include Liechtenstein, Norway, Romania, and Switzerland. Other countries chose to exclude important enhanced services, such as on-line information and/or data processing services, or otherwise left selected subsectors unbound by their commitments. These countries include Bulgaria, Iceland, and Slovenia. The schedules of Poland and Turkey appear to be particularly restrictive, as Poland lists measures limiting foreign investment and Turkey indicates that the public monopoly retains broad control over enhanced as well as basic telecommunication services. Table 5-1 highlights the industry-specific limitations imposed on market access and national treatment by trading partner and mode of supply.

Bulgaria

While Bulgaria's commitments appear to be straightforward, the value of these commitments is less apparent due to the exclusion of a number of sectors. Bulgaria's commitments exclude electronic mail, voice mail, electronic data interchange, and on-line information and/or data processing services. This leaves enhanced facsimile, code and protocol conversion, and on-line information and database retrieval services within the scope of the agreement. For enhanced facsimile and code and protocol conversion services, Bulgaria accords full market access and national treatment for services provided through cross-border supply, consumption abroad, and commercial presence. For on-line information and database retrieval services, Bulgaria similarly accords full market access and national treatment when these services are provided through cross-border supply and consumption abroad. However, for services provided through commercial presence, Bulgaria's schedule indicates that market access limitations remain unbound and therefore subject to change.

With respect to the provision of the covered services through the presence of natural persons, Bulgaria leaves all measures unbound except for cross-industry measures designating permissible lengths of stay for senior executives, specialists¹² and other business professionals. Intra-corporate transfers of senior executives and specialists employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.¹³ Residence and work permits are required for such intra-corporate transferees.

¹¹ Industry representatives, interviews by USITC staff, Hong Kong, Jan. 30, 1997, and New Delhi, India, Feb. 2, 1997.

¹² Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

¹³ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

Table 5-1
Highlights of industry-specific restrictions on enhanced telecommunication services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7523 - Enhanced facsimile services. Code and protocol conversion.
	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: Unbound National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7523 - On-line information and database retrieval services. These commitments exclude: <ul style="list-style-type: none"> CPC 7523 - Electronic mail, voice mail, and electronic data interchange services. CPC 843 - On-line information and/or data processing services.
Czech Republic	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> License required. All services must be provided over the public monopoly network, to which connection is possible. National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7523 - Electronic mail, voice mail, on-line information and database retrieval, electronic data interchange, and enhanced facsimile services. Code and protocol conversion. CPC 843 - On-line information and/or data processing services.
	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> License required and unspecified limitations on ownership. All services must be provided over the public monopoly network, to which connection is possible. National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7521 - Facsimile services, except postfax services.

Table 5-1, *continued*

Highlights of industry-specific restrictions on enhanced telecommunication services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Hungary	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7523 - Electronic mail, voice mail, electronic data interchange, and enhanced facsimile services.
	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7523 - On-line information and database retrieval services. Code and protocol conversion. CPC 843 - On-line information and/or data processing services.
Iceland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 7523 - Electronic mail, voice mail, on-line information and database retrieval, and electronic data interchange services. Code and protocol conversion. These commitments exclude: <ul style="list-style-type: none"> CPC 7523 - Enhanced facsimile services. CPC 843 - On-line information and/or data processing services.
Liechtenstein	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7523 - Electronic mail, voice mail, on-line information and database retrieval, electronic data interchange, and enhanced facsimile services. Code and protocol conversion. CPC 843 - On-line information and/or data processing services. CPC 79299 - Videotex and other value-added services based on licensed wireless networks, including enhanced paging, except for voice.

Table 5-1, *continued*

Highlights of industry-specific restrictions on enhanced telecommunication services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Norway	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7523 - Electronic mail, voice mail, on-line information and database retrieval, electronic data interchange, and enhanced facsimile services. Code and protocol conversion. CPC 843 - On-line information and/or data processing services.
Poland	<p>Market Access:</p> <ul style="list-style-type: none"> Use of the public network required. <p>National Treatment:</p> <ul style="list-style-type: none"> Only 100 percent Polish owned carriers are permitted to directly link with foreign telecommunication networks. 	<p>Market Access:</p> <ul style="list-style-type: none"> Use of the public network required. <p>National Treatment:</p> <ul style="list-style-type: none"> Only 100 percent Polish owned carriers are permitted to directly link with foreign telecommunication networks. 	<p>Market Access:</p> <ul style="list-style-type: none"> Use of authorized public networks is required. Authorized networks consist of three different systems based on telecommunication equipment produced mostly in Poland. Foreign equity for carriers providing inter-town services may not exceed 49 percent, however, there are no foreign ownership restrictions for carriers providing local services. <p>National Treatment:</p> <ul style="list-style-type: none"> Only 100 percent Polish owned carriers are permitted to directly link with foreign telecommunication networks. 	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7523 - Private leased circuit services, electronic mail, voice mail, on-line information and database retrieval, electronic data interchange, and enhanced facsimile services. Code and protocol conversion. CPC 843 - On-line information and/or data processing services.
Romania	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> None except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7523 - Facsimile, electronic mail, voice mail, on-line information and database retrieval, electronic data interchange, and enhanced facsimile services. Code and protocol conversion. CPC 843 - On-line information and/or data processing services.

Table 5-1, *continued*

Highlights of industry-specific restrictions on enhanced telecommunication services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Slovak Republic	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> License required. Services must be provided over the public network monopoly, or over leased lines. Connection with the public network is possible. For enhanced facsimile services, foreign ownership may be limited. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7523 - Electronic mail, voice mail, enhanced facsimile services, on-line information and database retrieval, electronic data interchange, and enhanced facsimile services. Code and protocol conversion. CPC 843 - On-line information and/or data processing services.
Slovenia	<p>Market Access:</p> <ul style="list-style-type: none"> None as of January 1, 1998. <p>National Treatment:</p> <ul style="list-style-type: none"> None as of January 1, 1998. 	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Foreign investment is limited to 99 percent. License required and the public network must be used. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7523 - Electronic mail, voice mail, on-line information and database retrieval, and enhanced facsimile services. Code and protocol conversion. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 843 - On-line information and/or data processing services.
Switzerland	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7523 - Electronic mail, voice mail, on-line information and database retrieval, electronic data interchange, and enhanced facsimile services. Code and protocol conversion. CPC 843 - On-line information and/or data processing services. CPC 7529 - Videotext and other value-added services based on licensed wireless networks, including enhanced paging services, except for voice.
Turkey	<p>Market Access:</p> <ul style="list-style-type: none"> Basic and value-added services are under a public monopoly. <p>National Treatment:</p> <ul style="list-style-type: none"> Basic and value-added services are under a public monopoly. 	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Basic and value-added services are under a public monopoly. <p>National Treatment:</p> <ul style="list-style-type: none"> Basic and value-added services are under a public monopoly. 	<p>Market Access: Unbound National Treatment: Unbound</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7523 - Voice mail, and on-line information and data-base retrieval services. CPC 843 - On-line information and/or data processing services.

Table 5-1, *continued*

Highlights of industry-specific restrictions on enhanced telecommunication services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Turkey (<i>continued</i>)	<p>Market Access:</p> <ul style="list-style-type: none"> Basic and value-added services are under a public monopoly, however, revenue sharing operations are allowed for the provision of value-added services. <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Basic and value-added services are under a public monopoly, however, revenue sharing operations are allowed for the provision of value-added services. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except for personnel responsible for the implementation of a revenue sharing operation. <p>National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7523 - Electronic mail, electronic data interchange, and enhanced facsimile services. Code and protocol conversion. <p>MFN exemption reserves the right for Turkey to reduce fees for transit land connections and to allow the usage of satellite ground stations in a reciprocal manner for Iran and Syria.</p>

Additional personnel engaged in sales negotiations or arrangements pertaining to the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa.

Czech Republic

The Czech Republic scheduled relatively broad commitments that covered the full range of enhanced telecommunication services. For services provided through cross-border supply and consumption abroad, the Czech Republic committed to accord full market access and national treatment to foreign service providers. For services provided through a commercial presence, licensing is required and all services must be provided over the public monopoly network.¹⁴ The Czech Republic included additional provisions for facsimile services which state that ownership is limited and postfax services are not included in the scope of the commitments.

With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel. Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁵ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary

Hungary's commitments on enhanced telecommunications services apply to the full range of services. However, Hungary makes a distinction for on-line information and database retrieval services, code and protocol conversion, and on-line information and/or data processing services. For these services, Hungary left all measures affecting cross-border supply unbound, indicating that Hungary retains authority to limit the supply of such services from outside the country.¹⁶ However, Hungary committed to accord full market access and national treatment to foreign providers of these services through a commercial

¹⁴ The Czech Republic's commitments on basic telecommunications indicate that the public monopoly will end by 2000, at which time connection with any network should be permissible.

¹⁵ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

¹⁶ Hungary does not presently impose any such limitations and is not considering any future limitations at this time. Hungarian official, interview by USITC staff, Budapest, Hungary, Feb. 19, 1998.

presence and consumption abroad. For the remaining services of electronic mail, voice mail, electronic data interchange, and enhanced facsimile services, Hungary guaranteed market access and national treatment to foreign firms providing services through cross-border supply, consumption abroad, and commercial presence.

Hungary's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,¹⁷ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are granted stays for the duration of the invitation. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁸ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Iceland

Iceland scheduled broad commitments on enhanced telecommunication services, but excluded the categories of enhanced facsimile and on-line information and/or data processing services. The services covered by the commitments then include electronic mail, voice mail, on-line information and database retrieval, electronic data interchange, and code and protocol conversion services. For the covered services, Iceland guarantees full market access and national treatment for services provided through all modes of supply except the presence of natural persons. With respect to the presence of natural persons, Iceland's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Iceland declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Iceland may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁹ Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Liechtenstein

Liechtenstein's commitments on enhanced telecommunication services appear to be among the most liberal of the subject trading partners. The commitments cover all enhanced telecommunication services and guarantee full market access and national treatment for all

¹⁷ Senior officials are defined as managers who have the highest rank within an organization.

¹⁸ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

¹⁹ *Ibid.*

modes of supply except the presence of natural persons. For services provided through the presence of natural persons, Liechtenstein's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of intra-corporate transferees and business visitors, and certain conditions on national treatment. Executives, senior managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least one year preceding entry. Intra-corporate transferees are granted a 3-year period of stay. Liechtenstein declined to specify permissible lengths of stay for business visitors. Although no binding is undertaken with respect to business visitors, Liechtenstein may not impose conditions that nullify the benefits accorded to these providers by industry-specific commitments.²⁰ Yet, Liechtenstein's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. In addition, business visitors are required to possess residence and work permits, the latter of which may be available to foreign service providers only in limited numbers.

In terms of national treatment, Liechtenstein stipulates that intra-corporate transferees and business visitors are subject to legislative provisions regarding immigration, entry, stay, and employment. In addition, enterprises that employ foreign service providers must cooperate with Liechtenstein authorities in the enforcement of these measures.

Norway

Norway's commitments also are among the broadest offered by the subject trading partners. Through its schedule, Norway guarantees full market access and national treatment to foreign providers of any enhanced telecommunication services. These services may be provided through cross-border supply, consumption abroad, and commercial presence. For services provided through the presence of natural persons, Norway's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

Poland

Poland's commitments on enhanced telecommunication services are relatively limited. While they appear to apply to all enhanced telecommunication services, Poland's commitments list some restrictions on foreign participation that may significantly impair the ability of foreign firms to compete in the market. For services provided through cross-border supply, consumption abroad, and commercial presence, Poland listed a national treatment reservation that stipulates that only Polish companies with no foreign equity may directly link with foreign telecommunication networks. In addition, Poland limits market access by requiring that only the public network may be used.²¹ For the provision of value-

²⁰ Ibid.

²¹ Under Poland's basic telecommunications commitments, protection of the public monopoly network is scheduled to end on December 31, 2002, at which time measures such as these may become obsolete.

added network services through a commercial presence, market access is further limited by the requirement that one of three different network systems must be used by service suppliers. These networks are based on telecommunication equipment produced primarily in Poland. In addition, foreign equity may not exceed 49 percent in carriers providing inter-town services, although 100-percent foreign ownership is allowed for carriers providing local services. For services provided through the presence of natural persons, Poland left all measures unbound except for those permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on a market test.²² Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate.

Romania

Romania scheduled broad commitments covering the full range of enhanced telecommunication services. Romania's commitments guarantee full market access and national treatment to foreign providers of enhanced telecommunication services. These services may be provided through cross-border supply, consumption abroad, and commercial presence. For services provided through the presence of natural persons, Romania's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of managers and experts.²³ Romania declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Romania may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.²⁴ Romanian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovak Republic

The Slovak Republic scheduled binding commitments that accord full market access and national treatment to foreign providers of all enhanced telecommunication services, but only when provided through cross-border supply or consumption abroad. For services provided through a commercial presence, all firms must obtain a license and the services must be provided over the public network monopoly or through leased lines.²⁵ The Slovak Republic

²² A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

²³ Experts are defined as persons who have university degrees in the specialty of the position they occupy.

²⁴ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

²⁵ Under the Slovak Republic's basic telecommunications commitments, protection of the public monopoly network is scheduled to end as of January 1, 2003, at which time measures such as these may become obsolete.

also scheduled an additional measure for enhanced facsimile services provided through a commercial presence, which indicates that foreign ownership may be limited to an unspecified level. With respect to services provided through the presence of natural persons, the Slovak Republic left all measures unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.²⁶ The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovenia

Slovenia's commitments cover electronic mail, voice mail, on-line information and database retrieval, enhanced facsimile, and code and protocol conversion services, but exclude on-line information and/or data processing services. Slovenia accords full market access and national treatment for the covered services when they are provided through cross-border supply (effective January 1, 1998) and through consumption abroad. For services provided through a commercial presence, a license is required, the public network must be used, and foreign investment is limited to 99 percent. As for services provided through the presence of natural persons, Slovenia's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Switzerland

Switzerland's commitments on enhanced telecommunication services are quite broad. With respect to all relevant services, Switzerland accords full market access and national treatment to foreign firms providing services through cross-border supply, consumption abroad, and commercial presence. For services provided through the presence of natural

²⁶ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

persons, Switzerland left all measures unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers, specialists, and business visitors. Senior executives, managers, and specialists employed by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the two periods of stay in Switzerland.

Turkey

Turkey's commitments on enhanced telecommunication services are somewhat more restrictive than those of most other subject countries. The principal issue is that both basic and value-added services are encompassed by the public monopoly.²⁷ As a result, some enhanced services cannot be provided on a cross-border basis or through a commercial presence. These include voice mail as well as on-line information and database retrieval or processing services. The remaining enhanced services may be provided through cross-border supply or a commercial presence only through some form of revenue-sharing model, such as a build-operate-transfer agreement. These services include electronic mail, electronic data interchange, enhanced facsimile, and code and protocol conversion services. Since the monopoly has no jurisdiction on services provided outside of Turkey, foreign firms are not restricted in the provision of enhanced services through consumption abroad. However, this offers little value to foreign service providers that wish to sell services in Turkey. For services provided through the presence of natural persons, Turkey left all measures unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers; and certain significant restrictions concerning national treatment. Executives, managers, and specialists are required to obtain work and residence permits in order to receive a 2-year term of stay which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits.

In terms of national treatment for services provided through the presence of natural persons, Turkey does not allow employment of foreign professionals in various service occupations. Foreign professionals are not allowed to engage in activities related to health care (directors of private hospitals; medical doctors; nurses; dentists; opticians; pharmacists; veterinarians; doctors, pharmacists, and veterinarians dealing with laboratory services), pharmaceuticals (directors of pharmaceutical factories), travel and tourism (tour guides, directors of travel agencies), media (directors of newspapers), business services (notaries, accountants, lawyers), and other commerce or trade related professions (personnel working in Free Trade Zones other than managers and qualified personnel; personnel undertaking coastal commerce and related activities).

²⁷ Under Turkey's basic telecommunications commitments, protection of the public monopoly network is scheduled to end by December 31, 2005, subject to the adoption of relevant legislation by the Parliament.

Turkey also listed an MFN exemption through which the Government reserves the right to accord preferential treatment to Iran and Syria. Under this exemption, Turkey retains the ability to reduce fees for transit land connections and to allow the usage of satellite ground stations on a reciprocal basis with these two neighboring countries.

Industry Opinion

Representatives of U.S. enhanced telecommunication service providers report that their movements into the subject markets are driven by the desire to meet demand created by multinational clients.²⁸ These clients have tended to enter the larger, more developed markets first. Among the subject countries, U.S. providers have maintained a longstanding presence in the markets of Switzerland and Norway, in which they reportedly operate freely. U.S. firms commenced operations more recently in the Czech Republic, Hungary, Poland, and the Slovak Republic. In the smaller or less developed markets of Bulgaria, Iceland, Liechtenstein, Romania, and Slovenia, U.S. firms are less well established.

In general, U.S. enhanced telecommunication providers report that they are able to operate to the extent they wish in most of the subject countries.²⁹ While the schedules show that several countries have been reluctant to make binding commitments on selected services, principally on-line information and data processing services, U.S. representatives indicate that, in practice, foreign governments do not distinguish between the different enhanced services.³⁰ As a result, U.S. firms typically are able to provide all relevant services with little official interference.

U.S. industry representatives find it difficult to gauge which countries are more restrictive than others. Some countries, notably Turkey and Poland, maintain policies that complicate the process of entering the market. In Turkey, foreign companies reportedly may not obtain a license,³¹ and value-added services fall within the rights of the state-owned monopoly. While this would seem to restrict the ability of foreign firms to offer services, representatives of U.S. firms have been able to provide services through relationships with local affiliates and the monopoly carrier. In Poland, foreign firms must comply with equity restrictions that pose an inconvenience by limiting options in choosing the most appropriate form of establishment. However, by adapting the form of establishment or by entering into a relationship with an indigenous firm, U.S. firms typically can comply with these limitations and still operate effectively.³²

Despite a few exceptions, U.S. companies generally indicate that they receive national treatment within the subject countries.³³ Nevertheless, U.S. telecommunications providers still report difficulties gaining market access in a number of subject countries because of weak institutional and market structures. Regarding institutional structures, U.S. firms report that many countries lack experience regulating competitive markets due to the

²⁸ Industry representative, telephone interview by USITC staff, Jan. 13, 1998.

²⁹ Industry representatives, telephone interviews by USITC staff, Jan. 12-13, 1998.

³⁰ Industry representative, telephone interview by USITC staff, Jan. 13, 1998.

³¹ Ibid.

³² Ibid.

³³ Industry representative, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

relatively recent development of their legislative and regulatory systems.³⁴ For example, in Bulgaria, licensing policies are not yet in place, so some companies are operating without having a clear legal status.³⁵ Similarly, industry representatives observe that fundamental regulations are still being drafted in the Czech Republic. Such immature regulatory systems may have significant bearing on the success of new market entrants, foreign or domestic. Since most countries still have a dominant national carrier, some services must be leased or purchased from the incumbent provider, typically also a competitor. If the regulatory system is not strong and well developed, the incumbent may still hold significant influence, which may impede the progress of new market entrants.³⁶ In addition, in cases where the incumbent provider retains a monopoly over the public network, problems may arise with interconnection policies that can affect the provision of enhanced services.³⁷ The process of privatization may further compound these difficulties, as in some cases interconnection tariffs may be kept high for a prescribed period of time to guarantee the revenue stream and make the state-owned enterprise more attractive to private investors.³⁸

Another issue related to institutional development is the process by which regulatory policy is developed. In some cases, such as the Czech Republic, industry representatives reported that licensing procedures were not made publicly available and industry did not have sufficient input into the legislative process.³⁹ Industry representatives believe that the process of developing regulations should be more democratic and open. Reflecting some sympathy for the difficulties encountered by the Czech Government, industry representatives also note that the regulatory process suffers from a lack of resources, as regulators are underpaid and have limited access to automated systems.⁴⁰

The communist legacy and the country's position as an emerging, market-oriented economy also pose entry barriers simply related to market behavior. In particular, some customers did not understand the concept of having more than one telecommunications provider while others were not accustomed to paying bills for utility services like telecommunications.⁴¹ In some cases, government agencies were slow to accept the changes taking place and reacted to new market entrants in an adversarial manner. In addition, different ministries have taken different positions on competition. For example, in Bulgaria, the Ministry of Post and Telecommunications has supported the introduction of competition as well as foreign participation, but the Ministry of Defense has expressed some reservations and acted to slow down the process.⁴² Industry representatives indicate that these kinds of market entry barriers are most prevalent in the early years of transition to a market economy, and that conditions tend to improve as the market develops.

³⁴ Czech Republic Government officials, interview by USITC staff, Prague, Czech Republic, Mar. 27, 1998; and industry representatives, telephone interviews by USITC staff, Jan. 12-13, 1998.

³⁵ Bulgarian Government officials, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

³⁶ Industry representative, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

³⁷ Ibid.

³⁸ Industry representative, interview by USITC staff, Budapest, Hungary, Feb. 20, 1998.

³⁹ Industry representatives, interviews by USITC staff, Prague, Czech Republic, Mar. 31, 1998.

⁴⁰ Ibid.

⁴¹ Industry representative, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

⁴² Ibid.

Summary

Based on the national schedules, the markets of Liechtenstein, Norway, Romania, and Switzerland appear to be the most open for enhanced telecommunication services. Through their schedules, these countries have therefore accomplished most in terms of improving transparency and establishing effective benchmarks. Most of the other subject countries reportedly are virtually open to U.S. firms despite the presence of limitations in their schedules. These include the Czech Republic, Hungary, and the Slovak Republic, which scheduled reservations concerning licensing requirements or requirements to use the public network. Since the schedules of Bulgaria, Iceland, and Slovenia excluded significant subsectors from the scope of their schedules, their commitments appear to offer less value in terms of transparency and benchmarking. However, industry representatives suggest that, in practice, these countries do not impose significant barriers to the provision of enhanced telecommunication services.⁴³ Finally, even the countries whose schedules of commitments contain the most restrictive measures were not perceived by industry representatives as presenting insurmountable barriers. Specifically, the schedules of Poland and Turkey suggest that these countries are the most restrictive markets because Poland restricts foreign investment and Turkey reserves enhanced telecommunication services for the public monopoly. However, according to industry sources, while these limitations do impose an inconvenience, they have not precluded the participation of U.S. service providers.

In broad terms, the U.S. telecommunications industry confronts a few direct limitations on national treatment within the subject countries, but principally is affected by matters related to institutional and market development. Looking to the future, U.S. firms would like to see the development of a more robust, competition-based regulatory structure along with binding commitments to market access and national treatment under the GATS framework.

⁴³ Ibid.

CHAPTER 6

Audiovisual Services¹

Introduction

For the purpose of this study, audiovisual services² are the production and distribution of motion pictures, television programs, radio programs, recorded music, music videos, and recorded video tapes. These services are distributed to consumers through rental or sale of prerecorded work; projection in movie theaters; and television, pay television, and radio broadcasting.

International Trade in Audiovisual Services

Trade in audiovisual services occurs both through cross-border and affiliate channels. Cross-border trade data record international transactions in audiovisual products between the United States and foreign countries. Affiliate export data reflect sales of motion pictures by U.S.-owned affiliates abroad to foreign consumers, while affiliate imports represent purchases of motion pictures by U.S. consumers from foreign-owned affiliates in the United States. Available data suggest that most U.S. trade in audiovisual services is transacted through affiliate channels.

Cross-Border Transactions

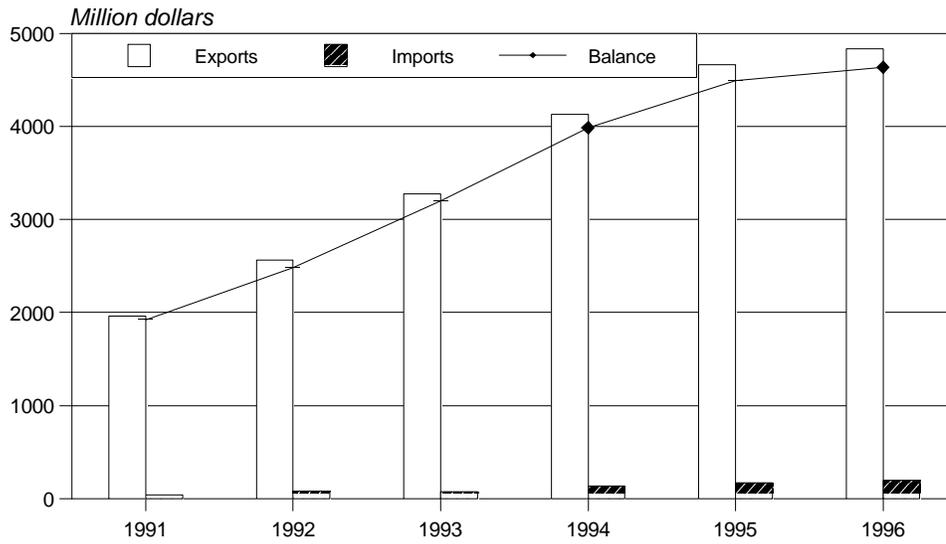
Data on cross-border trade in audiovisual services represent transactions in film and tape rentals. In 1996, the United States exported \$4.8 billion in cross-border audiovisual services, and imported \$198 million, resulting in a \$4.6-billion surplus (figure 6-1). European countries, principally the United Kingdom, Germany and France, are the United States' leading trading partners, collectively accounting for 68 percent of both exports and imports (figure 6-2). Of the trading partners in this study, Norway and Switzerland are the largest U.S. trading partners, accounting for exports of \$32 million and \$24 million, respectively. Taken together, U.S. exports of these services to the subject countries totaled \$148 million in 1996.³ With respect to imports, the United States paid Switzerland \$37 million for film and tape rentals in 1996, or 19 percent of total U.S. imports in cross-border audiovisual services. No other subject trading partner supplied film and tape rentals to the United States.

¹ Among the individuals contacted by the USITC staff in preparation of this report were those affiliated with the following organizations: Motion Picture Association of America, Czech Ministry of Culture, and Swiss Federal Office for Foreign Economic Affairs.

² Audiovisual services are captured in the U.S. SIC codes 78, motion pictures; 3652, phonograph, records, and prerecorded audio tapes and disks; and music distribution systems, except coin-operated, under 7389, business services, not elsewhere classified.

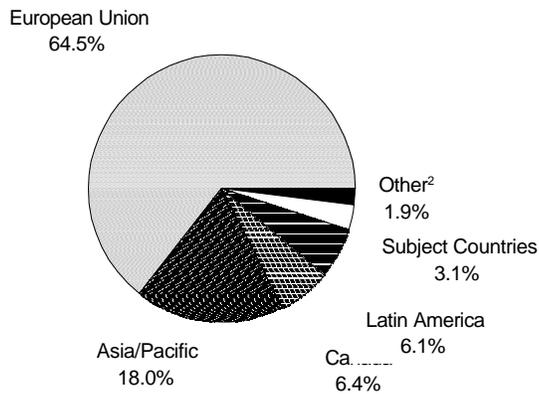
³ U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA), *Survey of Current Business*, Oct. 1997.

Figure 6-1
Cross-border trade in audiovisual services: U.S. exports, imports, and trade balance of film and tape rentals, 1991-96



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Sept. 1995, Nov. 1996, and Oct. 1997.

Figure 6-2
Audiovisual services: U.S. cross-border exports of film and tape rentals, by principal markets, 1996¹



Total exports = \$4.8 billion

¹ Due to rounding, figures may not add to 100 percent.

² Principally includes Africa and the Middle East.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Sales by Majority-Owned Affiliates

Data on affiliate transactions reflect sales of motion pictures and television tape and film only. Foreign-based affiliates of major U.S. motion picture studios generated sales of \$8 billion in 1995, primarily in Western Europe, reflecting a 23-percent increase in affiliate sales from 1994.

Meanwhile, motion picture sales by U.S.-based affiliates of foreign firms grew by 12 percent to \$8.7 billion (figure 3-3).⁴ The United Kingdom provided U.S.-owned affiliates with the largest market for motion pictures, accounting for \$1.2 billion in sales in 1995, or 15 percent of total audiovisual services sales by U.S. affiliates.⁵ Switzerland is the largest trading partner among the countries featured in this study. In 1995, U.S.-owned affiliates in Switzerland posted \$43 million in sales of audiovisual services, representing less than 1 percent of total U.S. affiliate sales. None of the subject trading partners recorded sales through affiliates based in the United States.

Examination of Commitments on Audiovisual Services

None of the countries examined in this study scheduled any commitments on audiovisual services. In addition, with the exception of Romania⁶ and Turkey, all subject countries scheduled most-favored-nation exemptions of indefinite duration, reserving their rights to extend preferential treatment to selected trading partners (table 6-1). The exemptions taken by the countries in this study are similar to those recorded by members of the European Union. Most countries also comply with the screen time allocation measures found in the Council of Europe's Convention on Transfrontier Television and the European Commission's Television Broadcasting Directive.

Subject countries also tend to support the production and distribution of works in the MEDIA⁷ and EURIMAGES⁸ programs. In addition, Iceland and Norway extend national

⁴ Ibid.

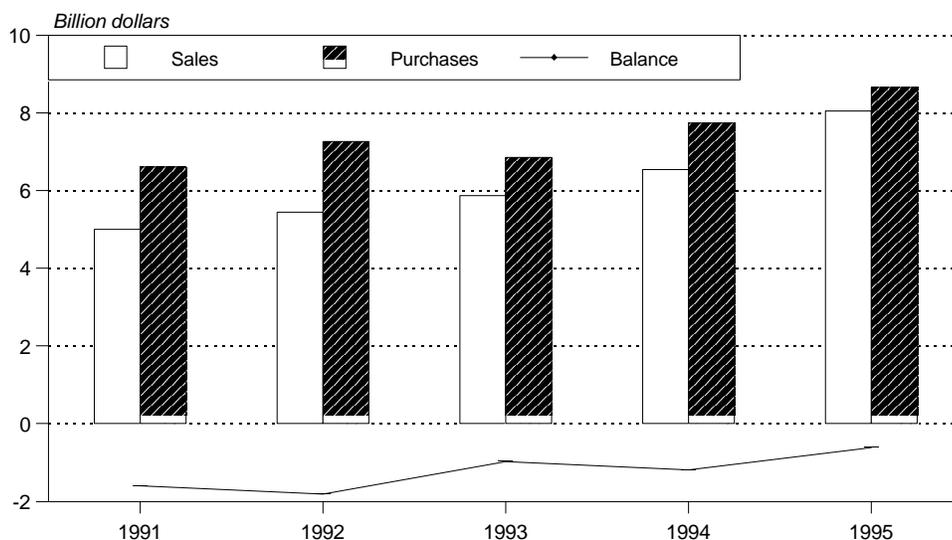
⁵ Ibid.

⁶ Romania did not enter an MFN exemption during the Uruguay Round as Romania was not a member of the GATT at that time. Government representatives to the World Trade Organization (WTO), interviews with USITC staff, Geneva, Switzerland, Apr. 1, 1998.

⁷ MEDIA is a program created by the European Union in 1991 to stimulate the European audiovisual industry. MEDIA encourages the establishment of cross-border networks to manage market fragmentation and industry sector dispersion. MEDIA Salles, "The MEDIA Programme," found at Internet address <http://www.mediasalles.it/media2.htm>, retrieved Dec. 2, 1997.

⁸ EURIMAGES, established by the Council of Europe in 1988, is the European Fund for the support of co-production and distribution of European feature films and documentaries. EURIMAGES comprises 25 member States: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland, Turkey, and the United Kingdom. Council of Europe, found at Internet address <http://culture.coe.fr/Infocentre/press>, retrieved Dec. 2, 1997.

Figure 6-3
Audiovisual service transactions by majority-owned affiliates: U.S. sales, purchases of motion pictures,¹ and balance, 1991-95



¹ Including television tape and film.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997, Nov.

treatment to works from other Nordic countries.⁹ The reasons given for the MFN exemptions include promotion of cultural links between countries and efforts to foster a common cultural identity. Liechtenstein, Slovakia, and Switzerland state an additional objective of promoting the availability of diverse, foreign audiovisual works in their markets.

Bulgaria

Through its MFN exemptions, Bulgaria reserves the right to extend national treatment with respect to the funding and distribution of cinematographic works and television programs to all countries with which cultural cooperation agreements are desirable, exist, or are in the process of conclusion. The stated purpose of the exemption is to promote cultural links and ensure the availability of diverse foreign audiovisual works in the Bulgarian market. Bulgaria also supports such programs as MEDIA and EURIMAGES, along with the screen time access measures contained in the Council of Europe Convention on Transfrontier Television for cinematographic and other audiovisual works, as well as radio and television programs originating in Europe. This exemption, of indefinite duration, is extended on the basis of national origin and linguistic criteria, and is intended to encourage cultural exchanges within the continent.

⁹ Nordic countries include Denmark, Finland, Iceland, Norway, and Sweden.

Table 6-1
Summary of MFN exemptions on audiovisual services

Country ¹	Scope of audiovisual services to which exemption applies	Description of measure	Criteria	Countries awarded preference	Duration of preference	Reasons for listing MFN
Bulgaria	Production and distribution of cinematographic works and television programs.	National treatment in relation to distribution and access to funding.	Multilateral or bilateral agreements on co-production of audiovisual works.	Countries with which cultural cooperation agreements may be desirable, already exist, or are in the process of conclusion.	Indefinite	Promotion of cultural links. Promotion of diversity of foreign audiovisual works in the Bulgarian market.
	Production and distribution of cinematographic and other audiovisual works, and radio and television programs.	National treatment in financial support and market access to broadcasting or similar forms of transmission. Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	European origin and linguistic criteria.	European countries.		Promotion of cultural exchanges within Europe.
Czech Republic	Audiovisual services.	National treatment according to terms of co-production agreements.	Existing or future co-production agreements.	Parties to agreements.	Indefinite	Promotion of cultural links. Promotion of diversity of foreign audiovisual works in the Czech market.
		Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	Specific European origin criteria.	European countries.		Promotion of cultural exchanges within Europe.

Table 6-1, continued
Summary of MFN exemptions on audiovisual services

Country ¹	Scope of audiovisual services to which exemption applies	Description of measure	Criteria	Countries awarded preference	Duration of preference	Reasons for listing MFN
Hungary	Audiovisual services.	National treatment according to terms of co-production agreements.	Existing or future co-production agreements.	Parties to agreements.	Indefinite	Promotion of cultural links.
		Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	Specific European origin criteria.	European countries.		Promotion of cultural exchanges within Europe.
Iceland	Transmission of audiovisual programs.	National treatment.	EC Television Broadcasting Directive (no. 89/552) European origin criteria.	Parties to the Council of Europe Convention on Transfrontier Television, or other European countries with which an agreement may be concluded.	Indefinite	Promotion of cultural identity within the broadcasting sector in Europe. Certain linguistic policy objectives.
	Production and distribution of cinematographic works and television programs.	Support programs such as MEDIA and EURIMAGES.	European origin criteria.	European countries.		Preservation and promotion of regional identity.
		Measures in The Nordic Film and TV Fund.	Nordic origin.	Denmark, Finland, Norway and Sweden.		Maintain and develop Nordic cooperation.
		National treatment particularly in relation to distribution and access to funding.	Co-production agreements.	Countries with which cultural cooperation may be desirable. (Agreements exist or are being negotiated with France and Canada).		Promotion of cultural links.

Table 6-1, continued
Summary of MFN exemptions on audiovisual services

Country ¹	Scope of audiovisual services to which exemption applies	Description of measure	Criteria	Countries awarded preference	Duration of preference	Reasons for listing MFN
Liechtenstein	Audiovisual services.	National treatment particularly in relation to distribution and access to funding.	Co-production agreements.	Countries with which cultural cooperation may be desirable.	Indefinite	Promotion of common cultural objectives.
		National treatment, Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	Specific European origin criteria.	European countries.		Promotion of cultural links and objectives.
		Concession for the operation of radio or television broadcast stations may be granted to persons of countries other than Liechtenstein.	Unspecified	Countries with which cultural cooperation may be desirable.		Promotion of common cultural objectives, preservation diversity of supply.
Norway	Public transmission of audiovisual programs.	National treatment.	EC Television Broadcasting Directive (no. 89/552) European origin criteria.	Parties to the Council of Europe Convention on Transfrontier Television, or other European countries with which an agreement may be concluded.	Indefinite	Promotion of cultural identity within the broadcasting sector in Europe. Certain linguistic policy objectives.
	Production and distribution of cinematographic works and television programs.	Support programs such as MEDIA and EURIMAGES.	Specific European origin criteria.	European countries.		Preservation and promotion of regional identity.
		Measures in The Nordic Film and TV Fund.	Nordic origin.	Denmark, Finland, Iceland, and Sweden.		Maintain and develop Nordic cooperation.
	Motion picture and video tape production and distribution services.	National treatment particularly in relation to access to funding.	Co-production agreements.	Countries with which cultural cooperation may be desirable. (Agreement exists with the United Kingdom).		Promotion of cultural links.

Table 6-1, *continued*

Summary of MFN exemptions on audiovisual services

Country ¹	Scope of audiovisual services to which exemption applies	Description of measure	Criteria	Countries awarded preference	Duration of preference	Reasons for listing MFN
Poland	Motion picture and video tape production and distribution services.	Preferential treatment including access to funding.	Co-production agreements.	All countries.	Indefinite	Promotion of cultural links.
	Cinematographic works and television program production and distribution services.	Preferential treatment.	Specific European origin criteria.	All European countries.		Preservation and promotion of regional identity.
	Public transmission of audiovisual works.	National treatment.	EC Television Broadcasting Directive (No. 89/552) European origin criteria.	Parties to the Council of Europe Convention on Transfrontier Television, or other European countries with which an agreement may be concluded.		Promotion of cultural identity in European broadcasting sector, and certain cultural policy objectives.
Slovakia	Audiovisual services	National treatment according to terms of co-production agreements.	Existing or future co-production agreements.	Parties to agreements.	Indefinite	Promotion of cultural links and objectives. Promotion of diversity of foreign audiovisual works in the Slovak market.
		Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	Specific European origin criteria.	European countries.		Promotion of cultural exchanges within Europe.

Table 6-1, continued
Summary of MFN exemptions on audiovisual services

Country ¹	Scope of audiovisual services to which exemption applies	Description of measure	Criteria	Countries awarded preference	Duration of preference	Reasons for listing MFN
Slovenia	Audiovisual Services.	National treatment according to terms of co-production agreements.	Existing or future co-production agreements.	Parties to agreements.	Indefinite	Promotion of cultural links.
		Support programs such as MEDIA, Eureka and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	Specific European origin criteria.	European countries.		Promotion of cultural exchanges within Europe.
		Preferential treatment.	European origin.	European countries.		Promotion of cultural links and protection of common cultural heritage.
Switzerland	Audiovisual Services.	National treatment particularly in relation to distribution and access to funding.	Co-production agreements.	Countries with which cultural cooperation may be desirable. (Agreement exists with the member countries of the Council of Europe and with Canada).	Indefinite	Promotion of common cultural objectives.
		National treatment, Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	Specific European origin criteria.	European countries.		Promotion of cultural objectives.
		Concession for the operation of radio or television broadcast stations may be granted to persons of countries other than Switzerland.	Bilateral agreements.	All countries with which cultural cooperation may be desirable.		Promotion of common cultural objectives, and regulate access to Switzerland's limited market in order to preserve diversity of supply.

¹ Romania and Turkey did not table any MFN exemptions in audiovisual services

Czech Republic

The Czech Republic's MFN exemptions reserve the right to grant national treatment to parties with which co-production agreements have been concluded or are planned. This exemption, of indefinite duration, is intended to promote cultural links and to ensure the diversity of foreign audiovisual works available on the Czech market. To promote cultural exchanges within the continent, the Czech Republic also supports programs such as MEDIA and EURIMAGES, and screen time allocation measures contained in the Council of Europe Convention on Transfrontier Television.

Hungary

Hungary's MFN exemptions allow it to grant national treatment to parties with which co-production agreements have been concluded or are planned. This exemption, of indefinite duration, is intended to promote cultural links between the parties. Hungary also supports programs such as MEDIA and EURIMAGES, and measures in the Council of Europe Convention on Transfrontier Television for audiovisual works. This exemption is intended to promote cultural exchanges within Europe.

Iceland

Through its MFN exemptions, Iceland retains the right to grant national treatment in the broadcast of audiovisual programs on the basis of European origin criteria and the EC Television Broadcasting Directive. This exemption also covers the support of such programs as MEDIA and EURIMAGES with regard to audiovisual works originating in European countries. The beneficiaries of this exemption are the parties to the Council of Europe Convention on Transfrontier Television and countries with which a bilateral agreement exists, including Canada and France. According to the terms of co-production agreements, Iceland also may grant national treatment with respect to distribution and funding to parties with which such agreements are envisaged or concluded. These exemptions are intended to promote cultural links with other countries and foster linguistic, cultural, and regional identity objectives in Europe. In addition, Iceland grants preferential treatment to Denmark, Finland, Norway, and Sweden, in connection with the Nordic Film and TV Fund. This MFN exemption is intended to maintain and develop Nordic cooperation.

Liechtenstein

Liechtenstein's MFN exemptions enable it to grant national treatment with respect to distribution and access to funding on the basis of co-production agreements. In addition, Liechtenstein reserved the right to support programs like MEDIA and EURIMAGES and to conform with measures contained in the Council of Europe Convention on Transfrontier Television. Through these exemptions, preferential treatment is granted to European countries on the basis of national origin and linguistic criteria, with the stated objective being to promote cultural objectives. For the purpose of preserving the diversity in the supply of television and radio broadcasts, Liechtenstein also reserves the right to grant concessions for the operation of radio and television broadcast stations to countries with which cultural cooperation may be desirable.

Norway

Through its MFN exemptions, Norway retains the right to accord national treatment on a preferential basis in the transmission of audiovisual programs. Such preference is determined by European origin criteria and the EC Television Broadcasting Directive. The beneficiaries of this exemption are the parties to the Council of Europe Convention on Transfrontier Television and other European countries with which an agreement exists, including the United Kingdom. In addition, to promote cultural exchanges within Europe, Norway's exemptions also preserve its ability to support programs such as MEDIA and EURIMAGES with regard to the production and distribution of cinematographic works and television programs originating in European countries. Norway also may grant preferential funding access to parties with which co-production agreements have been concluded or are planned. These exemptions are intended to promote linguistic, cultural, and regional identity objectives in Europe, and cultural links with other countries. Finally, Norway extends preferential treatment to Denmark, Finland, Iceland, and Sweden in connection with the Nordic Film and TV Fund as it applies to the production and distribution of cinematographic works and television programs. This exemption is intended to maintain and develop Nordic cooperation.

Poland

Poland's MFN exemptions reserve the right to accord preferential treatment in the production and distribution of motion pictures and videotapes on the basis of co-production agreements. Production and distribution of cinematographic works and television programs originating in Europe also benefit from preferential treatment. In addition, national treatment may be accorded preferentially with respect to public broadcasting of audiovisual works of European origin and the measures contained in the EC Television Broadcasting Directive. The beneficiaries of this exemption are the parties to the Council of Europe Convention on Transfrontier Television and other European countries with which an agreement may be concluded. These exemptions, of indefinite duration, are intended to promote cultural links, and preserve and promote European identity.

Slovak Republic

The Slovak Republic's MFN exemptions allow it to accord national treatment to countries with which co-production agreements have been concluded in order to promote diversity in foreign audiovisual works available on the Slovak market. The beneficiaries of these exemptions are the parties to the Council of Europe Convention on Transfrontier Television and other European countries with which an agreement exists. To promote cultural exchanges within Europe, Slovakia's exemptions enable it to support programs such as MEDIA and EURIMAGES, as well as screen time allocation measures stated in the Council of Europe Convention on Transfrontier Television. These exemptions are intended to promote cultural links with countries and cultural exchanges within Europe.

Slovenia

Slovenia's MFN exemptions enable it to grant national treatment according to co-production agreements to countries with which such agreements have been concluded. The beneficiaries of these exemptions are the parties to the Council of Europe Convention on Transfrontier Television and other European countries. To promote cultural exchanges within Europe, Slovenia also retains its ability to support programs such as MEDIA, Eureka,¹⁰ and EURIMAGES, as well as screen time allocation measures stated in the Council of Europe Convention on Transfrontier Television. These exemptions are intended to promote cultural links and cultural exchanges within Europe and to protect European cultural heritage.

Switzerland

Through its MFN exemptions, Switzerland reserves the right to grant national treatment on a preferential basis to all countries with which co-production agreements may be desirable. The exemptions apply specifically to distribution and access to funding of audiovisual services. Co-production agreements presently exist with some member countries of the Council of Europe, as well as Canada. To promote cultural objectives, Switzerland also reserves the right to support audiovisual services originating in European countries via programs such as MEDIA and EURIMAGES, and screen time allocation measures contained in the Council of Europe Convention on Transfrontier Television. Switzerland also reserves the right to grant concessions on a preferential basis for the operation of radio and television broadcast stations to companies from countries with which cultural cooperation may be desirable. The purpose of this exemption is to preserve the diversity of supply of foreign audiovisual works available in the limited Swiss market.

Industry Opinion

Of the countries in this study, Switzerland and Norway are the largest markets for exports of U.S. audiovisual services. Turkey is also a potentially large market, with sales of U.S. audiovisual products estimated at \$80 million.¹¹ Although the remaining markets are smaller in terms of U.S. audiovisual services exports, they offer great potential because of their rapid growth. U.S. industry representatives indicated that the television market is undergoing particularly strong growth, which is significant because of its importance as a distribution channel.

However, U.S. industry is concerned with the lack of binding commitments from the subject countries and with the application of MFN exemptions modeled on the very restrictive measures taken by members of the European Union. Other issues raised by industry representatives include investment laws that restrict foreign participation in broadcasting operations. For example, Swiss law prohibits foreign investment in television and radio stations, Turkey restricts foreign participation in broadcasting, and Hungary limits foreign

¹⁰ Audiovisual Eureka is a 35-member European intergovernmental organization created to promote cooperation in the audiovisual sector. Audiovisual Eureka, "Welcome to Audiovisual Eureka," found at Internet address <http://www.aveureka.be/>, retrieved Jan. 16, 1997.

¹¹ Industry representative, interview by USITC staff, Istanbul, Turkey, Mar. 2, 1998.

ownership of the media.¹² Measures such as these force U.S. firms to alter their business plans and service offerings. Notably, in response to Poland's 33-percent limit on foreign ownership of broadcasting operations, HBO abandoned its plans for establishing an operation in Poland in favor of satellite transmission of programs produced in Hungary.¹³ U.S. industry representatives would like to see future negotiations focus on removing measures such as these that limit the available options for developing and distributing audiovisual services.¹⁴

Summary

As stated above, the countries examined in this study did not offer any commitments in audiovisual services, opting to reserve their rights to impose market access and national treatment restrictions on foreign audiovisual products. In addition, with the exception of Romania and Turkey, all of the subject countries posted MFN exemptions. Most reservations allow for the extension of preferential treatment to service providers originating in Europe and in countries that have concluded bilateral co-production agreements with the subject countries. As a result of these positions, none of the subject countries made any progress in terms of improving transparency or establishing benchmarks for further liberalization. The absence of commitments on audiovisual services concerns representatives of U.S. industry, as these countries offer rapidly growing markets for U.S. audiovisual services.

¹² U.S. Department of State, Bureau of Economic Affairs, *FY 1997 Country Commercial Guides*, found at Internet address <http://www.state.gov>, retrieved on Dec. 3, 1997.

¹³ *Ibid.*

¹⁴ Industry representative, interview by USITC staff, Washington, DC, Dec. 3, 1997.

CHAPTER 7

Courier Services¹

Introduction

Courier services² include the pickup and expedited delivery of parcels, packages, letters, and other articles destined for domestic or international locations. These services are performed by numerous business operations, both large and small. Large integrated companies, such as Federal Express Corp. (FedEx), United Parcel Service (UPS), DHL Worldwide Express (DHL), and approximately 10,000 small independent messenger and delivery operations are the principal providers of courier services in the United States. Large companies specialize in providing overnight courier services to both domestic and international destinations, whereas smaller companies generally provide same-day local delivery.³ Although this report focuses on land-based courier services as requested by the United States Trade Representative, air transportation is the predominant means of delivering parcels and other articles to distant locations.⁴

International Trade in Courier Services

Official data showing U.S. cross-border and affiliate trade in courier services are not available. Industry representatives have stated, however, that the United States is a net exporter of these services.⁵ In 1997, the revenues earned by providers of courier services with significant international operations totaled approximately \$50 billion.⁶ U.S. exports reach customers primarily through the foreign-based operations of U.S. companies, such as FedEx, UPS, and DHL. These companies also provide expedited services to customers

¹ Among the individuals by USITC staff in preparation of this report were those affiliated with the following organizations: Airborne Courier Conference of America (ACCA), DHL Worldwide Express (DHL), Federal Express Corporation (FedEx), and United Parcel Service (UPS).

² The U.N. Central Product Classification (CPC) code applicable to courier services is 7512.

³ With respect to the large integrated companies, courier services include a number of activities related to various service sectors, such as customs brokerage, aviation, air cargo (including freight forwarding), telecommunications, ground transportation, postal services (delivery services), ground handling of aircraft and cargo, warehousing and distribution, and consulting and management services. For the small companies courier services are generally limited to in-hand transport of documents by a courier. *Prehearing Brief of Federal Express Corp.*, submitted to the U.S. International Trade Commission, USITC inv. No. 332-367, July 12, 1996, pp. 5-8.

⁴ The USITC was not requested by the USTR to examine air transportation services.

⁵ Industry representative, telephone interview by USITC staff, Jan. 27, 1995.

⁶ Statement submitted to the USITC by the Air Courier Conference of America-International Committee Regarding Eastern European Commitments on Courier Services, Apr. 22, 1998.

abroad through contractual agreements with foreign-owned trucking or courier operations.⁷ In addition to transporting packages from the United States to foreign countries, U.S. couriers also may provide point-to-point service within a particular country as well as transport packages from the region to other regions or countries, including the United States. Regardless of the type of service provided, approval by the national government is generally required before services can be rendered.

Examination of Commitments on Courier Services

U.S. land-based couriers provide services to customers in Eastern Europe largely through affiliate operations located within the specific country or through contractual agreements with a local agent. Therefore, commitments regarding cross-border supply, commercial presence, and the presence of natural persons have an important impact on trade in courier services. This discussion focuses on these three modes of supply as they relate to the schedules submitted by the Czech Republic, Norway, Poland, Slovak Republic, Slovenia, and Turkey. These countries were the only subject trading partners to schedule commitments on courier services. Highlights of industry-specific commitments offered by these countries and the relevant modes of supply are presented in table 7-1.

Czech Republic

Specific commitments offered by the Czech Republic accord full market access and national treatment to foreign firms providing courier services through a commercial presence. For services provided through cross-border supply, however, any existing limitations remain unbound, which means that such services may be subject to further measures limiting either market access or national treatment. With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel. Senior executives and specialists⁸ with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.⁹ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

⁷ Industry representatives, interviews by USITC staff, Sofia, Bulgaria and Budapest, Hungary, Feb. 18 and 23, 1998.

⁸ Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

⁹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993 (MTN.GNS/W/164/Add.1).

Table 7-1
Highlights of industry-specific restrictions on courier services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Czech Republic	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 7512 - Courier services, except as specified for transportation services.
Norway	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • None except as specified for transportation services. National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 7512 - Courier services.
Poland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: • CPC 7512 - Courier services, excluding written correspondence, e.g., letters.
Slovak Republic	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 7512 - Courier services except as specified for transportation services.
Slovenia	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 7512 - Special delivery services only.
Turkey	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	These commitments cover: • CPC 7512 - Courier services.

¹ Bulgaria, Hungary, Iceland, Liechtenstein, Romania, and Switzerland did not schedule commitments on courier services.

Norway

Norway has a relatively open market for courier services, which is reflected by full commitments to market access and national treatment for services rendered through cross-border supply and commercial presence. With respect to the presence of natural persons, Norway's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

Poland

Poland grants full market access and national treatment to foreign providers of courier services (excluding letters and similar written correspondence) through cross-border supply and commercial presence. Poland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on a market test.¹⁰ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate.

Slovak Republic

The Slovak Republic made binding commitments to maintain no restrictions on foreign firms delivering courier services through a commercial presence. However, limitations on cross-border supply remain unbound and therefore potentially subject to further restrictions on market access or national treatment. The Slovak Republic's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreements to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

¹⁰ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹¹ The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovenia

Slovenia guarantees full market access and national treatment to foreign providers of courier services (special delivery services only) who wish to establish a commercial presence. Slovenia's limitations on cross-border supply, however, are unbound and further trade-restrictive measures limiting either market access or national treatment may be imposed at the country's discretion. Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Turkey

Turkey's commitments accord full market access and national treatment to foreign providers of courier services through all modes of supply. These appear to be the most liberal set of commitments on courier services made by any of the subject countries. However, although Turkey committed to full market access and national treatment with respect to services provided through the presence of natural persons, Turkey's limitations actually remain unbound due to cross-industry measures on the entry and temporary stay of executives, managers, specialists, and service sellers and certain significant restrictions concerning national treatment. Executives, managers, and specialists are required to obtain work and residence permits in order to receive a 2-year term of stay which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits.

Industry Opinion

The U.S. courier services industry is generally encouraged by the GATS and hopeful that market conditions will become more liberal as a result of future trade negotiations. Although foreign providers of courier services are guaranteed unrestricted market access and national treatment for most modes of supply in a number of the countries examined in this report, an equal number of countries did not offer any commitments on courier services.

¹¹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

With respect to the latter countries, the GATS offers little benefit to U.S. firms. In addition, U.S. industry representatives report a number of other concerns that are not effectively treated in the GATS. These include issues related to corporate registration, customs clearance, national postal service policies, and restrictions on related services such as transportation and distribution.

With respect to corporate registration, industry representatives observed that the process is complicated and somewhat lengthy, taking as long as 1 year. However, industry sources also point out that in most cases the business is permitted to operate during the registration procedure.¹² As for customs clearance procedures, poor or inconsistent policies reportedly increase costs and impose service delays.¹³ For example, customs regulations in the Czech Republic are said to be incomplete and ambiguous, and customs officials are not sympathetic to the time-sensitivity of express delivery services.¹⁴ Customs guidelines in Hungary reportedly are confusing and documentation for the clearance of merchandise requires an inordinate amount of time.¹⁵ Similar difficulties have reportedly been encountered in other Eastern European countries.¹⁶ U.S. industry representatives would like to see customs requirements in all Eastern European countries become more reflective of the efficient procedures practiced in the European Union as those countries become more closely integrated.¹⁷ To this end, U.S. courier representatives are working with customs officials and trade policy representatives of various Eastern European countries in an effort to improve the regulatory and administrative framework for express delivery services.¹⁸

Concerning postal policies, U.S. courier representatives assert that many of the subject countries have national postal service monopolies that impose restrictions on international delivery services.¹⁹ Although industry representatives do not advocate the dissolution of national postal monopolies, they feel that foreign monopoly policies should not be extended unfairly and unreasonably to encompass cross-border services.²⁰ Finally, with respect to transportation policies, U.S. industry representatives maintain that taxes and tolls may directly affect the provision of express delivery services. For example, the Czech Republic applies different tax rates based on the national origin of the vehicle, thereby discriminating against foreign transport operators.²¹

The linkage between transportation and express delivery services is of considerable concern to the U.S. express delivery industry. Representatives of U.S. firms have consistently asserted that courier services are not adequately defined by the GATS. Industry sources

¹² Industry representatives, interviews by USITC staff, Budapest, Hungary, Feb. 23, 1998.

¹³ Statement submitted to the USITC by the Air Courier Conference of America-International Committee Regarding Eastern European Commitments on Courier Services, Apr. 22, 1998.

¹⁴ Industry representatives, interviews by USITC staff, Prague, Czech Republic, Mar. 29, 1998.

¹⁵ Industry representative, telephone interview by USITC staff, Dec. 3, 1997.

¹⁶ Ibid.

¹⁷ Bulgaria, Hungary, Poland, the Czech Republic, Romania, the Slovak Republic, and Slovenia are associate partners of the European Union.

¹⁸ Industry representative, telephone interview by USITC staff, Dec. 3, 1997; and industry representatives, interviews by USITC staff, Sofia, Bulgaria and Budapest, Hungary, Feb. 18 and 23, 1998.

¹⁹ Statement submitted to the USITC by the Air Courier Conference of America-International Committee Regarding Eastern European Commitments on Courier Services, Apr. 22, 1998.

²⁰ Ibid.

²¹ Ibid.

observe that the courier business actually encompasses several other service industries, most notably air and land transportation services as well as distribution services. Consequently, commitments undertaken on courier services may be substantially undermined by restrictions in these other service sectors, or even by measures that impede the cross-border flow of merchandise. As a result, representatives of the U.S. industry are hopeful that future rounds of negotiations will be more successful in capturing the full range of activities involved in providing express delivery services.

Summary

The national schedules indicate that Norway, Poland, and Turkey have made the broadest commitments to accord market access and national treatment under the GATS. In so doing, these countries have gone furthest to establish benchmarks and improve transparency. While the Czech Republic, Slovak Republic, and Slovenia also made significant progress by making binding commitments for services provided through a commercial presence, these countries remain unbound with respect to cross-border supply. As a result, they have reserved the right to impose potentially significant restrictions in the future. Since Bulgaria, Hungary, Iceland, Liechtenstein, Romania, and Switzerland declined to schedule any commitments on courier services, these countries have made no progress toward establishing benchmarks for market liberalization or even toward improving transparency. U.S. industry representatives are somewhat disappointed that several important markets made no progress toward guaranteeing full market access and national treatment, but they also report that they presently are permitted to offer their services in all of the subject countries.²² In the future, the courier services industry would like to see further progress made toward establishing binding commitments. In addition, they are hopeful that future negotiations will afford broader coverage of the full range of activities involved in the provision of express delivery services.

²² Industry representative, telephone interview by USITC staff, Dec. 3, 1997.

CHAPTER 8

Health Care Services¹

Introduction

The health care services covered in this report include those performed by hospitals and hospital chains; offices and clinics of medical doctors and other health service professionals; nursing homes and other long-term health care facilities; rehabilitation facilities; home health care providers; managed care organizations;² medical and dental laboratories; kidney dialysis centers; and specialty outpatient facilities.³

International Trade in Health Care Services

Trade in this sector comprises both cross-border transactions and sales by affiliates located in foreign markets. Cross-border exports largely consist of treatment of foreign persons in the United States by U.S. hospitals, clinics, medical doctors, and other health care service professionals. Cross-border imports comprise the treatment of U.S. citizens overseas by foreign hospitals and doctors.⁴ Trade through affiliates includes health care services provided to foreign persons by foreign-based affiliates of U.S. hospital companies, and services provided to U.S. persons by U.S.-based affiliates of foreign hospital companies. The volume of U.S. affiliate transactions appears to exceed the volume of cross-border transactions by a significant margin.

Cross-Border Transactions

In 1996, U.S. cross-border exports of health care services amounted to \$872 million, representing a 4-percent increase over the previous year, but 2 percentage points less than the average annual export growth rate of nearly 6 percent recorded during 1991-95 (figure 8-1). U.S. cross-border imports of health care services amounted to an estimated \$550

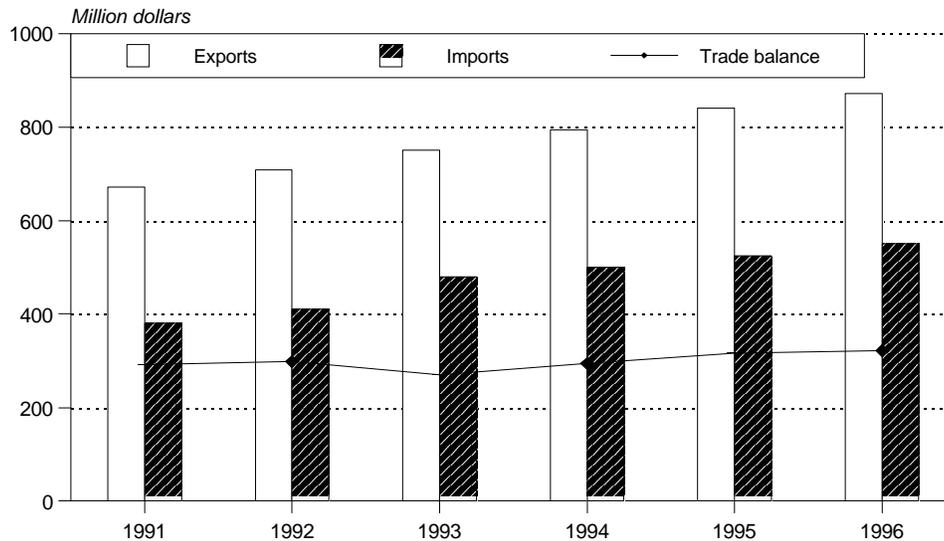
¹ Among the individuals consulted by USITC staff in preparation of this report were those affiliated with the following organizations: Mayo Clinic; Johns Hopkins University Hospital; Tenet Healthcare; Columbia/HCA Healthcare; American Hospital Association; Federation of American Health Systems; the Health Care Financing Administration; American Hospital, Istanbul; the U.S. Department of Commerce (USDOC), Bureau of the Census, Bureau of Economic Analysis (BEA), and the International Trade Administration.

² Includes health maintenance organizations (HMOs) and similar organizations engaged in providing medical or other health care services to members. However, health care services do not include HMOs that limit services to the provision of insurance for hospitalization or medical costs.

³ These health care services are classified under the U.S. Standard Industrial Classification code 80.

⁴ Cross-border health care service transactions therefore correspond to consumption abroad in the General Agreement on Trade in Services (GATS) terminology.

Figure 8-1
Cross-border health care services: U.S. exports, imports, and trade balance, 1991-96



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Nov. 1996; and USITC staff estimates.

million in 1996,⁵ representing a 5-percent increase from 1995, compared to the 8-percent average annual rate of increase recorded during 1991-95. U.S. exports and imports of health care services accounted for less than 1 percent of cross-border trade in all service industries in 1996. The U.S. cross-border trade surplus in health care services amounted to \$322 million in 1996, increasing at the same 2-percent rate over the previous year as was recorded on average during 1991-95.

Canada remained the leading export market for U.S. health care services in 1996, accounting for approximately 50 percent of the total (figure 8-2). Other leading markets for U.S. cross-border exports of health care services were the United Kingdom, Germany, Mexico, Australia, and Japan.⁶ Of the countries covered in this report, Switzerland, followed by Poland, the most populous country covered, accounted for the largest portion of U.S. cross-border exports of health care services in 1996.

Sales by Majority-Owned Affiliates

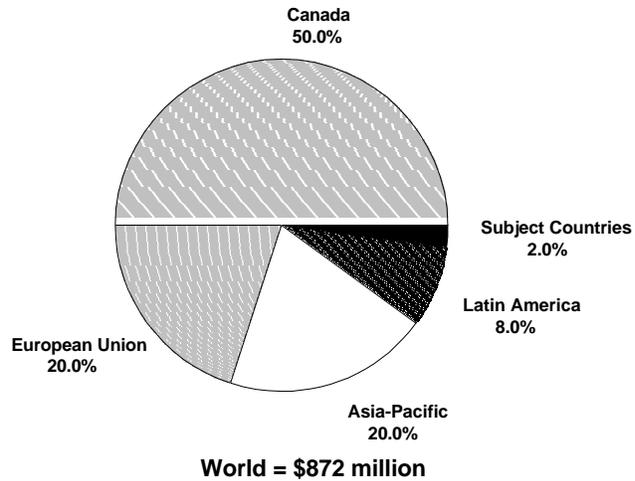
Sales by foreign-based affiliates of U.S. health care service companies amounted to \$469 million in 1995 (figure 8-3). This represented a 1-percent decrease in such exports from 1994, contrasting with 17-percent average annual growth during 1991-94. Much of the decline reflected the sale by a major U.S.-based hospital chain of a group of hospitals it owned in Singapore and Malaysia.⁷ However, sales by foreign-based affiliates of U.S. firms increased in some overseas markets. For example, sales through United Kingdom-

⁵ USITC staff estimate based on telephone interviews with U.S. industry representatives and BEA official, Dec. 8, 1997.

⁶ Ibid.

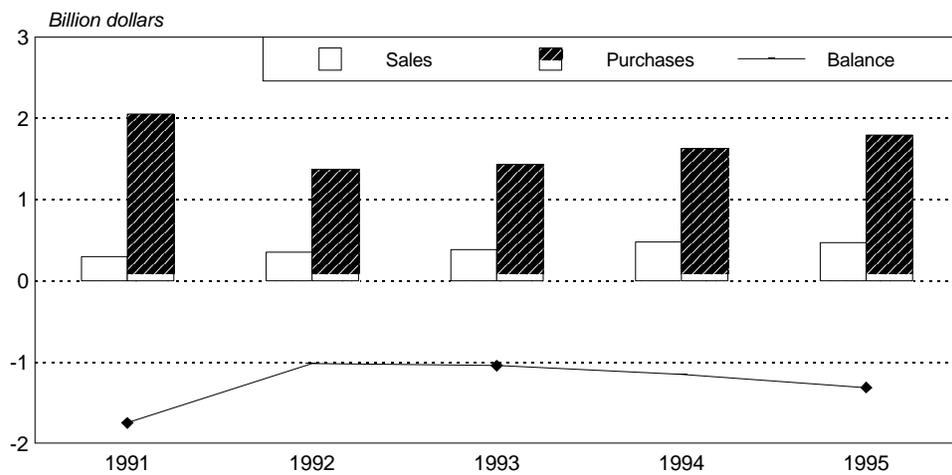
⁷ U.S. hospital company, telephone interview by USITC staff, Nov. 18, 1997.

Figure 8-2
Health care services: U.S. cross-border exports, by principal markets, 1996



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997; and USITC staff estimates.

Figure 8-3
Health care services transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95



Source: U.S. Department of Commerce, Bureau of Economic Analysis (BEA), *Survey of Current Business*, Sept. 1994, Sept. 1995, Nov. 1996, Oct. 1997; and USITC staff estimates based on telephone interviews with U.S. industry representatives and BEA official, Dec. 8, 1997.

based affiliates of U.S. health care firms almost doubled with the acquisition of additional hospitals in the United Kingdom by a major U.S. psychiatric hospital company.⁸ Of the countries covered in this report, Switzerland was the chief source of U.S. foreign-based affiliate sales of health care services, which accrued to Swiss affiliates of Tenet Healthcare, the second largest hospital company based in the United States.

Purchases of health care services through U.S.-based affiliates of foreign health care companies amounted to \$1.8 billion in 1995, representing a 10-percent increase over the previous year. This contrasted with an irregular 7-percent average annual rate of decline recorded during 1991-94.⁹ The German-owned hospital company, Paracelsus, continued to increase its U.S. market share with the acquisition of several hospitals on the West Coast. Meanwhile, revenue increased for a Midwest chain of outpatient medical and surgical care facilities purchased by a French company. Growth in purchases through U.S.-based affiliates in the health care services industry is also attributed to Japanese and Australian investments in the U.S. hospital and nursing care sectors.¹⁰

Examination of Commitments on Health Care Services

As indicated in the previous section, trade in health care services principally transpires as consumption abroad and transactions by foreign affiliates.¹¹ The principal barriers to trade in health care services are limitations on the establishment of a commercial presence and the presence of natural persons. Consequently, this section will focus on examining foreign commitments pertaining to commercial presence and the presence of natural persons.

With the exception of Liechtenstein and Romania, all of the countries covered in this report scheduled GATS commitments with respect to some health care service sectors (table 8-1). However, among those health care sectors for which services commitments were scheduled, a number of restrictions on full national treatment and market access were maintained, especially in services provided through commercial presence and the presence of natural persons.¹² Furthermore, commitments were limited in certain sectors, such as hospital and nursing services, which are of greatest interest to U.S. health care firms.

⁸ These U.S.-owned affiliates were subsequently sold in 1996 as the U.S. hospital company exited the foreign market to focus on restructuring of its operations in the U.S. market. "Community Psychiatric Centers' Third Quarter Results Reflect Gain on Sale of UK Operations," press release, Oct. 1, 1996.

⁹ Following a sharp 33-percent decline in U.S. purchases in 1991 from 1990, U.S. purchases increased by an average annual rate of 9 percent during 1992-94. USITC staff estimate based on telephone interviews with U.S. industry representatives and BEA official, Dec. 8, 1997.

¹⁰ Ibid.

¹¹ Although some trading partners' GATS commitments placed limitations on the cross-border supply of health care services, U.S. industry officials indicate that barriers in that mode are minimal and are not expected to significantly affect U.S. global competitiveness in the health care sector. U.S. industry analysts and officials, telephone interviews by USITC staff; and interviews by USITC staff, Washington, DC and New York, NY, July-Dec. 1997.

¹² These five sectors include medical and dental services, veterinary services, hospital services, services provided by medical professionals other than doctors, medical specialty services, and social services.

Table 8-1

Highlights of industry-specific restrictions on health care services

		Mode of Supply				
Trading Partner ¹	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments	
Bulgaria	<p>MEDICAL AND DENTAL SERVICES: Market Access: Unbound National Treatment: Unbound</p>	<p>MEDICAL AND DENTAL SERVICES: Market Access:</p> <ul style="list-style-type: none"> None except that public medical insurance plans do not cover the cost for medical and dental services provided to Bulgarian citizens abroad, or for medical and dental services provided to foreign persons in Bulgaria. <p>National Treatment: Unbound</p>	<p>MEDICAL AND DENTAL SERVICES: Market Access:</p> <ul style="list-style-type: none"> Access is granted only to foreign natural persons for the conduct of private professional practice. Establishment of such suppliers is subject to conditions of permanent residence, official recognition of their education and professional qualifications for the provision of the specific medical or dental services, including requirements related to professional experience. Registration and authorization based on economic needs test and consent by a professional organization. <p>National Treatment:</p> <ul style="list-style-type: none"> None except for Bulgarian language requirement confirmed by exam. 	<p>MEDICAL AND DENTAL SERVICES: Market Access: Unbound National Treatment: Unbound</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 9312 - Medical and dental services. <p>Bulgaria requested an MFN exemption for indefinite duration for:</p> <ul style="list-style-type: none"> CPC 9312 - Medical and dental services. Public medical insurance, subsidization and compensation plans and programs, which cover the cost and expenses relating to medical and dental services provided to foreign citizens in the territory of the Republic of Bulgaria, granted on the basis of reciprocity in the framework of bilateral agreements. The exemption is applicable to countries with which such bilateral agreements are or will be included. 	
	<p>VETERINARY SERVICES: Market Access:</p> <ul style="list-style-type: none"> Unbound. Prices charged for private services are determined by the relevant professional organizations and approved by the Ministry of Health Care. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound. Prices charged for private services are determined by the relevant professional organizations and approved by the Ministry of Health Care. 	<p>VETERINARY SERVICES: Market Access: None National Treatment: Unbound</p>	<p>VETERINARY SERVICES: Market Access:</p> <ul style="list-style-type: none"> Access is granted to natural persons exclusively for the conduct of private professional practice, under authorization of the veterinary authorities and subject to an economic needs test. Unbound for all services related to border veterinary controls. <p>National Treatment:</p> <ul style="list-style-type: none"> None except access is granted to natural persons exclusively for the conduct of private professional practice, under authorization of the veterinary authorities and subject to an economic needs test. Unbound for all services related to border veterinary controls. 	<p>VETERINARY SERVICES: Market Access: Unbound National Treatment: Unbound</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 932 - Veterinary services. 	

Table 8-1, *continued*
 Highlights of industry-specific restrictions on health care services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria <i>(continued)</i>	SOCIAL SERVICES: Market Access: Unbound National Treatment: Unbound	SOCIAL SERVICES: Market Access: None National Treatment: None	SOCIAL SERVICES: Market Access: None National Treatment: None	SOCIAL SERVICES: Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 933 - Privately funded social services only. These commitments exclude: • CPC 9311 - Hospital services. • CPC 9319 - Other human health services.
Czech Republic	MEDICAL AND DENTAL SERVICES: Market Access: Unbound National Treatment: Unbound	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: • Access is restricted to natural persons only. Authorization by the Ministry of Health required for foreign natural persons. National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments and subject to Czech residence.	These commitments cover: • CPC 9312 - Medical and dental services.
	VETERINARY SERVICES: Market Access: Unbound National Treatment: Unbound	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: • Access is restricted to natural persons only. Authorization by veterinary administration is required. National Treatment: None	VETERINARY SERVICES: Market Access: • Unbound except as indicated in the cross-industry commitments. Czech nationality is required. National Treatment: • Unbound except as indicated in the cross-industry commitments and subject to Czech residence.	These commitments cover: • CPC 932 -Veterinary services. These commitments exclude: • CPC 9311 - Hospital services. • CPC 9319 - Other human health services.

Table 8-1, *continued*
Highlights of industry-specific restrictions on health care services

	Mode of Supply				
Trading Partner ¹	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments
Hungary	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 9312 - Medical and dental services.
	HEALTH RELATED SERVICES: Market Access: None National Treatment: None	HEALTH RELATED SERVICES: Market Access: None National Treatment: None	HEALTH RELATED SERVICES: Market Access: None National Treatment: None	HEALTH RELATED SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 931 - Health related services. These commitments exclude: <ul style="list-style-type: none"> CPC 932 - Veterinary services.
Iceland	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: None National Treatment: <ul style="list-style-type: none"> Ability in Icelandic required. 	VETERINARY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Limitations on the number of veterinarians in rural districts. National Treatment: <ul style="list-style-type: none"> Ability in Icelandic required. 	These commitments cover: <ul style="list-style-type: none"> CPC 932 - Veterinary services. These commitments exclude: <ul style="list-style-type: none"> CPC 9312 - Medical and dental services. CPC 9311 - Hospital services. CPC 9319 - Other human health services.

Table 8-1, *continued*
 Highlights of industry-specific restrictions on health care services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Norway	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: • Must speak Norwegian and have passed national exams in various areas. However, foreign exams assuring equivalent competence may be recognized.	MEDICAL AND DENTAL SERVICES: Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments. Must speak Norwegian and have passed national exams in various areas. However, foreign exams assuring equivalent competence may be recognized.	These commitments cover: • CPC 9312 - Medical and dental services.
	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments. Foreign exams assuring equivalent competence may be recognized.	These commitments cover: • CPC 932 - Veterinary services.
	SERVICES PROVIDED BY MEDICAL PROFESSIONALS OTHER THAN DOCTORS: Market Access: None National Treatment: None	SERVICES PROVIDED BY MEDICAL PROFESSIONALS OTHER THAN DOCTORS: Market Access: None National Treatment: None	SERVICES PROVIDED BY MEDICAL PROFESSIONALS OTHER THAN DOCTORS: Market Access: None National Treatment: None	SERVICES PROVIDED BY MEDICAL PROFESSIONALS OTHER THAN DOCTORS: Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments. Must speak Norwegian and have passed national exams in various areas. However, foreign exams assuring equivalent competence may be recognized.	These commitments cover: • CPC 93191 - Deliveries and related services, nursing services, physiotherapeutic and para-medical services. These commitments exclude: • CPC 9311 - Hospital services. • CPC 93192 - Ambulance services. • CPC 93193 - Residential health facilities services other than hospital services. • CPC 93199 - Other human health services, other than deliveries, nursing, physiotherapeutic and para-medical services.

Table 8-1, *continued*
Highlights of industry-specific restrictions on health care services

	Mode of Supply				
Trading Partner ¹	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments
Poland	MEDICAL AND DENTAL SERVICES: Market Access: <ul style="list-style-type: none"> Public medical insurance programs do not cover cost of health care services provided abroad. National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: <ul style="list-style-type: none"> Public medical insurance programs do not cover cost of health care services provided abroad. National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: <ul style="list-style-type: none"> Nationality requirement. Practice of medical profession by foreigners requires permission. National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Nationality requirement. Practice of medical profession by foreigners requires permission. National Treatment: <ul style="list-style-type: none"> Foreign medical doctors have limited election rights within professional associations. 	These commitments cover: <ul style="list-style-type: none"> CPC 9312 - Private medical and dental services. These commitments exclude: <ul style="list-style-type: none"> CPC 9312 - Medical services provided by the public sector.
	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: <ul style="list-style-type: none"> Nationality requirement. Foreigners may apply for permission to practice. National Treatment: None	VETERINARY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Foreigners may apply for permission to practice. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 932 - Veterinary services.
	SERVICES PROVIDED BY MEDICAL PROFESSIONALS OTHER THAN DOCTORS: Market Access: <ul style="list-style-type: none"> Public medical insurance programs do not cover cost of health care services provided abroad. National Treatment: None	SERVICES PROVIDED BY MEDICAL PROFESSIONALS OTHER THAN DOCTORS: Market Access: <ul style="list-style-type: none"> Public medical insurance programs do not cover cost of health care services provided abroad. National Treatment: None	SERVICES PROVIDED BY MEDICAL PROFESSIONALS OTHER THAN DOCTORS: Market Access: <ul style="list-style-type: none"> Nationality requirement for midwives and nurses. National Treatment: None	SERVICES PROVIDED BY MEDICAL PROFESSIONALS OTHER THAN DOCTORS: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Nationality requirement for midwives and nurses. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 93191 - Deliveries and related services, nursing services in private establishments. These commitments exclude: <ul style="list-style-type: none"> CPC 93191 - Deliveries and related services, and nursing services provided in the public sector.
	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: Unbound due to lack of technical feasibility. 	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Public medical insurance programs do not cover cost of health care services provided abroad. National Treatment: <ul style="list-style-type: none"> Hospital service consumers may not be entitled to receive financial support from public resources. 	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Health facility heads should be medical doctors. All limitations pertaining to medical, dental, midwifery, and nursing services are applicable to hospital services. National Treatment: <ul style="list-style-type: none"> Foreign private establishments and their patients may not be entitled to receive financial support from public resources. 	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Health facility heads should be medical doctors. All limitations pertaining to medical, dental, midwifery, and nursing services are applicable to hospital services. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 9311 - Private hospital and sanatorium services excluding services provided by the public sector. These commitments exclude: <ul style="list-style-type: none"> CPC 9311 - All hospital services provided by the public sector.

Table 8-1, continued
Highlights of industry-specific restrictions on health care services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Slovak Republic	MEDICAL AND DENTAL SERVICES: Market Access: Unbound National Treatment: Unbound	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: <ul style="list-style-type: none"> Access is restricted to natural persons only. Authorization by the Ministry of Health for foreign natural persons is required. National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments and subject to condition of residence. 	These commitments cover: <ul style="list-style-type: none"> CPC 9312 - Medical and dental services. These commitments exclude: <ul style="list-style-type: none"> CPC 9311 - Hospital services. CPC 9319 - Other human health services.
	VETERINARY SERVICES: Market Access: Unbound National Treatment: Unbound	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: <ul style="list-style-type: none"> Access restricted to natural persons only. Authorization by veterinary administration required. National Treatment: None	VETERINARY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments and subject to condition of citizenship. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments and subject to condition of residence. 	These commitments cover: <ul style="list-style-type: none"> CPC 932 - Veterinary services.
Slovenia	MEDICAL AND DENTAL SERVICES: Market Access: Unbound National Treatment: Unbound	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: <ul style="list-style-type: none"> Membership in doctors' association required. Conditions for acceptance into doctors' association for foreigners is license to practice and a good command of the Slovenian language. National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 9312 - Medical and dental services. These commitments exclude: <ul style="list-style-type: none"> The following medical services: social medicine, sanitary, epidemiological, medical/ecological services; the supply of blood, blood preparations and transplants; autopsy.
	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: Unbound due to lack of technical feasibility.	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Public medical insurance programs do not cover cost of health care services provided abroad. National Treatment: <ul style="list-style-type: none"> Patients may not be entitled to receive financial support from public resources subject to authorization by Institute for Health Insurance. 	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Establishment of hospital facilities is subject to an economic needs test. Entry into public health network is subject to authorization by Institute for Health Insurance. National Treatment: <ul style="list-style-type: none"> Foreign establishments and their patients may not be entitled to receive financial support from public resources. 	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 9311 - Private hospital and sanatorium services. These commitments exclude: <ul style="list-style-type: none"> CPC 9311 - All hospital services provided by the public sector.

Table 8-1, continued
Highlights of industry-specific restrictions on health care services

	Mode of Supply				
Trading Partner ¹	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments
Slovenia <i>(continued)</i>	MEDICAL SPECIALTY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	MEDICAL SPECIALTY SERVICES: Market Access: None National Treatment: None	MEDICAL SPECIALTY SERVICES: Market Access: None National Treatment: None	MEDICAL SPECIALTY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 93193 - Residential health facilities services like health resort hotels and therapeutic. These commitments exclude: <ul style="list-style-type: none"> CPC 932 - Veterinary services.
Switzerland	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: None National Treatment: None	MEDICAL AND DENTAL SERVICES: Market Access: Unbound National Treatment: <ul style="list-style-type: none"> Swiss nationality required to practice independently. 	MEDICAL AND DENTAL SERVICES: Market Access: Unbound National Treatment: <ul style="list-style-type: none"> Swiss nationality required to practice independently. 	These commitments cover: <ul style="list-style-type: none"> CPC 9312 - Medical and dental services. These commitments exclude: <ul style="list-style-type: none"> CPC 9311 - Hospital services. CPC 9319 - Other human health services.
	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: None National Treatment: None	VETERINARY SERVICES: Market Access: Unbound National Treatment: <ul style="list-style-type: none"> Swiss nationality required to practice independently. 	VETERINARY SERVICES: Market Access: Unbound National Treatment: <ul style="list-style-type: none"> Swiss nationality required to practice independently. 	These commitments cover: <ul style="list-style-type: none"> CPC 932 - Veterinary surgeons. These commitments exclude: <ul style="list-style-type: none"> CPC 932 - Other veterinary services.
Turkey	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: None	HOSPITAL SERVICES: Market Access: None National Treatment: None	HOSPITAL SERVICES: Market Access: <ul style="list-style-type: none"> Foreigners may establish private hospitals with permission of Ministry of Health. National Treatment: None	HOSPITAL SERVICES: Market Access: Unbound National Treatment: Unbound	These commitments cover: <ul style="list-style-type: none"> CPC 9311 - Hospital services. These commitments exclude: <ul style="list-style-type: none"> CPC 9312 - Medical and dental services. CPC 9319 - Other human health services. CPC 932 - Veterinary services.

¹ Liechtenstein and Romania did not schedule commitments on health care services.

Bulgaria

Bulgaria scheduled commitments with respect to medical and dental services, veterinary services, and social services. It left unbound limitations on market access and national treatment for medical and dental services provided through cross-border supply, and restricted coverage of costs through public medical insurance plans for such services provided through consumption abroad. Residency, accreditation, and economic needs requirements continue to place some restrictions on the provision of medical and dental services through commercial presence. Other restrictions are placed on the professional practice of veterinary services, including price setting by approved Bulgarian professional organizations. Bulgaria's commitments place no restrictions on consumption abroad or commercial presence with respect to social services; however such commitments cover only privately funded social services and commitments on cross-border supply of such services remain unbound. Bulgaria did not schedule commitments with respect to hospital or nursing services, two areas of particular interest to U.S. health care providers.¹³ Also, Bulgaria requested an MFN exemption of indefinite duration for medical and dental services, allowing it to cover costs and expenses through public medical insurance plans for citizens of countries with which bilateral agreements are concluded.

Bulgaria's limitations on the presence of natural persons remain unbound except for cross-industry measures designating permissible lengths of stay for senior executives, specialists,¹⁴ and other business professionals. Intra-corporate transfers of senior executives and specialists employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.¹⁵ Residence and work permits are required for such intra-corporate transferees. Additional personnel engaged in sales negotiations or arrangements pertaining to the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa.

Czech Republic

The Czech Republic scheduled commitments with respect to medical and dental services and veterinary services. The Republic accords full market access and national treatment to foreign providers of medical and dental services through consumption abroad. For medical and dental services provided through a commercial presence, the Czech Republic accords national treatment, but market access is restricted to natural persons authorized by the Ministry of Health. Limitations on market access and national treatment for medical and

¹³ Bulgarian Government officials believe that legislative changes taking place in Bulgaria's public health care law will facilitate future investment in hospital and nursing services. Bulgarian Government officials, interviews by USITC staff, Apr. 17, 1998.

¹⁴ Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

¹⁵ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

dental services provided through cross-border supply were left unbound. Commitments made by the Czech Republic with respect to veterinary services were very similar to those made with respect to medical and dental services, with the addition of a Czech nationality requirement that limits market access through the presence of natural persons. Similar to Bulgaria, the Czech Republic did not schedule commitments with respect to hospital or nursing services, two areas of strong interest to U.S. health care providers.

With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel. Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁶ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary

Hungary scheduled commitments with respect to medical and dental services and health related services. These commitments accord full market access and national treatment to foreign providers of medical and dental services and health related services through cross-border supply, consumption abroad, and commercial presence. However, Hungary's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,¹⁷ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are granted stays for the duration of the invitation. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific

¹⁶ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

¹⁷ Senior officials are defined as managers who have the highest rank within an organization.

commitments.¹⁸ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary did not schedule commitments with respect to hospital or nursing services, two areas of high interest to U.S. health care providers. It also did not schedule commitments with respect to any other health care services, including services provided by professionals other than doctors, medical specialty services, or social services.

Iceland

Iceland scheduled commitments with respect to just one sector, veterinary services. Although it accords full market access to providers of veterinary services through cross-border supply, consumption abroad, and commercial presence, national treatment is restricted to persons with ability in Icelandic for the provision of such services through commercial presence and the presence of natural persons. Iceland further restricts the presence of natural persons by maintaining limitations on the number of veterinarians in rural districts. This limitation supplements those listed in the cross-industry commitments, which state that Iceland's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Iceland declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Iceland may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁹ Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. Iceland did not schedule commitments with respect to any other health care service sectors, including medical and dental services, services provided by professionals other than doctors, hospital services, nursing services, medical specialty services, or social services.

Norway

Norway scheduled commitments with respect to medical and dental services, veterinary services, and services provided through medical professionals other than doctors. It accords full market access and national treatment to foreign providers of all such services through cross-border supply and consumption abroad. Full market access and national treatment is extended to foreign providers of veterinary services and professional services delivered by medical personnel other than doctors through commercial presence. Norway maintains restrictions on national treatment for providers of medical and dental services through a commercial presence by requiring them to speak Norwegian and meet national examination requirements, although foreign exam results may be recognized. For services provided through the presence of natural persons, Norway similarly requires language fluency and the fulfillment of examination standards. With respect to the presence of natural persons, Norway's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or

¹⁸ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

¹⁹ *Ibid.*

entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days. Norway did not schedule commitments with respect to any other health care service sectors, including hospital services, nursing services, medical specialty services, or social services.

Poland

Poland scheduled commitments with respect to four health care sectors: medical and dental services, veterinary services, services provided by medical professionals other than doctors, and hospital services. For the first three of these sectors, Poland accords full national treatment to foreign firms providing services through cross-border supply, consumption abroad, and commercial presence. However, Poland restricts national treatment for foreign medical doctors providing medical and dental services through the presence of natural persons by limiting their election rights within professional associations.²⁰ Poland retained certain restrictions on market access for all four health care sectors, including nationality requirements for the practice of the medical profession by foreigners, and a requirement that the heads of health care facilities, such as hospitals, must be medical doctors. Poland also limits national treatment for hospital services provided through a commercial presence by prohibiting foreign private sector hospitals and their patients from receiving financial support from public resources. Poland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on a market test.²¹ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate. Poland did not schedule any commitments with respect to nursing or social services.

Slovak Republic

The Slovak Republic scheduled commitments with respect to medical and dental services and veterinary services. It made no binding commitments with respect to either medical and dental services or veterinary services provided through cross-border supply. However, the Slovak Republic committed to impose no restrictions on the provision of any of those services through consumption abroad. Authorization by the relevant ministry is required for foreign natural persons to provide medical and dental services and veterinary services

²⁰ Polish Government officials stated that Poland is currently harmonizing its laws with the European Union, including those related to licensing of health care professionals. The present regulations stipulate that a foreign person can be a hospital director, but there is a citizenship requirement for physicians and nurses. Polish Government official, interview with USITC staff, Geneva, Switzerland, Apr. 1, 1998.

²¹ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

through a commercial presence. Further, national treatment is accorded subject to a residency requirement for the providers of the above services through the presence of natural persons. Finally, market access for veterinary services is restricted to natural persons only. All other measures relating to services provided through the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves. The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.²² The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. The Slovak Republic did not schedule commitments with respect to any other health care service sectors, including services provided by professionals other than doctors, hospital services, nursing services, medical specialty services, and social services.

Slovenia

Slovenia scheduled commitments with respect to medical and dental services, hospital services, and medical specialty services. Full market access and national treatment were accorded to foreign providers of medical and dental services as well as medical specialty services through consumption abroad. However, Slovenia maintained restrictions with respect to most of the other modes of supply for medical and dental services, hospital services, and medical specialty services. No binding commitments were made concerning the provision of any of the above services through cross-border supply. Market access is further limited for medical and dental services, along with hospital services, by restrictions related to medical association membership,²³ economic needs limitations, and limitations on public financial support for foreign establishments and their patients. Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and

²² GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

²³ Membership in Slovenia's doctors' association (Chamber of Physicians) is necessary to practice as a qualified physician. Foreign physicians may become members under certain conditions, primarily language. Slovenian Government officials, interview by USITC staff, Geneva, Switzerland, Apr. 1, 1998.

stay for a maximum of 90 days. Slovenia did not schedule commitments with respect to any other health care service sectors, including services provided by professionals other than doctors, nursing services, or social services.

Switzerland

Switzerland scheduled commitments with respect to medical and dental services, and veterinary services. The country accorded full market access and national treatment to providers of all services through cross-border supply and consumption abroad. However, Switzerland made no binding commitments with respect to market access for medical and dental services or veterinary services provided through commercial presence, and limits national treatment by requiring Swiss nationality for independent practice of any of those services. Switzerland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers, specialists, and business visitors. Senior executives, managers, and specialists employed by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the 2 periods of stay in Switzerland. Switzerland did not schedule commitments with respect to any other health care service sectors, including services provided by professionals other than doctors, hospital services, nursing services, medical specialty services, or social services.

Turkey

Turkey scheduled commitments with respect to just one service, hospital services, one of the most important services to U.S. health care providers. Turkey accords national treatment to foreign providers of hospital services through cross-border supply, consumption abroad, and commercial presence. Full market access is accorded for services provided through consumption abroad, but for services provided through a commercial presence, foreign firms must receive permission from the Ministry of Health to establish private hospitals. With respect to the presence of natural persons, Turkey's limitations remain unbound²⁴ except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers; and certain significant restrictions concerning national treatment. Turkey did not schedule commitments with respect to any other health care service sectors, including medical and dental services, services provided by professionals other than doctors, nursing services, medical specialty services, or social services.

²⁴ Turkish Law No. 2007 restricts doctors from directing a health services establishment. Additionally, the practice of medicine is restricted to Turkish citizens or individuals of Turkish origin. Turkish Government officials, interviews by USITC staff, Ankara, Turkey, Feb. 25, 1998.

Industry Opinion

According to U.S. industry representatives, many of the subject countries offer promising market opportunities. In particular, Switzerland has long been an important location for U.S. health care investment, and Eastern Europe presents considerable growth potential for health care services.²⁵ Many of these economies are reaching the stage of development when significant public and private expenditures are beginning to be made on the provision of modern health care services to an expanding middle class. Poland, Romania, the Czech and Slovak Republics, and Turkey are either contemplating or in the process of reforming their health care systems to shift some of the financial burdens away from public budgets.²⁶ Many of these reform efforts include various elements of privatization, or some level of private sector financing and supply of health care services, an area of particular U.S. strength due to a longer tradition of private sector provision of health care.

U.S. industry representatives were pleased that all but two of the countries covered in this report scheduled some commitments on health care services. Although industry representatives were disappointed that Liechtenstein and Romania did not offer any commitments, those relatively small markets do not represent significant future potential for U.S. firms.²⁷ They were also disappointed that only three countries, Poland, Slovenia, and Turkey, offered any commitments with respect to hospital services and that no country offered any commitments with respect to nursing services, since these are the areas of greatest interest to the U.S. health care industry.²⁸ In future negotiations, U.S. industry representatives would like to see the commitments made by each of these countries include a greater number of health care services and preclude restrictions on market access and national treatment in the modes of commercial presence and the presence of natural persons.

Summary

All but two countries covered in this report scheduled GATS commitments with respect to some health care service sectors. Nevertheless, all of the countries covered in this report continue to have some measures that make it difficult for U.S. health care companies to establish a commercial presence in their markets.²⁹ Among those health care sectors for which service commitments were scheduled, a number of restrictions on national treatment

²⁵ U.S. industry representatives, interviews by USITC staff, New York, NY, Sept. 25-26, 1997.

²⁶ Helena Vagnerova, "Czech Republic-Financial Crisis of Hospitals," *Market Research Reports*, IMI970207, Feb. 7, 1997, pp. 1-3; Doina Brancusi, "Romania-Medical Equipment," *Market Research Reports*, IMI970501, May 1, 1997, pp. 1-8; Zoifia Sobiepanek, "Poland-Healthcare Reform/Insurance," *Market Research Reports*, IMI970618, June 18, 1997, pp. 1-3; "Slovakia-Hospital Privatization," *Market Research Reports*, IMI961007, Oct. 7, 1997, pp. 1-3; and U.S. and European investment analysts, and U.S. Government officials, telephone interviews by USITC staff, Dec. 4-9, 1997.

²⁷ U.S. industry representatives, telephone interviews by USITC staff, Dec. 4-5, 1997.

²⁸ According to industry representatives, there is a growing demand for private hospitals but not enough supply in Turkey. Industry representative, interviews by USITC staff, Istanbul, Turkey, Feb. 26, 1998.

²⁹ Industry analysts and representatives, interviews by USITC staff, New York, NY, Sept. 25-26, 1997.

and market access were maintained, especially in services provided through commercial presence and the presence of natural persons. Further, only three countries, Poland, Slovenia, and Hungary, scheduled binding commitments with respect to hospital services, and no country made any commitments with respect to nursing services, two areas of paramount importance to U.S. health care providers. Finally, because Liechtenstein and Romania did not offer any commitments on health care services, their schedules provide no effective benchmarks and no improvements in terms of transparency.

The most significant opportunities for expanded U.S. health care service exports stem from the potential liberalization of rules and regulations that presently limit the provision of health care services through both commercial presence and the presence of natural persons. All but two countries made partial commitments in at least one segment of the health care sector which, though falling well short of full liberalization, offer at least some degree of transparency to foreign health care service providers. Such commitments will serve as benchmarks on which to base further liberalization discussions under the GATS.

CHAPTER 9

Accounting Services¹

Introduction

Accounting firms often provide accounting services in conjunction with other business services. These services typically include auditing and bookkeeping, but may also include tax consultation and tax representation, management consulting, and legal services. The following analysis principally focuses on accounting services, with some coverage of auditing and bookkeeping services, but excludes management consulting and legal services.²

International Trade in Accounting and Related Services

International trade in accounting services principally transpires as sales through foreign-based affiliates. Due to the close relationship between accounting and other business services, trade data on sales by affiliates reflect revenues generated by accounting, bookkeeping, auditing, research, management, and other related services. By contrast, trade data on cross-border transactions reflect accounting, auditing, and bookkeeping services only.

U.S. accounting firms began to establish operations in foreign markets after the Second World War in order to continue business relationships that had originated in the United States. Foreign operations are established through wholly owned branches or subsidiaries abroad, or through the creation of partnerships or other affiliations with local firms in foreign markets. In a partnership arrangement, the foreign firm generally is wholly owned by the foreign partners, not by the multinational firm with which it is affiliated.³

¹ Among the individuals consulted by USITC staff in preparation of this report were those affiliated with the following companies and organizations: Andersen Worldwide, Inc., Coopers and Lybrand, Inc., Ernst & Young, Inc., the International Federation of Accountants, and Price Waterhouse.

² Accounting services are captured under U.N. Central Product Classification (CPC) code 862, accounting, auditing, and bookkeeping services.

³ In a partnership arrangement where an affiliate of the national firm is owned by the local partners and not by the U.S. multinational, sales by the firm are not recorded in U.S. trade statistics as sales by U.S. affiliates. As a result, available trade data may understate U.S. involvement overseas.

Cross-Border Transactions⁴

Cross-border trade data pertaining to accounting services reflect all services delivered by mail or through information networks, or by the temporary entry of personnel to provide accounting services to foreign clients. U.S. cross-border exports of accounting, auditing, and bookkeeping services totaled \$238 million in 1996, and U.S. cross-border imports totaled \$199 million, resulting in a \$39-million surplus (figure 9-1).⁵ During 1991-96, the average annual rate of growth in U.S. imports, measuring 17 percent, exceeded that of exports, measuring 7 percent.

Sales by Majority-Owned Affiliates

In 1995, sales by foreign affiliates of U.S. accounting firms totaled \$6 billion, while purchases totaled \$2.7 billion (figure 9-2).⁶ European affiliates of U.S. accounting firms generate by far the greatest share of total sales by foreign-based accounting affiliates. In 1995, European-based affiliates of U.S. firms captured 66 percent of total sales, surpassing affiliates in Canada, with 12 percent; and Japan, with 5 percent. Sales to Switzerland totaled \$158 million in 1996.⁷

Examination of Commitments on Accounting Services

Since most international sales of accounting services take place through foreign-based affiliates of U.S. firms, commitments on commercial presence and on the presence of natural persons have the greatest relevance for accounting firms. Some of the more significant policies that affect affiliate sales of accounting services include limitations on international payments and capital movements; restrictions on the movement of personnel such as nationality requirements and limits on the stay of accounting professionals; programs designed to promote the transfer of technology and information; requirements for professional certification; and limitations on the form of intra-corporate relationships and the use of international firm names.⁸ These measures may be applied either on an industry-specific or a cross-industry basis.⁹

Eleven of the subject countries scheduled commitments on accounting services. These eleven accord at least partial market access and national treatment to foreign firms that wish to operate through a commercial presence (table 9-1).¹⁰

⁴ Data on cross-border transactions pertaining to accounting and related services are not available on a regional basis.

⁵ U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA), *Survey of Current Business*, Oct. 1997, pp. 108-9.

⁶ *Ibid.*, pp. 137-8.

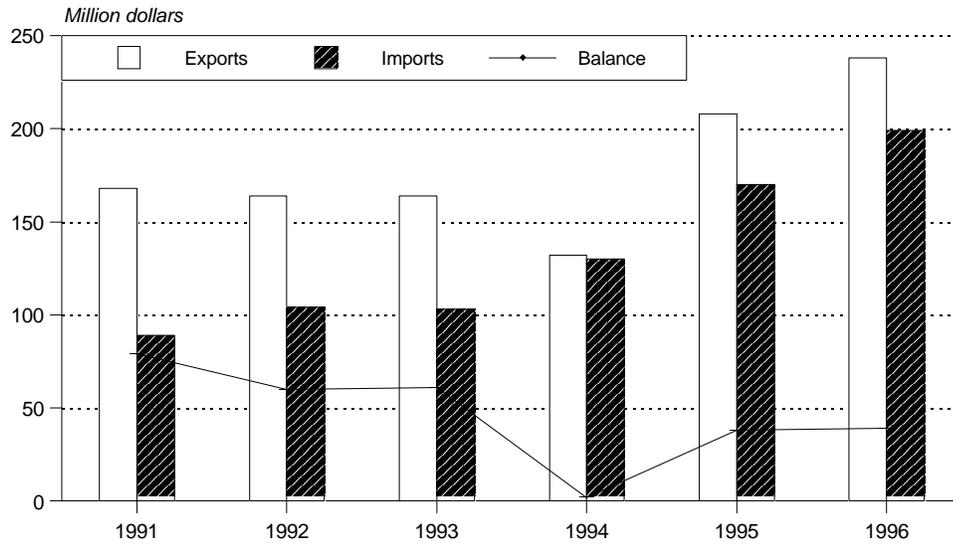
⁷ Of the 12 subject countries, majority-owned affiliate trade data exists only for Switzerland.

⁸ John Hegarty, "The Accountancy Profession," *Workshop on Professional Services*, Sept. 26-27, 1994, pp. 15-18.

⁹ See Appendix E for a detailed presentation of cross-industry commitments.

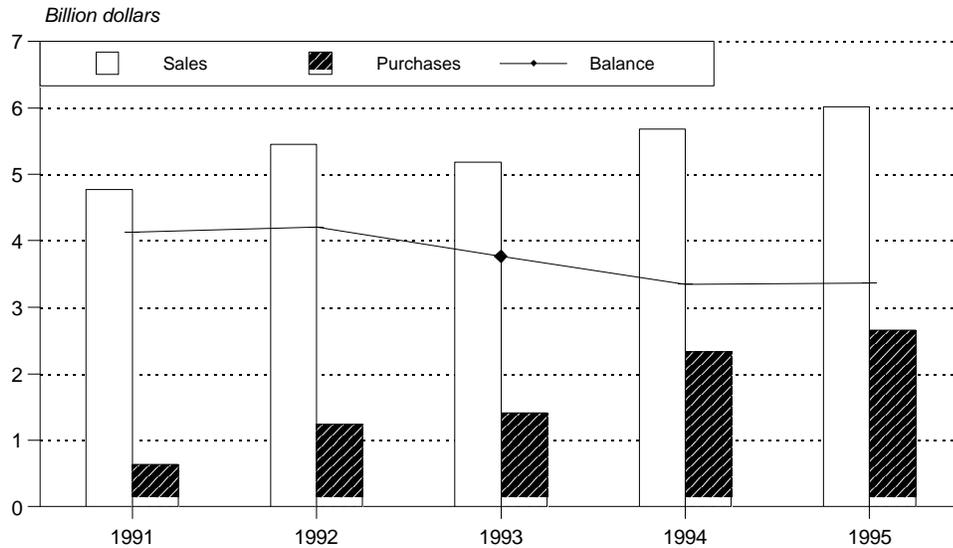
¹⁰ These measures may be applied either on an industry-specific or a cross-industry basis.

Figure 9-1
Cross-border trade in accounting and related services: U.S. exports, imports, and trade balance, 1991-96



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Nov. 1997.

Figure 9-2
Accounting and related services transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Nov. 1997.

Bulgaria

Bulgaria accords full market access and national treatment to foreign firms providing accounting and bookkeeping services through cross-border supply, consumption abroad, and commercial presence. Bulgaria's limitations on the presence of natural persons remain unbound except for cross-industry measures designating permissible lengths of stay for senior executives, specialists¹¹ and other business professionals. Intra-corporate transfers of senior executives and specialists employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.¹² Residence and work permits are required for such intra-corporate transferees. Additional personnel engaged in sales negotiations or arrangements pertaining to the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa.

Czech Republic

The Czech Republic accords full market access and national treatment to foreign firms providing accounting services through cross-border supply, consumption abroad, and commercial presence. Similar treatment is accorded to firms that deliver auditing services, except in the case of market access via commercial presence. To gain market access through this mode of delivery, registration with the chamber of auditors is required. Additionally, 60 percent of the capital share or voting rights of juridical persons are reserved for Czech nationals. With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel. Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹³ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

¹¹ Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

¹² Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

¹³ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

Table 9-1
Highlights of industry-specific restrictions on accounting services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 8621 - Accounting services, excluding auditing services. • CPC 8622 - Bookkeeping services.
Czech Republic	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • None except that for auditing services, registration with the Chamber of Auditors is required and, in the case of juridical persons, at least 60 percent of the capital share or voting rights are reserved for Czech nationals. National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 862 (except 86211) - Accounting services and bookkeeping services. • CPC 86211 - Auditing services.
Hungary	Market Access: Unbound National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 862 - Accounting, auditing and bookkeeping services.
Iceland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. Residence and Icelandic exam for certified accountants is required. National Treatment: None	These commitments cover: • CPC 862 - Accounting, auditing and bookkeeping services.
Liechtenstein	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Foreign equity ceiling and voting rights may not exceed 49 percent. At least one member that manages and represents must be a citizen and resident of Liechtenstein; possess a professional license to act as an auditor; and work full-time for the juridical person. National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 8621 - Accounting and auditing services. • CPC 8622 - Bookkeeping services, except tax returns.

Table 9-1, *continued*

Highlights of industry-specific restrictions on accounting services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Norway	<p>Market Access:</p> <ul style="list-style-type: none"> Accounting shall take place in Norway. The King may decide whether accounting takes place abroad. <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. For authorized accountants, permanent residence in Norway is required, and they must have practiced for a minimum of 2 years in Norway during the 5 preceding years. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 862 - Accounting and bookkeeping services.
	<p>Market Access: Unbound</p> <p>National Treatment: Unbound</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> Certification based on Norwegian exam and 2 years experience in Norway. Audit reports must be drafted in Norwegian. Residence in Norway required. 	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Certification based on Norwegian exam and 2 years experience in Norway. Audit reports must be drafted in Norwegian. Residence in Norway is required. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 862 - Auditing services by registered and licensed auditors.
Poland	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Nationality requirements in the case of auditors. Foreign auditors may practice after confirmation of their qualifications. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Nationality requirements in the case of auditors. Foreign auditors may practice after confirmation of their qualifications. <p>National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 862 - Accounting, auditing and bookkeeping services.
Slovak Republic	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Registration with Chamber of Auditors is required. At least 60 percent of capital share or voting rights are reserved for Slovak citizens. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 862 (except 86211) - Accounting and bookkeeping services. CPC 86211 - Auditing services.

Table 9-1, *continued*

Highlights of industry-specific restrictions on accounting services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Slovenia	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Commercial presence should take the form of a juridical person. The share of foreign persons in auditing companies may not exceed 49 percent of the equity. Provision of auditing services must be through auditing companies only. National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments and subject to limitations on natural persons employed by juridical persons only. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments and subject to limitations on natural persons employed by juridical persons only. 	These commitments cover: <ul style="list-style-type: none"> CPC 862 - Accounting, auditing, and bookkeeping services.
Switzerland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 862 (except 86211)- Accounting, auditing, and bookkeeping services.
	Market Access: None National Treatment: <ul style="list-style-type: none"> At least one person supplying auditing services to a joint stock company must have a commercial presence in Switzerland. 	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. At least one person supplying auditing services must have a commercial presence in Switzerland. 	These commitments cover: <ul style="list-style-type: none"> CPC 86211 - Auditing services, excluding auditing of banks.

Table 9-1, continued

Highlights of industry-specific restrictions on accounting services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Turkey	<p>Market Access: Unbound National Treatment: Unbound</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Authorized financial advisers² may establish their company after membership in a related Chamber. <p>National Treatment:</p> <ul style="list-style-type: none"> Foreign titles and names cannot be used in the titles of partnerships or corporations among Turkish and Foreign Financial Advisers. 	<p>Market Access: Unbound National Treatment:</p> <ul style="list-style-type: none"> Turkish citizenship is required for Accountants and Certified Public Accountants. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 862 - Accounting, auditing, and bookkeeping services. <p>MFN Exemptions:</p> <ul style="list-style-type: none"> In order to perform the services under the title of "financial advisor", the citizens of the countries which have officially codified the principles for the profession of financial advisory may be authorized, under reciprocal condition, provided that these persons should have the characteristics required for the profession of financial advisor in Turkey and should have rights to perform similar services in their own countries.

¹ Romania did not schedule commitments on accounting services.

² Foreign financial advisers can be authorized, under reciprocity conditions, by the Prime Minister and the Ministry of Finance. Foreign financial advisers can perform all accountancy, tax advisory, financial advisory and auditing services without certification.

Hungary

Hungary's commitments accord market access and national treatment to foreign firms wishing to provide accounting and bookkeeping services through consumption abroad and a commercial presence. However, the commitments leave market access via cross-border supply unbound, indicating that restrictions may be applied on these activities without penalty. In the case of the presence of national persons, Hungary's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,¹⁴ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are granted stays for the duration of the invitation. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁵ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Iceland

Iceland accords full market access and national treatment to foreign firms providing accounting, bookkeeping, and auditing services through cross-border supply, consumption abroad, and commercial presence. With respect to the presence of natural persons, market access is limited by residency and examination requirements for certified accountants practicing in Iceland. For national treatment, Iceland's commitments remain unbound, except as indicated in the cross-industry commitments. With respect to the presence of natural persons, Iceland's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Iceland declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Iceland may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁶ Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

¹⁴ Senior officials are defined as managers who have the highest rank within an organization.

¹⁵ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

¹⁶ Ibid.

Liechtenstein

Liechtenstein accords full market access and national treatment for accounting and auditing services delivered through cross-border supply and consumption abroad. With respect to commercial presence, a foreign equity ceiling is imposed which limits foreign voting rights to 49 percent. In addition, at least one member of the administration body of the corporate entity must be a citizen of Liechtenstein, reside in Liechtenstein, possess a professional license to act as an auditor, and work full-time for the juridical person. Liechtenstein's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of intra-corporate transferees and business visitors; and certain conditions on national treatment. Executives, senior managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year preceding entry. Intra-corporate transferees are granted a 3-year period of stay. Liechtenstein declined to specify permissible lengths of stay for business visitors. Although no binding is undertaken with respect to business visitors, Liechtenstein may not impose conditions that nullify the benefits accorded to these providers by industry-specific commitments.¹⁷ Yet, Liechtenstein's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. In addition, business visitors are required to possess residence and work permits, the latter of which may be available to foreign service providers only in limited numbers.

In terms of national treatment, Liechtenstein stipulates that intra-corporate transferees and business visitors are subject to legislative provisions regarding immigration, entry, stay, and employment. In addition, enterprises that employ foreign service providers must cooperate with Liechtenstein authorities in the enforcement of these measures.

Norway

Norway accords full market access and national treatment to foreign firms providing accounting and bookkeeping services through consumption abroad and commercial presence. Market access via cross-border supply is subject to a decision by the Government as to whether foreign accounting firms may provide services. For accounting and bookkeeping services provided through the presence of natural persons, permanent residence in Norway is required for authorized accountants, and these accountants must have practiced for a minimum of 2 years in Norway during the 5 preceding years. Other limitations on the presence of natural persons remain unbound except as indicated in the cross-industry commitments.

With respect to auditing services, Norway accords full market access and national treatment only for services provided through consumption abroad. Limitations on cross-border supply of auditing services remain unbound, indicating that Norway reserves the right to impose restrictions on this mode of delivery without penalty. Although Norway accords full market access to foreign firms that establish a commercial presence for the provision of auditing services, national treatment is contingent upon receiving certification based on a Norwegian exam, 2 years previous experience in Norway, and permanent residence status.

¹⁷ Ibid.

Also, audit reports must be drafted in Norwegian. These same national treatment limitations also apply to the provision of auditing services through the presence of natural persons. Additional limitations on the presence of natural persons remain unbound except as indicated in the cross-industry commitments.

Norway's cross-industry commitments concerning the presence of natural persons permit the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

Poland

Poland accords full market access and national treatment to foreign accounting, auditing and bookkeeping firms providing services through cross-border supply and consumption abroad. Limitations on commercial presence are retained in the form of nationality requirements for auditors, who must also have their qualifications confirmed. Poland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on a market test.¹⁸ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate.

Slovak Republic

The Slovak Republic accords full market access and national treatment to foreign firms providing accounting and bookkeeping services through cross-border supply, consumption abroad, and commercial presence. For auditing services, the Slovak Republic's commitments accord full market access and national treatment for services provided through cross-border supply and consumption abroad. Although the Slovak Republic imposes no national treatment limitations on services provided through a commercial presence, market access is restricted by a registration requirement and limits on voting rights or capital share for non-Slovak citizens. The Slovak Republic's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria

¹⁸ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁹ The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovenia

Slovenia accords full market access and national treatment to foreign firms wishing to provide accounting, auditing, and bookkeeping services through consumption abroad. Limitations on cross-border supply remain unbound. For services provided through a commercial presence, the business must be formed as a juridical person. In addition, the equity ownership by foreign persons in auditing companies may not exceed 49 percent of total equity. Auditing services must only be provided through companies designated as auditing companies. Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Switzerland

Switzerland's commitments cover accounting and certain auditing services. Switzerland accords full market access and national treatment to firms providing accounting services through cross-border supply, consumption abroad, and commercial presence. For auditing services delivered through consumption abroad and commercial presence, with the exception of the auditing of banks, Switzerland accords full market access and national treatment. In terms of auditing services supplied across borders, Switzerland listed no limitations for market access but notes that national treatment is limited by a requirement that at least one person supplying these services to a joint stock company must have a commercial presence in Switzerland. This national treatment limitation also applies to foreign firms providing auditing services through the presence of natural persons. Additional limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers, specialists, and business visitors. Senior executives, managers, and specialists employed

¹⁹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the 2 periods of stay in Switzerland.

Turkey

Turkey's GATS commitments cover accounting, auditing, and bookkeeping services. Turkey accords full market access and national treatment to foreign firms that deliver these services via consumption abroad. However, limitations on cross-border supply remain unbound, meaning that Turkey reserves the right to maintain or impose restrictions on this sector without penalty. With respect to commercial presence, market access is limited to those service providers that have gained membership in a related Chamber.²⁰ For national treatment through this mode of supply, the schedule indicates that the names of foreign firms may not be used in the titles of partnerships or corporations that have joint Turkish and foreign ownership.²¹ In terms of national treatment, Turkey does not allow employment of foreigners in activities related to business services such as accounting. With respect to the presence of natural persons, Turkey's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers; and certain significant restrictions concerning national treatment. Executives, managers, and specialists are required to obtain work and residence permits in order to receive a 2-year term of stay which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits. In addition, Turkey was the only subject nation to schedule an MFN exemption in this industry. This exception states that foreign service providers may be authorized to provide services on a reciprocal basis.

Industry Opinion

Industry representatives in general are strongly supportive of the General Agreement on Trade in Services as a means of removing trade impediments in major world markets. Over the past decade, U.S. accounting firms have sought to provide a seamless network of state-of-the-art accounting services to multinational clients in the various markets in which they operate. The guiding principal behind this objective was the removal of restrictions on the movement, use, and protection of key assets - money, people, and technology - across borders. According to industry officials, the schedules of commitments play a critical role in this effort because they prevent regulatory backsliding and the worsening of present operating conditions. In addition, the commitments are seen as a positive step in

²⁰ A professional membership association that provides some self-regulation of the industry.

²¹ While Turkey's schedule indicates that this measure is likely to be eliminated, foreign firms still appear to be subject to this limitation. However, industry sources report that such measures have a minimal effect as clients typically are well aware of the international relationship. Industry representatives, interviews by USITC staff, Istanbul, Turkey, Mar. 2, 1998.

encouraging nations to work toward further trade liberalization through self-regulatory bodies and international organizations.²²

U.S. industry representatives note that market conditions in several of the countries under study offer both opportunities and impediments. In Bulgaria, for example, accounting standards still do not conform with internationally recognized standards, as Bulgarian financial statements provide less information concerning profitability and the financial condition of the firm. In order for Bulgarian companies to raise funds from international sources, these financial statements must be translated into an acceptable standard form. Such financial statement preparation constitutes a major business opportunity for multinational accounting firms.²³

As for market impediments reported by U.S. accounting firms, these principally include equity limitations and credential requirements. For example, the Czech Republic places a 40-percent restriction on foreign ownership of local accounting firms and does not accept international standards for recognition of accounting professionals.²⁴ Similarly, Slovenia restricts the practice of auditing to those who obtain a certificate from the Slovenian Institute of Auditors. While foreign citizens are allowed to perform audits, they cannot sign the audit report unless they first obtain a certificate, but these certificates are often restricted to native Slovenians. In addition, foreign ownership of a Slovenian auditing company is prohibited but foreign entities are allowed to be minority owners of a Slovenian auditing company.²⁵

Despite these difficulties, the business climate for accounting firms has improved significantly in most of the subject countries as governments have liberalized their policies in order to attract foreign capital. Such individual market developments are further supported by multilateral efforts. On May 29, 1997, the World Trade Organization's Council for Trade in Services adopted a set of non-binding guidelines for mutual recognition agreements pertaining to professional qualifications in the accountancy sector.²⁶ By the end of 1997, the WTO Working Party on Professional Services had made considerable progress in its efforts to reach an understanding on disciplines for the regulation of the accountancy sector. These included disciplines on transparency, licensing requirements and procedures, qualification requirements and procedures, and technical standards. U.S. officials expect that these regulations will be converted into legally binding

²² Charles Heeter, Andersen Worldwide Inc., testimony submitted to the USITC, Apr. 22, 1998, p. 6.

²³ Industry representatives, interviews by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

²⁴ An additional area of concern for multinational accounting firms in the Czech Republic is recent legislation covering taxation advisory services, which suggests that only physical persons, not legal entities, can provide such services. This has prevented large multinational firms from providing such services. Industry representatives, interview by USITC staff, Prague, the Czech Republic, Mar. 30, 1998; and letter to USITC staff, Nov. 26, 1997.

²⁵ Industry representative, letter to USITC staff, Nov. 4, 1997.

²⁶ U.S. Department of State telegram, "Working Party on Professional Services-- May 15, 1997," message reference No. 003140, prepared by U.S. Mission, Geneva, May 20, 1997; and World Trade Organization (WTO), "WTO adopts Guidelines for Recognition of Qualifications in the Accountancy Sector," found at Internet address <http://www.wto.org/wto/whats.new/press73.htm>, retrieved June 12, 1997. In adopting these guidelines, the WTO has conducted part of the work program mandated in the GATS.

obligations.²⁷ Meanwhile, the International Federation of Accountants and the International Organization of Securities Commissions are developing international accounting standards, which they expect to complete in 1998. U.S. industry representatives believe that these efforts to harmonize accounting rules will eventually promote significant growth in the global accounting profession.²⁸

Summary

The commitments negotiated under the GATS generally provide effective benchmarks and improve regulatory transparency by scheduling most existing limitations on accounting services.²⁹ However, in the view of some members of the U.S. accounting industry, certain trading partners did not go far enough in terms of liberalizing conditions of entry for foreign firms and individuals.³⁰ The industry has expressed disappointment over the failure of Bulgaria, Poland, Romania, Slovenia, and Turkey to schedule commitments in taxation services. Taxation services are seen as one of the most important services provided to clients in emerging markets. In addition, the industry expressed disappointment that existing impediments to commercial presence have been maintained in many instances. Finally, no significant liberalization was achieved for the presence of natural persons as many countries left their schedules unbound for this mode of supply.³¹ This has become a most important mode of supply for accounting firms seeking to deliver state-of-the-art expertise to major markets. Nevertheless, industry members still viewed the adoption of accounting commitments positively given the rapid economic development that has occurred within many of these economies in recent years, and the efforts of the accounting industry in these nations to accommodate itself to these changes. Industry representatives expect progress to continue through the efforts of the Working Party on Professional Services and hope that the subject markets will eventually adopt the model of trade liberalization included in the North American Free-Trade Agreement, which provides for substantially full market access and national treatment.³² Industry representatives also believe that international trade in accounting services should continue to grow as firms operating internationally increasingly require the services of professionals with expertise in accounting and other related fields. Since U.S. multinational accounting firms are among the largest and most competitive in the global market for such services, these firms are likely to be among the principal beneficiaries of increasing trade with subject nations.

²⁷ U.S. Department of State telegram, "Working Party on Professional Services--Oct. 23-24, 1997," message reference No. 007618, prepared by U.S. Mission, Geneva, Nov. 1997.

²⁸ Charles Heeter, Andersen Worldwide Inc., testimony submitted to the USITC, Apr. 22, 1998, p. 10.

²⁹ Industry representative, telephone interview by USITC staff, May 12, 1996.

³⁰ Charles Heeter, Andersen Worldwide Inc., testimony submitted to the USITC, Apr. 22, 1998, p. 8.

³¹ Ibid.

³² Charles Heeter, Andersen Worldwide Inc., testimony before the USITC, Mar. 27, 1997.

CHAPTER 10

Advertising Services¹

Introduction

The advertising services covered in this report include the creation of advertising materials and their placement in various media. Creative advertising services include activities such as writing copy, developing artwork, designing graphics, and producing other creative work for clients. Placement of advertising materials involves the negotiation and purchase of space or time in periodicals, newspapers, radio, television or other advertising media for clients on a contract or fee basis.² U.S. firms reportedly are the most competitive participants in the international advertising market based on share of worldwide advertising expenditures. It is reported that U.S. firms are notable for their media relations expertise, extensive experience with various forms of media, and overall flexibility in tailoring advertising campaigns to targeted audiences.

International Trade in Advertising Services

Trade in this sector comprises both cross-border trade and transactions through affiliates. Of these channels of delivery, sales by affiliates predominate because firms that establish a foreign commercial presence reportedly develop a keen understanding of the local media, consumer tastes, language, and culture, and thereby develop a competitive advantage over firms attempting to export advertising services from home offices. Many U.S. advertising firms have established offices overseas to serve affiliates of other U.S. companies. In 1995, sales by U.S.-owned advertising affiliates amounted to \$4.9 billion, compared to \$558 million earned through cross-border exports of advertising services.³

Cross-Border Transactions

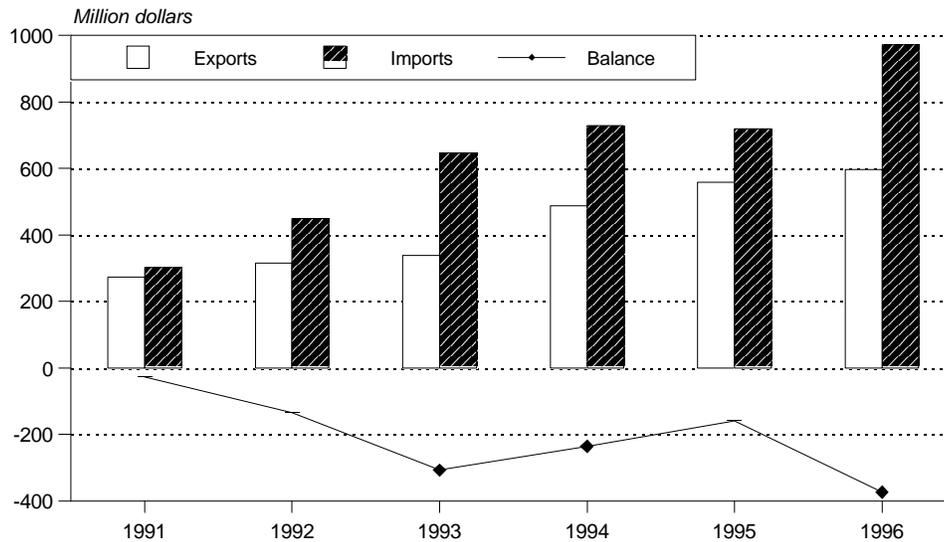
U.S. cross-border exports of advertising services reached \$597 million in 1996, a 7-percent increase from the previous year (figure 10-1). Such growth was roughly one-third the average annual rate of 19 percent recorded during 1991-95. Imports increased by 35 percent in 1996 to \$971 million, faster than the 24-percent average annual rate of growth recorded during 1991-95. The resulting deficit in cross-border trade more than doubled from \$160 million in 1995 to \$374 million in 1996, reversing the declining trend registered during 1993-95. Of the countries featured in this report, Switzerland is the leading U.S.

¹ Among the individuals contacted by the USITC staff in preparation of this report were those affiliated with the following organizations: American Association of Advertising Agencies, Bates Worldwide, DDB-Needham, International Advertising Association, Leo Burnett, McCann-Erickson, Ogilvy and Mather, and Proctor and Gamble.

² Advertising services are captured in the U.N. Central Product Classification (CPC) code 871.

³ U.S. Department of Commerce (US DOC), Bureau of Economic Analysis (BEA), *Survey of Current Business*, Oct. 1997, pp. 135, 137, and 138.

Figure 10-1
Cross-border trade in advertising services: U.S. exports, imports, and trade balance, 1991-96



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

trading partner, accounting for exports of \$14 million in 1996, followed by Norway with exports of \$1 million. Collectively, the subject countries accounted for exports of \$18 million, or 3 percent of total cross-border exports of advertising services in 1996 (figure 10-2).

Sales by Majority-Owned Affiliates

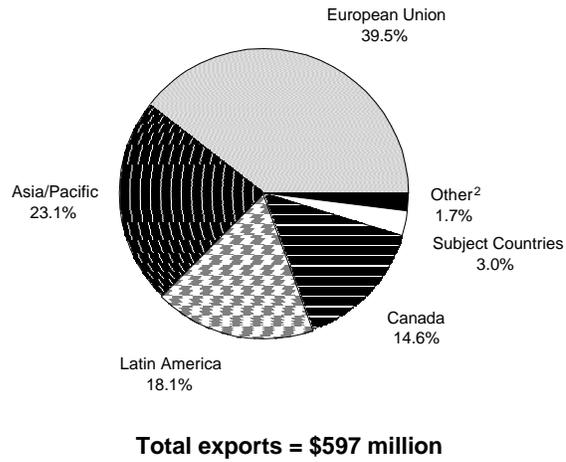
Sales by foreign-based affiliates of U.S. firms increased by an average annual rate of 2 percent during 1991-95, from \$4.5 billion to \$4.9 billion (figure 10-3). Sales by U.S.-based affiliates of foreign firms increased by 3 percent annually, from \$2.8 billion in 1991 to \$3.2 billion in 1995. Switzerland, the largest trading partner addressed in this study, accounted for \$73 million of U.S. affiliate sales in 1995 and did not generate any U.S. affiliate purchases. Country-specific data on affiliate transactions in advertising services are not available for the remaining trading partners addressed in this study.

Examination of Commitments on Advertising Services

The advertising industry tends to be organized geographically and by function such as direct marketing, creating, or media planning.⁴ U.S. firms typically provide advertising services

⁴ Bill Britt, "Dateline Seoul: The IAA World Congress," *Advertising Age International*, June 11, 1996, found at Internet address <http://www.adage.com/>, Dec. 1997.

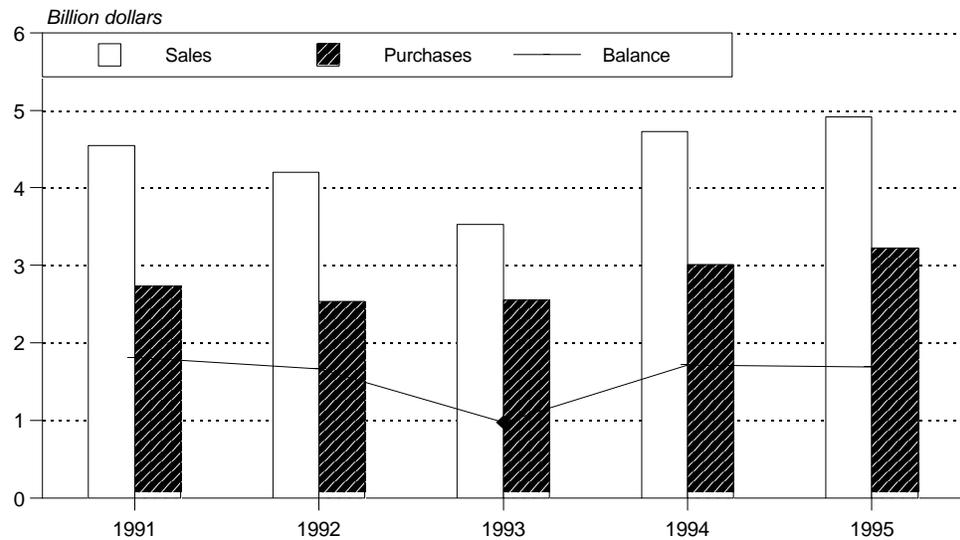
Figure 10-2
Advertising services: U.S. cross-border exports, by principal markets, 1996¹



¹ Due to rounding, figures may not add to 100 percent.
² Principally includes Africa, and the Middle East.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Figure 10-3
Advertising service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997, Nov. 1996, and Sept. 1995.

through affiliates located in the country for which the advertising is intended.⁵ Due to the importance of affiliate transactions, U.S. advertising firms depend heavily on the ability to move personnel around the world to establish new offices, manage affiliates, or provide client-specific services. The types of employees most commonly transferred include managers, account executives, and creative personnel. Trade barriers in advertising services include restrictions on commercial presence and investment, regulations governing the entry and temporary stay of personnel, and limitations on the repatriation of commissions and fees.

Most of the subject countries scheduled commitments on advertising services that provide full market access and national treatment for such services delivered through cross-border supply, consumption abroad, and commercial presence (table 10-1). The exceptions include Poland, which left unbound restrictions on cross-border supply, and Romania, which scheduled no commitments specifically regarding advertising services. All subject countries placed limitations on the entry and stay of foreign employees.

Some of the subject countries limited the scope of their commitments to discrete subsectors of advertising services. Bulgaria, Liechtenstein, Poland, Slovenia, and Switzerland scheduled commitments that variously exclude activities such as direct mail and outdoor advertising, or advertising for specific products such as tobacco, alcohol, pharmaceuticals, toxic materials, weapons, explosives, and ammunition. In contrast, the schedules of the Czech Republic, Hungary, Iceland, Norway, the Slovak Republic and Turkey cover all advertising services.

Bulgaria

Bulgaria's commitments provide full market access and national treatment to foreign advertising agencies operating through cross-border supply and commercial presence. Bulgaria's commitments cover all advertising services except those pertaining to pharmaceuticals, tobacco, and alcohol products. However, Bulgaria's restrictions regarding tobacco and pharmaceuticals appear to accord foreign advertisers national treatment while no restrictions reportedly apply to either foreign or domestic firms for the advertising of alcohol.⁶ Bulgaria's limitations on the presence of natural persons remain unbound except for cross-industry measures designating permissible lengths of stay for senior executives, specialists⁷ and other business professionals. Intra-corporate transfers of senior executives

⁵ P.W. Daniels, "The Internationalization of Advertising Services," *The Service Industries Journal*, vol. 15, No. 3 (London: Frank Cass, July 1995), p. 288.

⁶ Bulgarian law requires content approval of pharmaceutical ads, proscribes the advertisement of pharmaceutical products not registered in the country, and allows only point-of-sale tobacco advertisements. Areas in which domestic and foreign firms are restricted include the advertising of lawyers, interpreters, members of Parliament, banks, privatization funds, investment firms and tourism services. See industry representatives, facsimile responses to questions posed by USITC staff, received Jan. 19, 1998; USDOC, International Trade Administration (ITA), "Bulgaria: Marketing U.S. Products and Services, Country Commercial Guides", Document ID: 274, found at Internet address <http://www.stat-usa.gov/>, retrieved Dec. 19, 1997; and Bulgarian Government officials, interviews by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

⁷ Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

Table 10-1
Highlights of industry-specific restrictions on advertising services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 871 - Advertising services. These commitments exclude: Advertising of alcohol, alcoholic beverages, medicines, tobacco, and tobacco products.
Czech Republic	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 871 - Advertising services.
Hungary	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 871 - Advertising services.
Iceland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: • CPC 871 - Advertising services.
Liechtenstein	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 8711 (part) - sales or leading services of advertising space or time. • CPC 8712 (part) - Planning, creating, and placement services of advertising. These commitments exclude: • CPC 8719 - Other advertising services including outdoor advertising. • Advertising of goods subject to import authorization. • Advertising of pharmaceutical products, alcohol, tobacco, toxics, explosives, weapons, and ammunition.
Norway	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 871 - Advertising services.

Table 10-1, *continued*

Highlights of industry-specific restrictions on advertising services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Poland	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 871 - Advertising services. These commitments exclude: <ul style="list-style-type: none"> Advertising of tobacco products, alcoholic beverages, and pharmaceuticals.
Slovak Republic	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 871 - Advertising services.
Slovenia	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8711 (part) - Sale or leasing services of advertising space or time. CPC 8712 (part) - Planning, creating, and placement services of advertising. These commitments exclude: <ul style="list-style-type: none"> CPC 8719 - Other advertising services, including outdoor advertising. Direct mailing. Advertising of goods subject to import authorization. Advertising of pharmaceutical products, alcohol, tobacco, toxic explosives, weapons, and ammunition.

Table 10-1, continued
Highlights of industry-specific restrictions on advertising services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Switzerland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> • CPC 8711 (part) - Sales or leading services of advertising space or time. • CPC 8712 (part) - Planning, creating, and placement services of advertising. These commitments exclude: <ul style="list-style-type: none"> • CPC 8719 - Other advertising services including outdoor advertising. • Advertising of goods subject to import authorization. • Advertising of pharmaceutical products, alcohol, tobacco, toxics, explosives, weapons, and ammunition.
Turkey	Market Access: None National Treatment: None	These commitments cover: <ul style="list-style-type: none"> • CPC 871 - Advertising services. 			

¹ Romania did not schedule commitments on advertising services.

and specialists employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.⁸ Residence and work permits are required for such intra-corporate transferees. Additional personnel engaged in sales negotiations or arrangements pertaining to the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa.

Czech Republic

The commitments of the Czech Republic provide full market access and national treatment to foreign advertising agencies operating through all modes of supply except the presence of natural persons. These commitments cover all advertising services. With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel. Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.⁹ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary

Hungary's schedule of commitments provide full market access and national treatment to foreign advertising agencies operating through cross-border supply and commercial presence. These commitments apply to all advertising services. Hungary's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,¹⁰ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are

⁸ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

⁹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

¹⁰ Senior officials are defined as managers who have the highest rank within an organization.

granted stays for the duration of the invitation. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹¹ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Iceland

Iceland's commitments cover all advertising services and provide full market access and national treatment to foreign advertising agencies operating through all modes of supply except the presence of natural persons. With respect to the presence of natural persons, Iceland's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Iceland declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Iceland may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹² Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Liechtenstein

Liechtenstein's commitments grant full market access and national treatment to foreign advertising firms operating through cross-border supply and commercial presence. These commitments permit direct mail advertising, but prohibit outdoor advertising, the advertising of goods subject to import authorization, and the advertising of pharmaceuticals, alcohol, tobacco and toxic products, explosives, weapons, and ammunition. Liechtenstein's cross-industry commitments include some additional measures that may have bearing on advertising service providers. In particular, the establishment of commercial presence is subject to economic needs tests, and at least one manager must be a permanent resident in Liechtenstein and possess government-recognized professional qualifications. The majority of administrators and associates must also be citizens or permanent residents of Liechtenstein.

Liechtenstein's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of intra-corporate transferees and business visitors; and certain conditions on national treatment. Executives, senior managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year preceding entry. Intra-corporate transferees are granted a 3-year period of stay. Liechtenstein declined to specify permissible lengths of stay for business visitors. Although no binding is undertaken with

¹¹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

¹² *Ibid.*

respect to business visitors, Liechtenstein may not impose conditions that nullify the benefits accorded to these providers by industry-specific commitments.¹³ Yet, Liechtenstein's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. In addition, business visitors are required to possess residence and work permits, the latter of which may be available to foreign service providers only in limited numbers.

In terms of national treatment, Liechtenstein stipulates that intra-corporate transferees and business visitors are subject to legislative provisions regarding immigration, entry, stay, and employment. In addition, enterprises that employ foreign service providers must cooperate with Liechtenstein authorities in the enforcement of these measures.

Norway

Norway's commitments extend full market access and national treatment to foreign advertising agencies operating through cross-border supply and commercial presence. These commitments cover all advertising services.¹⁴ Under its cross-industry commitments, Norway requires that the managing director of a joint stock company, and at least half of its founders and board of directors, must have been residents of Norway for at least 2 years. With respect to the presence of natural persons, Norway's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

Poland

Poland's commitments cover all advertising services, excluding those specific to alcohol, pharmaceuticals, and tobacco products.¹⁵ Although Poland's commitments provide full

¹³ Ibid.

¹⁴ While advertising of tobacco via print, radio, and television media is banned in Norway, such laws are applied equally to foreign and domestic firms. Industry representative, telephone interview by USITC staff, Jan. 6, 1998; and "Tobacco firms under fire again in Norway," *Advertising Age - International Daily*, Aug. 12, 1997, found at Internet address <http://www.adage.com/>, retrieved Dec. 17, 1997. Norway also imposes a ban on alcohol advertising and restricts advertising directed towards children. Industry representative, telephone interview by USITC staff, Jan. 6, 1998 and Patrick Barrett, "Are ads a danger to kids?," *Marketing*, Sept. 4, 1997, found at Internet address <http://proquest.umi.com/>, retrieved Jan. 7, 1998.

¹⁵ Advertising of alcohol and tobacco through broadcasting, displays, or print media is prohibited. Regulations regarding pharmaceutical advertising restrict an advertiser's claims regarding the health benefits of their product, and compel advertisers to include a complete product description within their pharmaceutical ads. U.S. and Western European pharmaceutical products companies may be affected to a greater extent by these restrictions as they supply many of these types of goods. USDOC, ITA, "Poland: Marketing U.S. Products and Services, Country Commercial Guides," Document ID: 1580, found at Internet address <http://www.stat-usa.gov/>, retrieved Dec. 19, 1997; Normandy Madden, "Poland's marketers attempt to be --*Continued*

market access and national treatment to foreign advertising agencies operating through a commercial presence, Poland declined to bind restrictions on cross-border supply. In practice, Poland reportedly does not restrict advertising which enters its market by means of cross-border supply.¹⁶ Poland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on a market test.¹⁷ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate.

Slovak Republic

The Slovak Republic's commitments provide full market access and national treatment to foreign advertising firms operating through all modes of supply except the presence of natural persons.¹⁸ These commitments apply to all advertising services. The Slovak Republic's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by

Continued--

their own watchdog," *Advertising Age International*, Feb. 1997, p. i8; "Polish tobacco ad ban goes into effect," *Advertising Age International*, May 1996, p. i6; and industry representatives, facsimile responses to questions posed by USITC staff, received Jan. 19, 1998.

¹⁶ Industry representative, telephone interview by USITC staff, Jan. 6, 1998.

¹⁷ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

¹⁸ While all legally established entities are treated equally under Slovak law, informal personal and political associations reportedly influence regulatory officials, such that foreign advertising firms find themselves at a disadvantage. Moreover, certain domestic regulations, such as those pertaining to the Slovak Republic's value-added tax, add complexity and uncertainty to the business environment, impeding the competitive posture of foreign firms. Industry representatives, facsimile responses to questions posed by USITC staff, received Jan. 5 and Jan. 19, 1998; and telephone interview by USITC staff, Dec. 23, 1997.

industry-specific commitments.¹⁹ The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovenia

Slovenia's commitments provide full market access and national treatment to foreign advertising agencies operating through cross-border supply and commercial presence. These commitments exclude direct mail advertising, outdoor advertising, advertising of goods subject to import authorization, and the advertising of pharmaceuticals, alcohol, tobacco and toxic products, explosives, weapons and ammunition. Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Switzerland

Switzerland's commitments provide full market access and national treatment to foreign advertising agencies operating through all modes of supply except the presence of natural persons. These commitments cover most advertising services, but do not pertain to outdoor advertising, advertising of goods subject to import authorization, and advertising of pharmaceuticals, alcohol, tobacco and toxic products, explosives, weapons, and ammunition. Switzerland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers, specialists, and business visitors. Senior executives, managers, and specialists employed by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the 2 periods of stay in Switzerland.

Turkey

Turkey's industry-specific commitments provide full market access and national treatment to foreign advertising agencies operating through all modes of supply. These commitments apply to all advertising services. While Turkey maintains a ban on the advertising of over-the-counter drugs and tobacco, and advertisements for alcohol may only be placed in print

¹⁹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

media, such restrictions do not discriminate between foreign and domestic firms.²⁰ With respect to the presence of natural persons, Turkey's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers; and certain significant restrictions concerning national treatment. Executives, managers, and specialists are required to obtain work and residence permits in order to receive a 2-year term of stay which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits.

Industry Opinion

Industry representatives indicate that they do not experience significant barriers to doing business in most of the subject countries. Market conditions are reportedly highly favorable in the Czech Republic, Hungary, Norway, Poland, Switzerland, Turkey, and Slovenia.²¹ In these markets, foreign advertising firms may provide all relevant services and are accorded national treatment. Turkey is considered an important market due to its role as a regional center for the provision of advertising services to surrounding areas in the Near East.²² Despite Switzerland's higher per capita income,²³ advertisements often reach consumers through media originating from elsewhere in Europe, thus investment in the market is less critical than in Turkey. In Eastern Europe, establishing a market presence is reportedly difficult due to the lack of experienced local personnel. However, advertising in the Czech Republic, Hungary, and Poland is becoming profitable, and investment in this region is considered prudent in light of expected future economic growth.²⁴ Though all three of these markets are considered important by advertising agencies operating in Eastern Europe, the Polish market²⁵ reportedly serves as a strategic hub from which efforts to expand further eastward are based.²⁶

In contrast, foreign advertising firms report that the markets of Bulgaria and the Slovak Republic are presently less attractive. These relatively small markets also present burdensome investment regulations, inconsistent application of taxation policies, and excessive bureaucracy.²⁷ As a result, few foreign advertising agencies have established a

²⁰ Industry representative, interview by USITC staff, Istanbul, Turkey, Feb. 26, 1998; and industry representative, facsimile response to questions posed by USITC staff, received Jan. 8, 1998.

²¹ Industry representatives, telephone interviews with USITC staff, Dec. 1997-Jan. 1998; and industry representative, facsimile response to questions posed by USITC Staff, received Jan. 19, 1998.

²² Industry representative, interview by USITC staff, Istanbul, Turkey, Feb. 26, 1998; and industry representative facsimile response to questions posed by USITC staff, received Jan. 8, 1998.

²³ Industry representative, telephone interview with USITC staff, Jan. 8, 1998.

²⁴ Normandy Madden and Dagmar Mussey, "Agencies expanding E. European penetration," *Advertising Age International*, Oct. 1996, p. i8, i12.

²⁵ Industry representative, telephone interview by USITC staff, Jan. 6, 1998; and industry representative, facsimile response to questions posed by USITC staff, received Jan. 5, 1998.

²⁶ Industry representative, facsimile response to questions posed by USITC staff, received Jan. 5, 1998.

²⁷ Industry representative, telephone interview by USITC staff, Dec. 23, 1997.

local presence in these countries, choosing instead to manage their accounts through offices located elsewhere.²⁸

Summary

Of the 11 subject countries which scheduled commitments on advertising services, Turkey offered the broadest commitments, providing full market access and national treatment through all modes of supply. Bulgaria, the Czech Republic, Hungary, Iceland, Norway, and the Slovak Republic scheduled full commitments in all subsectors of the advertising industry for all modes of supply, except those regarding the presence of natural persons. Liechtenstein, Slovenia, and Switzerland scheduled commitments, but excluded subsectors of interest to U.S. advertising agencies. Poland remained unbound with respect to the cross-border supply of advertising services. Although in practice Poland does not presently restrict cross-border supply, the absence of a commitment permits Poland to impose restrictions without penalty in the future. Romania is the only subject country which did not offer any specific commitments on advertising services. According to interviews with industry representatives, market conditions for advertising services in the Czech Republic, Hungary, Norway, Poland, Slovenia, Switzerland, and Turkey are highly favorable. In contrast, Bulgaria and the Slovak Republic are viewed as restrictive markets due to burdensome tax and investment regulations.

²⁸ Industry representatives, facsimile responses to questions posed by USITC staff, received Jan. 5 and Jan. 19, 1998; and interview by USITC staff, Prague, Czech Republic, Mar. 31, 1998.

CHAPTER 11

Legal Services¹

Introduction

In this study, legal services are defined as legal advice and representation in various fields of law (e.g., contract or tax law), advisory and representation services in statutory procedures of quasi-judicial bodies, legal documentation and certification services, and other legal advisory and information services.² Increased international activity in various industries continues to drive foreign demand for U.S. legal services. Legal issues related to matters such as mergers and acquisitions, intellectual property rights, multinational commercial transactions, and international project finance and investment generate much international business due to the U.S. industry's reported competitive advantage in providing legal services.

International Trade in Legal Services

International trade in this sector occurs through both cross-border transactions and sales by affiliates in foreign markets. Cross-border trade entails the movement of attorneys, legal documents, and legal counsel or advice across national boundaries by cross-border supply, consumption abroad, or the presence of natural persons.³ Affiliate transactions take place when law firms establish a commercial presence in a foreign market in order to provide services directly to clients based in that market. Available data suggest that commercial presence through foreign-based affiliates accounts for only a small portion of the U.S. legal industry's total revenues.⁴ This is partially due to operational difficulties presented by foreign markets. For example, several U.S. law firms operate successful offices in locations such as Hong Kong and London where there is a sustained volume of international transactions requiring their expertise. In contrast, expansions into other markets have resulted in low profits and hasty exits due to unforeseen costs, complications imposed by host governments or local industry associations, and difficulties in adapting to local customs and business practices.⁵ Unfavorable economic conditions often restrain interest

¹ Among the individuals contacted by USITC staff in preparation of this report were those affiliated with the American Bar Association and at least 5 law firms that are active in the region of study.

² Legal services are captured under the U.N. Central Product Classification (CPC) code 861.

³ Cross-border supply of legal services has increasingly benefitted from the proliferation of inexpensive, sophisticated communication devices and rapid worldwide delivery services.

⁴ Bureau of Economic Analysis (BEA) estimate. For example, in 1993, the dollar value of U.S. cross-border exports of legal services exceeded the value of affiliate exports by approximately a factor of 10. BEA official, interview by USITC staff, Jan. 14, 1997.

⁵ U.S. Government officials, Indian Government officials, and industry representatives, interviews by USITC staff, New Delhi, India, Feb. 4, 1997.

in establishing a commercial presence abroad, although foreign clients are an increasingly important source of revenue for U.S. law firms.⁶

With the exception of legal advice related to international financial transactions, the practice of law generally does not lend itself to globalization. Local accreditation is usually required and often difficult to acquire. Furthermore, even nations with similar economic systems typically maintain diverse legal structures. Where foreign providers of legal services are permitted to acquire the credentials necessary to appear in local courts and provide advice on local law, few candidates believe the cost and effort required to pass the local bar would be justified. For this reason, the U.S. legal community is most interested in securing market access for foreign legal consultants.⁷ In many jurisdictions, a U.S. lawyer practicing as a foreign legal consultant is authorized to provide counsel on U.S. law, international law, and third-country law--areas which generally encompass lucrative activities such as cross-border mergers and acquisitions, intellectual property rights, multinational commercial transactions, and international project finance and investment.⁸ Foreign legal consultants are rarely allowed to appear in local courts or give independent advice on local law, unless such advice is provided in conjunction with advice from a member of the local bar.

Cross-Border Transactions

In 1996, U.S. cross-border exports of legal services totaled \$1.9 billion (figure 11-1). This 15-percent increase from the previous year was the largest annual increase recorded since 1991. Europe remained the largest regional export market for U.S. legal services, absorbing 43 percent of U.S. cross-border exports, while the Asia/Pacific region received 31 percent of U.S. exports (figure 11-2). Worldwide, Japan is the single leading purchaser of U.S. legal services, accounting for U.S. exports of \$372 million in 1996. U.S. cross-border imports of legal services totaled \$516 million in 1996, up some 10 percent from 1995. This reflects a marked slowdown in the recent pace of growth, which averaged an annual increase of 18 percent during 1991-95.

The 12 trading partners examined in this study accounted for approximately 10 percent of U.S. exports and 5 percent of U.S. imports of legal services in 1996. Together, Switzerland and Norway were responsible for most of the trading activity, accounting for \$48 million of U.S. exports of legal services and supplying \$11 million of legal services to the United States.

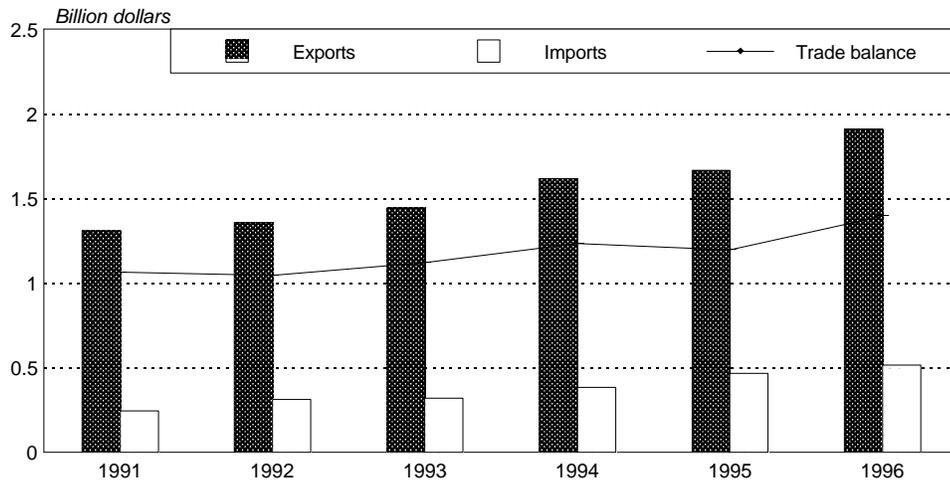
The value of U.S. exports of legal services has consistently been far greater than that of imports, resulting in a substantial surplus. In 1996, the U.S. trade surplus in cross-border legal services widened to approximately \$1.4 billion as worldwide demand for U.S. legal services continued to grow. Increased international activity in industries such as telecommunications and entertainment, government privatization programs, and strong international financing activity in the booming U.S. capital markets have spurred demand for legal services in recent years.

⁶ Although some of the largest U.S. firms are able to maintain successful affiliate operations in major commercial centers abroad, many others find operating from the United States more cost-effective and efficient.

⁷ Generally, foreign legal consultants are defined as lawyers without local accreditation practicing in a restricted capacity.

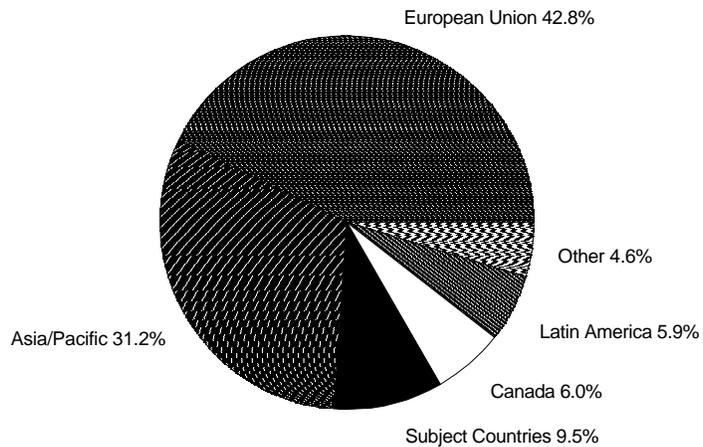
⁸ USITC, *Recent Trends in U.S. Services Trade*, USITC publication 3041, May 1997.

Figure 11-1
Cross-border trade in legal services: U.S. exports, imports, and trade balance, 1991-96



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Figure 11-2
Legal services: U.S. cross-border exports, by principal markets, 1996



Total = \$1.9 billion

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Sales by Majority-Owned Affiliates

Trade data are not available for affiliate transactions in legal services. Relatively few American Bar Association (ABA) members are reportedly involved in affiliate sales of legal services, as operations abroad are often expensive, unnecessary, and problematic.⁹ Many market access barriers encountered by U.S. providers of legal services are not rooted in discriminatory treatment, but in unfavorable economic conditions such as high office rents, depressed markets, and sporadic clients. Where discrimination is evident, the U.S. legal industry often does not take action, determining that any subsequent increases in revenue would not cover the costs of reducing the barriers.¹⁰

Examination of Commitments on Legal Services

All of the countries covered in this report scheduled commitments covering legal services (table 11-1). As noted in the previous section, the bulk of international trade in legal services occurs through cross-border trade. Overall, restrictions imposed on the modes of supply that comprise cross-border trade (i.e., cross-border supply, consumption abroad, and presence of natural persons) are relatively unobtrusive. No limitations are imposed on consumption abroad, and 10 of the 12 subject economies scheduled commitments according full market access and national treatment for services provided through cross-border supply. Several countries scheduled restrictions on commercial presence, but these are generally common prerequisites to practicing law in any jurisdiction, such as educational requirements and membership in local professional associations. In practice, such restrictions on commercial presence often do not create severe trade barriers as they cover practice areas of lesser interest to most foreign lawyers. Furthermore, advances in computer technology and telecommunications have simplified international interactions between lawyers and clients so that it is nearly impossible for governments to limit cross-border purchases of legal services.¹¹

Bulgaria

Bulgaria's commitments, which cover home country and international law, accord full market access and national treatment to foreign providers of legal services through cross-border supply, consumption abroad, and commercial presence. Bulgaria's limitations on the presence of natural persons remain unbound except for cross-industry measures designating permissible lengths of stay for senior executives, specialists¹² and other business professionals. Intra-corporate transfers of senior executives and specialists employed with the parent company for at least the year immediately preceding entry are

⁹ Although there is disagreement within the legal community as to the exact size of affiliate trade, the value and volume of cross-border trade appears to be much larger than that of affiliate trade. Peter D. Ehrenhaft, Esq., testimony before the USITC, June 7, 1995; and industry representative, interview by USITC staff, Washington, DC, Feb. 23, 1995.

¹⁰ Industry representative, interview by USITC staff, Seoul, Korea, Jan. 27, 1997.

¹¹ Peter D. Ehrenhaft, Esq., testimony before the USITC, Feb. 4, 1997.

¹² Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

Table 11-1
Highlights of industry-specific restrictions on legal services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 861 - Legal services concerning home country law and international law. ¹ MFN exemption limits full national treatment to certain countries with which current or future preferential arrangements have been established.
Czech Republic	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Acceptance in Czech Bar Association or Czech Chamber of Commerce required for practice of national law. National Treatment: <ul style="list-style-type: none"> Practice of Czech law requires graduation from Czech university. 	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 861 - Legal services.
Hungary	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Presence must constitute a representative office. National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 861 - Home country law.
Iceland	Market Access: None National Treatment: <ul style="list-style-type: none"> Legal practitioners must: pass Icelandic law exam or equivalent, meet nationality conditions, and/or have at least one year of practical experience as a member of the General Bar Association in Iceland. No limitations on matters concerning international law or foreign legal consultancy. 	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> Legal practitioners must: pass Icelandic law exam or equivalent, meet nationality conditions, and/or have at least one year of practical experience as a member of the General Bar Association in Iceland. No limitations on matters concerning international law or foreign legal consultancy. 	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <i>Caveat:</i> For matters concerning home country law, Iceland Bar members have exclusive right to represent clients before all major courts in Iceland. National Treatment: <ul style="list-style-type: none"> Legal practitioners must: pass Icelandic law exam or equivalent, meet nationality conditions, and/or have at least one year of practical experience as a member of the General Bar Association in Iceland. No limitations on matters concerning international law or foreign legal consultancy. 	These commitments cover: <ul style="list-style-type: none"> CPC 861 - Home country law, international law, and foreign legal consultancy.

Table 11-1, *continued*

Highlights of industry-specific restrictions on legal services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Liechtenstein	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: Unbound National Treatment: Unbound	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 861 - Legal services concerning home country law and international law.
Norway	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Active presence required for law firm board members and/or partners. National Treatment: • Practice limited to foreign and international law. Certain restrictions apply to joint ventures.	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments. Practice limited to foreign and international law. Certain restrictions apply to joint ventures. Legal advice given on an occasional basis is not restricted.	These commitments cover: • CPC 861 - Legal services concerning home country law and international law.
Poland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Practice must be authorized and practitioners are subject to nationality requirements. National Treatment: None	Market Access: • Unbound except as indicated in the cross-industry commitments. Practice must be authorized and Practitioners are subject to nationality requirements. National Treatment: None	These commitments cover: • CPC 861 - Legal services.
Romania	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: Unbound National Treatment: Unbound	Market Access: Unbound National Treatment: Unbound	These commitments cover: • CPC 861 - Legal services.
Slovak Republic	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: • Acceptance in the Slovak Bar Association or Slovak Chamber of Commercial Lawyers required for practice of national law. National Treatment: • Practice of Slovak law requires graduation from Slovak university.	Market Access: • Unbound except as indicated in the cross-industry commitments. National Treatment: • Unbound except as indicated in the cross-industry commitments.	These commitments cover: • CPC 861 - Legal services.

Table 11-1, *continued*

Highlights of industry-specific restrictions on legal services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Slovenia	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound for drafting of legal documents. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound for drafting of legal documents. 	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Presence is restricted to a sole proprietorship or to a law firm with unlimited responsibility. Partners must be licensed lawyers. Establishment of any law firm requires consent of Bar Association. Practice of national law requires Bar membership, which carries restrictions. <p>National Treatment:</p> <ul style="list-style-type: none"> Bar Association membership carries restrictions. 	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 861 - Legal Services.
Switzerland	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> Swiss nationality required to establish practice in St. Gall. 	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 861 - Legal services concerning home country law and international law.
Turkey	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> Only Turkish nationals are able to provide representation in Turkish courts. 	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 861 - Advisory services concerning home country law and international law. MFN exemption states Turkey will respond in kind against any country that restricts the provision of professional services by Turkish citizens.

11-7

¹ Home country law refers to the jurisdictional law where the foreign service supplier is a qualified lawyer.

granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.¹³ Residence and work permits are required for such intra-corporate transferees. Additional personnel engaged in sales negotiations or arrangements concerning the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa. Bulgaria's commitments included an MFN exemption that extends full national treatment to certain countries with which current or future preferential arrangements have been initiated.

Czech Republic

The Czech Republic scheduled commitments according full market access and national treatment to providers of foreign legal services through cross-border supply and consumption abroad, but imposed a few common limitations on certain forms of commercial presence. Applicable only to matters involving national Czech law, such limitations require acceptance in the Czech Bar Association or the Czech Chamber of Commercial Lawyers, and graduation from a Czech university. With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel. Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of services or are entering into an agreement to sell services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stays that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁴ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary

Hungary permits foreign attorneys to render advice on home country law only. For home country legal services provided through cross-border supply and consumption abroad, Hungary accords full market access and national treatment. However, for services provided through a commercial presence, Hungary's schedule indicates that foreign firms may only take the form of a representative office, which is not legally permitted to engage in

¹³ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

¹⁴ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

commercial activities.¹⁵ Hungary's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,¹⁶ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are granted stays of varying duration. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁷ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Iceland

Iceland's commitments cover home country law, international law, and foreign legal consulting. Iceland accords full market access to foreign providers of legal services through cross-border supply, consumption abroad, and commercial presence. The commitments also provide for full national treatment regarding consumption abroad, but accreditation,¹⁸ nationality, and residency requirements limit national treatment for services provided through cross-border supply, commercial presence, and the presence of natural persons. Market access commitments regarding the presence of natural persons were left unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers.

Like several other subject countries, Iceland declined to specify permissible lengths of stay. Thus, while no binding is undertaken in this respect, Iceland may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁹ Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

¹⁵ Hungary has revised its laws on legal practice and branching such that foreign firms may now choose between establishing as a representative office or a branch. Subject to certain conditions, branches are permitted to conduct commercial activities in Hungary. Since these changes are not reflected in Hungary's schedule, however, they are not subject to GATS disciplines. Hungarian government representatives, interviews by USITC staff, Budapest, Hungary, Feb. 19-20, 1998.

¹⁶ Senior officials are defined as managers who have the highest rank within an organization.

¹⁷ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

¹⁸ Members of the General Bar Association of Iceland have an exclusive right to represent clients before all the major courts in Iceland.

¹⁹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

Liechtenstein

Liechtenstein scheduled commitments that pertain to home country law and international law. The country accords full market access and national treatment to foreign providers of legal services through cross-border supply and consumption abroad. Liechtenstein did not schedule any binding commitments with respect to commercial presence. Also, Liechtenstein's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of intra-corporate transferees and business visitors. Executives, senior managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year preceding entry. Intra-corporate transferees are granted a 3-year period of stay. Liechtenstein declined to specify permissible lengths of stay for business visitors. Although no binding is undertaken with respect to business visitors, Liechtenstein may not impose conditions that nullify the benefits accorded to these providers by industry-specific commitments.²⁰ Liechtenstein's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. In addition, business visitors are required to possess residence and work permits, the latter of which may be available to foreign service providers only in limited numbers.

For national treatment, Liechtenstein stipulates that intra-corporate transferees and business visitors are subject to legislative provisions regarding immigration, entry, stay, and employment. In addition, enterprises that employ foreign service providers must cooperate with Liechtenstein authorities in the enforcement of these measures.

Norway

Norway scheduled commitments applicable to all legal services except those concerning Norwegian law. The commitments accord full market access to foreign providers of legal services through cross-border supply and consumption abroad, but provision through a commercial presence is restricted by a requirement that foreign share holders or board members of a Norwegian law firm must be active participants in the firm. Cooperation between foreign and Norwegian lawyers is set forth by national treatment limitations covering commercial presence and the presence of natural persons. With respect to the presence of natural persons, Norway's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors that have entered into, or are negotiating, agreements for the sale of services, and senior executives responsible for the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Poland

Poland's schedule indicates that the country accords foreign firms national treatment for services provided through all modes of supply. However, this seems to be contradicted by limitations on the market access of commercial presences and natural persons which state

²⁰ Ibid.

that Polish nationality is required in addition to authorization. Additional limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. However, entry for such intra-corporate transferees is contingent on a market test.²¹ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate.

Romania

Romania accords full market access to foreign providers of legal services through cross-border supply and consumption abroad. Measures relating to commercial presence were left unbound. With respect to the presence of natural persons, Romania's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of managers and experts.²² Romania declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Romania may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.²³ Romanian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovak Republic

The Slovak Republic scheduled commitments according full market access and national treatment to foreign providers of legal services through cross-border supply and consumption abroad. Requirements imposed on commercial presence include acceptance in the Slovak Bar Association or the Slovak Chamber of Commercial Lawyers, and graduation from a Slovak university. Such measures also apply to those who wish to practice Slovak law. The Slovak Republic's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to

²¹ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

²² Experts are defined as persons who have university degrees in the specialty of the position they occupy.

²³ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.²⁴ The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovenia

Slovenia's scheduled commitments according full market access and national treatment to foreign providers of legal services only with respect to consumption abroad. Restrictions on the cross-border supply of legal services is unbound for drafting of legal documents. Additionally, commercial presence is restricted to sole proprietorship or to a law firm with unlimited liability. Accreditation requirements for the general practice of law and conditions for involvement in matters relating to local law also are included under market access limitations, as are the conditions that a non-citizen must meet to receive accreditation by the national Bar Association. Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Switzerland

Switzerland scheduled commitments that cover home country law and international law. Through these commitments, Switzerland accords full market access and national treatment to foreign providers of legal services through cross-border supply and consumption abroad. Switzerland also accords full market access for services provided through a commercial presence, but indicates that national treatment is limited in the canton of St. Gall where Swiss nationality is necessary to establish a legal services practice. Switzerland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers, specialists, and business visitors. Senior executives, managers, and specialists employed by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the 2 periods of stay in Switzerland.

²⁴ Ibid.

Turkey

Turkey's commitments accord virtually full market access to foreign providers of legal services through cross-border supply, consumption abroad, and commercial presence. However, an exception gives Turkish nationals the exclusive right to represent clients in Turkish courts and Turkey's commitments apply only to advisory services on home country and international law. Turkey's commitments also include an MFN exemption that establishes conditions of reciprocity; citizens of countries in which Turkish citizens are restricted from supplying professional services will be subject to similar restrictions while in Turkey.

With respect to the presence of natural persons, Turkey's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. However, executives, managers, and specialists are required to obtain work and residence permits to receive a 2-year term of stay, which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits.

Industry Opinion

In the view of industry representatives, Norway offers the most open market due to the presence of established rules and conditions that are consistent with the aims of the U.S. legal profession.²⁵ By contrast, Eastern European countries present the most difficult market environments either because of explicit limitations on the provision of legal services by foreign attorneys or simply because of underdeveloped legislative and regulatory structures. These countries include Bulgaria, the Czech Republic, Hungary, Poland, Romania, and the Slovak Republic.

In Bulgaria, industry representatives report that the rule of law is not highly developed. Legislation is reportedly unpredictable and subject to frequent changes, or not observed or implemented.²⁶ Other problems include restrictions on partnerships -- lawyers must work independently--and employment by, or work for, foreign law firms is discouraged. However, the Bulgarian Government reportedly hopes to change the measure limiting employment by foreign firms this year. Also, there is movement by the government toward changing the legal regime with public participation in the reform process.²⁷ These signs suggest that conditions may improve for U.S. lawyers seeking to practice in Bulgaria.

Regarding the Czech Republic, U.S. industry reported that certain regulations are applied fairly, such as those concerning corporate registration, and that there is no discrimination against U.S. or other foreign firms.²⁸ However, recently enacted legislation has caused

²⁵ Peter D. Ehrenhaft, Esq., American Bar Association, Section of International Law and Practice, brief submitted to the USITC, Apr. 22, 1998.

²⁶ Industry representative, interview by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

²⁷ Bulgarian Government official and industry representative, interviews by USITC staff, Sofia, Bulgaria, Feb. 17, 1998.

²⁸ Industry representatives, interviews by USITC staff, Prague, Czech Republic, Mar. 30, 1998.

some concern for foreign providers of legal services.²⁹ In particular, the new law restricts the ways in which a firm may be organized, forcing all foreign firms with branch offices in the Czech Republic to restructure their operations. Industry representatives have stated that this requirement has resulted in a loss of competitiveness.³⁰

In Hungary, foreign law firms were established as representative offices under the jurisdiction of the Trade Ministry. While representative offices typically may not engage in commercial activities, in actual practice, these firms have been permitted to offer a full range of legal services. In general, these firms have focused on developing business plans and negotiating financial transactions related to privatization programs. However, a new law presently pending in Parliament would require foreign firms to establish a branch in partnership with a local Hungarian firm and end the practice of permitting representative offices to provide services. U.S. industry representatives are disappointed with the direction of this legislation,³¹ believing that the new law may create artificial associations that would generally impede the efficient servicing of clients, impose additional costs and complications on the management of firms, and ultimately amount to non-tariff trade barriers.³² For this reason, U.S. industry representatives believe it is a regressive measure.³³ Meanwhile, Hungarian Government representatives claim that the new law does not take away any rights but rather allows for the first time the legal operation of foreign law firms and lawyers in Hungary, albeit with limitations and conditions.³⁴ In addition, the Hungarian Ministry of Justice claims that requiring a cooperative agreement with a local firm is neither new nor onerous, as most foreign firms voluntarily enter into such relationships.³⁵ While the new measure does not appear to violate Hungary's GATS commitments, which apply only to representative offices, not to branches, it seems to codify a more restrictive environment for legal services than that which existed previously. In this respect, Hungary's position may be at odds with the broader GATS objective of progressive liberalization.

Poland reportedly has an accessible, functional, and non-discriminatory legal system that offers reasonable protection to foreign investors. Yet much of Poland's legal framework is antiquated and unduly complicated. For example, U.S. and other foreign business partners have urged Poland to overhaul its commercial code, which was written before World War II. Foreign providers of legal services also find the Polish market a difficult one in which to operate because of the frequent changes to Polish laws and regulations. Generally, foreigners do not use the Polish courts to resolve their investment disputes.

²⁹ Peter D. Ehrenhaft, Esq., brief submitted to the USITC, Apr. 22, 1998.

³⁰ Industry representative, Prague, Czech Republic, in Peter D. Ehrenhaft, Esq., brief submitted to the USITC, Apr. 22, 1998.

³¹ Peter D. Ehrenhaft, Esq., brief submitted to the USITC, Apr. 24, 1998.

³² Peter D. Ehrenhaft, Esq., brief submitted to the USITC, Apr. 22, 1998.

³³ U.S. industry representative, telephone interview by USITC staff, New York, NY, Apr. 9, 1998.

³⁴ Department of International Organizations and Custom Policy, Budapest, Hungary, fax sent to the Embassy of the United States in Budapest, *attached by* Peter D. Ehrenhaft, Esq., brief submitted to the USITC, Apr. 24, 1998.

³⁵ Hungarian Government official, interview by USITC staff, Budapest, Hungary, Feb. 20, 1998.

Instead, they tend to do so through international arbitration or forego their rights.³⁶ Also, a new Polish statute has raised two possible areas of concern to U.S. industry. First, there is a suggestion that any local lawyer involved in a firm's operation must be a "shareholder" or partner in the local office. Such a requirement would likely disrupt current employment patterns and adversely affect the formation of new Polish-U.S. business relationships. Second, the new Polish law has a reciprocity requirement. U.S. industry believes that this could be a problem if it is narrowly construed to relate to the state from which a particular lawyer may have been admitted, as not all the U.S. states have adopted rules for foreign legal consultant.³⁷

Romania is effectively closed to U.S. law firms seeking to establish a commercial presence. Under current market conditions and legislation, a Romanian affiliate of a U.S. law firm is generally not considered a law firm. Rather, it is considered a commercial company that may only perform "consulting" services. Furthermore, such firms must independently retain Romanian attorneys by monthly contract under the supervision of the Bucharest Bar Association. This process reportedly requires cumbersome and costly accounting procedures and prevents U.S. firms from practicing international law in an efficient manner. Although Romanian legislators imply that the lack of appropriate Romania/U.S. reciprocity agreements is a factor in this requirement, U.S. lawyers seeking to practice in Romania believe that informal reciprocal agreements already exist in the major legal markets within the United States. Moreover, U.S. industry believes that allowing formal rules and conditions to supplant longstanding and clearly efficient business practices constitutes the establishment of non-tariff trade barriers.³⁸ Other recent occurrences of concern to U.S. industry reportedly include "intimidation" tactics used by the Romanian professional associations. In a recent newsletter of the Union of Romanian Advocates, it was suggested that the Union expel U.S. law firms from Romania. Moreover, local attorneys have reportedly threatened their U.S. opposing counsel with legal action during courtroom procedures, thereby affecting their ability to represent their clients effectively.³⁹ Additionally, Romanian lawyers employed at U.S. firms cannot appear on the firm's marketing materials and some reportedly refuse to sign any documents written on U.S. letterhead because they fear retaliation by the Union of Romanian Advocates.⁴⁰

The Slovak Republic is presently considering new legislation on legal services. U.S. law firms with operations in the Slovak Republic are concerned that the law may attempt to

³⁶ U.S. Department of Commerce, International Trade Administration, *Poland - Investment Climate - IMI970610*, Market Research Reports, Document ID:5037, found at <http://www.stat-usa.gov/>, Apr. 7, 1998.

³⁷ Peter D. Ehrenhaft, Esq., brief submitted to the USITC, Mar. 26, 1998.

³⁸ The Committee on Central and Eastern European Affairs of the Association of the Bar of the City of New York has proposed to formally inform the Union of Romanian Advocates of the rights which Romanian lawyers currently have to act as FLCs in New York. In return, the Union would be requested to formally confirm that pursuant with existing Romania legislation, lawyers admitted to practice in the state of New York have reciprocal right to practice in Romania. Mark A. Meyer, Esq., Chairman of the Romanian-American Chamber of Commerce, New York, NY, brief submitted to the USITC, Apr. 8, 1998.

³⁹ U.S. industry representative, fax to the USITC, comments compiled from U.S. and Romanian operations of representative's law firm, Apr. 9, 1998.

⁴⁰ Romanian attorneys that are members of a U.S. firm have reportedly been threatened with action by a member of the Board of the Union. Peter D. Ehrenhaft, Esq., brief submitted to the USITC, Mar. 26, 1998.

limit their ability to provide legal services. Reportedly, U.S. lawyers would welcome assurances that existing arrangements, which permit foreign lawyers to register as FLCs and associate with local attorneys, will not be adversely affected by the new legislation.⁴¹

One factor that may influence the market environment for U.S. firms is that several Eastern European countries are adopting legislation that is compatible with that of the European Union. This could be beneficial to all foreign firms as it is likely to improve the overall legal services market and enhance regulatory transparency. Still, the long-term effects on U.S. law firms operating in these markets are not clear. At a minimum, the adoption of market economy principles will likely increase competition for U.S. firms already on-site. Some practice areas such as capital markets and transnational mergers and acquisitions will likely remain U.S. strongholds, yet EU businesses will reportedly tend to use EU law firms.⁴²

Summary

The schedules of commitments submitted by the subject countries effectively illustrate the principle issues concerning international trade in legal services. There is little controversy concerning the cross-border provision of legal advisory services and, as a result, most countries accord market access and national treatment to foreign firms. There is also relatively little debate regarding the practice of local, or host-country law, in which local firms naturally have greater expertise and international firms have relatively little interest. Consequently, most countries shape their commitments to exclude the practice of host-country law. Remaining issues concern the activities of foreign legal consultants, and particularly their ability to establish a commercial presence and to employ local personnel. This is the area where U.S. firms would like to have the greatest freedom of action, but also where countries are likely to impose limitations that favor domestic firms. The majority of subject countries indicated that they impose no restrictions on the practice of international, home-country, or third-country law through a commercial presence. Only Hungary, Liechtenstein, Poland, Romania, and Slovenia declined to make binding commitments to accord full market access and national treatment to foreign legal consultants wishing to provide services through a commercial presence. Romania and Liechtenstein left all measures affecting commercial presence unbound, thereby making the least progress in terms of establishing benchmarks and improving transparency. By scheduling some commitments, Hungary, Poland, and Slovenia offered some improvement in transparency and benchmarking, but their commitments, combined with industry input described above, reveal some limitations to market access and national treatment that are of significant concern to U.S. industry.

Although the legal markets under examination in this study currently offer U.S. providers of legal services limited opportunity, prospects are good that the growth rate of U.S. exports of legal services to these countries will soon outpace that of some larger, more established markets. This may particularly hold true in the countries that are moving toward a market-oriented economy. In these countries, where foreign investment and technology-transfer are critical for development, local opposition to foreign attorneys is likely to be outweighed by

⁴¹ Peter D. Ehrenhaft, Esq., brief submitted to the USITC, Apr. 22, 1998.

⁴² Industry representatives, interviews by USITC staff, Prague, Czech Republic, Mar. 30, 1998.

the need for their services. In most countries, business and governments support regional efforts to develop their legal professions, but believe that the most effective way to insure legal technology transfer and to establish a legal framework conducive to attracting foreign direct investment is to leave markets open. Further, U.S. industry believes that while some organization and regulation of the legal profession are appropriate, mandatory obligations of partnership or shareholder participation by local lawyers are unjustifiable and will ultimately impede economic development.⁴³

⁴³ Peter D. Ehrenhaft, Esq., brief submitted to the USITC, Mar. 26, 1998.

CHAPTER 12

Architectural, Engineering, and Construction Services¹

Introduction

Architectural, engineering, and construction (AEC) services are interrelated service industries. Architectural firms provide blueprint designs for buildings and public works and may oversee the construction of projects. Architectural services include preliminary site study, schematic design, design development, final design, contract administration, and post construction services.

Engineering firms provide planning, design, construction, and management services for projects such as civil engineering works and residential, commercial, industrial, and institutional buildings. Included in engineering services are the undertaking of preparatory technical feasibility studies and project impact studies; preliminary and final plans, specifications, and cost estimates; and services during the construction and installation phase. These firms also provide engineering design services for industrial processes and production, and advisory and technical assistance to the client during construction to ensure that construction work is in conformity with the final design. Integrated engineering services² include services related to various turnkey projects, which may include the assignment and coordination of work performed by consultants, contractors, and subcontractors from inception to completion of projects.

Construction services³ include new construction and repair, alteration, restoration, and maintenance work on residential, commercial, industrial, and institutional buildings, as well as civil engineering works. In addition to pre-erection services such as site investigation and preparation work, construction firms may provide installation work, special trade construction work, and building completion and finishing services. Such services may be carried out by general contractors who complete all applicable construction work for the owner of the project, or by specialty subcontractors who perform discrete parts of the construction work.

¹ Among the individuals contacted by the USITC staff in preparation of this report were those affiliated with the following organizations: the United States Council for International Engineering Practice (representing the National Council of Examiners for Engineering and Surveying, the Accreditation Board for Engineering and Technology, and the National Society of Professional Engineers), the American Institute of Architects, American Consulting Engineers Council, Bechtel, and International Construction Management.

² Data specific to integrated engineering services are not available, but are reflected in aggregate data for the entire engineering profession. For the purposes of this discussion, integrated engineering services are not discussed discretely.

³ Construction services are included in the U.S. Standard Industry Classifications (SIC) 1622 and 1623.

International Trade in Architectural, Engineering, and Construction Services

International trade in architectural, engineering, and construction services primarily occurs through sales by affiliates located in foreign markets. AEC firms that engage in international trade generally establish some type of subsidiary, joint venture, or representative office in important foreign markets, as contracts are more likely to be awarded to firms with a local presence. Firms located overseas may also benefit from the regional expertise and professional networks of foreign staff.⁴ Cross-border trade in AEC services typically involves the transportation of blueprints, designs, and documents by way of mail, telecommunications networks, or other means across national boundaries.

Cross-Border Transactions

The United States maintains a consistent surplus in the cross-border provision of AEC services. During 1991-96, cross-border exports grew at an average annual rate of 15 percent, from \$1.5 billion in 1991 to \$3 billion in 1996 (figure 12-1). Imports increased by 9 percent per year, from \$315 million in 1991, to reach \$489 million in 1996. The U.S. surplus in cross-border trade in these services grew at an average yearly rate of 16 percent, from just under \$1.2 billion in 1991 to \$2.5 billion in 1996.

The majority of U.S. cross-border trade in AEC services occurs with Asia/Pacific nations, which consumed 46 percent, or \$1.4 billion, of all U.S. cross-border exports of architectural, engineering, and construction services in 1996 (figure 12-2). Latin America was the second largest market, absorbing 23 percent of U.S. cross-border exports of AEC services. Trade between the United States and the 12 subject nations is comparatively small, accounting for roughly 7 percent of all U.S. cross-border exports of AEC services in 1996.⁵ Of these trading partners, available data show that Switzerland and Norway accounted for \$6 million and \$1 million of U.S. cross-border exports, respectively.

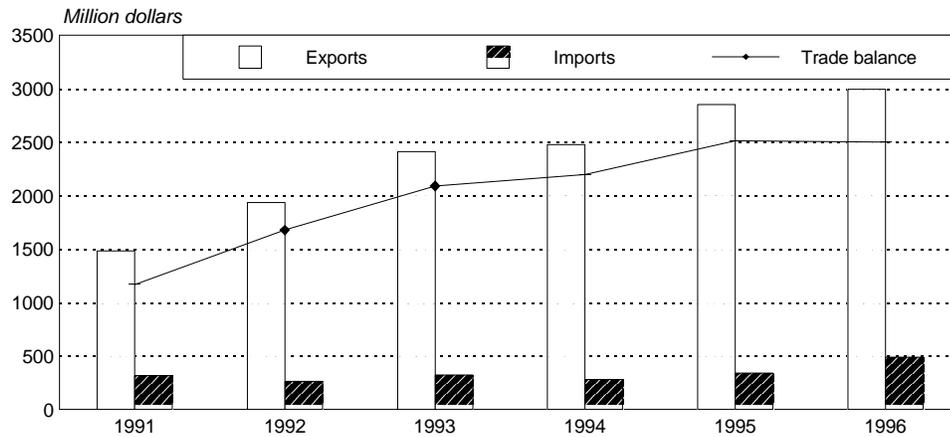
Examination of Commitments on AEC Services

Commitments on AEC services are difficult to examine as a group due to the large number of industry activities encompassed and the varied nature of specific commitments. For clarity in analysis and presentation, commitments on architectural and engineering services are examined separately from commitments on construction services in the following sections.

⁴ However, U.S. trade data on majority-owned affiliate AEC services are not available for 1996.

⁵ Estimated by USITC staff based on data and information available in U.S. Department of Commerce (US DOC), Bureau of Economic Analysis (BEA), *Survey of Current Business*, Oct. 1997.

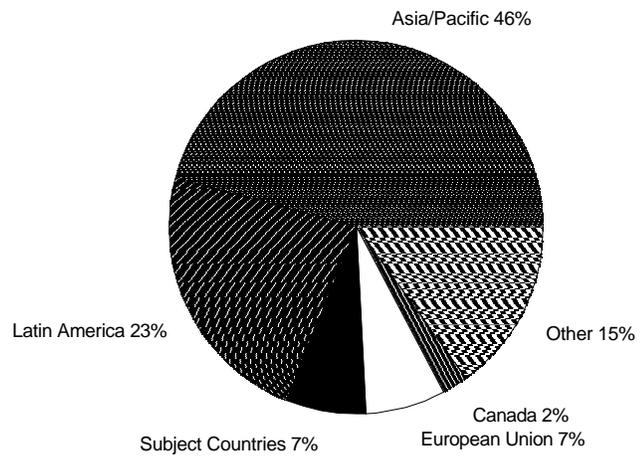
Figure 12-1
Cross-border trade in AEC services:¹ U.S. exports, imports, and trade balance, 1991-96



¹ Data on U.S. exports are reported on a net basis (i.e., U.S. contractors' expenditures on merchandise and labor are excluded), whereas data on U.S. imports are reported on a gross basis. In addition, data pertaining to architectural, engineering, and construction services also reflect trade in mining and surveying services.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Figure 12-2
AEC services: U.S. cross-border exports, by principal markets, 1996



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Commitments on Architectural and Engineering Services

While cross-border supply of architectural and engineering services is a viable mode of delivery due to advanced communications systems and global electronic commerce, the majority of trade in these services occurs through sales by affiliates located in foreign markets. As such, restrictions on commercial presence, such as investment constraints and limitations on the movement of personnel, greatly affect the ability of U.S. firms to provide architectural and engineering services to foreign consumers. Residency, nationality, and registration or licensing requirements may further impede the operations of U.S.-affiliated service providers operating in foreign markets. These barriers to international trade may be administered through government agencies, regulatory bodies, or professional associations, and may be specific to architectural and engineering services, or apply across industries. With respect to the architectural and engineering services industry, restrictions on commercial presence, the presence of natural persons, and cross-border modes of supply are most significant.

Each of the countries examined in this report made commitments on architectural and engineering services (table 12-1). The schedules of Iceland and Norway cover all sectors of the industry and accord the greatest levels of market access and national treatment to foreign service providers. Slovenia, the Czech Republic, and the Slovak Republic left limitations on certain modes of supply unbound, while Poland was the only country to exclude most sectors of the industry from its schedule. All other subject nations scheduled full or partial commitments on all architectural, engineering, and integrated engineering services.

Bulgaria

Bulgaria's industry-specific commitments encompass all applicable architectural and engineering services. Foreign service providers encounter no restrictions on the provision of services via cross-border supply and consumption abroad when services are provided by natural persons accredited in Bulgaria. Accreditation requires architects and engineering professionals to demonstrate relevant experience, recent project work, staff ability, and technical competence. With respect to the establishment and operation of a commercial presence, Bulgaria's commitments are slightly more definitive, indicating that services related to projects of national or regional significance may be provided only in partnership with, or as subcontractors of, local architectural and engineering service providers. Services must be supplied by natural persons, subject to the aforementioned accreditation requirements, who must also provide bank references and limit the scope of their activities to the relevant architectural and engineering services covered by these commitments.

Table 12-1
Highlights of industry-specific restrictions on architectural and engineering services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria	<p>Market Access:</p> <ul style="list-style-type: none"> None, except that market access is limited to natural persons subject to recognition of their technical qualifications and accreditation by a professional chamber in the Republic of Bulgaria. Accreditation is subject to the following criteria: experience in the field of construction, project work in the last two years, and staff and technical capacity. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> None, except that market access is limited to natural persons subject to recognition of their technical qualifications and accreditation by a professional chamber in the Republic of Bulgaria. Accreditation is subject to the following criteria: experience in the field of construction, project work in the last two years, and staff and technical capacity. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> When a project is of national or regional significance, services may be provided only in partnership with, or as subcontractors of, local service suppliers. This does not apply to projects put up for international bidding and won by foreign service suppliers. Services must be supplied by natural persons subject to recognition of their technical qualifications and accreditation by a professional chamber in the Republic of Bulgaria. Accreditation requirements: project work in the last two years, staff and technical capability, and bank references from a highly ranked foreign bank. In addition, the main scope of the foreign person's activities must be the relevant architectural and engineering services. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Market access is limited to natural persons subject to recognition of their technical qualifications and accreditation by a professional chamber in the Republic of Bulgaria. Accreditation is subject to the following criteria: experience in the field of construction, project work in the last two years, and staff and technical capacity. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 8671 - Architectural services. CPC 8672 - Engineering services. CPC 8673 - Integrated engineering services.

Table 12-1, continued
Highlights of industry-specific restrictions on architectural and engineering services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Czech Republic	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> • Authorization by the Czech Chamber of Architects or the Czech Chamber of Authorized Engineers is required. Authorization by comparable foreign institutions may be recognized. • For natural and juridical persons, architectural and engineering services may be provided only by authorized architects and engineers, respectively. • Conditions of nationality and residence required. Exceptions may be considered for architectural services. National Treatment: None	Market Access: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> • CPC 8671 - Architectural services. • CPC 8672 - Engineering services.
	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: Unbound National Treatment: Unbound	Market Access: Unbound National Treatment: Unbound	These commitments cover: <ul style="list-style-type: none"> • CPC 8673 - Integrated engineering services.
Hungary	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. • Permanent residency required. National Treatment: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> • CPC 8671 - Architectural services. • CPC 8672 - Engineering services.
	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> • CPC 8673 - Integrated engineering services.
Iceland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> • CPC 8671 - Architectural services. • CPC 8672 - Engineering services. • CPC 8673 - Integrated engineering services.

Table 12-1, *continued*

Highlights of industry-specific restrictions on architectural and engineering services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Liechtenstein	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8671 - Architectural services. CPC 8673 - Integrated engineering services.
	Market Access: None National Treatment: <ul style="list-style-type: none"> Liechtenstein nationality necessary for survey activities for official public purposes. Foreign surveyors, however, may work under the responsibility of a licensed Liechtenstein surveyor. 	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> Liechtenstein nationality necessary for survey activities for official public purposes. Foreign surveyors, however, may work under the responsibility of a licensed Liechtenstein surveyor. 	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Liechtenstein nationality necessary for survey activities for official public purposes. Foreign surveyors, however, may work under the responsibility of a licensed Liechtenstein surveyor. 	These commitments cover: <ul style="list-style-type: none"> CPC 8672 - Engineering services. MFN exemption on construction and related engineering services: <ul style="list-style-type: none"> The right of commercial presence and the presence of natural persons is dependent upon reciprocity for service providers from Liechtenstein.
Norway	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8671 - Architectural services. CPC 8672 - Engineering services. CPC 8673 - Integrated engineering services.
Poland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 8672 - Engineering services. These commitments exclude: <ul style="list-style-type: none"> CPC 8671 - Architectural services. CPC 8673 - Integrated engineering services.

Table 12-1, continued
Highlights of industry-specific restrictions on architectural and engineering services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Romania	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> None except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 8671 - Architectural services. CPC 86721 - Advisory and consultative engineering services. CPC 86723 - Engineering design services for mechanical and electrical installations for buildings. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 86722 - Engineering design services for the construction of foundations and building structures. CPC 86724 - Engineering design services for the construction of civil engineering works. CPC 86725 - Engineering design services for industrial processes and production. CPC 86726 - Engineering design services, not elsewhere classified. CPC 86727 - Other engineering services during the construction and installation phase. CPC 86729 - Other engineering services. CPC 8673 - Integrated engineering services.

Table 12-1, *continued*

Highlights of industry-specific restrictions on architectural and engineering services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Slovak Republic	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Authorization by the Slovak Chamber of Architects or the Slovak Chamber of Authorized Engineers is required. Authorization by comparable foreign institutions may be recognized. For natural and juridical persons, architectural and engineering services may be provided only by authorized architects and engineers, respectively. Conditions of nationality and residence required. Exceptions may be considered for architectural services. National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8671 - Architectural services. CPC 8672 - Engineering services.
	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: Unbound National Treatment: Unbound	Market Access: Unbound National Treatment: Unbound	These commitments cover: <ul style="list-style-type: none"> CPC 8673 - Integrated engineering services.
Slovenia	Market Access: Unbound National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8671 - Architectural services.
	Market Access: None National Treatment: <ul style="list-style-type: none"> None for pure planning services; the submission of plans for approval by the proper authorities requires cooperation with an established supplier of planning services. 	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8672 - Engineering services. CPC 8673 - Integrated engineering services.

Table 12-1, continued
Highlights of industry-specific restrictions on architectural and engineering services

	Mode of Supply				
Trading Partner	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments
Switzerland	Market Access: None National Treatment: <ul style="list-style-type: none"> Three years of prior professional practice in Switzerland required in the canton of Lucerne. 	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> Three years of prior professional practice in Switzerland required in the canton of Lucerne. 	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Three years of prior professional practice in Switzerland required in the canton of Lucerne. 	These commitments cover: <ul style="list-style-type: none"> CPC 8671 - Architectural services.
	Market Access: None National Treatment: <ul style="list-style-type: none"> Three years of prior professional practice in Switzerland required in the canton of Lucerne for building engineers. Swiss nationality necessary for survey activities for official public purposes. Foreign surveyors, however, may work under the responsibility of a licensed Swiss surveyor. 	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> Three years of prior professional practice in Switzerland required in the canton of Lucerne for building engineers. Swiss nationality necessary for survey activities for official public purposes. Foreign surveyors, however, may work under the responsibility of a licensed Swiss surveyor. 	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Three years of prior professional practice in Switzerland required in the canton of Lucerne for building engineers. Swiss nationality necessary for survey activities for official public purposes. Foreign surveyors, however, may work under the responsibility of a licensed Swiss surveyor. 	These commitments cover: <ul style="list-style-type: none"> CPC 8672 - Engineering services.
	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8673 - Integrated engineering services.
Turkey	Market Access: None <ul style="list-style-type: none"> A foreign service provider may engage in these services after becoming a temporary member of the related Union of Chambers. National Treatment: None	Market Access: None <ul style="list-style-type: none"> A foreign service provider may engage in these services after becoming a temporary member of the related Union of Chambers. National Treatment: None	Market Access: None <ul style="list-style-type: none"> A foreign service provider may engage in these services after becoming a temporary member of the related Union of Chambers. National Treatment: None	Market Access: None <ul style="list-style-type: none"> A foreign service provider may engage in these services after becoming a temporary member of the related Union of Chambers. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 8671 - Architectural services. CPC 8672 - Engineering services. These commitments exclude: <ul style="list-style-type: none"> CPC 8673 - Integrated engineering services.

Bulgaria's limitations on the presence of natural persons remain unbound except for cross-industry measures designating permissible lengths of stay for senior executives, specialists⁶ and other business professionals. Intra-corporate transfers of senior executives and employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.⁷ Residence and work permits are required for such intra-corporate transferees. Additional personnel engaged in sales negotiations or arrangements pertaining to the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa. As with all modes of supply, architectural and engineering services must be provided by natural persons recognized by the relevant professional bodies in Bulgaria.

Czech Republic

The Czech Republic's GATS commitments cover architectural, engineering, and integrated engineering services. With respect to these sectors, full market access and national treatment are accorded for services provided via cross-border supply and consumption abroad. Commitments pertaining to market access for foreign firms wishing to establish a commercial presence state that architects and engineers must be authorized by the Czech Chamber of Architects, the Czech Chamber of Authorized Engineers, or comparable foreign institutions. In addition, conditions of residency and nationality apply, though exceptions with respect to architectural services may be approved. The Czech Republic chose not to schedule commitments on integrated engineering services provided through a commercial presence, indicating that restrictions may be applied on activities within this service sector without penalty.

With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel.⁸ Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service

⁶ Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

⁷ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

⁸ In the case of integrated engineering services, the Czech Republic's industry specific schedule indicates that measures remain unbound.

providers by industry-specific commitments.⁹ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary

Like most of the trading partners under consideration, Hungary scheduled commitments on all sectors of architectural and engineering services. Hungary's commitments guarantee full market access and national treatment for services rendered through cross-border supply, consumption abroad, and commercial presence.

In addition to a permanent residency requirement for market access, limitations affecting the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,¹⁰ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are granted stays for the duration of the invitation. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹¹ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Iceland

Of the subject trading partners, Iceland's industry-specific commitments on architectural and engineering services afford the highest levels of market access and national treatment to foreign service providers. Iceland scheduled no limitations on services provided via commercial presence, cross-border supply, and consumption abroad. With respect to the presence of natural persons, Iceland guarantees full national treatment for foreign service providers. These commitments apply to the full range of architectural, engineering, and integrated engineering services covered by the GATS.

With respect to commitments affecting the presence of natural persons, Iceland's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Iceland declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Iceland may

⁹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

¹⁰ Senior officials are defined as managers who have the highest rank within an organization.

¹¹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹² Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. In addition, while cross-industry measures regulate market access under the presence of natural persons, Iceland guarantees full national treatment for this mode of supply.

Liechtenstein

Except for certain survey activities included in the engineering services sector, Liechtenstein's commitments on cross-border supply, consumption abroad, and commercial presence grant full market access and national treatment to foreign service providers engaged in all architectural, engineering, and integrated engineering services. When survey activities are for official public purposes, however, Liechtenstein nationality is required, though foreign surveyors may work under a licensed Liechtenstein surveyor.¹³

Liechtenstein's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of intra-corporate transferees and business visitors; and certain conditions on national treatment. Executives, senior managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least one year preceding entry. Intra-corporate transferees are granted a 3-year period of stay. Liechtenstein declined to specify permissible lengths of stay for business visitors. Although no binding is undertaken with respect to business visitors, Liechtenstein may not impose conditions that nullify the benefits accorded to these providers by industry-specific commitments.¹⁴ Yet, Liechtenstein's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. In addition, business visitors are required to possess residence and work permits, the latter of which may be available to foreign service providers only in limited numbers.

In terms of national treatment, Liechtenstein stipulates that intra-corporate transferees and business visitors are subject to legislative provisions regarding immigration, entry, stay, and employment. In addition, enterprises that employ foreign service providers must cooperate with Liechtenstein authorities in the enforcement of these measures.

Separately, Liechtenstein was the only subject nation to schedule an MFN exemption specific to this industry. This exemption states that the rights of commercial presence and the presence of natural persons are contingent upon reciprocal treatment for Liechtenstein service providers.

¹² Ibid.

¹³ Liechtenstein has applied this limitation on national treatment to the following modes of supply: cross-border supply, commercial presence, and presence of natural persons.

¹⁴ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

Norway

Norway, like several of the trading partners examined in this report, scheduled commitments on architectural, engineering, and integrated engineering services that accord full market access and national treatment for services provided through cross-border supply, consumption abroad, and commercial presence. With respect to the presence of natural persons, Norway's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

Poland

Poland scheduled fewer commitments on architectural and engineering services than any of the other subject trading partners that made bindings in this sector. While Poland grants full market access and national treatment for cross-border supply, consumption abroad, and the establishment of a commercial presence, Poland's scheduled commitments cover only engineering services. Thus, Poland has reserved the right to impose restrictions on all architectural and integrated engineering service activities.

While industry-specific commitments on the presence of natural persons indicate no limitations on national treatment for foreign service professionals, Poland's limitations on market access under this mode of supply remain unbound except for cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on a market test.¹⁵ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate.

Romania

Romania's sector-specific commitments focus on a comparatively narrow group of services. Those covered include architectural services and certain subsectors related to engineering services.¹⁶ Thus, while Romania lists no limitations on market access and national treatment for cross-border supply, consumption abroad, and the establishment of a

¹⁵ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

¹⁶ These services are covered by CPC codes 8671 (architectural services), 86721 (advisory and consultative engineering services), and 86723 (engineering design services for mechanical and electrical installations for buildings).

commercial presence, key sectors of the industry, including integrated engineering services and engineering design services for civil engineering and industrial works, are not addressed.

With respect to the presence of natural persons, Romania's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of managers and experts.¹⁷ Romania declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Romania may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁸ Romanian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovak Republic

The Slovak Republic accorded full market access and national treatment for architectural, engineering, and integrated engineering services provided by cross-border supply and consumption abroad. With respect to architectural and engineering services, specifically, commitments pertaining to market access for foreign firms wishing to establish a commercial presence state that architects and engineers must be authorized by the Slovak Chamber of Architects, the Slovak Chamber of Authorized Engineers, or comparable foreign institutions. Conditions of residency and nationality apply, though exceptions may be approved for architectural services. Further, national treatment is guaranteed for architectural and engineering services under this particular mode of supply. With respect to integrated engineering services, the Slovak Republic left limitations on commercial presence unbound, indicating that restrictions may be applied on activities within this service sector without penalty.

The Slovak Republic's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives.¹⁹ Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.²⁰ The Slovak Republic's regulatory bodies presumably

¹⁷ Experts are defined as persons who have university degrees in the specialty of the position they occupy.

¹⁸ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

¹⁹ In the case of integrated engineering services, the Slovak Republic's industry specific schedule indicates that measures remain unbound.

²⁰ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovenia

Slovenia's industry-specific commitments apply to the full range of architectural, engineering, and integrated engineering services. Slovenia imposes no restrictions on market access or national treatment for services supplied through a commercial presence or consumption abroad. With respect to cross-border supply, a primary mode of delivery for architectural and engineering services, Slovenia's commitments vary according to the services provided. Commitments on engineering and integrated engineering services list no restrictions on market access for services supplied across national borders, but measures affecting national treatment state that cooperation with established suppliers of planning services is necessary when plans are to be submitted for approval by the proper authorities. In addition, while Slovenia guarantees national treatment for architectural services under this mode of supply, market access limitations are left unbound, indicating that foreign service providers may face restrictions on cross-border trade.

Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Switzerland

Switzerland's industry-specific commitments cover all applicable architectural and engineering services but provide varying degrees of liberalization with respect to each relevant sector. According to Switzerland's schedule, integrated engineering services may be provided through cross-border supply, consumption abroad, or commercial presence without limitation. Commitments on the presence of natural persons remain unbound for integrated engineering services except as indicated in the cross-industry commitments. Commitments on architectural services grant full market access for services rendered on a cross-border basis or through a commercial presence. However, commitments on national treatment for these modes of supply, as well as the presence of natural persons, stipulate that professionals must possess three years of prior experience to operate in the canton of Lucerne. No limitations were scheduled on consumption abroad, while limitations on market access under the presence of natural persons are as noted in Switzerland's cross-industry commitments. Commitments specific to engineering services mirror those for architectural services, except for an additional restriction on national treatment under cross-border supply, commercial presence, and the presence of natural persons. This requirement states that Swiss nationality is necessary for survey activities for official public purposes; foreign surveyors, however, may work under a licensed Swiss surveyor.

Switzerland's limitations on the presence of natural persons are further defined by cross-industry measures permitting the entry and temporary stay of executives, senior managers,

specialists, and business visitors. Senior executives, managers, and specialists employed by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the 2 periods of stay in Switzerland.

Turkey

Turkey scheduled commitments on architectural and engineering services, but declined to address integrated engineering services, indicating that limitations on this sector remain unbound. Industry-specific commitments accord national treatment to foreign service providers for all modes of supply. In addition, Turkey places no limits on market access, under the condition that foreign providers of architectural and engineering services temporarily join the appropriate Union of Chambers before engaging in the supply of these services.

Limitations on the presence of natural persons are further defined by Turkey's cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Executives, managers, and specialists are required to obtain work and residence permits in order to receive a 2-year term of stay which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits.

Commitments on Construction Services

Construction services are principally supplied through sales by affiliates in overseas markets. Therefore, limitations on the establishment and operation of a commercial presence, such as caps on foreign ownership and investment, nationality and residency requirements, and conditions affecting corporate structure, significantly influence the ability of U.S. firms to supply services to foreign consumers. In addition, restrictions on the movement of personnel and difficulties associated with the recognition of credentials and licenses also inhibit trade in these services. Given the nature of trade in construction services, most of the nations under consideration recognized the technical constraints of cross-border supply and scheduled no binding commitments on this mode of delivery. With the exception of Bulgaria, all subject countries that scheduled commitments granted full market access and national treatment with respect to consumption abroad. Consequently, the following analysis focuses on commitments pertaining to commercial presence and the presence of natural persons.

Of the subject trading partners covered in this report, all but Hungary and Liechtenstein²¹ scheduled commitments on construction services (table 12-2). With respect to the primary modes of supply for the construction services industry, the schedules of Poland, Slovenia,

²¹ Liechtenstein did, however, schedule an MFN exemption specific to the construction industry which states that the rights of commercial presence and the presence of natural persons are dependent upon reciprocal treatment for Liechtenstein service providers.

Table 12-2
Highlights of industry-specific restrictions on construction services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria	<p>Market Access: Unbound National Treatment: Unbound</p>	<p>Market Access:</p> <ul style="list-style-type: none"> None, except that market access is limited to natural persons subject to recognition of their technical qualifications and accreditation by a professional chamber in the Republic of Bulgaria. Accreditation is subject to the following criteria: recognition of technical qualification in Bulgaria, experience in the field of construction, and project work in the last two years. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> When a project is of national or regional significance, services may be provided only in partnership with, or as subcontractors of, local service suppliers. This does not apply to projects put up for international bidding and won by foreign service suppliers. Services must be supplied by natural persons subject to recognition of their technical qualifications and accreditation by a professional chamber in the Republic of Bulgaria. <p>Accreditation requirements: project work in the last two years, staff and technical capability, and bank references from a highly ranked foreign bank. In addition, the main scope of the foreign person's activities must be the relevant construction services.</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Market access is limited to natural persons subject to recognition of their technical qualifications and accreditation by a professional chamber in the Republic of Bulgaria. Accreditation is subject to the following criteria: recognition of technical qualification in Bulgaria, experience in the field of construction, and project work in the last two years. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 512 - General construction work for buildings. CPC 5131 - Construction work for highways, streets, roads, other vehicular and pedestrian ways, guardrails, railways, and airfield runways. CPC 5132 Construction work for bridges, elevated highways, tunnels, and subways. CPC 5135 - Construction work for local pipelines and cables; ancillary works. CPC 514 - Assembly and erection of prefabricated constructions. CPC 5161 - Heating, ventilation, and air conditioning work. CPC 5162 - Water plumbing and drain laying work. CPC 51641 - Electrical wire and fitting work. CPC 51643 - Burglar alarm system construction work. CPC 51644 - Residential antenna construction work. CPC 5165 - Installation work (electrical wiring, water, heat, sound).

Table 12-2, *continued*
Highlights of industry-specific restrictions on construction services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria (<i>continued</i>)	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 517 - Building completion and finishing work. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 5133 - Construction work for waterways, harbors, dams, and other waterworks. CPC 5134 - Construction work for long distance pipelines, communication and power lines (cables). CPC 5136 - Construction work for constructions for mining and manufacturing. CPC 5137 - Construction work for constructions for sport and recreation. CPC 5139 - Construction work for engineering works not elsewhere classified. CPC 515 - Special trade construction work. CPC 51642 - Fire alarm construction work. CPC 51649 - Other electrical construction work. CPC 5166 - Fencing and railing construction work. CPC 5169 - Other installation work. CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.

Table 12-2, continued
Highlights of industry-specific restrictions on construction services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Czech Republic	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: Unbound National Treatment: Unbound	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 512 - Construction work for buildings. CPC 513 - Construction for civil engineering. CPC 514 - Assembly and erection of prefabricated constructions. CPC 516 - Installation work. CPC 517 - Building completion and finishing work. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 515 - Special trade construction work. CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.
Iceland	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 512 - Construction work for buildings. CPC 513 - Construction for civil engineering. CPC 514 - Assembly and erection of prefabricated constructions. CPC 516 - Installation work. CPC 517 - Building completion and finishing work. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 515 - Special trade construction work. CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.

Table 12-2, continued
Highlights of industry-specific restrictions on construction services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Norway	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. A building contractor and the supervisor in charge of the work must have lived in Norway for at least one year and continue to be resident in Norway. Exceptions may be granted under special circumstances. If the contractor moves from Norway, the applicant will not be approved before residency is resumed. 	These commitments cover: <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 512 - Construction work for buildings. CPC 513 - Construction for civil engineering. CPC 515 - Special trade construction work. CPC 517 - Building completion and finishing work. CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.
	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. For electrical work, plumbing, and water sanitation, foreign exams granting equivalent competency may be recognized on a case by case basis. 	These commitments cover: <ul style="list-style-type: none"> CPC 514 - Assembly and erection of prefabricated constructions. CPC 516 - Installation work.

Table 12-2, continued
Highlights of industry-specific restrictions on construction services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Poland	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 512 - Construction work for buildings. CPC 513 - Construction for civil engineering. CPC 514 - Assembly and erection of prefabricated constructions. CPC 515 - Special trade construction work. CPC 516 - Installation work. CPC 517 - Building completion and finishing work. CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.
Romania	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> None except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 512 - Construction work for buildings. CPC 513 - Construction for civil engineering. CPC 514 - Assembly and erection of prefabricated constructions. CPC 516 - Installation work. CPC 517 - Building completion and finishing work. These commitments exclude: <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 515 - Special trade construction work. CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.

Table 12-2, *continued*

Highlights of industry-specific restrictions on construction services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Slovak Republic	<p>Market Access: Unbound National Treatment: Unbound</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: Unbound National Treatment: Unbound</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 512 - Construction work for buildings. CPC 513 - Construction for civil engineering. CPC 514 - Assembly and erection of prefabricated constructions. CPC 516 - Installation work. CPC 517 - Building completion and finishing work. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 515 - Special trade construction work. CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.
Slovenia	<p>Market Access: Unbound National Treatment: Unbound</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Commercial presence required. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Commercial presence required. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 512 - Construction work for buildings. CPC 513 - Construction for civil engineering. CPC 514 - Assembly and erection of prefabricated constructions. CPC 516 - Installation work. CPC 517 - Building completion and finishing work.
	<p>Market Access: Unbound National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Commercial presence required. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 515 - Special trade construction work. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.

Table 12-2, continued
Highlights of industry-specific restrictions on construction services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Switzerland	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 512 - Construction work for buildings. CPC 5131 - Construction work for highways (except elevated highways), streets, roads, railways, and airfield runways. CPC 5132 - Construction work for bridges, elevated highways, tunnels, and subways. CPC 517 - Building completion and finishing work.
	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> Unbound for installations in the area of energy, heating, water, communications, and elevators. 	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Unbound for installations in the area of energy, heating, water, communications, and elevators. 	These commitments cover: <ul style="list-style-type: none"> CPC 514 - Assembly and erection of prefabricated constructions. CPC 516 - Installation work. These commitments exclude: <ul style="list-style-type: none"> CPC 5133 - Construction work for waterways, harbors, dams, and other waterworks. CPC 5134 - Construction work for long distance pipelines, communication and power lines (cables). CPC 5135 - Construction work for local pipelines and cables; ancillary works. CPC 5136 - Construction work for constructions for mining and manufacturing. CPC 5137 - Construction work for constructions for sport and recreation. CPC 5139 - Construction work for engineering works not elsewhere classified. CPC 515 - Special trade construction work. CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.

Table 12-2, continued
Highlights of industry-specific restrictions on construction services

Trading Partner ¹	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Turkey	<p>Market Access: None</p> <ul style="list-style-type: none"> Responsible engineers or architects of the firm must be temporary members of the related Union of Chambers. <p>National Treatment:</p> <ul style="list-style-type: none"> For investments that are not subject to patent and can be carried out with the technology used in Turkey, investor public entities will give priority to domestic firms for work which they cannot perform such as architectural, engineering, and consultancy services. Excluded are projects financed by international institutions. With respect to government tenders, the ratio of discrimination in favor of national companies shall be determined by the Ministry according to the decision of the Council of Ministers. Advantage up to 15 percent may be obtained in favor of national companies, however, this issue and ratio (also the system applied if partnership between national and foreign companies exists) should be mentioned in the bid contract. 	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> For construction services, the establishment of an ordinary partnership under the Civil Code (which is not a legal entity), excluding ordinary partnerships formed by non-residents for international tenders in Turkey, is subject to permission from the Ministry of the Undersecretariat of Treasury and Foreign Trade. <p>National Treatment: None</p>	<p>Market Access: None</p> <ul style="list-style-type: none"> Responsible engineers or architects of the firm must be temporary members of the related Union of Chambers. <p>National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 512 - Construction work for buildings. CPC 513 - Construction for civil engineering. CPC 514 - Assembly and erection of prefabricated constructions. CPC 516 - Installation work. CPC 517 - Building completion and finishing work. <p>These commitments exclude:</p> <ul style="list-style-type: none"> CPC 511 - Pre-erection work at construction sites. CPC 515 - Special trade construction work. CPC 518 - Renting services related to equipment for construction or demolition of building or civil engineering works, with operator.

12-25

¹ Hungary and Liechtenstein did not schedule commitments in construction services.

Iceland, and Romania are relatively broad in scope and provide significant benchmarks for principal sectors of the industry. Other nations excluded certain service sectors or chose to maintain specific barriers to trade in construction services through restrictions on commercial presence and the presence of natural persons.

Bulgaria

Bulgaria made commitments on select construction services, scheduling commitments on market access and national treatment with respect to commercial presence and the presence of natural persons. Services excluded from Bulgaria's schedule include pre-erection construction work, special trade construction work, certain installation services, and renting services related to construction equipment. Construction services for civil engineering projects not covered by Bulgaria's commitments include construction work for waterworks, pipelines, power lines, mining and manufacturing works, sports and recreation facilities, and auxiliary engineering works.

With respect to industry-specific measures, Bulgaria singled out building completion and finishing work (CPC 517), scheduling commitments to accord full market access and national treatment for services provided through a commercial presence. Limitations on the presence of natural persons for this sector remain unbound except as indicated in the cross-industry commitments. For the remaining construction services covered by Bulgaria's national schedule, partial commitments on market access apply to services delivered through a commercial presence. Projects of national or regional significance require that foreign service providers act in partnership with, or as subcontractors of, local service suppliers.²² In addition, services must be supplied by natural persons, accredited in Bulgaria, who must provide bank references and limit the scope of their activities to the relevant construction services covered by these commitments. Accreditation requires construction professionals to demonstrate experience in the field of construction, recent project work, staff capacity, and technical ability. Regarding national treatment, Bulgaria's schedule indicates that, for those services covered by the schedule, foreign and domestic firms are treated equally. Bulgaria scheduled further partial measures on market access under the presence of natural persons, which state that services must be supplied by natural persons, subject to the aforementioned accreditation requirements.

Limitations on market access and national treatment for services provided through the presence of natural persons are further defined by the country's cross-industry schedule, which designates permissible lengths of stay for senior executives, specialists and other business professionals. Intra-corporate transfers of senior executives and specialists employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.²³ Residence and work permits are required for such intra-corporate transferees. Additional personnel engaged in sales negotiations or arrangements pertaining to the initial

²² This regulation does not apply to projects put up for international bidding and won by foreign service suppliers.

²³ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa.

Czech Republic

The Czech Republic scheduled commitments on nearly all sectors of the construction industry but chose not to address special construction work and renting services. Despite the broad coverage of the Czech Republic's industry-specific schedule, commitments on the establishment and operation of a commercial presence remain unbound, indicating that restrictions may be imposed without penalty. As this mode of supply is most appropriate for these services, the Czech Republic's schedule does not provide effective benchmarks for key activities within the construction services industry.

With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel. Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.²⁴ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Iceland

Iceland's schedule covers significant sectors of the construction industry although Iceland did not offer commitments pertaining to pre-erection work, special trade construction work, and renting services. With respect to those services covered by Iceland's industry-specific commitments, full market access and national treatment are guaranteed for foreign service providers who wish to establish a commercial presence. Industry-specific measures on the presence of natural persons accord national treatment for construction service professionals but leave market access limitations unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Iceland declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Iceland may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.²⁵ Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

²⁴ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

²⁵ *Ibid.*

Norway

Norway was one of two subject nations that scheduled commitments on all applicable construction service sectors. Norway's commitments on these sectors ensure full market access and national treatment for services provided through a commercial presence. With respect to the presence of natural persons, industry-specific commitments on national treatment state that both the building contractor and supervisor in charge of a particular project must have lived in Norway for at least 1 year, and continue residency throughout the project, though exceptions may be granted. However, these conditions do not apply to construction work pertaining to the assembly and erection of prefabricated constructions (CPC 514) and installation work (CPC 516), for which separate measures on national treatment state that foreign exams granting equivalent competency in electrical work, plumbing, and water sanitation may be recognized on a case-by-case basis.

Restrictions on the presence of natural persons are further defined by the country's cross-industry commitments, which permit the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

Poland

Of the East European trading partners examined in this report, Poland's schedule offers the most significant benchmarks for foreign service providers. Poland's sector-specific commitments cover all applicable sectors of the construction services industry and accord full market access and national treatment for services provided through a commercial presence.

Poland's industry-specific commitments also guarantee national treatment for foreign service providers under the presence of natural persons, but market access limitations remain unbound except as indicated by cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. These measures further state that intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on a market test.²⁶ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate.

²⁶ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

Romania

Like several of the East European nations that made bindings in this sector, Romania guarantees full market access and national treatment for services provided through a commercial presence. These measures apply to key sectors of the industry, but exclude pre-erection work, special trade construction work, and renting services.

With respect to the presence of natural persons, Romania's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of managers and experts.²⁷ Romania declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Romania may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.²⁸ Romanian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovak Republic

The Slovak Republic addresses several key sectors of the construction industry, but chose not to include special trade construction work and renting services in its industry-specific schedule. Despite the broad range of coverage, limitations on market access and national treatment with respect to the establishment and operation of a commercial presence remain unbound, indicating that the Slovak Republic may impose limitations on services delivered via this mode of supply without penalty.

The Slovak Republic's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.²⁹ The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

²⁷ Experts are defined as persons who have university degrees in the specialty of the position they occupy.

²⁸ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

²⁹ Ibid.

Slovenia

Slovenia's schedule covers all construction service sectors except renting services related to the operation of construction equipment. Slovenia guarantees full market access and national treatment to construction service providers who wish to establish a commercial presence. With respect to the presence of natural persons, industry-specific measures pertaining to market access and national treatment stipulate that a commercial presence is required.

Limitations on the presence of natural persons are further defined by Slovenia's cross-industry measures governing the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Switzerland

Switzerland's commitments on construction services cover a relatively broad range of services, yet exclude special trade construction work, renting services, and construction services for certain civil engineering projects. For all scheduled sectors, Switzerland accords full market access to foreign service providers operating through a commercial presence. Switzerland's commitments list no restrictions on national treatment for this mode of supply, except for certain conditions related to installation work and the assembly and erection of prefabricated constructions. For these services, limitations on national treatment under commercial presence and the presence of natural persons are left unbound in the areas of energy, heating, water, communications, and elevators. For all remaining services, limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers, specialists, and business visitors. Senior executives, managers, and specialists employed by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the 2 periods of stay in Switzerland.

Turkey

Like several of the trading partners under consideration, Turkey addressed significant sectors of the construction industry, but did not offer commitments pertaining to pre-erection work, special trade construction work, and renting services. With respect to the primary modes of supply under consideration for construction services, Turkey scheduled partial commitments on market access. For services delivered through a commercial presence, permission from the Ministry of the Undersecretariat of Treasury and Foreign Trade is required for certain partnerships established under the Civil Code. With respect

to the presence of natural persons, Turkey requires that foreign service providers³⁰ in a position of responsibility become temporary members of the related Union of Chambers. Industry-specific measures on these modes of supply indicate that foreign service providers face no restrictions on national treatment beyond those outlined in the nation's cross-industry commitments.

Turkey's cross-industry measures define the terms for the entry and temporary stay of executives, managers, specialists, and service sellers; and certain significant restrictions concerning national treatment. Executives, managers, and specialists are required to obtain work and residence permits in order to receive a 2-year term of stay which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits.

As noted, most of the subject countries recognized the technical constraints of cross-border supply and therefore scheduled no binding commitments. Turkey was the only nation to list detailed restrictions on cross-border supply, which may impede foreign firms' ability to provide certain services in the Turkish market. Commitments on market access stipulate that engineers or architects of a foreign firm must temporarily join the related Union of Chambers. In addition, approval from the Ministry of Public Works for the employment of foreign specialists may be necessary in cases where foreign contractors or establishments have contracted with select national parties. Restrictions on national treatment further indicate that investors must give priority to domestic firms with respect to architectural, engineering, and consultancy services that cannot be carried out by the investing entity. Excluded from these regulations are investments subject to patent, investments that cannot be carried out given the local state of technology, and projects financed by international institutions. Further, Turkey reserves the right to support national companies with respect to government tenders. Advantage in favor of national firms is determined by the Council of Ministers and may reach 15 percent, though details of the determined ratio must be mentioned in the bid contract.

Industry Opinion

The cumulative market for architectural, engineering, and construction services in the subject countries is relatively small. U.S. firms are only minimally represented in these nations,³¹ some of which have posted negative growth rates in the construction services industry in the past few years.³² However, a potential market for U.S. design and construction services exists as the rapid development of certain subject countries has generated a tremendous need for power facilities, transportation infrastructure, and housing. One of the largest potential markets is Poland, which has initiated plans to build 2,500 kilometers of roads during the next 15 years and expects the construction sector to grow by

³⁰ Turkey specifically lists engineers and architects as those foreign service professionals required to join the Union of Chambers.

³¹ Industry representatives, interviews by USITC staff, Budapest, Hungary, Feb. 23, 1998, and Prague, the Czech Republic, Mar. 30, 1998.

³² "Eastern Promise," *International Construction*, Feb. 1998, p. 15.

a record 17 percent in 1998.³³ Likewise, construction in Hungary, spurred by continued infrastructure development, and the Czech Republic, where commercial construction is expanding and funds have been allocated to rebuild roads and bridges damaged by mass flooding in 1997, is expected to increase at rates of 8 percent and 6 percent, respectively.³⁴

Despite an apparent need for design and construction services, U.S. architectural, engineering, and construction firms face certain constraints in the subject markets. In some nations, strong local participation in the AEC services sector has left a slim share of the market for foreign service providers. Turkey, for example, has many experienced design professionals³⁵ and local providers serve 80 percent of the domestic market for AEC services.³⁶ Hungary also boasts a strong and talented local industry,³⁷ and Switzerland's domestic service providers reportedly fulfill the majority of local demand for architectural, engineering, and construction services.³⁸ In addition, while U.S. service providers often choose to partner with local firms in overseas markets to benefit from the regional expertise and professional networks of foreign national employees, firms operating in the subject markets find that affiliation is less an option than a necessity. In Poland, for example, foreigners cannot work without full Polish credentials, thus affiliation with a Polish firm is required.³⁹ The necessity of local affiliation may inhibit new entrants in the market for AEC services and translate into additional costs for established players. While mutual recognition agreements would afford greater autonomy to foreign service providers, such agreements have yet to be established with most of the countries under consideration.

Bid procedures are an additional concern of U.S. companies working in the subject nations. Firms find that information on bids is not equally distributed to all interested parties, and believe that local firms receive preference in participating in public bids.⁴⁰ Further deterrents include lengthy bid procedures and the cancellation and reopening of bids, as reportedly occurs in Turkey.⁴¹ Further, the ability to include long-term financing for projects is often a key factor in the success of bid proposals. Due to shortages of capital, the build-operate-transfer (BOT)⁴² method of finance is encouraged in several of the subject countries. Poland and Hungary currently have several BOT projects underway, and Turkey

³³ Ibid.; and "EU Grants Aid for Polish Motorways," *International Construction*, Feb. 1998, p. 74.

³⁴ "Eastern Promise," *International Construction*, Feb. 1998, p. 15.

³⁵ Industry representative, interview by USITC staff, Ankara, Turkey, Feb. 25, 1998.

³⁶ USDOC, International Trade Administration (ITA), "Turkey – Civil Engineering & Consulting Services," Aug. 1, 1997, found at Internet address <http://www.stat-usa.gov>, retrieved Oct. 15, 1997.

³⁷ Industry representative, interview by USITC staff, Budapest, Hungary, Feb. 23, 1998.

³⁸ Industry representative, interview by USITC staff, Zurich, Switzerland, Apr. 3, 1998.

³⁹ USDOC, ITA, "Poland – National Highway Program," Mar. 1, 1996, found at Internet address <http://www.stat-usa.gov>, retrieved June 12, 1997.

⁴⁰ Industry representatives, interviews by USITC staff, Budapest, Hungary, Feb. 20, 1998, and Prague, the Czech Republic, Mar. 30, 1998.

⁴¹ USDOC, ITA, "Turkey – Civil Engineering & Consulting Services," Aug. 1, 1997, found at Internet address <http://www.stat-usa.gov>, retrieved Oct. 15, 1997.

⁴² Under such arrangements, a developer builds and operates a project long enough to regain construction costs and turn a profit before transferring the operation to state ownership.

has passed legislation to facilitate the use of this method for various works.⁴³ While industry sources note that the ability to bring financing to projects is a key competitive advantage of U.S. firms operating overseas,⁴⁴ the preference toward BOT and similar methods of finance may effectively bar small firms from participation in the market and raise the level of risk for those companies able to provide the necessary funding.

Summary

While the GATS commitments of certain subject countries reflect a degree of liberalization, considerable restrictions remain for U.S. providers of architectural, engineering, and construction services as few countries chose to schedule full commitments on the complete range of services. With respect to architectural and engineering services, the schedules of Iceland and Hungary made the greatest progress in terms of establishing benchmarks and improving transparency, while those of Poland and Romania appeared to offer the least progress. As for construction services, the schedules of Iceland, Poland, Romania, and Slovenia went furthest, while Hungary and Liechtenstein offered no commitments at all.

The ongoing development of many of the subject countries will lead to additional growth in infrastructure and commercial development, increasing the demand for AEC services. In addition, a portion of the market for AEC services is untapped by U.S. firms which are primarily involved in projects with international financing, contracts with large multinational corporations, and projects for which the local industry lacks the necessary expertise and experience. Thus, access to an existing and expanding market could be enhanced if all countries scheduled broader commitments encompassing the full range of architectural, engineering, and construction services.

⁴³ "Hungary is Hungry for Projects," *Engineering News-Record*, Feb. 2, 1998, p. 16; USDOC, ITA, "Poland – National Highway Program," Mar. 1, 1996, found at Internet address <http://www.stat-usa.gov>, retrieved June 12, 1997; and U.S. Department of State telegram, "Turkish Energy: Build-Operate Legislation," message reference No. 007042, prepared by U.S. Embassy, Ankara, July 1997.

⁴⁴ Industry representatives, interview by USITC staff, Ankara, Turkey, Feb. 25, 1998.

CHAPTER 13

Land Transportation Services¹

Introduction

For the purpose of this study, land transportation services are defined as railroad transportation (both passenger and freight); road transportation (both passenger and freight); other transportation, such as pipeline transportation; auxiliary freight services, such as warehousing and the arrangement of transportation of freight and cargo; and other auxiliary services.² This report does not address air or maritime transportation services as these sectors were not included in the study request.

International Trade in Land Transportation Services

International trade in land transportation services comprises both cross-border transactions and sales by affiliates. The nature of the transportation service provided usually determines the mode of delivery that is used. For some types of transportation services, geographic proximity (to the United States) determines whether or not a permanent commercial presence is required to provide the services. For example, a U.S. trucking firm could not provide transportation in Bulgaria without a commercial presence there. However, a U.S. trucker could provide transportation to Canada with or without a commercial presence in that country. For other transportation services, such as freight forwarding, a commercial presence is not necessary. These services involve only the arrangement of freight transportation. Because the modes of supply vary depending upon both the type of service provided and the geographic location of the countries involved, it is not possible to determine the relative importance of cross-border transactions and sales by affiliates.

Cross-Border Transactions

The largest components of U.S. trade in land transportation services covered by this report include freight transportation by truck and rail, port services other than maritime, and

¹ Among the individuals consulted by USITC staff in preparation of this report were those affiliated with the following organizations: American Trucking Association (ATA), Association of American Railroads, National Customs Brokers and Forwarders Association of America, Ryder System, Inc., Schneider National, Inc., and other industry officials.

² Land transportation services are included in the U.N. Central Product Classification (CPC) codes 7111, rail passenger transport; 7112, rail freight transport; 7113, rail pushing and towing; 8868, maintenance and repair of rail transport equipment; 743, supporting services for rail transport; 7121 and 7122, road passenger transport; 7123, road freight transport; 7124, rental of commercial vehicles with operator; 6112 and 8867, maintenance and repair of road transport equipment; 744, supporting services for road transport; 7131 and 7139, pipeline transportation of fuels and other goods; 741, cargo-handling services; 742, storage and warehousing services; 748, freight transport agency services; and 749, other services auxiliary to all modes of transport.

auxiliary transportation services. In 1996, U.S. cross-border exports of these transportation services totaled \$4.2 billion, whereas imports totaled \$3.6 billion (figure 13-1). During 1991-96, cross-border exports increased by an average annual rate of 9 percent, while annual imports increased by 4 percent on average, resulting in a trade surplus of approximately \$600 million in 1996. Canada represents the largest market for U.S. exports of land transportation services, accounting for approximately 56 percent of total cross-border exports in 1996 (figure 13-2). The Asia/Pacific region as a whole is the second-largest cross-border export market, with approximately 21 percent of the total. In comparison, the trading partners covered in this study accounted for less than 1 percent of U.S. cross-border exports of all land transportation services.

Sales by Majority-Owned Affiliates

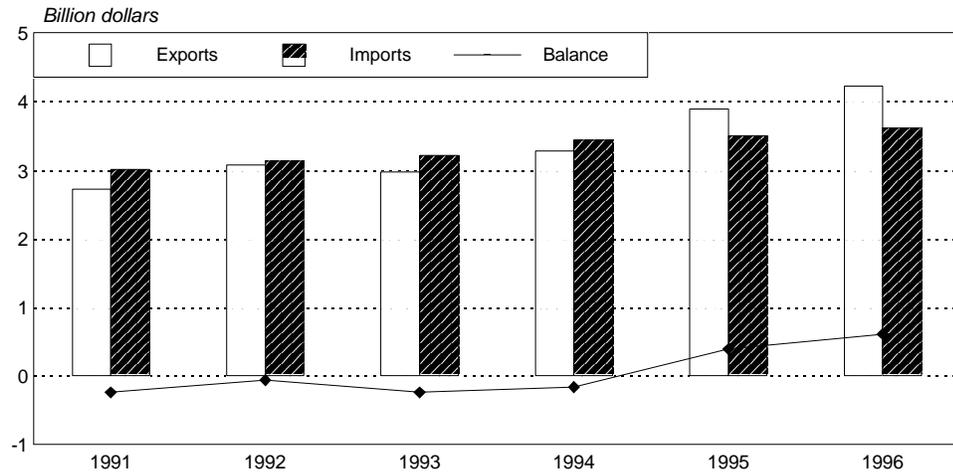
Data for sales by majority-owned affiliates are available only in highly aggregated form, and country or regional breakouts are not available because certain data have been suppressed to avoid disclosing confidential information. Sales of all transportation services to foreign persons by majority-owned foreign affiliates of U.S. companies totaled \$9.5 billion in 1995. This includes receipts for land, air, and maritime transportation. Purchases of all transportation services (including air and maritime) through majority-owned U.S. affiliates of foreign companies totaled approximately \$11.2 billion in 1995.

Examination of Commitments on Land Transportation Services

As observed above, land transportation services are provided to foreign consumers through both cross-border trade and sales by overseas affiliates. The types of trade barriers common in this industry vary according to the type of transport service. For example, freight forwarders and customs brokers are often subject to restrictive licensing requirements, customs brokers are often subject to nationality restrictions, and cabotage (i.e., domestic point-to-point service) is usually reserved for domestic providers. Limitations to commercial presence, such as investment barriers and other establishment restrictions, affect the ability of most U.S. transportation service providers to enter foreign markets. In addition, land transportation service providers are affected by the lack of standardized operational rules and regulations, an issue that was not addressed by the GATS.

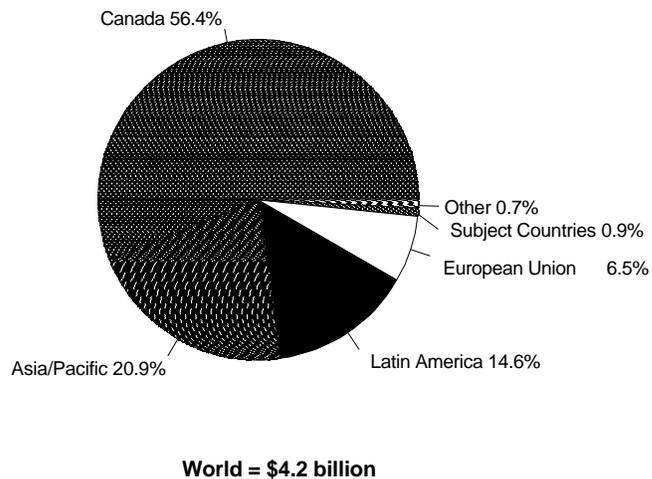
Among the 12 country schedules examined, only Poland did not schedule any commitments on land transportation services (table 13-1). The scope of commitments scheduled ranged from fairly narrow to extensive, with the Czech Republic and the Slovak Republic scheduling commitments only on maintenance and repair of road and rail transport equipment, whereas Switzerland's commitments extended to most land transportation sectors. In terms of mode of supply, limitations on foreign service providers are most prevalent for services provided through a commercial presence.

Figure 13-1
Cross border trade in land transportation services: U.S. exports, imports, and trade balance, 1991-96



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Sept. 1995, Nov. 1996, and Oct. 1997.

Figure 13-2
Land transportation services: U.S. cross-border exports, by principal markets, 1996



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Table 13-1
Highlights of industry-specific restrictions on land transportation services

		Mode of Supply				
Trading Partner ¹	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments	
Bulgaria	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 6112 and 8867 - Maintenance and repair of road transport equipment. CPC 742 - Storage and warehouse services auxiliary to road transport. CPC 8868 - Maintenance and repair of rail transport equipment. These commitments exclude: <ul style="list-style-type: none"> The transportation (incl. transit transportation) of waste and refuse, dangerous goods, substances and materials, military or paramilitary equipment, drugs and similar goods. The same applies to all services relating to such transportation. 	
	Market Access: <ul style="list-style-type: none"> Commercial presence required. National Treatment: None	Market Access: <ul style="list-style-type: none"> Commercial presence required. National Treatment: None	Market Access: <ul style="list-style-type: none"> Foreign persons can supply services only through participation in Bulgarian companies (with 49 percent limitation on equity participation) and through branches. National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 748 - Freight transport agency services. CPC 749 - Other supporting and auxiliary transport services, excluding local pick-up and delivery. 	

Table 13-1, *continued*
 Highlights of industry-specific restrictions on land transportation services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria (continued)					MFN exemption on passenger and freight transport services: <ul style="list-style-type: none"> • Future and existing agreements with any country, which govern access or traffic rights and the terms of conduct for rail transportation, or reserve and/or restrict the supply of road transportation, including transit permits and/or preferential road taxes, are exempt. • Vehicle tax and VAT are exempt on the basis of reciprocity for Austria and other European countries.
Czech Republic	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: Unbound National Treatment: Unbound	Market Access: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> • CPC 6112 and 8867- Maintenance and repair of road transport equipment.
	Market Access: <ul style="list-style-type: none"> • Unbound due to lack of feasibility for rail transport services. National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: Unbound National Treatment: Unbound	Market Access: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> • CPC 8868 - Maintenance and repair of rail transport equipment. MFN Exemption on passenger and freight transport services: <ul style="list-style-type: none"> • Future and existing agreements with any country, which reserve or limit road transportation and specify operating conditions, including transit permits and/or preferential road taxes, are exempt. • Future and existing agreements with any country, which regulate rail transportation traffic rights and operating conditions, are exempt.

Table 13-1, *continued*

Highlights of industry-specific restrictions on land transportation services

Mode of Supply					
Trading Partner	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments
Hungary	<p>Market Access: Unbound National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: <ul style="list-style-type: none"> Services may be provided through a Contract of Concession granted by the state or the local authority. National Treatment: None</p>	<p>Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. </p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7111, 7112 - Rail transport services, both passenger and freight. CPC 713 - Pipeline transport services.
	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. </p>
Iceland	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: <ul style="list-style-type: none"> Authorization required for commercial land transport services. Numerical quotas may be imposed as well as exclusive licenses for certain areas or routes.² National Treatment: None</p>	<p>Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7121, 7122 - Scheduled and non-scheduled road passenger transportation.
	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None</p>

Table 13-1, *continued*
Highlights of industry-specific restrictions on land transportation services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Iceland (<i>continued</i>)	Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 742 - Storage and warehousing services.
Liechtenstein	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7121 - Passenger road transport, regular, "closed door" tours only. CPC 7122 - Non-scheduled passenger road transport, excluding empty entrance, cabotage, and taxi services. CPC 7124 - Rental of commercial road transport vehicles with operator. CPC 748 - Freight transport agency services. CPC 749 - Other auxiliary transport services, excluding local pick-up and delivery.
	Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 6112 and 8867 - Maintenance and repair of road transport equipment. CPC 741 Cargo handling services. CPC 742 - Storage and warehouse services. MFN exemption on passenger and freight road transport services: <ul style="list-style-type: none"> Any country with a bilateral treaty with Liechtenstein may transport goods or passengers in, into, out of, or in transit through Liechtenstein by vehicles registered in that country on the basis of mutual access to the market.

Table 13-1, *continued*

Highlights of industry-specific restrictions on land transportation services

		Mode of Supply				
Trading Partner	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments	
Norway	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7113 - Rail transport pushing and towing services. CPC 743 - Supporting services for rail transport. CPC 744 - Supporting services for road transport. 	
	Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8868 - Maintenance and repair of rail transport equipment, excluding undefined services. 	
	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Passenger transportation shuttle services and other regular trips require commercial presence, economic needs test required. National Treatment: <ul style="list-style-type: none"> Use of vehicles with national registration required. 	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7121, 7122, 7123 - Road passenger and freight transport services, excluding cabotage. MFN exemption on passenger and freight road transport services: <ul style="list-style-type: none"> Future and existing agreements with any country, which reserve traffic rights for carriage to/from Norway and between third countries, or which allow road cabotage, are exempt. 	

Table 13-1, *continued*

Highlights of industry-specific restrictions on land transportation services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Romania	<p>Market Access: Unbound National Treatment: Unbound</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> None, except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7121, 7122, 7123 - Road passenger and freight transport services, excluding cabotage. <p>MFN exemption on passenger and freight road transportation:</p> <ul style="list-style-type: none"> The following countries may transport goods or passengers in Romania, excluding road cabotage: Austria, Albania, Belgium, Bulgaria, Czech Republic, Cyprus, Croatia, Denmark, Switzerland, Latvia, Lithuania, France, Finland, Italy, Iran, Germany, Greece, Luxembourg, Great Britain, Norway, Netherlands, Poland, Portugal, Spain, Sweden, Slovak Republic, Syria, Slovenia, Turkey, and Hungary.
Slovak Republic	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	<p>Market Access: None National Treatment: None</p>	<p>Market Access: Unbound National Treatment: Unbound</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 6112 and 88687- Maintenance and repair of road transport equipment, excluding undefined services. CPC 8868 - Maintenance and repair of rail transport equipment. <p>MFN exemption on passenger and freight rail and road transport services:</p> <ul style="list-style-type: none"> Future and existing agreements with any country, which reserve or limit road transportation and specify operating conditions, including transit permits and/or preferential road taxes, are exempt. Future and existing agreements with any country, which regulate traffic rights, operating conditions, and the provision of transport services, are exempt.

Table 13-1, *continued*

Highlights of industry-specific restrictions on land transportation services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Republic of Slovenia	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 6112 - Maintenance and repair of road transport equipment, excluding undefined services. CPC 749 - Preshipment inspection services only.
	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 742 - Storage and warehouse services.
	Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 8868 - Maintenance and repair of rail transport equipment, excluding undefined services.
	Market Access: None National Treatment: <ul style="list-style-type: none"> Customs clearance is subject to limitation to juridical person established in the Republic of Slovenia. 	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> Customs clearance is limited to juridical person established in the Republic of Slovenia. 	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 748 - Freight transport agency services. MFN exemption on passenger and freight road transport services: <ul style="list-style-type: none"> Future and existing agreements with any country, which reserve or limit road transportation and specify operating conditions, including transit permits and/or preferential road taxes are exempt.
Switzerland	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Concession required, for which there has to be a need for railway service and there is no other means of transport which could handle that service in a more ecologically and economically reasonable way. National Treatment: None	Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7111 - Rail passenger transportation. 7112, 7113 - Rail freight transportation, including pushing and towing.

Table 13-1, *continued*
Highlights of industry-specific restrictions on land transportation services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Switzerland (<i>continued</i>)	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> • Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> • CPC 7121 - Road passenger transport services, "closed-door" tours only. • CPC 7122 - Other non-scheduled road transport services, excluding empty entrance, cabotage, and taxi services. • CPC 7124 - Rental of commercial freight vehicles with operator. • CPC 748 - Freight transport agency services. • CPC 749 - Other supporting and auxiliary transport services, excluding local pick-up and delivery services.

Table 13-1, *continued*

Highlights of industry-specific restrictions on land transportation services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Switzerland (<i>continued</i>)	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 6112 and 8867 - Maintenance and repair of road transport equipment. CPC 8868 - Maintenance and repair of rail transport equipment, excluding undefined services. CPC 741 - Cargo handling services. CPC 742 - Storage and warehouse services. <p>MFN exemption on road transport services:</p> <ul style="list-style-type: none"> Any country with a bilateral treaty with Switzerland may transport goods or passengers in, into, out of, or in transit through Switzerland by vehicles registered in that country on the basis of mutual access to the market. Transit quota may be allocated for perishable or otherwise urgent cargo by trucks heavier than 28 tons registered in EC countries if the capacity of combined transport is exhausted.
Turkey	<p>Market Access:</p> <ul style="list-style-type: none"> Internal rail transportation is a public monopoly. <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Internal rail transportation is a public monopoly. <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC7111, 7112 - Rail freight and passenger transportation.

Table 13-1, continued
Highlights of industry-specific restrictions on land transportation services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Turkey (continued)	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Turkish citizenship or being a legal entity established under the relevant Turkish laws is required to obtain a carrier license and in order to become an international transporter. National Treatment: None	Market Access: None National Treatment: None	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7121, 7122, 7123 - Road passenger and freight transportation. <p>MFN exemption on all transport services:</p> <ul style="list-style-type: none"> Transit or bilateral transport services can be excluded from the VAT for any country on the condition of reciprocity for foreign residents who do not have legal and business centers in Turkey. Turkey may apply restrictions, prohibitions, different treatments, and different tariffs, to goods and transportation vehicles to any country which applies like restrictions to Turkey. Income and corporate tax rate for foreign road transportation companies may be decreased to zero or increased to a rate not exceeding one fold of the existing rate for any country on the basis of reciprocity. <p>MFN exemptions on road transport services:</p> <ul style="list-style-type: none"> Turkey may grant privileges regarding quotas and fees, and exemptions from the permission procedures for certain countries.³

Table 13-1, *continued*

Highlights of industry-specific restrictions on land transportation services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Turkey (<i>continued</i>)					MFN Exemption on rail transport services: <ul style="list-style-type: none"> • On a bilateral basis, Turkey may reduce renting fees of railway wagons with the following countries: Syria, Iraq, Iran, and Lebanon. • Turkey may apply national treatment to tariff rates on reciprocal transportation of goods with the following countries: the Commonwealth of Independent States, and the Baltic Republic.

¹ Poland did not schedule commitments on land transportation services.

² Further questions must be asked due to contradictory limitations listed in the schedule of commitments.

³ The exemption applies to the following countries: Afghanistan, Austria, Belgium, Bulgaria, the Former Czechoslovakia, Denmark, Germany, Finland, France, The Netherlands, Iraq, United Kingdom, Iran, Sweden, Switzerland, Italy, Kuwait, Hungary, Norway, Poland, Romania, the Former Yugoslavia, Greece, Syria, Saudi Arabia, Jordan, Luxembourg, Albania, Ukraine, Slovenia, Moldova, Egypt, Lithuania, Macedonia, and Lebanon.

With the exception of Iceland and Poland, all countries scheduled most-favored-nation (MFN) exemptions pertaining to land transport. These exemptions, of indefinite duration, reserve the right to extend preferential treatment to selected trading partners. Six countries exempted future and existing agreements with any country. The exemptions scheduled by Bulgaria, the Czech Republic, and the Slovak Republic apply to road and rail transportation services, while the exemptions scheduled by Hungary, Norway, and the Republic of Slovenia apply to road transportation services only. Other MFN exemptions relating to transportation services are noted in the following country discussions.

Bulgaria

Bulgaria's commitments on land transportation services cover maintenance and repair of road and rail transport equipment, storage and warehousing services auxiliary to road transport, freight transport agency services, and other supporting and auxiliary services, excluding local pick-up and delivery. Bulgaria did not schedule commitments in the areas of railroad transportation, pipeline transportation, or cargo handling services. With respect to maintenance and repair of road transport equipment, storage and warehousing services auxiliary to road transport, and maintenance of rail transport services, Bulgaria grants full market access and national treatment for services provided through consumption abroad and commercial presence while leaving unbound limitations on services provided through cross-border supply.²

With respect to freight transport agency services and other supporting and auxiliary transport services, excluding local pick-up and delivery, Bulgaria accords national treatment for services provided through cross-border supply and consumption abroad, but indicates that market access is contingent upon establishing a commercial presence. For the provision of these services through a commercial presence, national treatment is granted, but market access is limited in that foreign persons may only serve as minority partners in Bulgarian companies and branches.³

Bulgaria's limitations on the presence of natural persons remain unbound except for cross-industry measures designating permissible lengths of stay for senior executives, specialists⁴ and other business professionals. Intra-corporate transfers of senior executives and specialists employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.⁵ Residence and work permits are required for such intra-corporate

² These commitments exclude the transportation (including transit transportation) of waste and refuse, dangerous goods, substances and materials, military or paramilitary equipment, drugs and similar goods. The same applies to all services relating to such transportation.

³ The market access limitation on foreign equity appears to contradict Bulgaria's commitment to accord full national treatment since it indicates that foreign firms are treated differently from domestic firms.

⁴ Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

⁵ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

transferees. Additional personnel engaged in sales negotiations or arrangements pertaining to the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa.

Bulgaria scheduled an MFN exemption on road passenger and freight transportation services which indicates that Austria and other European countries are not subject to a vehicle tax and a value-added tax (VAT) on the basis of reciprocity. This exemption could decrease costs for transportation service providers from these countries. Bulgaria also listed an MFN exemption on passenger and freight transportation services through which it reserves the right to accord preferential treatment to any country in connection with future and existing agreements regarding road or rail transportation. Through this exemption, Bulgaria retains broad discretion to further liberalize or restrict these services.

Czech Republic

The Czech Republic's commitments are limited to maintenance and repair of road and rail transport equipment. Other land transportation services are not addressed. For road and rail transport equipment maintenance, the Czech Republic accords full market access and national treatment only for services provided through consumption abroad, while limitations on such services supplied across borders or via a commercial presence remain unbound.⁶ With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of certain personnel. Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.⁷ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

The Czech Republic listed MFN exemptions on passenger and freight transport services. Through these exemptions, the Czech Republic retains broad discretion to accord preferential treatment to any country in connection with future and existing agreements.

⁶ The Czech Republic's schedule notes that market access for cross-border supply is unbound due to the lack of technical feasibility for rail transport services.

⁷ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

Hungary

Hungary's commitments cover rail and pipeline transportation services, maintenance and repair of road and rail transport equipment, and storage and warehousing services. Hungary scheduled no commitments on road transport, freight transport agency services, or cargo-handling services. Hungary's commitments on rail and pipeline transportation services accord full market access and national treatment for services provided through consumption abroad. For cross-border supply, Hungary accords national treatment but leaves market access limitations unbound. For the provision of services through a commercial presence, Hungary accords national treatment and indicates that market access is contingent upon receiving a Contract of Concession, which is granted by the state or local authority.

For maintenance and repair of road and rail transport equipment, Hungary grants full market access and national treatment for services provided through cross-border supply, consumption abroad, and commercial presence. Similar commitments apply to storage and warehousing services.

Hungary's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,⁸ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are granted stays for the duration of the invitation. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.⁹ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary scheduled one MFN exemption on passenger and freight road transport services. Through this exemption, Hungary reserves the right to accord preferential treatment to any country through future and existing agreements. Such preferential treatment may apply to operating conditions, transit permits, or road taxes.

Iceland

Iceland's commitments cover road transport services, rental of commercial vehicles with operator, supporting services for road transport, freight transport agency services, storage

⁸ Senior officials are defined as managers who have the highest rank within an organization.

⁹ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

and warehousing services, and other supporting and auxiliary transport services. Iceland did not schedule commitments on rail transport services. Iceland's commitments on road passenger transportation grant full market access and national treatment for services provided through cross-border supply and consumption abroad. Iceland also accords national treatment for services provided through a commercial presence, but market access via this mode of supply is contingent upon receiving authorization for commercial land transport services, and also may be subject to quotas and exclusive license requirements for certain areas or routes.

With respect to road freight transport services, rental of commercial vehicles with operator, maintenance and repair of road transport equipment, support services for road transport, freight transport agency services, and other supporting and auxiliary transport services, Iceland accords full market access and national treatment for services delivered through cross-border supply, consumption abroad, and commercial presence. For storage and warehousing services, Iceland accords full market access and national treatment for services provided through consumption abroad and commercial presence, whereas limitations on cross-border supply remain unbound due to lack of technical feasibility.

With respect to the presence of natural persons, Iceland's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Iceland declined to specify permissible lengths of stay. Although no binding is undertaken in this respect, Iceland may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁰ Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Liechtenstein

Liechtenstein scheduled commitments on most land transportation services, except for rail and pipeline transportation. With respect to passenger road transportation, which apply only to regular "closed-door" tours,¹¹ non-scheduled passenger road transportation excluding empty entrance,¹² cabotage, and taxi services; rental of commercial road transport vehicles with operator; freight transport agency services; and other supporting and auxiliary transport services excluding local pick-up and delivery, Liechtenstein accords full market access and national treatment for services delivered through cross-border supply, consumption abroad, and commercial presence.

Concerning maintenance and repair of road transport equipment, cargo handling, and storage and warehousing services, Liechtenstein accords full market access and national treatment for services provided through consumption abroad and commercial presence. Limitations on cross-border supply remain unbound due to lack of technical feasibility.

¹⁰ Ibid.

¹¹ "Closed-door" tours refer to vehicle tours, i.e. bus tours, which cannot pick up or discharge passengers residing in the country being toured.

¹² Empty entrance signifies a transportation vehicle that enters a country with no passengers or freight and proceeds to pick up passengers or freight in that country.

Liechtenstein's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of intra-corporate transferees and business visitors. Executives, senior managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year preceding entry. Intra-corporate transferees are granted a 3-year period of stay. Liechtenstein declined to specify permissible lengths of stay for business visitors. Although no binding is undertaken with respect to business visitors, Liechtenstein may not impose conditions that nullify the benefits accorded to these providers by industry-specific commitments.¹³ Yet, Liechtenstein's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

In terms of national treatment, Liechtenstein stipulates that intra-corporate transferees and business visitors are subject to legislative provisions regarding immigration, entry, stay, and employment. In addition, enterprises that employ foreign service providers must cooperate with Liechtenstein authorities in the enforcement of these measures. Business visitors are required to possess residence and work permits, the latter of which may be available to foreign service providers only in limited numbers.

Liechtenstein scheduled an MFN exemption which states that preferential treatment may be accorded through bilateral treaties to transport goods or passengers into, out of, or in transit through Liechtenstein by vehicles registered in the foreign country on the basis of reciprocity. The exemption further indicates that Liechtenstein is willing to negotiate liberalization of transportation services on a multilateral basis once the regional specificity of road transport services and its environmental effects are considered.

Norway

Norway scheduled commitments on road passenger and freight transport services, supporting services for road transport, rail transport pushing and towing services, maintenance and repair of rail transport equipment, excluding undefined services, and supporting services for rail transport. Norway did not schedule commitments in the areas of pipeline transport, freight transport agency services, storage and warehousing services, or cargo-handling services. With respect to rail transport pushing and towing services, supporting services for rail and road transport, and maintenance and repair of rail transport equipment, Norway guarantees full market access and national treatment for services delivered through consumption abroad and commercial presence, while limitations on cross-border supply remain unbound.

Norway's commitments on road passenger and freight transportation services, excluding cabotage, grant full market access and national treatment for services provided through consumption abroad. For services provided through commercial presence, Norway requires vehicles to have national registration. In addition, Norway's schedule indicates that passenger transportation shuttle service providers must have a commercial presence and pass an economic needs test. With respect to the presence of natural persons, Norway's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors.

¹³ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

Romania

Romania's commitments on land transportation services are limited to road passenger and freight transportation, excluding cabotage. Romania's commitments accord full market access and national treatment for services provided through consumption abroad and commercial presence, while limitations on services provided through cross-border supply remain unbound. With respect to the presence of natural persons, Romania's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of managers and experts.¹⁴ Romania declined to specify permissible lengths of stay. Thus, while no binding is undertaken in this respect, Romania may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁵ Romanian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. Romania did not schedule commitments in the areas of cargo handling, railroad transportation, pipeline transportation, freight transport agency services, or storage and warehousing services.

Romania scheduled an MFN exemption on passenger and freight road transportation, which indicates that preferential treatment may be accorded to service providers from the following countries: Austria, Albania, Belgium, Bulgaria, Czech Republic, Cyprus, Croatia, Denmark, Switzerland, Latvia, Lithuania, France, Finland, Italy, Iran, Germany, Greece, Luxembourg, Great Britain, Norway, Netherlands, Poland, Portugal, Spain, Sweden, Slovak Republic, Syria, Slovenia, Turkey, and Hungary. Vehicles registered in these countries may transport freight and passengers in Romania, excluding road cabotage, in accordance with existing and future agreements. The duration of this exception is indefinite.

Slovak Republic

The Slovak Republic's commitments are limited to maintenance and repair of road and rail transport equipment. The Slovak Republic accords full market access and national treatment only for services provided through consumption abroad. Limitations on services provided through cross-border supply and commercial presence remain unbound.

The Slovak Republic's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company

¹⁴ Experts are defined as persons who have university degrees in the specialty of the position they occupy.

¹⁵ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁶ The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

The Slovak Republic scheduled two MFN exemptions on land transportation services. Through these exemptions, the Slovak Republic reserves the right to accord preferential treatment to any country in connection with existing or future agreements on road and rail transport services.

Slovenia

Slovenia's commitments are limited to maintenance and repair services along with auxiliary transport services. Slovenia did not schedule commitments on cargo handling, pipeline transportation, or passenger and freight road or rail transportation. For maintenance and repair of road and rail transport equipment, Slovenia accords full market access and national treatment to foreign providers of services through consumption abroad and commercial presence. Full market access and national treatment are also guaranteed for maintenance and repair of road transport equipment on a cross-border basis, but limitations on maintenance and repair of rail transport equipment remains unbound due to technical infeasibility.

Slovenia's commitments on auxiliary transport services cover storage and warehouse services, freight transport agency and freight forwarding services, and pre-shipment inspection services. Slovenia's commitments generally accord full market access and national treatment to foreign providers of these services through all relevant modes of supply. The principal exception to this treatment is a measure that requires foreign providers of freight transport agency and freight forwarding services to establish a juridical person in the Republic of Slovenia when operating as a cross-border supplier or commercial presence.

Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including

¹⁶ Ibid.

negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Slovenia scheduled an MFN exemption regarding passenger and freight road transport services. Through this exemption, the government retains the right to enter into or maintain agreements, with any country, which reserve or limit road transportation and specify operating conditions, including transit permits and/or preferential road taxes.

Switzerland

Switzerland's commitments cover most rail and road transport services, as well as auxiliary transport services. For rail passenger and freight transportation, including pushing and towing, Switzerland accords full market access and national treatment for services provided through consumption abroad. Commitments on commercial presence indicate that national treatment is accorded, but that market access requires a concession, which is granted if there is a need for railway service and there is no other means of transport which could handle that service in a more ecologically and economically reasonable way. Limitations on services provided through cross-border supply remain unbound.

For a number of land transportation services, Switzerland guarantees full market access and national treatment for services provided through all modes of supply except the presence of natural persons. These services include road passenger transportation (closed-door tours only); other non-scheduled road transport services excluding empty entrance, cabotage, and taxi services; rental of commercial freight vehicles with operator; freight transport agency services; and other supporting and auxiliary transport services excluding local pick-up and delivery.

With respect to maintenance and repair of road and rail transport equipment, cargo handling, and storage and warehousing services, Switzerland accords full market access and national treatment for services provided through consumption abroad and commercial presence. Limitations on cross-border supply are unbound due to lack of technical feasibility. Switzerland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers, specialists, and business visitors. Senior executives, managers, and specialists employed by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the 2 periods of stay in Switzerland.

Switzerland scheduled two MFN exemptions that apply to land transportation services. One exemption provides for the extension of preferential treatment to the owners of EC country-registered trucks heavier than 28 tons for the transport of perishable or otherwise urgent cargo. The other MFN exemption allows for preferential treatment to be accorded to the owners of vehicles registered in foreign countries that have a bilateral treaty with Switzerland to transport goods or passengers inside Switzerland on the basis of reciprocity.

Turkey

Turkey scheduled commitments only on rail and road passenger and freight transportation. Commitments on rail passenger and freight transportation guarantee full market access and national treatment for services provided through consumption abroad. Turkey accords national treatment for services provided through cross-border supply and commercial presence, but limits market access for these modes of supply due to the public monopoly on internal rail transportation.

For road passenger and freight transportation, Turkey's commitments offer full market access and national treatment for services provided through consumption abroad. For services provided through a commercial presence, Turkey accords national treatment, but market access limitations indicate that either Turkish citizenship or establishment of a Turkish legal entity is required in order to obtain a carrier license and to become an international transporter. Limitations on cross-border supply remain unbound.

With respect to the presence of natural persons, Turkey's cross-industry commitments indicate that limitations remain unbound except for measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Executives, managers, and specialists are required to obtain work and residence permits in order to receive a 2-year term of stay which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits.

Turkey scheduled a number of MFN exemptions that generally preserve Turkey's ability to accord differential treatment to selected countries on the basis of reciprocity. For all transport services, value-added taxes may be waived, income and corporate taxes may be raised or lowered, and additional restrictions may be applied in response to measures applied by Turkey's trading partners. For road transport services, permission procedures and certain quotas and fees may be altered on the basis of reciprocity. Regarding rail transport services, renting fees of railway wagons with Syria, Iraq, Iran, and Lebanon may be reduced on a bilateral basis; and national treatment may be applied to tariff rates on transportation of goods between Turkey and the Commonwealth of Independent States or the Baltic Republic.

Industry Opinion

Because most trade in land transportation services takes place between geographically contiguous countries, the activities of U.S. firms in the subject countries tend to be limited to the provision of auxiliary services, such as logistics and freight forwarding.¹⁷ In addition, some of the larger U.S. rail transportation companies have been engaged as consultants in the development of rail transportation systems.¹⁸ Representatives of U.S. companies with experience in the region report that the main business impediment is the lack of clear regulations within Eastern Europe, principally regarding the documentation necessary for transporting merchandise across national borders. The absence of a

¹⁷ Industry representatives, telephone interviews by USITC staff, May 15, 1998.

¹⁸ Ibid.

consistent and transparent regulatory structure has caused border delays and made it burdensome to transport goods into or out of some of the subject countries.¹⁹ U.S. companies are hopeful that ongoing efforts to harmonize regulatory standards with the European Union will result in greater transparency and predictability in the transportation sector. They also indicate that the value of the GATS to U.S. industry will be enhanced should future negotiations continue to make progress toward developing a standardized set of operational rules and regulations.

Summary

The scheduling approaches taken by the subject countries reflect some of the complexities of the transportation industry. For example, many rail systems are government-owned and fundamental transportation services are often perceived as strategic economic functions. As a result, governments may prefer to reserve their authority to regulate the industry without constraint. This may explain why the subject countries tended to schedule more commitments on auxiliary and supporting transportation services than on basic road and rail transportation services. In addition, transportation services have frequently been the subject of bilateral or regional agreements, the terms of which required GATS signatories to schedule exemptions to MFN treatment.

Among the subject countries, Switzerland's schedule made the greatest progress in terms of establishing benchmarks and improving transparency because it included binding market access and national treatment commitments across large segments of the land transportation industry. Most other countries were not as forthcoming, with Poland declining to make any commitments and others excluding major transportation subsectors from the scope of their commitments. Consequently, the GATS does not appear to have made significant progress toward improving transparency and establishing benchmarks for the land transportation industry.

¹⁹ Industry representatives, telephone interviews by USITC staff, May 26, 1998.

CHAPTER 14

Travel and Tourism Services¹

Introduction

For the purpose of this report, travel and tourism entails travel away from home, for 1 night to 1 year in duration. This chapter covers the services that business travelers and tourists purchase, ranging from food and lodging to intermediary services provided by travel agents, tour operators, and tourist guides.² It excludes air transportation services, which are governed by various bilateral agreements, and computer reservation services, which are counted among other computerized database services.

International Trade in Travel and Tourism Services

Trade in travel and tourism services occurs on both a cross-border and an affiliate basis. Cross-border trade comprises purchases made by travelers while in a foreign country, such as those of lodging and meals. In the GATS terminology, these services are supplied through consumption abroad, which requires the ability to leave one's country, tour foreign countries, return home, and obtain the means of payment for tourism services purchased abroad.³ Expenditures by foreign travelers who visit the United States appear in the U.S. balance of payments as cross-border exports. Conversely, expenditures by U.S. citizens while visiting other countries enter the U.S. balance of payments as cross-border imports. Affiliate trade in travel and tourism services comprises sales of food, beverages, and lodging by firms operating outside the home country of their parent corporation.

Cross-Border Transactions

In 1996, the U.S. travel and tourism industry generated cross-border exports of \$69.9 billion and imports of \$48.7 billion, resulting in a \$21.2-billion cross-border trade surplus (figure 14-1). Travel and tourism services are important for the U.S. economy, accounting for 27 percent of the total cross-border services trade surplus in 1996. During 1991-96, the average annual growth of cross-border exports of travel and tourism services, measuring 8 percent, slightly exceeded that of imports, which measured 7 percent. The 1-percent difference in the growth rates translated into 10-percent average annual growth in the travel services trade surplus. Visitors from the Asia-Pacific region accounted for 33 percent of

¹ Among the individuals consulted by USITC staff in preparation of this report were those affiliated with the following organizations: American Hotel & Motel Association, American Society of Travel Agents, Carlson Company, Choice Hotels, ITT Sheraton, Marriott, Rosenbluth International, and Tourism Research Library at the University of Illinois.

² For the purpose of this report, providers of travel and tourism services fall under U.N. Central Product Classification (CPC) codes 641-643, hotels and restaurants, including caterers; 7471, travel agencies and tour operators; and 7472, tourist guides.

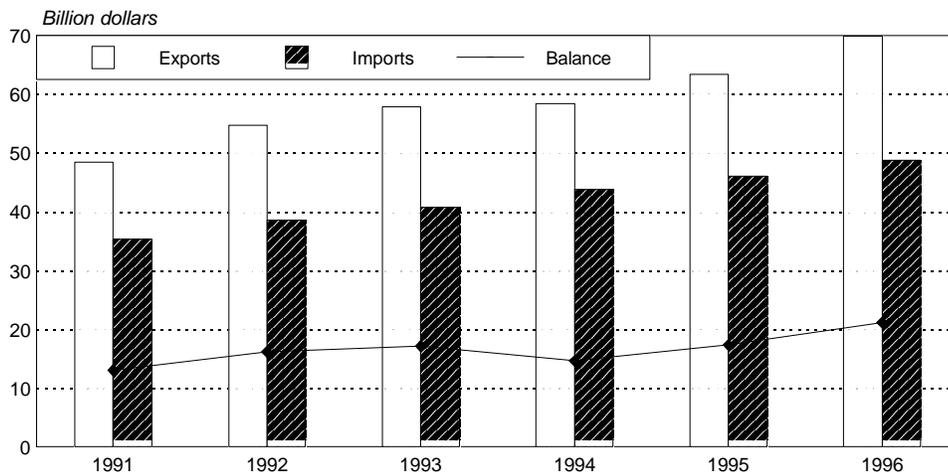
³ "Tourism and the General Agreement on Trade in Services (GATS)," World Tourism Organization, Madrid, Apr. 1994.

U.S. exports in 1996 and those from the European Union accounted for 29 percent (figure 14-2). The subject trading partners accounted for exports of \$2.9 billion, or 4 percent of total U.S. exports of travel and tourism services. Among these countries, Switzerland figured most prominently, accounting for U.S. exports of \$1.3 billion.

Sales by Majority-Owned Affiliates

Data on affiliate trade in travel and tourism services are available only for the lodging industry, and as noted before, reflect sales of lodging, food, and beverage services in hotels, motels, and similar establishments. Foreign-based lodging affiliates of U.S. firms generated sales estimated at \$2.8 billion in 1995 (figure 14-3),⁴ reflecting 9-percent average annual growth during 1991-95. Purchases from affiliates of foreign companies in the United States increased to an estimated \$7.5 billion in 1995, sustaining the 12-percent average annual growth rate recorded during 1991-95.

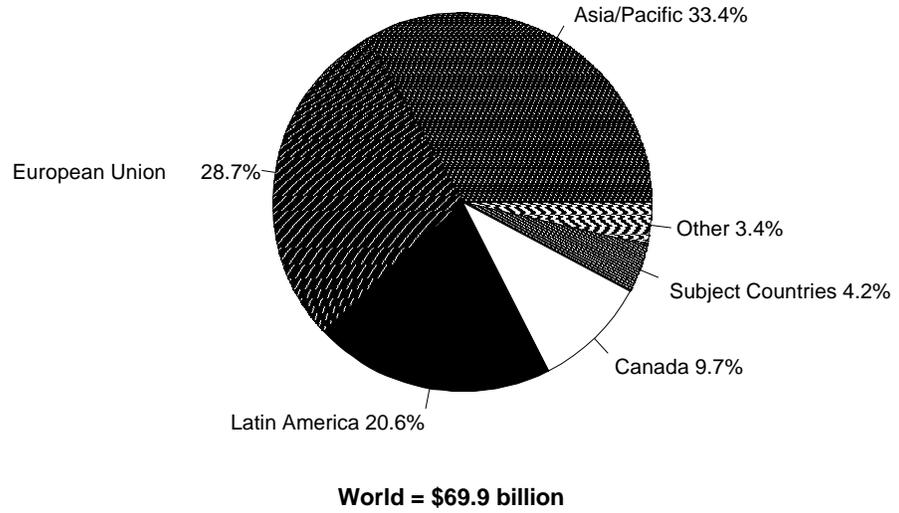
Figure 14-1
Cross border trade in travel and tourism services: U.S. exports, imports, and trade balance, 1991-95



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Sept. 1995, Nov. 1996, and Oct. 1997.

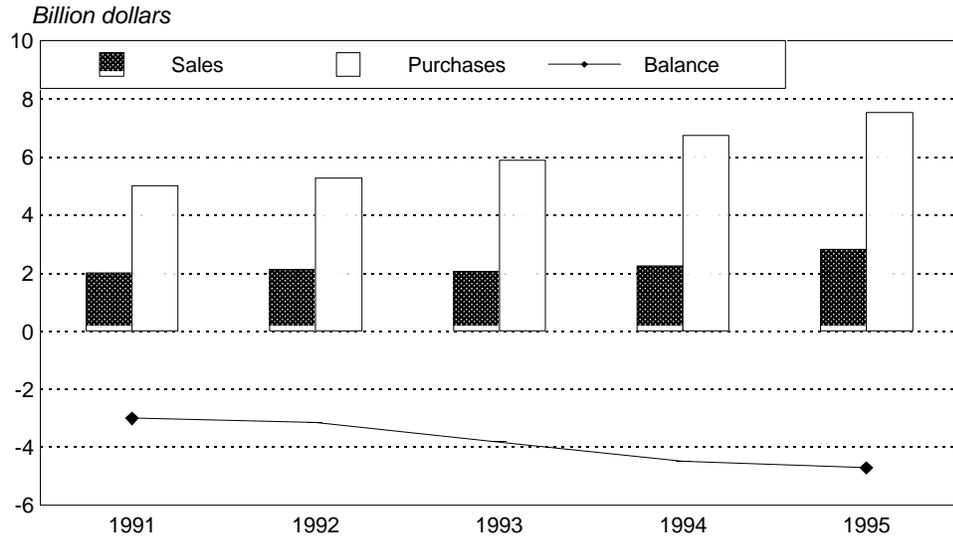
⁴ U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA), *Survey of Current Business*, October 1997, p. 137.

Figure 14-2
Travel and tourism services: U.S. cross-border exports, by principal markets, 1996



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1997.

Figure 14-3
Travel and tourism transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1991-95



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Sept. & Nov. 1996, and Oct. 1997.

Examination of Commitments on Travel and Tourism Services

As indicated above, trade in travel and tourism takes place predominantly through the supply modes of consumption abroad and commercial presence. An open regulatory regime for consumption abroad is important with respect to facilitating travel overseas, while liberal policies permitting foreign firms to invest and operate establishments are important for providing services through a commercial presence. The following discussion focuses on industry-specific commitments made with respect to consumption abroad and commercial presence.

All 12 of the trading partners examined in this report scheduled at least partial commitments on travel and tourism services. Norway and Romania scheduled the broadest commitments, whereas Turkey's schedule appears to be the most restrictive (table 14-1). In general, the subject nations impose almost no limitations on the movement of tourists to destinations outside their borders, indicating that services provided through consumption abroad are unrestricted. However, a number of limitations on establishing a commercial presence remain in effect. For instance, the Czech Republic, Switzerland, and Liechtenstein will provide operating licenses only after an economic needs assessment has been completed. Other restrictions include residency requirements, real estate limitations, and limitations on the employment of foreign personnel. These limitations are discussed further in the following country-specific sections.

Bulgaria

Bulgaria maintains no restrictions on consumption abroad and accords national treatment to foreign firms that provide lodging, food and beverage, and travel agent services through commercial presence. With respect to market access for the provision of these services through a commercial presence, companies must be incorporated in Bulgaria and operate with a license issued by the Committee on Tourism. There appear to be no limitations on who may apply for a license and there is no ceiling on foreign equity in locally-incorporated companies. However, if the state or a municipality owns more than 50 percent of a business, then the number of foreign managers is not to exceed the number of managers with Bulgarian citizenship. Market access and national treatment limitations for tourist guide services remain unbound for all modes of supply, but language in Bulgaria's schedule indicates that foreign-owned hotels and travel agencies may seek permission to offer tour guide services.

Bulgaria's limitations on the presence of natural persons remain unbound except for cross-industry measures designating permissible lengths of stay for senior executives, specialists,⁵ and other business professionals. Intra-corporate transfers of senior executives and specialists employed with the parent company for at least the year immediately preceding entry are granted an initial 1-year term of stay, which may be extended by 1-year increments for a maximum stay of 3 years. The number of employees transferred in this manner is

⁵ Unless otherwise specified, specialists are defined as persons who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques, or management.

Table 14-1
Highlights of industry-specific restrictions on travel and tourism services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Bulgaria	LODGING SERVICES, FOOD SERVICES, AND TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	LODGING SERVICES, FOOD SERVICES, AND TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	LODGING SERVICES, FOOD SERVICES, AND TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> None, except that suppliers are to be established as companies incorporated in the Republic of Bulgaria with no foreign equity participation ceiling; subject to tourist service license issued by Committee on Tourism; number of foreign managers is not to exceed number of managers who are Bulgarian citizens, in cases where state and/or municipal share in the equity capital of a Bulgarian firm exceeds 50 percent. National Treatment: None	LODGING SERVICES, FOOD SERVICES, AND TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments and taking into account market access limitations on commercial presence. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments, but taking into account market access limitations on commercial presence. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 (part) - Food serving services, except for catering in the means of transportation by air, land and sea. CPC 643 (part) - Beverage serving services for consumption on the premises, except for alcoholic beverage serving services. CPC 7471 - Travel agency and tour operator services.
	TOURIST GUIDE SERVICES: Market Access: Unbound National Treatment: Unbound	TOURIST GUIDE SERVICES: Market Access: Unbound National Treatment: Unbound	TOURIST GUIDE SERVICES: Market Access: Unbound National Treatment: Unbound	TOURIST GUIDE SERVICES: Market Access: Unbound National Treatment: Unbound	These commitments cover: <ul style="list-style-type: none"> Bulgaria does not specify a CPC code for this category. Under each of the above subsectors, the commitments stated, without elaboration, that the provision of tourist guide services is to be effected through authorized foreign persons.
Czech Republic	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services.

Table 14-1, *continued*

Highlights of industry-specific restrictions on travel and tourism services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Czech Republic (<i>continued</i>)	TRAVEL AGENCY SERVICES: Market Access: Unbound National Treatment: Unbound	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Economic needs test based on population criterion. National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 741, believed to be a typographical error and intended to be CPC 7471 - Travel agency and tour operator services.
	TOURIST GUIDE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: Unbound National Treatment: Unbound	These commitments cover: <ul style="list-style-type: none"> CPC 7472 - Tourist guide services. Czech Republic's commitments exclude: <ul style="list-style-type: none"> CPC 643 - Beverage serving services for consumption on the premises.
Hungary	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services. CPC 643 - Beverage serving services.
	TRAVEL AGENCY SERVICES: Market Access: Unbound National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7471 - Travel agency and tour operator services. Hungary's commitments exclude: <ul style="list-style-type: none"> CPC 7472 - Tourist guide services.
Iceland	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: <ul style="list-style-type: none"> Licensee must have one year previous residency. 	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Licensee must have one year previous residency. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services. CPC 643 - Beverage serving services for consumption on the premises.

Table 14-1, *continued*

Highlights of industry-specific restrictions on travel and tourism services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Iceland (<i>continued</i>)	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Requires deposits or liability insurance to cover loss caused to clients. National Treatment: <ul style="list-style-type: none"> Licensee must hire managers with at least one year previous residency. 	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments, and requires deposits or liability insurance to cover loss caused to clients. National Treatment: <ul style="list-style-type: none"> Licensee must hire managers with at least one year previous residency. 	These commitments cover: <ul style="list-style-type: none"> CPC 7471 - Travel agency and tour operator services.
	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> The right to exercise the profession is reserved for resident authorized tourist guides. Foreign resident guides may be granted temporary license on ad hoc basis. 	These commitments cover: <ul style="list-style-type: none"> CPC 7472 - Tourist guide services.
Liechtenstein	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility, except unbound for catering (CPC 6423). National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility, except unbound for catering (CPC 6423). 	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> License only granted if need for restaurants exists (subject to economic needs test to assess population, degree of built-up area, type of neighborhood, touristical interests, number of existing restaurants). National Treatment: <ul style="list-style-type: none"> Passing an examination may be required. 	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services. CPC 643 - Beverage serving services for consumption on the premises.
	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7471 - Travel agency and tour operator services.

Table 14-1, continued
Highlights of industry-specific restrictions on travel and tourism services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Liechtenstein (continued)	TOURIST GUIDE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7472 - Tourist guide services.
Norway	LODGING SERVICES, FOOD SERVICES, TRAVEL AGENCY SERVICES, AND TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	LODGING SERVICES, FOOD SERVICES, TRAVEL AGENCY SERVICES, AND TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	LODGING SERVICES, FOOD SERVICES, TRAVEL AGENCY SERVICES, AND TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	LODGING SERVICES, FOOD SERVICES, TRAVEL AGENCY SERVICES, AND TOURIST GUIDE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services. CPC 643 - Beverage serving services for consumption on the premises. CPC 7471 - Travel agency and tour operator services. CPC 7472 - Tourist guide services.
Poland	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services.
	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Commercial presence required. National Treatment: <ul style="list-style-type: none"> Commercial presence required. 	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Commercial presence required. National Treatment: <ul style="list-style-type: none"> Commercial presence required. 	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 7471 - Travel agency and tour operator services. Poland's commitments exclude: <ul style="list-style-type: none"> CPC 643 - Beverage serving services for consumption on the premises. CPC 7472 - Tourist guide services.

Table 14-1, continued
Highlights of industry-specific restrictions on travel and tourism services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Romania	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> None except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services. CPC 643 - Beverage serving services for consumption on the premises.
	TRAVEL AGENCY SERVICES AND TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES AND TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES AND TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES AND TOURIST GUIDE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> None except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7471 - Travel agency and tour operator services. CPC 7472 - Tourist guide services.
Slovak Republic	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services. CPC 643 - Beverage serving services for consumption on the premises.
	TRAVEL AGENCY SERVICES: Market Access: Unbound National Treatment: Unbound	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7471 - Travel agency and tour operator services.
	TOURIST GUIDE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: Unbound National Treatment: Unbound	These commitments cover: <ul style="list-style-type: none"> CPC 7472 - Tourist guide services.

Table 14-1, continued
Highlights of industry-specific restrictions on travel and tourism services

	Mode of Supply				
Trading Partner	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments
Republic of Slovenia	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> None other than that location in protected areas of particular historic and artistic interest and within national or landscape parks is subject to authorization which can be denied. National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services, excluding catering in the transport services sector. CPC 642 - Food serving services, excluding catering in the transport services sector. CPC 643 - Beverage serving services for consumption on the premises, excluding catering in the transport services sector.
	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Commercial presence required. National Treatment: <ul style="list-style-type: none"> Commercial presence required. 	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments, and commercial presence is required. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments, and commercial presence is required. 	These commitments cover: <ul style="list-style-type: none"> CPC 7471 - Travel agency and tour operator services. The Republic of Slovenia's commitments exclude: <ul style="list-style-type: none"> CPC 7472 - Tourist guide services.
Switzerland	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility, and unbound for catering (CPC 6423). National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility, and unbound for catering (CPC 6423). 	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Federal law enables cantons to grant license for restaurants based on economic needs tests (based on criteria such as population, degree of built-up area, type of neighborhood, tourist interests, and number of existing restaurants). National Treatment: <ul style="list-style-type: none"> Some cantons may require licensee's residency in that canton. Some cantons also require the licensee to pass an examination. 	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments, and commercial presence in Switzerland is required. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments, and commercial presence in Switzerland is required. Some cantons may require licensee's residency in that canton. 	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services. CPC 643 - Beverage serving services for consumption on the premises.

Table 14-1, *continued*
 Highlights of industry-specific restrictions on travel and tourism services

Mode of Supply					
Trading Partner	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	Comments
Switzerland (<i>continued</i>)	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None	TRAVEL AGENCY SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. 	These commitments cover: <ul style="list-style-type: none"> CPC 7471 - Travel agency and tour operator services.
	TOURIST GUIDE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. 	TOURIST GUIDE SERVICES: Market Access: None National Treatment: None	TOURIST GUIDE SERVICES: Market Access: None National Treatment: <ul style="list-style-type: none"> Passing an examination is required in order to work as a mountain guide or ski instructor. Cantons may restrict foreigners' access to such exams, and may restrict the ability of foreign mountain guides and ski instructors to practice independently. Residency in the same canton may be required in some cantons. 	TOURIST GUIDE SERVICES: Market Access: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments; commercial presence may be required in some cantons. National Treatment: <ul style="list-style-type: none"> Unbound except as indicated in the cross-industry commitments. Passing an examination is required in order to work as a mountain guide or ski instructor. Cantons may restrict foreigners' access to such exams, and may restrict the ability of foreign mountain guides and ski instructors to practice independently. Commercial presence may be required in some cantons. 	These commitments cover: <ul style="list-style-type: none"> CPC 7472 - Tourist guide services.
Turkey	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> Unbound due to lack of technical feasibility. National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> None, except that Turkish citizens traveling abroad, with certain exceptions, are required to pay a TL amount equivalent up to US\$100 to the Public Housing Fund for each exit. Turkish citizens going abroad for education and health purposes, and ones either employed or assigned to permanent official duties in foreign countries, are exempt from the required payment. National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: None National Treatment: None	LODGING SERVICES AND FOOD SERVICES: Market Access: <ul style="list-style-type: none"> After receiving permission from the Ministry of Interior based on the affirmative opinion of the Ministry of Tourism, hotels and restaurants with the tourism encouragement certificate may employ foreign personnel, not to exceed 10 percent of the enterprise's total personnel unless the related Ministry decides to allow an increase of up to 20 percent of total personnel. National Treatment: None	These commitments cover: <ul style="list-style-type: none"> CPC 641 - Hotel and other lodging services. CPC 642 - Food serving services. CPC 643 - Beverage serving services for consumption on the premises.

Table 14-1, *continued*
 Highlights of industry-specific restrictions on travel and tourism services

Trading Partner	Mode of Supply				Comments
	Cross-Border Supply	Consumption Abroad	Commercial Presence	Presence of Natural Persons	
Turkey (<i>continued</i>)	<p>TRAVEL AGENCY SERVICES: Market Access:</p> <ul style="list-style-type: none"> Establishment is required. <p>National Treatment:</p> <ul style="list-style-type: none"> Foreign travel agencies may not organize tours abroad. 	<p>TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None</p>	<p>TRAVEL AGENCY SERVICES: Market Access: None National Treatment:</p> <ul style="list-style-type: none"> Bringing US\$80,000 foreign exchange income into Turkey derived from tours to Turkey organized by travel agencies, qualifies a national travel agency holding a temporary A Class operating certificate to obtain a permanent certificate. For foreign travel agencies, the threshold of foreign exchange income stipulated for this transaction is three times higher, or US\$240,000. Foreign travel agencies are required to provide twice the amount of guarantees as national firms. Foreign travel agencies and branches can not benefit from credits given to domestic ones by the Turkish Development Bank. Foreign travel agencies may only take A Class or temporary A Class operating certificates. Minimum amount of capital brought to Turkey by foreign travel agencies' branches for the granting of an operating certificate is determined by the Ministry of Tourism with approval of the Ministry of Finance. 	<p>TRAVEL AGENCY SERVICES: Market Access: None National Treatment: None</p>	<p>These commitments cover:</p> <ul style="list-style-type: none"> CPC 7471 - Travel agency and tour operator services. <p>Turkey's commitments exclude:</p> <ul style="list-style-type: none"> CPC 7472 - Tourist guide services.

limited to 10 percent of the average annual number of the Bulgarian citizens employed by the entity.⁶ Residence and work permits are required for intra-corporate transferees. Additional personnel engaged in sales negotiations or arrangements pertaining to the initial establishment of a commercial entity are permitted entry and stay for a maximum of 90 days within 1 calendar year. These professionals require a business visitor visa.

Czech Republic

The Czech Republic places no restrictions on consumption abroad and few restrictions on foreign provision of lodging, food, travel agency, tour operator, and tour guide services through a commercial presence. However, beverage services were excluded from the schedule and travel agencies and tour operators may establish a commercial presence only after an economic needs test has been performed. Conditioning market access on the results of an economic needs test constitutes a significant trade impediment, as it limits regulatory transparency and certainty.

With respect to the presence of natural persons, the Czech Republic's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of personnel.⁷ Senior executives and specialists with at least 1 year of employment with the parent company are allowed temporary presence as intra-corporate transferees. Senior executives are allowed temporary presence without the 1-year-employment criteria if their purpose is to establish a commercial presence. Representatives of a service provider are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Czech Republic declined to specify permissible lengths of stay for natural persons. Although no binding is undertaken in this respect, the Czech Republic may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.⁸ Czech regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Hungary

Hungary scheduled no restrictions on travel and tourism services consumed abroad. Similarly, no restrictions were scheduled on hotel, restaurant, travel agent, and tour operators services provided through a commercial presence. However, limitations relating to the foreign provision of tour guide services remain unbound.

⁶ Subject to authorization, the number of intra-corporate transferees may exceed 10 percent if the entity employs less than 100 persons.

⁷ However, the foreign provision of tour guide services remain unbound with respect to the presence of natural persons.

⁸ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.

Hungary's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior officials,⁹ internationally recognized personalities, intra-corporate transferees, and business visitors. One senior official per business venture is allowed entry and temporary stay for the duration of the business directed by that senior official. Internationally recognized personalities invited by higher educational institutions, scientific research institutes, or public educational institutes are granted stays for the duration of the invitation. Senior executives, managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year without interruption. Business visitors engaged in negotiating the sale of services are permitted entry and stay for a maximum of 90 days.

Hungary declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, Hungary may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁰ Hungarian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Iceland

Iceland imposes no limitations on travel and tourism services consumed abroad. However, Iceland imposes certain limitations with respect to market access and national treatment for services provided through a commercial presence. Foreign provision of travel agency services is permissible if the firm has sufficient deposits or liability insurance to cover possible client losses. In addition, providers of lodging, restaurant, and travel agency services may acquire licenses to establish a commercial presence only after 1 year of residency.

Iceland limits the profession of tour guides to authorized residents, although temporary licenses may be granted to foreign natural persons. Other than this specific restriction, Iceland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Iceland declined to specify permissible lengths of stay. Consequently, Iceland schedules no binding in this respect, but may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹¹ Icelandic regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Liechtenstein

Liechtenstein maintains no restrictions on consumption abroad and accords full market access and national treatment for travel agency and tourist guide services provided through a commercial presence. However, for the provision of lodging and food services through a commercial presence, licenses are granted subject to the findings of an economic needs

⁹ Senior officials are defined as managers who have the highest rank within an organization.

¹⁰ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

¹¹ *Ibid.*

test. Conditioning market access on the results of an economic needs test constitutes a significant trade impediment, as it limits regulatory transparency and certainty.

Liechtenstein's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of intra-corporate transferees and business visitors. Executives, senior managers, and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least one year preceding entry. Intra-corporate transferees are granted a 3-year period of stay. Liechtenstein declined to specify permissible lengths of stay for business visitors. Thus, while no binding is undertaken with respect to business visitors, Liechtenstein may not impose conditions that nullify the benefits accorded to these providers by industry-specific commitments.¹² Liechtenstein's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified. Business visitors are required to possess residence and work permits, the latter of which may be available to foreign service providers only in limited numbers.

In terms of national treatment, Liechtenstein stipulates that intra-corporate transferees and business visitors are subject to legislative provisions regarding immigration, entry, stay, and employment. In addition, enterprises that employ foreign service providers must cooperate with Liechtenstein authorities in the enforcement of these measures.

Norway

Norway's commitments on travel and tourism services are the most open of the subject countries. Foreign firms may supply all travel and tourism services in Norway. Norway's schedule indicates that there are no restrictions on consumption abroad, cross-border supply, or commercial presence. With respect to the presence of natural persons, Norway's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and business visitors. Executives, managers, and specialists who wish to enter as intra-corporate transferees are allowed a 2-year period of stay. Business visitors engaged in negotiating the sale of, or entering into agreements to sell services, and senior executives responsible for the establishment of a commercial presence are permitted entry and stay for a maximum of 90 days.

Poland

Poland accords full market access and national treatment to foreign firms that provide lodging and food services through a commercial presence. Foreign provision of travel agency services requires a commercial presence, but otherwise is unrestricted. Poland made no commitments on beverage and tourist guide services, reserving the right to maintain or impose restrictions without penalty. Poland's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of managers, specialists, and business visitors. Intra-corporate transfers of managers and specialists employed by the parent company for at least 1 year are granted a 1-year period of stay which may be extended. Entry for such intra-corporate transferees is contingent on

¹² Ibid.

a market test.¹³ Business visitors engaged in negotiations or the conclusion of transactions are allowed 90-day stays. Additional cross-industry commitments concerning national treatment for the presence of natural persons specify that all foreigners and foreign entities are required to seek permission for the direct or indirect acquisition of real estate.

Romania

Romania places no restrictions on consumption abroad and accords full market access and national treatment to foreign firms providing any travel and tourism service through a commercial presence. Romania indicates that cross-border supply of lodging and food services is technically infeasible and scheduled no bindings in this sector. With respect to the presence of natural persons, Romania's limitations remain unbound except for cross-industry measures permitting the entry and temporary stay of managers and experts.¹⁴ Romania declined to specify permissible lengths of stay. Thus, while no binding is undertaken in this respect, Romania may not impose conditions on entry and temporary stay that nullify the benefits accorded to foreign service providers by industry-specific commitments.¹⁵ Romanian regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovak Republic

The Slovak Republic places no restrictions on consumption abroad and accords full market access and national treatment to foreign firms providing travel and tourism services through a commercial presence. However, limitations relating to the cross-border supply of all travel and tourism services remain unbound, as do limitations on the provision of tourist guide services through the presence of natural persons. Limitations on the provision of other services through the presence of natural persons also remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business representatives. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding entry. Senior executives are allowed temporary presence without meeting the 1-year-employment criteria if their purpose is to establish a commercial presence. Business representatives are allowed similar consideration if they are engaged in negotiating the sale of, or entering into agreement to sell, services, but are not allowed to make direct sales to the public or supply the service themselves.

The Slovak Republic declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding is undertaken in this respect, the Slovak Republic may not impose conditions that nullify the benefits accorded to foreign service providers by

¹³ A market test is essentially an assessment of whether local workers can perform the tasks that would otherwise be assigned to intra-corporate transferees. Application of the test may limit the entry of foreign workers or increase the discretion of government authorities in issuing business visas.

¹⁴ Experts are defined as persons who have university degrees in the specialty of the position they occupy.

¹⁵ GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*.

industry-specific commitments.¹⁶ The Slovak Republic's regulatory bodies presumably exercise considerable discretion in determining when the benefits of industry-specific commitments are nullified.

Slovenia

Slovenia accords full market access and national treatment to foreign firms providing travel agency services through consumption abroad or a commercial presence. For the provision of travel agency services through cross-border supply, Slovenia requires the establishment of a commercial presence. Slovenia grants full market access and national treatment for the provision of lodging and food services through consumption abroad. With respect to the provision of lodging and food services through a commercial presence, Slovenia guarantees national treatment but indicates that market access is subject to receiving authorization in locations of particular historic or artistic interest as well as within national or landscape parks. Slovenia did not schedule any commitments on tourist guide services.

Slovenia's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of senior executives, specialists, and business visitors. Senior executives and specialists who enter as intra-corporate transferees must have been employed by the parent company for at least 3 years immediately preceding entry and must possess business visas and residence permits. Such intra-corporate transferees are granted a 1-year term of stay which may be extended. Business visitors engaged in activities related to the conduct of business, including negotiating the sale of services and preparing the establishment of a commercial presence, are permitted entry and stay for a maximum of 90 days.

Switzerland

Switzerland's schedule of commitments guarantees full market access and national treatment to foreign firms providing travel agency services through cross-border supply, consumption abroad, or a commercial presence. With respect to lodging and food services, Switzerland's schedule indicates that limitations applicable to catering services remain unbound, and that limitations affecting cross-border supply of all other food and lodging services are unbound due to technical infeasibility. For the provision of food and lodging services through a commercial presence, market access may be subject to the findings of an economic needs test and national treatment may be limited by competency examinations and residency stipulations in some cantons. Concerning the provision of tourist guide services, Switzerland accords full market access, but indicates that national treatment may be limited by competency examinations and residency stipulations in some cantons.

Switzerland's limitations on the presence of natural persons indicate that foreign individuals that provide travel and tourism services must pass competency examinations, meet residency stipulations, and have an affiliation with a firm that has established a commercial presence. All other measures affecting natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, senior managers, specialists, and business visitors. Senior executives, managers, and specialists employed

¹⁶ Ibid.

by the parent company for at least 1 year immediately preceding entry are allowed a 3-year period of stay which may be extended to a maximum of 4 years. Business visitors involved in the negotiation of a contract for the sale of services or in the establishment of commercial presence are granted entry and temporary stay for a period of 90 days within any 1-year period. An additional 90 days is allowed the following year if such business visitors stay abroad at least 2 months between the 2 periods of stay in Switzerland.

Turkey

Of the 12 subject countries, Turkey's schedule listed the most restrictions pertaining to travel and tourism services. Turkey's schedule covers lodging and food services as well as travel agency services, but excludes tourist guide services. Concerning lodging and food services, Turkey's commitments accord full market access and national treatment to foreign firms providing services through a commercial presence. With respect to consumption abroad, Turkey's schedule indicates that market access was limited by a requirement that Turkish citizens pay the equivalent of \$100 to the public housing fund for each trip abroad. However, this measure was reportedly repealed in 1996.¹⁷

With respect to travel agency services, Turkey accords full market access and national treatment to foreign firms providing services through consumption abroad. For services provided through cross-border supply, market access is contingent upon first establishing a commercial presence and national treatment is limited by a measure forbidding foreign agencies from organizing tours from abroad. In order to establish a commercial presence, foreign travel agencies must bring into the country an amount of capital determined by the Ministry of Tourism. In addition, foreign travel agencies may initially receive only an A Class or temporary A Class operating certificate. National travel agencies can graduate from a temporary A Class certificate to a permanent one by generating foreign exchange inflows of \$80,000, whereas foreign agencies must generate sales of \$240,000. Also, foreign agencies must provide twice the amount of guarantees as national firms and cannot benefit from credits provided to national firms by the Turkish Development Bank.

With respect to the provision of travel and tourism services through the presence of natural persons, only hotels and restaurants with a "tourism encouragement certificate" and with permission from the Ministries of Tourism and Interior may employ foreign personnel. The percentage of foreign personnel is not to exceed 10 percent of the total staff, but in some circumstances that percentage may be increased to 20 percent. All other limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers. Executives, managers, and specialists are required to obtain work and residence permits in order to receive a 2-year term of stay which may be extended. Service sellers engaged in negotiating the sale of, or entering into agreement to sell, services are permitted entry and stay for a maximum of 30 days without obtaining work or residence permits. In terms of national treatment, Turkey does not allow employment of foreign professionals as tour guides or directors of travel agencies.

¹⁷ Turkish Government officials, interviews by USITC staff, Ankara, Turkey, Feb. 25, 1998.

Industry Opinion

U.S. industry representatives report that market factors have a greater influence on their activities in the subject countries than formal limitations on market access or national treatment. For example, Switzerland is an attractive market due to its international banking centers and established winter tourism resorts, but it is already well developed. Norway also possesses a strong domestic tourism industry which hosts the highest concentration of U.S. hotel chains. Hungary, Poland, and the Czech Republic are favorite tourist destinations, ranking eighth, ninth, and twelfth, respectively, on a list of most visited countries in 1996.¹⁸ Such high rankings reflect increased business travel and a concerted effort to develop the tourism industry since 1992, when these three countries declared their intentions of joining the European Union.¹⁹ Turkey, with its rich history and strategic location at the crossroads between Europe and Asia, also presents an attractive market for U.S. travel and tourism firms.

The remaining six nations offer somewhat less attractive investment opportunities for U.S. firms. Iceland, Liechtenstein, and Slovenia have relatively small markets, while in Bulgaria, Romania, and the Slovak Republic, the slow progress of privatization programs is reportedly hindering flows of foreign investment. A 1994 survey on tourism in several Eastern European nations yielded a consensus between travel agents and academics that Romania and Bulgaria probably could not generate substantial tourism revenues without further reform. Survey participants also indicated that political uncertainty in these countries posed high safety, financial, and business risks to investors and tourists.²⁰

Another reason U.S. firms are relatively untroubled by formal restrictions on trade and investment is that they frequently operate internationally through franchises or partnership arrangements. As a result, while the travel agency or hotel may have a U.S. brand name, it often is partially owned and operated by local investors. In the travel and tour operator business, only a small segment of U.S. firms are large enough to expand internationally, and those that do expand will more often incorporate established travel agencies into their global networks and franchises rather than opening a new office or buying a foreign travel agency.²¹ Direct foreign investment in hotels is far greater than investment in travel agencies, but still U.S. hotel firms often partner with local firms for very large investments. Hilton, ITT Sheraton, Marriott, Radisson, Choice Hotels, and Best Western have hotels in one or more of the subject nations. Firms such as these indicate Eastern European nations pose the greatest market access challenges, but such challenges are due to a lack of developed property and difficulty in finding partners with sufficient capital resources rather than regulatory restrictions.²²

¹⁸ Jill Trew, "Hotels In Eastern Europe," *Travel and Tourism Management*, No. 4 (Aug. 1997), pp. 59-60.

¹⁹ Maxwell Johnson, "Hungary's Hotel Industry in Transition, 1960-1996," *Tourism Management*, vol. 18, No. 7 (Nov. 1997), p. 443.

²⁰ Ken McCleary and David Whitney, "Projecting Western Consumer Attitudes Towards Six Eastern European Countries," *Global Tourist Behavior* (New York: Haworth Press, Inc., 1994).

²¹ Industry representatives, telephone interviews by USITC staff, Jan. 28 to Feb. 14, 1998.

²² Trew, "Hotels In Eastern Europe," pp. 65-67.

Summary

Of the 12 countries under consideration, the commitments scheduled by Norway and Romania went furthest in terms of guaranteeing market access and national treatment across the full range of travel and tourism services. Other countries made less progress toward establishing benchmarks and improving transparency, as some schedules excluded sectors like tourist guide services or indicated that market access may be contingent upon the findings of economic needs tests. In general, consumption abroad is unrestricted, while limitations on commercial presences vary greatly across the subject countries.

With respect to operating through a commercial presence, industry representatives report that the regulatory limitations addressed in the GATS schedules usually do not pose significant deterrents to market access within the subject countries. In fact, most government policies are focused on encouraging foreign participation in the travel and tourism sector through investment incentives and privatization programs. These programs, along with factors like market size, disposable income, and the popularity of tourist destinations, are the primary determinants of investment decisions by multinational travel and tourism firms.

CHAPTER 15

Summary

Introduction

The preceding chapters examine the schedules of commitments submitted to the World Trade Organization (WTO) by Bulgaria, the Czech Republic, Hungary, Iceland, Liechtenstein, Norway, Poland, Romania, the Slovak Republic, Slovenia, Switzerland, and Turkey. These schedules were submitted in accordance with the General Agreement on Trade in Services (GATS) negotiated during the Uruguay Round. The chapters explain the commitments made by these partners and identify the benefits and limitations of the commitments with respect to U.S. service providers. The discussions conclude with statements as to the relative restrictiveness of the subject trading partners' markets and the extent to which relevant commitments provide benchmarks¹ and improve regulatory transparency.²

This chapter provides a summary of the report's contents and findings, beginning with an overview of the nature and intent of the GATS framework and national schedules. Afterward, this chapter highlights significant aspects of the 12 trading partners' schedules. Aspects of cross-industry commitments, industry-specific commitments, and most-favored-nation (MFN) exemptions are discussed separately.

GATS Overview

As noted in chapter 1, the GATS basically comprises a framework, national schedules of commitments, annexes, and ministerial decisions. In the Uruguay Round, the Group Negotiating on Services (GNS) first developed a framework of general disciplines and obligations pertaining to trade and investment in services, as signatories to the General Agreement on Tariffs and Trade (GATT) had done some 50 years ago with respect to trade in goods. Parties to the GATS designed the framework as a mechanism for challenging trade-impeding measures.

¹ Benchmarks comprise full and partial commitments. Full commitments are obligations to accord foreign firms full market access and national treatment. Partial commitments are obligations to accord foreign firms at least some degree of market access and/or national treatment subject to specified limitations. Where GATS signatories have scheduled full and partial commitments, they may introduce trade-impeding measures only if they are willing to compensate aggrieved parties. Where trade impediments remain unbound, no benchmarks have been established, and signatories may introduce trade-impeding measures without penalty.

² Transparency exists when the nature and extent of all trade-impeding measures are explained in their entirety, with precision and clarity.

Such measures generally limit foreign firms' market access or accord these firms treatment less favorable than that accorded domestic firms. Signatories to the GATS believe that removal of trade and investment restrictions in an economic sector

that generally accounts for more than 60 percent of gross domestic product and 50 percent of employment in the world's largest economies will promote global economic growth.³

The GATS framework is complemented by national schedules that specify, primarily on an industry-by-industry basis, whether and to what degree foreign firms will be accorded market access and national treatment. Ideally, national schedules serve two immediate purposes. First, they provide benchmarks that discourage countries from imposing further restrictions, or making existing restrictions more burdensome. Second, national schedules provide regulatory transparency, supplying information regarding the nature and extent of current trade-impeding measures.

Overview of Schedules Submitted by Eastern Europe, the European Free Trade Association, and Turkey

The following discussion summarizes the degree of transparency and the extent of benchmarking found in the schedules of subject trading partners. Each of the major components of the schedules is discussed, beginning with cross-industry commitments, followed by industry-specific commitments, and concluding with MFN exemptions. The summary indicates that there is wide variation among the schedules submitted by the subject trading partners. Some countries, such as Norway and Switzerland, provide a high degree of benchmarking and transparency, while others, including Bulgaria and Romania, do not.

Cross-Industry Commitments

The GATS did not require participants to schedule cross-industry commitments and the GATT Secretariat provided no formal guidelines for presenting them. However, most countries found it convenient to list restrictions that apply to all service sectors in one place at the beginning of their schedules. These restrictions typically apply to services delivered through commercial presence and through the presence of natural persons. All 12 of the subject countries scheduled such commitments. Table 15-1 highlights the major cross-industry commitments scheduled by these trading partners.

Cross-industry commitments on commercial presence generally list measures that limit foreign direct investment. Such measures include notification and approval requirements, and restrictions on foreign ownership of real estate. All subject countries listed cross-industry restrictions, but these vary widely in terms of scope and severity. For

³ World Bank and United Nations Centre on Transnational Corporations, *The Uruguay Round: Services in the World Economy* (World Bank: Washington, DC, 1990), pp. 29-31; and Geza Feketekuty, *International Trade in Services: An Overview and Blueprint for Negotiations* (Cambridge, MA: Ballinger Publishing Company, 1988), pp. 191-195.

instance, the Czech Republic listed limitations only on the acquisition of real estate by foreign natural and legal entities while permitting unlimited foreign investment in other areas. In comparison, Poland requires companies with foreign equity participation to obtain authorization for establishment, acquisition of shares in existing companies, and expansion

Table 15-1
Highlights of cross-industry commitments

	Mode of Supply	
Trading Partner	Commercial Presence	Presence of Natural Persons
Bulgaria	<ul style="list-style-type: none"> • Capital payments and transfers abroad for investments and state or state-guaranteed loans require authorization. • Foreigners may receive differential treatment with respect to participation in privatization. • Establishment of foreign service suppliers must take the form of a limited liability company or joint stock company with at least 2 shareholders. • Establishment of branch offices is subject to authorization; foreigners may receive differential treatment with respect to establishment of representative offices; economic activity by representative offices is restricted. • For enterprises with public equity participation exceeding 30 percent, transfer of these shares to a third party requires authorization. • Subsidies reserved for Bulgarian juridical persons or citizens. • Foreign natural and juridical persons may not own land but may acquire buildings and limited property rights subject to permission; Bulgarian juridical persons with foreign participation may not own agricultural land. 	<ul style="list-style-type: none"> • Committed only to permit the entry and temporary stay of senior executives, service sellers, and specialists. • Subsidies reserved for Bulgarian juridical persons or citizens.
Czech Republic	<ul style="list-style-type: none"> • Acquisition of real estate by foreign natural and legal entities is limited. • Foreign entities may acquire real property by establishing Czech legal entities or participating in joint ventures. • Acquisition of land by foreign entities subject to authorization. 	<ul style="list-style-type: none"> • Committed only to permit the entry and temporary stay of senior executives, service sellers, and specialists.
Hungary	<ul style="list-style-type: none"> • Commercial presence should take the form of a limited liability company, joint stock company, or representative office. Initial entry as a branch operation is not permitted. • Foreigners may receive differential treatment with respect to acquisition of state-owned properties. • Foreigners may receive differential treatment with respect to acquisition of real estate. • Foreigners may receive differential treatment with respect to subsidies. 	<ul style="list-style-type: none"> • Committed only to permit the entry and temporary stay of senior officials, personalities of internationally recognized reputation, executives, managers, specialists, and business visitors. • Foreign natural persons may receive differential treatment with respect to acquisition of real estate.
Iceland	<ul style="list-style-type: none"> • Foreign investment and currency transfers must be reported to the Central Bank of Iceland. Investment by a foreign state or companies/organizations owned by a foreign state requires permission. • Trade permit required for trade in goods or rental of videos. • Services provided by non-resident natural persons requires permission. • Managers and a majority of the board of directors in domestic enterprises must be domiciled in Iceland unless exempted. At least one of the auditors of an Icelandic limited liability company must be a resident in Iceland or a resident CPA company. • Foreigners may receive differential treatment with respect to subsidies and research and development. • Non-residents may require permission for real estate leases, may only acquire real estate in conjunction with their business activities, and may not obtain full property rights in certain circumstances. 	<ul style="list-style-type: none"> • Committed only to permit the entry and temporary stay of executives, managers, specialists, and service sellers. • Subsidies may be limited to Icelandic citizens.

Table 15-1--Continued
Highlights of cross-industry commitments

	Mode of Supply	
Trading Partner	Commercial Presence	Presence of Natural Persons
Liechtenstein	<ul style="list-style-type: none"> Establishment of a commercial presence by a juridical person requires an economic needs assessment. One manager must have prior residence, permanent domicile in Liechtenstein, and professional qualifications. The majority of administrators or associates must be resident in Liechtenstein and have Liechtenstein citizenship or prior residence. Individuals establishing commercial presence require prior residence, permanent domicile in Liechtenstein, and professional qualifications. Non-residents are excluded from the acquisition of real estate. All real estate acquisitions are subject to authorization. 	<ul style="list-style-type: none"> Committed only to permit the entry and temporary stay of executives, senior managers, and specialists. Enterprises employing foreign persons must comply with working conditions, social security, immigration, and other measures.
Norway	<ul style="list-style-type: none"> The managing director in a joint stock company and at least half of the founders, members of the board of directors, corporate assembly, and committee of representatives must be residents of Norway and have resided there for the last 2 years although exemptions may be allowed. Corporations with more than 1/3 of the voting rights controlled by non-nationals or foreign-controlled companies, or the chairman and the majority of the board members are non-nationals, are subject to concessions when acquiring real estate or entering into certain lease contracts. Foreigners and foreign-controlled companies in Norway need a concession for purchases of real property. Leases of real property may be subject to a concession. Foreign citizens residing in Norway may acquire real property for their own personal use. A concession can only be granted when it is not contrary to the public interest. Foreigners may receive differential treatment with respect to subsidies. 	<ul style="list-style-type: none"> Committed only to permit the entry and temporary stay of executives, senior managers, specialists, and business visitors. Subsidies may be limited to Norwegian citizens.
Poland	<ul style="list-style-type: none"> Establishment of commercial presence allowed only in the form of a limited liability company or a joint stock company. Foreign entities may receive differential treatment with respect to branch and representative offices and acquisition of state-owned property. For companies with foreign equity participation, authorization is required for establishment; acquiring of shares in an existing company; and extending the company's activities to certain sectors. Acquisition of real estate by foreigners and foreign legal persons requires permission. 	<ul style="list-style-type: none"> Committed only to permit the entry and temporary stay of managers, specialists, and business visitors. A market test is required for managers and specialists. Acquisition of real estate by foreigners and foreign legal persons requires permission.
Romania	<ul style="list-style-type: none"> Foreigners may receive differential treatment with respect to privatization of Romanian enterprises. The sole administrator or the Chairman of the Board of Administration and half of the total number of administrators must be Romanian citizens unless otherwise stipulated in the company contract or in its statutes. The majority of the companies' auditors and their deputies must be Romanian citizens. Romanian citizenship and residence in Romania for natural persons, and Romanian nationality and headquarters in Romania for legal persons are necessary to acquire land through inter vivos acts (i.e., agreements between living persons). 	<ul style="list-style-type: none"> Committed only to permit the entry and temporary stay of managers and specialists. Romanian citizenship and residence in Romania necessary to acquire land through inter vivos acts (i.e., agreements between living persons).
Slovak Republic	<ul style="list-style-type: none"> Residence permit required for a foreign natural person who is authorized to act on behalf of an entrepreneur. Limitations on real estate acquisition by foreign physical and legal entities. 	<ul style="list-style-type: none"> Committed only to permit the entry and temporary stay of executives, specialists, and service sellers. Limitations on real estate acquisition by foreign physical and legal entities.

Table 15-1--Continued
Highlights of cross-industry commitments

	Mode of Supply	
Trading Partner	Commercial Presence	Presence of Natural Persons
Slovenia	<ul style="list-style-type: none"> Foreign participation exceeding 10 percent of the total value of a company undergoing privatization requires authorization, is limited to an amount determined by the Government, and is subject to additional economic, trademark, investment, financial, and employment considerations. Prior Government authorization is required for any foreign purchases exceeding 10 percent of the capital or voting rights in an existing privatized Slovenian company with a value exceeding 5 million ECU, or for any purchases of equity in an independent part, division, or plant of an enterprise with a value exceeding 1.25 million ECU. Approval is subject to additional economic considerations. Registration of the parent foreign company in the country of origin for at least 1 year required for establishment of branch offices. At least half of the members of the Board of Directors must be Slovenian nationals. The managing director of a limited liability company or at least the procurator must be a Slovenian national. A non-Slovenian director of a branch must be a Slovenian resident. Eligibility for subsidies may be limited to juridical persons established within the territory of Slovenia or a particular geographical sub-division. Foreigners may receive differential treatment with respect to research and development subsidies. Juridical persons with foreign capital participation and branches established in Slovenia by foreign persons may only acquire real estate for the conduct of relevant economic activities. Ownership of real estate located within 10 km. of border areas requires permission. 	<ul style="list-style-type: none"> Committed only to permit the entry and temporary stay of business visitors, senior personnel, and specialists. Subsidies may be limited to Slovenian citizens.
Switzerland	<ul style="list-style-type: none"> A majority of the board of directors of a joint stock company must be Swiss citizens domiciled in Switzerland (except for holding companies). At least one manager of a limited liability corporation must be domiciled in Switzerland. A majority of "co-operative society" administrators must be Swiss citizens domiciled in Switzerland. Establishment of a branch office requires a company-authorized representative with domicile in Switzerland. Establishment of a commercial presence by natural persons or an enterprise without juridical personality according to Swiss law requires a permanent residency permit. Eligibility for subsidies, tax incentives, and tax credits may be limited to persons established in a particular geographical sub-division of Switzerland. Authorization may be required for acquisition of real estate by foreigners and by enterprises with headquarters abroad and/or under foreign control. Prohibited are purely financial investments; real estate business operations; acquisition, on a professional basis, of holiday apartments and facilities other than hotels (e.g. apartment houses, camps, sport areas); and acquisition of agricultural real estate. 	<ul style="list-style-type: none"> Committed only to permit the entry and temporary stay of executives, senior managers, specialists, and service sellers. Enterprises employing foreign persons must comply with working condition, social security, immigration, and other measures. Eligibility for subsidies, tax incentives, and tax credits may be limited to persons domiciled in a particular geographical sub-division of Switzerland.
Turkey	<ul style="list-style-type: none"> Compliance with foreign investment guidelines is required. The following sectors are closed to private investments because of public monopolies: postal services and telecommunications; railways; administration of harbors and quays; cash lotteries; football pools; and public utilities. Foreign-controlled enterprises are prohibited from engaging in real estate trading. 	<ul style="list-style-type: none"> Committed only to permit the entry and temporary stay of executives, managers, specialists, and service sellers. Only Turkish citizens or foreign citizens of Turkish origin allowed to perform certain professional services.

Source: Compiled by the staff of the U.S. International Trade Commission.

of company activities to certain sectors. Such a measure has the potential to be highly restrictive if the criteria for approval are not transparent or not consistently applied. On a positive note, most subject trading partners do not impose cross-industry restrictions that limit foreign investors to minority shareholder status, although Turkey listed sectors controlled by public monopolies that are closed to private investment.

Cross-industry commitments on the presence of natural persons are presented fairly consistently by most GATS signatories. These commitments generally guarantee market access by permitting the entry and temporary stay of foreign persons who are considered to be essential for the provision of the service. Essential staff members typically include senior managers, executives, and specialists. Measures affecting other types of employees often remain unbound. The subject trading partners generally permit the entry and temporary stay of senior managers and specialists. However, Poland notes that such access may be contingent upon a form of needs testing and Turkey restricts the practice of certain professional services only to Turkish citizens or foreign citizens of Turkish origin. While it appears that foreign firms will be able to move essential employees as required, the presence of such needs-testing policies and nationality restrictions generates a high level of uncertainty. It is unclear, for instance, that policies will be implemented consistently and that assessment criteria will be determined objectively.

Industry-Specific Commitments

Industry-specific commitments establish benchmarks for market access and national treatment from which countries may not retreat without providing compensation. In addition, the exercise of listing these commitments enhances regulatory transparency even if the schedule results only in a catalogue of existing restrictions. Prior to the GATS, there was no systematic means of identifying trade and investment impediments concerning service industries on a multilateral basis.

By scheduling a full commitment to accord market access and national treatment with respect to one mode of supplying a particular service, countries indicate that they impose no restrictions, thereby establishing a benchmark and enhancing transparency. By scheduling a partial commitment, which requires a country to specify the nature of the restriction in place, a country once again establishes a benchmark and enhances transparency. In scheduling a full or partial commitment, a country recognizes that under the terms of the GATS, it may introduce trade-impeding measures only if it is willing to compensate aggrieved parties. Conversely, by undertaking no commitment, countries decline to establish benchmarks and make no contribution to regulatory transparency. The absence of a commitment leaves trade limitations unbound, allowing a country to retain or impose unspecified restrictions without penalty.

As noted, impediments to trade in services are usually manifest in regulations that restrict or deny foreign service providers market access or national treatment. For this reason, the GATS requires each signatory to indicate in its schedule whether it is undertaking a full commitment, partial commitment, or no commitment with respect to both market access and national treatment, on an industry-by-industry basis. Further, because the GATS recognizes four modes of supplying services, signatories are required to indicate the nature of their undertaking with respect to each mode of supply, yielding 8 entries for each

industry, 55 of which fall within the scope of this report. Thus, this report examines 440 schedule entries made by each of the subject countries.⁴

To compare the extent to which countries have established benchmarks and improved transparency, Commission staff summed each subject trading partner's full and partial commitments, and for the purpose of comparison, those of the European Union, Japan, Canada, Mexico, South America, and the Asia/Pacific region and expressed them as a share of the 440 potential schedule entries.⁵ The resulting shares are depicted along the horizontal axis in figure 15-1, where trading partners at the far right-hand side - Switzerland and Canada - appear to have accomplished the most in terms of establishing benchmarks and enhancing transparency. Among the subject economies, Switzerland appears furthest to the right, undertaking full and partial commitments in 70 percent of its schedule entries, followed by Norway and Iceland, which undertook commitments in 68 percent and 58 percent of their schedule entries, respectively. Romania appears to have offered the least in terms of benchmarking and transparency, undertaking commitments in only 37 percent of the potential schedule entries. The subject trading partners compared favorably to the average score among Asia/Pacific and South American trading partners in terms of establishing benchmarks and enhancing transparency.⁶

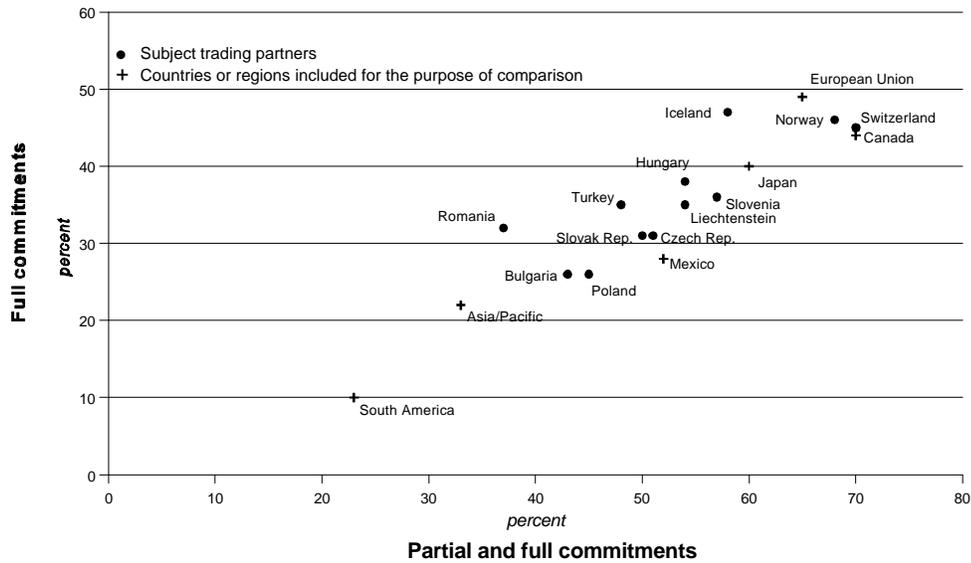
To indicate where GATS signatories are in terms of establishing substantially free trade in this report's subject industries, the share of schedule entries represented by full commitments is depicted along the vertical axis of figure 15-1. Again, the more developed countries tend to compare favorably. Iceland and Norway lead other subject economies by undertaking full commitments with 47 percent and 46 percent of their schedule entries, respectively. In addition, all of the subject countries' schedules compared favorably with the average score recorded for the Asia/Pacific and South American economies.

⁴ The report examines undertakings with respect to 2 distinct types of limitations, for each of 4 modes of supply, in 55 industries (2x4x55=440).

⁵ This quantitative analysis of the schedules draws upon work presented in Bernard Hoekman, *Tentative First Steps: An Assessment of the Uruguay Round Agreement on Services*, paper presented at The Uruguay Round and the Developing Economies Conference of the World Bank, Washington, DC, Jan. 26-27, 1995. Calculations for the European Union reflect bindings schedules in the unified EU schedule. Calculations for South America and the Asia/Pacific area reflect regional averages. Further details pertaining to this quantitative analysis are provided in the annex that immediately follows this chapter.

⁶ The Commission has conducted previous studies that assess commitments scheduled by the European Union, Japan, Canada, Mexico; nine South American countries - Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru, Uruguay, and Venezuela; and ten Asia/Pacific countries-Australia, Hong Kong, India, Indonesia, Korea, Malaysia, New Zealand, the Philippines, Singapore, and Thailand. For more detailed information on the schedules submitted by the European Union, Japan, Canada, and Mexico, see USITC, *General Agreement on Trade in Services: Major Trading Partners' Schedules of Commitments*, USITC publication 2940, 1995; and USITC, *U.S. Trade Shifts in Selected Industries: Services*, USITC publication 2969, 1996. For more detailed information on the schedules submitted by South American countries, see USITC, *General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments*, USITC publication 3007, 1996. For more detailed information on the schedules submitted by Asia/Pacific trading partners see USITC, *General Agreement on Trade in Services: Examination of the Schedule of Commitments of Asia/Pacific Trading Partners*, USITC publications 3053, 1997.

Figure 15-1
Shares of total possible schedule entries, by country



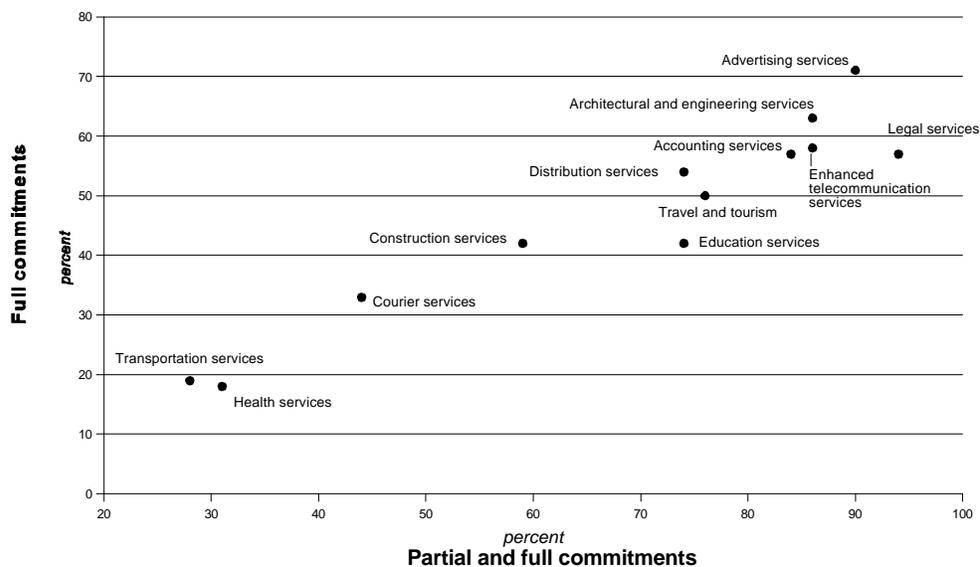
Source: Compiled by the staff of the U.S. International Trade Commission.

The extent to which the subject trading partners, taken as a group, established benchmarks and enhanced transparency differed significantly by industry. Figure 15-2 shows, along the horizontal axis, that the subject countries undertook commitments (full and partial) in 94 percent of their combined schedule entries pertaining to legal services. Full commitments, reflected along the vertical axis, represented 57 percent of the trading partners' schedule entries regarding these services. The relatively large number of commitments scheduled with respect to legal services is somewhat unusual in comparison with other regions like the Asia/Pacific, and may reflect broad acceptance that unrestricted access to such services is an essential element for attracting foreign direct investment and participating actively in global commerce.

Other subject service industries did not fare as well. Transportation and health services received the fewest number of commitments, indicating that most of the subject economies were not prepared to offer binding commitments in areas that clearly influence public safety and welfare. Courier services, which like health and transportation services remain the preserve of government-sanctioned providers, also received few commitments. Finally, the absence of commitments for audiovisual services reflects the interest many governments share in controlling mass media and developing indigenous audiovisual and multimedia industries.⁷ In broad terms, then, it appears that the Eastern European, European Free Trade Area, and Turkish schedules tend to preserve governmental powers to manage social welfare and oversee the distribution of audiovisual works. On the other hand, these

⁷ See USITC, "U.S. Film Industry: How Mergers and Acquisitions are Reshaping Distribution Patterns Worldwide," *Industry, Trade and Technology Review*, USITC publication 3017, Jan. 1997; and USITC, "Electronic Trade Transforms Delivery of Audiovisual Services," *Industry, Trade, and Technology Review*, USITC publication 3071, Oct. 1997.

Figure 15-2
Shares of total possible schedule entries, by industry



Source: Compiled by the staff of the U.S. International Trade Commission.

schedules appear to bind open sectors of the economy that promote capital inflows, whether through encouraging inbound tourism or enticing foreign investment. Bindings on enhanced telecommunication services and architecture and engineering services encourage infrastructure development in the host country, which in turn promotes inbound investment by manufacturing and service firms that require an advanced telecommunication, power, and transportation infrastructure. Bindings on advertising, accounting, and architecture and engineering services may further reflect the distinct inclination of firms in these service industries to establish operations abroad, providing jobs and skills sorely needed by those economies in transition.

MFN Exemptions

MFN exemptions describe existing regulatory measures that violate the most-favored-nation principle by according preferential treatment to selected countries or individuals. All subject trading partners listed MFN exemptions applicable to the service industries under examination. MFN exemptions principally consist of broad measures that apply to all services or specific measures relating to land transportation or audiovisual services (table 15-2). There is a considerable amount of variation concerning the nature of the exemptions that apply to all services. For example, Norway and Iceland list measures that accord preferential treatment for Nordic countries in terms of investment and financial support of programs that foster Nordic cooperation. Since these measures apply only to a specified number of countries, they do not appear to impose significant obstacles to foreign firms. Another common and fairly benign type of MFN exemption provides preferential treatment to countries with which bilateral tax or investment agreements already exist. Switzerland and Liechtenstein have scheduled such exemptions.

Table 15-2
Highlights of most-favored-nation exemptions pertaining to subject industries

Trading Partner	Services Affected	Description of Measures
Bulgaria	Audiovisual services	<ul style="list-style-type: none"> • National treatment accorded preferentially to coproduced motion pictures and television productions in accordance with existing or future agreements. • National treatment accorded to financial support of and market access to broadcasting or similar forms of transmission. Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.
	Land-based transportation services	<ul style="list-style-type: none"> • Measures which govern access and/or traffic rights and the terms of conduct of rail passenger and freight transport services between agreement signatories. • Measures which reserve or restrict the supply of road passenger and freight transport services and specify terms and conditions, including transit permits and/or preferential road taxes between agreement signatories. • Exemption of vehicle tax and VAT for road passenger and freight transport services on the basis of conventions or de facto reciprocity with Austria and other European countries.
	Legal services	<ul style="list-style-type: none"> • Full national treatment accorded preferentially on the establishment and operation of companies, as well as on the provision of services by foreign citizens in accordance with existing or future agreements.
	Medical and dental services	<ul style="list-style-type: none"> • Reciprocal treatment of public medical insurance, subsidization, and compensation plans and programs, which cover the costs and expenses of these services provided to foreign citizens.
Czech Republic	Audiovisual services	<ul style="list-style-type: none"> • National treatment accorded preferentially to co-production agreements. • Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.
	Land-based transportation services	<ul style="list-style-type: none"> • Measures which regulate traffic rights, operating conditions, and the provision of rail passenger and freight transport services in accordance with existing or future agreements. • Measures which reserve or limit the provision of road passenger and freight transport services and specify operating conditions, including transit permits and/or preferential road taxes on these services into, in, across and out of the Czech Republic and the countries concerned in accordance with existing or future agreements.
Hungary	Audiovisual services	<ul style="list-style-type: none"> • National treatment accorded preferentially to co-production agreements. • Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.
	Land-based transportation services	<ul style="list-style-type: none"> • Measures which reserve or limit the provision of road passenger and freight transport services and specify operating conditions, including transit permits and/or preferential road taxes on these services into, in, across, and out of Hungary in accordance with existing or future bilateral agreements.
Iceland	All services	<ul style="list-style-type: none"> • Measures aimed at promoting Nordic cooperation, including the Nordic Investment Bank, the Nordic Industrial Fund, the Nordic Fund for Project Exports, and the Nordic Environment Finance Corporation.
	Audiovisual services	<ul style="list-style-type: none"> • National treatment for the transmission of audiovisual programs in accordance with EC Television Broadcasting Directive (no. 89/552). • Support programs such as MEDIA and EURIMAGES for the production and distribution of motion pictures and television programs. • Support programs for the production and distribution of motion pictures and television programs between Nordic countries (the Nordic Film and TV Fund). • National treatment accorded to audiovisual works, in relation to distribution and access to funding in accordance with existing or future agreements.
Liechtenstein	All services	<ul style="list-style-type: none"> • Mutually grant permits of temporary stay and permanent residency to citizens of Switzerland. • Preferential treatment accorded to nationals of EC and EFTA countries belonging to traditional recruiting areas according to Liechtenstein legislation on immigration, when granting permits for entry, stay and work in Liechtenstein (year round resident, short time resident, seasonal worker) to natural persons providing services other than essential persons as defined in the schedule of cross-industry commitments. • Presence of natural persons in all sectors is dependent on reciprocity for services providers from Liechtenstein.

Table 15-2, continued

Highlights of most-favored-nation exemptions pertaining to subject industries

Trading Partner	Services Affected	Description of Measures
Liechtenstein (continued)	Audiovisual services	<ul style="list-style-type: none"> • National treatment accorded preferentially to bi- or plurilateral agreements on co-production of audiovisual works. • National treatment accorded preferentially to audiovisual works and/or suppliers of audiovisual services. Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television. • Concessions for the operation of radio or television broadcast stations may be granted to persons of countries other than Liechtenstein.
	Construction and related engineering services	<ul style="list-style-type: none"> • Commercial presence and the presence of natural persons is dependent on reciprocity.
	Distribution services	<ul style="list-style-type: none"> • Work permits granted to employees of establishments, involved in commerce in goods, of enterprises of member countries of the Convention establishing the European Free Trade Association (EFTA).
	Land-based transportation services	<ul style="list-style-type: none"> • Road passenger and freight transport services by vehicles registered in foreign countries are allowed in, into, out of, or in transit through Liechtenstein territory on the basis of mutual access to the market in accordance with bilateral agreements.
Norway	All services	<ul style="list-style-type: none"> • Measures aimed at promoting Nordic cooperation, including the Nordic Investment Bank, the Nordic Industrial Fund, the Nordic Fund for Project Exports, and the Nordic Environment Finance Corporation.
	Audiovisual services	<ul style="list-style-type: none"> • National treatment accorded preferentially to audiovisual programs meeting specific origin criteria including regulations such as the EC Television Broadcasting Directive (No. 89/552) and those which define programs of European origin. • National treatment accorded preferentially to the co-production and distribution of audiovisual works through government-to-government framework agreements (existing agreement with the United Kingdom). • Support programs such as the Nordic Film and TV Fund to enhance the production and distribution of audiovisual works produced in Nordic countries. • Support programs such as MEDIA and EURIMAGES for the production and distribution of motion pictures and television programs.
	Land-based transportation services	<ul style="list-style-type: none"> • Provisions which reserve traffic rights for road carriage to/from Norway and between third countries in accordance with existing or future agreements. Road cabotage can also be allowed for specific countries.
Poland	All services	<ul style="list-style-type: none"> • Commercial presence provisions contained in commerce and navigation treaties; business and economic relation treaties; and promotion and protection of foreign investment agreements. • Poland accepts compulsory arbitration of investor/state investment disputes brought by, or in respect of service suppliers of, countries with which Poland has or may have agreements providing for such procedures.
	Audiovisual services	<ul style="list-style-type: none"> • Preferential treatment of production and distribution of audiovisual works, including preferential access to funding. • Preferential treatment for the production and distribution of motion pictures and television programs that are adopted for the implementation of benefits meeting specific European origin criteria. • Preferential national treatment to transmission of audiovisual works meeting specific criteria such as the EC Television Broadcasting Directive (No 89/552) and European origin.
	Land-based transportation services	<ul style="list-style-type: none"> • Reciprocity of supply of transport services by suppliers of countries concerned - in, into, and across the territory of such countries.
Romania	Land-based transportation services	<ul style="list-style-type: none"> • Permission for road transport vehicles registered in another specified country to transport goods and/or passengers in accordance with existing and future bilateral road agreements. Road cabotage is reserved for domestic registered vehicles. Thirty European and Middle-eastern countries listed.

Table 15-2, continued
Highlights of most-favored-nation exemptions pertaining to subject industries

Trading Partner	Services Affected	Description of Measures
Slovak Republic	Audiovisual services	<ul style="list-style-type: none"> • National treatment of audiovisual works in accordance with measures concerning the implementation of and in conformity with existing or future coproduction agreements. • Preferential treatment of audiovisual programs meeting specific origin criteria. and their suppliers in accordance with measures concerning the implementation of and in conformity with support programs such as the Council of Europe Convention on Transfrontier Television, Eureka, MEDIA and EURIMAGES.
	Land-based transportation services	<ul style="list-style-type: none"> • Measures that are taken under existing or future agreements which regulate traffic rights and operating conditions and the provision of rail passenger and freight transport services in the Slovak Republic and between the countries concerned. • Measures that are taken under existing or future agreements which reserve or limit the provision of road passenger and freight transport services and specify operating conditions, including transit permits and/or preferential road taxes of such services into, in, across, and out of the Slovak Republic to the contracting parties concerned.
Slovenia	Audiovisual services	<ul style="list-style-type: none"> • National treatment accorded preferentially to audiovisual works covered by measures for the implementation of and in conformity with existing or future co-production agreements. • Measures applied for the implementation of and in conformity with support programmes such as the Council of Europe Convention on Transfrontier Television, Eureka, MEDIA and EURIMAGES to audiovisual programs and suppliers to these programs meeting specific origin criteria. • Preferential treatment of audiovisual works meeting European origin criteria regarding screen-time access.
	Land-based transportation services	<ul style="list-style-type: none"> • Measures applied under existing or future agreements which reserve or limit the provision of road passenger and freight transport services and specify operating conditions, including transit permits and/or preferential road taxes of such services into, in, across, and out of Slovenia to the parties concerned.
Switzerland	All services	<ul style="list-style-type: none"> • Mutually grant permits of temporary stay and permanent residency in the territory of the parties, without certain limitations. Applies to the Principality of Liechtenstein. • Preferential treatment accorded to nationals of countries belonging to EC and EFTA traditional recruiting areas when granting permits for entry, stay and work in Switzerland (year round resident, short time resident, seasonal workers) to natural persons providing services other than essential persons as defined in the horizontal commitments; and measures based on bilateral agreements with the European Community and/or its Member States and/or EFTA States with the objective of providing for the movement of all categories of natural persons supplying services.
	Audiovisual services	<ul style="list-style-type: none"> • National treatment to audiovisual works covered by bilateral or plurilateral agreements on co-production in the field of audiovisual works, particularly in relation to access to funding and to distribution. • National treatment to audiovisual works and/or to suppliers of audiovisual services meeting specific criteria according to programs such as MEDIA and EURIMAGES, and measures relating to the allocation of screentime which implement arrangements such as the Council of Europe Convention on Transfrontier Television. • Concessions for the operation of radio or television broadcast stations may be granted to persons of countries other than Switzerland.
	Distribution services	<ul style="list-style-type: none"> • To grant work permits, without certain limitations, to employees of establishments of enterprises of member countries of the Convention establishing the European Free Trade Association (EFTA). The establishment's activity involves commerce in goods.
	Land-based transportation services	<ul style="list-style-type: none"> • To allow, on the basis of mutual access to the market, road passenger and freight transport services by vehicles registered in countries other than Switzerland to undertake transportation of goods and/or passengers in accordance with existing and future bilateral agreements. • To allocate transit quotas for perishable or otherwise urgent cargo by trucks heavier than 28 tons registered in EC countries other than Switzerland.

Table 15-2, *continued*

Highlights of most-favored-nation exemptions pertaining to subject industries

Trading Partner	Services Affected	Description of Measures
Turkey	All services	<ul style="list-style-type: none"> • Extending full national treatment for investments by nationals or companies of certain countries. Includes the United States among others. • Allowing transfers of nationals and companies of Belgium-Luxembourg and Kuwait which have made investments in Turkey. Granting foreign exchange risk guarantee to Belgium-Luxembourg and Kuwait for transfers which are not realized due to the difficulties in balance of payments. • Covering "trade risk" in subrogation (Japan). • Agreements with Japan, Bangladesh, Poland, Germany, and South Korea, the MFN articles of which do not include the derogation paragraphs relating to the privileges which are accorded to third countries' investors resulting from its membership in or association with a free trade zone, an economic cooperation, a customs union, or a common market. • Restriction on the transfer of premiums for long-term insurance schemes and the employment of foreign workers by foreign companies is waived for Libya. • Reciprocal increase or decrease of consulate duties. • Foreign real persons may own real estate in Turkey by acquisition or by inheritance as long as legal provisions are reserved and reciprocity exists.
	Professional services	<ul style="list-style-type: none"> • If any country places legal and administrative conditions against Turkish citizens for performing arts and supplying services, similar activities by citizens of that country could be prohibited in Turkey.
	Accounting services	<ul style="list-style-type: none"> • Foreign "financial advisory" services may be authorized to perform such services on a reciprocal basis provided that these persons have the characteristics required for the profession of financial advisory in Turkey and have rights to perform similar services in their own countries.
	Telecommunications services	<ul style="list-style-type: none"> • To apply, on the basis of reciprocity with Iran and Syria, a reduction in fees for transit land connections and use of satellite ground stations.
	Land-based transportation services	<ul style="list-style-type: none"> • Income and corporate tax rates for foreign road transport companies can reciprocally be decreased down to zero or increased to a rate not exceeding one times the existing rate on a country by country basis. (As in the case of the United States, Israel, and Switzerland). • Transit or bilateral transportation services can be excluded from VAT. This exception is granted, on a reciprocal basis, to the related countries' tax payers who do not have residence, legal, or business centers in Turkey. • To apply, on the basis of reciprocity, restrictions, prohibitions, different treatments, and different tariffs to the goods and transportation vehicles of countries which apply restrictions, prohibitions, and different treatments to Turkish road transportation vehicles. • To grant, on the basis of reciprocity, privileges concerning road transport quotas and fees and exemptions from permission procedures. Includes over thirty countries. • Bilateral reduction in railway wagon rental fees of Syria, Iraq, Iran, Lebanon and the application of national treatment to tariff rates on the reciprocal transportation of goods with the Commonwealth of Independent States and the Baltic Republics.

Source: Compiled by the staff of the U.S. International Trade Commission.

With respect to land-based transportation services, all subject countries with the exception of Iceland scheduled MFN exemptions. These exceptions generally apply to contiguous countries that provide mutual access to each others' markets on the basis of reciprocity. For U.S. companies, the effect of these MFN exemptions is muted as U.S. firms would receive no less than the minimum levels of market access and national treatment specified in the schedule of commitments.

With respect to audiovisual services, ten subject economies listed MFN exemptions. These exemptions generally provide for preferential treatment in accordance with co-production agreements or other existing bilateral or plurilateral agreements. All such countries listed support for agreements concerning audiovisual works of European origin in order to promote common cultural links and regional identity. Such agreements include MEDEA, EURIMAGES, and the Council of Europe Convention on Transfrontier Television.

The remaining MFN exemptions affect legal, medical and dental, construction, distribution, and accounting services. Typically, these exemptions pose little or no concern for U.S. service providers. Bulgaria extends full national treatment of legal services to specific countries in accordance with existing or future preferential agreements. However, such an MFN exemption is not out of the ordinary for legal services and U.S. industry is not overly concerned with this exemption. Similarly, Bulgaria scheduled an MFN exemption concerning the costs of medical and dental services provided to foreign citizens on the basis of reciprocity, which also seems to be of little concern for U.S. firms. Liechtenstein's MFN exemptions provide construction and related engineering service providers with full commercial presence and the presence of natural persons on a reciprocal basis. Liechtenstein and Switzerland's measures affecting distribution services appear fairly benign as they affect the granting of work permits to employees of companies that are located in the member countries of the European Free Trade Association. With respect to accounting services, Turkey's MFN exemption indicates that service providers may practice their profession, on a reciprocal basis, provided they have the proper requirements to practice in Turkey as well as in their home country.

Conclusion

The schedules of commitments presented by East European countries, member countries of the European Free Trade Association, and Turkey vary widely in terms of benchmarking and transparency. Some countries, such as Norway and Switzerland, made broad commitments covering most of the subject service industries in an approach comparable to that of the European Union, Canada, and Japan.⁸ At the other end of the spectrum, trading partners such as Bulgaria and Poland made very few commitments, an approach also taken

⁸ For a full analysis of the schedules from the European Union, Canada, Japan, and Mexico, see USITC, *General Agreement on Trade in Services: Examination of Major Trading Partners' Schedules of Commitments*, USITC publication 2940, Dec. 1995.

by many South American countries as well as India, Indonesia, and Hong Kong.⁹ As a group, the schedules of trading partners from East European countries, member countries of the European Free Trade Association, and Turkey are less comprehensive than those of the largest U.S. trading partners (Europe, Japan, and Canada), yet are more comprehensive than those provided by Asia/Pacific and South American economies.

As was common practice among all participants during this first round of negotiations on services trade, the subject countries scheduled few liberalizing commitments, offering instead generally standstill positions. Nevertheless, standstill positions assist the trade liberalization process by establishing binding benchmarks where few or none had been established before, and by providing some improvement in regulatory transparency. Thus, the schedules of commitments, in combination with the general obligations and provisions for progressive liberalization, provide an effective foundation for future rounds of negotiations.

⁹ For a full analysis of the schedules from South American countries, see USITC, *General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments*, USITC publication 3007, Dec. 1996. For a full analysis of the schedules from Asia/Pacific trading partners see USITC, *General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Asia/Pacific Trading Partners'*, USITC publication 3053, Aug. 1997.

CHAPTER 15

Annex

Methodology

In chapter 15, figures 15-1 and 15-2 summarize the extent to which the subject trading partners scheduled full and partial commitments. The following discussion first identifies the principal difficulties encountered in quantifying these aspects of the national schedules and indicates how these difficulties were resolved. Thereafter, the discussion further delineates the methodology employed to derive the quantitative indicators found in these figures, and provides examples of how the indicators were calculated. The annex concludes with a tabular presentation of the data presented in figures 15-1 and 15-2.

Treatment of Miscellaneous Service Groupings

The service industries of interest to the United States Trade Representative correspond to 62 industries specified in the GATT Secretariat's *Services Sectoral Classification List* (see annex table 15-A-1). Staff reduced the number of industries to 55 by discarding 7 miscellaneous groupings for which commitments scheduled by the subject trading partners were not comparable. The 7 discarded groupings appear as "other" under distribution services, education services, enhanced telecommunication services, audiovisual services, health care services, transportation services, and travel and tourism services.¹⁰

Hence, the figures 15-1 and 15-2 display shares calculated on the basis of 55 industries, or 440 possible schedule entries.¹¹ This does not alter the relative standing of the subject trading partners in figures 15-1 and 15-2, but it does result in slightly higher shares in both figures.

Treatment of Entries Referencing Cross-Industry Commitments

Throughout the national schedules, many industry-specific commitments, especially those addressing commercial presence and the presence of natural persons, reference cross-industry commitments.¹² For instance, when identifying limitations that apply to the presence of natural persons, trading partners routinely make the following entry: "unbound,

¹⁰ The miscellaneous groupings were included in the GATT Secretariat's list so that offers could be broadened at the discretion of GATT members.

¹¹ For each of the 55 distinct service industries, trading partners could make 8 entries: 4 with respect to market access (one for each mode of supply), and 4 with respect to national treatment.

¹² Cross-industry commitments are referred to as "horizontal" commitments in the schedules.

Table 15-A-1

Subject industries and corresponding subsectors found in the GATT Secretariat's Services Sectoral Classification List

Number	Subject Industry	Subsector
1. 2. 3. 4. 5.	Distribution services	Commission agents' services Wholesale trade Retailing Franchising Other ¹
6. 7. 8. 9. 10.	Education services	Primary education services Secondary education services Higher education services Adult education Other ¹
11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25.	Communication services: Land-based courier services Enhanced telecommunication services Audiovisual services	(none) Electronic mail Voice mail On-line information and data base retrieval Electronic data interchange Enhanced/value-added facsimile services Code and protocol conversion On-line information and/or data processing Other ¹ Motion picture, video tape production and distribution Motion picture projection services Radio and television services Radio and television transmission services Sound recording Other ¹
26. 27. 28. 29. 30. 31.	Health care services	Medical and dental services Veterinary services Services provided by midwives, nurses, et. al. Hospital and other health care facilities Other human health services Other ¹

Table 15-A-1, continued

Subject industries and corresponding subsectors found in the GATT Secretariat's Services Sectoral Classification List

Number	Subject Industry	Subsector
	Professional services:	
32.	Legal services	(none)
33.	Accounting services	(none)
34.	Advertising services	(none)
	Architectural, engineering, and construction	
35.		Architectural services
36.		Engineering services
37.		Integrated engineering services
38.		General construction work for buildings
39.		General construction work for civil engineering
40.		Installation and assembly work
41.		Building completion and finishing work
42.		Other
	Transportation services:	
	Rail transport	
43.		Passenger transport
44.		Freight transport
45.		Pushing and towing services
46.		Maintenance/repair of rail transport equipment
47.		Supporting services for rail transport services
	Road transport	
48.		Passenger transport
49.		Freight transport
50.		Rental of commercial vehicle with operator
51.		Maintenance/repair of road transport equipment
52.		Supporting services for road transport services
	Services auxiliary to all modes of transport	
53.		Cargo-handling services
54.		Storage and warehouse services
55.		Freight transport agency services
56.		Other
57.	Other transport services ¹	(none)
	Travel and tourism services	
58.		Hotels and restaurants (excl. catering)
59.		Catering
60.		Travel agencies and tour operators
61.		Tourist guide services
62.		Other ¹

¹ Entries for these subsectors were discarded from the calculations.

Source: General Agreement on Tariffs and Trade, *Services Sectoral Classification List* (MFN.GNS/W/120).

except as indicated in the cross-industry commitments.” Because this entry grants some degree of market access and national treatment by allowing certain foreign service providers to enter markets under conditions specified in the cross-industry commitments, these entries have been recorded as partial commitments. They are less restrictive than “unbound” entries that provide no exemptions.

Similarly, all subject trading partners have made use of an entry that reads “none, except as indicated in the cross-industry commitments.” These entries have been recorded as full commitments. Certain trading partners employed this language for the sake of transparency, but the additional language is not necessary. Under the GATS scheduling methodology, cross-industry commitments are applicable to all entries showing full or partial commitments.

Table 15-A-2

Table 15-A-2 expresses the number of full commitments as a share of the total entries made by each trading partner.¹³ Composite shares have been calculated for each trading partner (bottom row) and each industry (right-hand column). Composite shares in table 15-A-2 are presented graphically along the vertical axis in figures 15-1 and 15-2. The higher the share, the less restrictive the market.

For example, the first cell of table 15-A-2 reflects Bulgaria’s full commitments regarding distribution services. For the purposes of this discussion, the distribution services industry consists of four subsectors: commission agents’ services, wholesaling, retailing, and franchising.¹⁴ Bulgaria’s full commitments number four with respect to commission agents’ services, two for wholesaling, three for retailing, and four for franchising, for a combined total of 13 full commitments. Since there are 4 subsectors comprising distribution services, and 8 possible entries within each subsector,¹⁵ there are 32 entries applicable to distribution services. Hence, full commitments account for 41 percent of all of Bulgaria’s entries applicable to distribution services.

Composite shares for trading partners were derived in a similar manner. In Bulgaria’s schedule, full commitments in all of the subject industries totaled 115. Dividing the number of full commitments by Bulgaria’s 440 total possible entries results in a composite share of 26 percent.

Composite shares for the subject industries reflect a similar methodology. For example, the 12 subject trading partners made a total of 384 entries with respect to distribution services.

¹³ In some cases, schedules listed full commitments that were further qualified to include only a portion of the industry activity. For example, a country may offer a full commitment on wholesale trade services, but exclude wholesale of automobiles from coverage. Under this methodology, this schedule entry would still be counted as a full commitment. Due to this limitation, some schedules may appear to be more comprehensive than they are in actuality.

¹⁴ The subsector entitled “other distribution services” was omitted from the calculations. This has the effect of reducing the total possible entries under the major heading of distribution services by eight.

¹⁵ Schedule entries correspond to modes of supply. Four entries are made with respect to market access, and four more are made with respect to national treatment.

Full commitments on distribution services scheduled by the subject trading partners number 208, accounting for 54 percent of total entries.

Table 15-A-3

Table 15-A-3 expresses the number of full and partial commitments as a share of the total entries made by each trading partner for each industry. Composite shares have been calculated for each trading partner (bottom row) and each industry (right-hand column). These composite shares are represented graphically along the horizontal axis in figures 15-1 and 15-2, respectively. The higher the share, the greater the extent of benchmarking. Both full and partial commitments identify trade-impeding measures and prohibit trading partners from making these measures more restrictive. Hence, both act as benchmarks.

For example, the first cell of table 15-A-3 reflects Bulgaria's full and partial commitments regarding distribution services. As in the previous discussion, the distribution services industry consists of four subsectors. Bulgaria's full commitments number 13, and partial commitments number 11 with respect to all of these subsectors, for a combined total of 24. Since there are 32 entries applicable to distribution services, full and partial commitments account for 75 percent of all of Bulgaria's entries applicable to distribution services. Composite shares for trading partners were derived similarly. In Bulgaria's case, full and partial commitments to all the subject industries totaled 191. Dividing this number by Bulgaria's 440 total possible entries results in a composite share of 43 percent.

Composite shares for the subject industries reflect a similar methodology. The 12 subject economies made 384 entries with respect to distribution services. Full commitments number 208 and partial commitments number 75, for a combined total of 283 full and partial commitments, which is equivalent to 74 percent of the subject countries' total entries pertaining to distribution services.

APPENDIX A
REQUEST LETTER

No electronic copy

APPENDIX B

FEDERAL REGISTER NOTICE

No electronic copy

APPENDIX C
GLOSSARY OF TERMS

APPENDIX C

GLOSSARY OF TERMS

Benchmarks : Benchmarks are commitments that identify trade-impeding measures and, under the terms of the GATS, prevent these measures from becoming more onerous in the future.

Bound commitment: A commitment that cannot be made more restrictive in the future; only further liberalization is permitted (unless an agreed penalty is paid). See measure.

Commercial presence: One of four possible modes of delivering services to foreign consumers, whereby a service supplier establishes any type of business or professional establishment in the foreign market. Commercial presence comprises entities such as corporations, trusts, joint ventures, partnerships, sole proprietorships, associations, representative offices, and branches. See modes of supply.

Commitment: An agreement regarding a measure, usually regarding market access and national treatment, that affects international trade in services. Commitments are listed in national schedules and identify service sectors and modes of supply that are affected. See bound commitment, unbound measure, full commitment, partial commitment, standstill commitment, rollback commitment, and sector-specific commitment.

Consumption abroad: One of four possible modes of delivering services to foreign consumers, whereby the consumer, or the consumer's property, receives a service outside the territory of the home country, either by moving or being situated abroad. See modes of supply.

Cross-border supply: One of four possible modes of delivering services to foreign consumers, whereby the service is transported beyond the home country of the service supplier to the foreign consumer. Cross-border supply may entail transportation by mail, telecommunications, or the physical movement of merchandise embodying a service (e.g., a diskette storing information) from one country to another. The mode is "cross-border" when the service supplier is not present within the territory where the service is delivered. See modes of supply.

Cross-industry commitment: Commitment that applies to international trade in multiple service sectors. Typically, cross-industry commitments include limitations on market access or national treatment. Cross-industry commitments appear at the beginning of the national schedules where they are referred to as "horizontal commitments."

Full commitment: This is recorded in the national schedule of a country that wishes to impose no limit on market access or national treatment in a given sector and mode of supply. In the national schedules, a full commitment is reflected by the word "none" (meaning no limitations) in the entry for the relevant service sector and mode of supply.

Home country: The country in which the service supplier is based. See host country.

Host country: The country in which services are rendered by a foreign service supplier, in the form of a natural person or commercial presence. See home country.

Juridical person: Any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately or governmentally owned. Juridical persons include any corporation, trust, partnership, joint venture, sole proprietorship, or association. Branches and representative offices are not included.

Limitations on market access: The column on a country's GATS schedule that lists the restrictions on specific modes of supply (cross-border supply, consumption abroad, commercial presence, or presence of natural persons) that apply to conducting a services business in the Member country for the given sector or subsector.

Limitations on national treatment: The column on a Member's GATS schedule that lists the restrictions on specific modes of supply (cross-border supply, consumption abroad, commercial presence, or presence of natural persons) that apply to how foreign services companies are treated in comparison to domestic ones in a given sector or subsector.

Measure: A law, regulation, rule, procedure, decision, or administrative action that affects trade in services. Measures may pertain to: (1) the purchase of, payment for, or use of a service; (2) a service supplier's access to, and use of, services which are available to the general public; and (3) a service supplier's ability to establish a presence, including a commercial presence, in a host country.

Modes of supply: Means of delivering services to foreign consumers. Modes of supply are defined on the basis of the origins of the service supplier and consumer, and the degree and type of territorial presence which they have at the moment that the service is delivered. There are four modes of supply: (1) cross-border supply; (2) consumption abroad; (3) commercial presence; and (4) presence of natural persons. See definitions of each for more information.

Most-Favored-Nation (MFN): Trading status accorded to a nation wherein the terms and conditions of trade with that nation are as favorable as those granted any other nation. The MFN obligation in Article II of the GATS states that the most favorable treatment actually accorded in all sectors, whether the subject of a commitment or not, must also be accorded to all other Members.

Most-Favored-Nation (MFN) exemption: Specific exceptions to the MFN obligation are included in each Member's "List of MFN Exemptions."

National treatment: Treatment of a foreign service supplier that is no less favorable than that accorded to domestic service suppliers.

Natural person: A person who is a national of a country under the law of that country (e.g., persons eligible to hold a passport of that country), or in the case of a country which does not have nationals (e.g., territories), a person who has the right of permanent residence under the law of that country.

Partial commitment: This is recorded in the national schedule of a country that wishes to impose some limits on market access or national treatment in a given sector and mode of supply. Unless otherwise stated, the limitations presented in the national schedule are the only limitations that apply to a specific mode of supplying the service.

Presence of natural persons: One of four possible modes of delivering services to foreign consumers, whereby one individual, acting alone or as an employee of a service supplier, provides a service while present in a foreign market.

Rollback commitment: A type of bound commitment wherein a country maintains some, but not all, currently existing regulations that limit market access or national treatment in a given sector and mode of supply. In the national schedules, a rollback commitment will describe the remaining measures that are inconsistent with free market access and national treatment.

Supply of a service: The production, distribution, marketing, sale, and delivery of a service.

Standstill commitment: A type of bound commitment wherein a country maintains all existing regulations that limit market access or national treatment in a given sector and mode of supply. In the national schedules, a standstill commitment will describe the measures that are currently inconsistent with free market access and national treatment.

Sector-specific commitment: Legally enforceable commitment affecting trade in a specific service sector. They generally specify limitations regarding market access or national treatment.

Transparency: Transparency exists in a commitment when the nature and extent of all regulatory impediments to trade are explained in their entirety, with precision and clarity.

Unbound measure: A measure that may be inconsistent with market access or national treatment that can be made more restrictive in the future. In the national schedules, an unbound measure is reflected by the word "unbound" in the relevant service sector and mode of supply. In the event that a service sector or mode of supply is unbound, a new measure that is inconsistent with market access and national treatment may be introduced in the future. The word "unbound" may be accompanied by an asterisk if a particular mode of supply is not technically feasible.

APPENDIX D

CONCORDANCE OF INDUSTRY CLASSIFICATIONS

Concordance of industry classification

GATT Secretariat's Services Sectoral Classification List	United Nations' Provisional Central Product Classification System (CPC)
<p>1. BUSINESS SERVICES</p> <p>A. Professional services</p> <p>a) Legal services</p> <p>b) Accounting, auditing, and bookkeeping services</p> <p>d) Architectural services</p> <p>e) Engineering services</p> <p>f) Integrated engineering services</p> <p>h) Medical and dental services</p> <p>i) Veterinary services</p> <p>j) Services provided by midwives, nurses, physiotherapists and para-medical personnel</p>	<p><u>Group 861</u>: Legal services <i>Subclass 86119</i>: Legal advisory and representation services in judicial procedures concerning other fields of law <i>Class 8612</i>: Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc. <i>Class 8613</i>: Legal documentation and certification services <i>Class 8619</i>: Other legal advisory and information services</p> <p><u>Group 862</u>: Accounting, auditing, and bookkeeping services <i>Subclass 86212</i>: Accounting review services</p> <p><i>Class 8671</i>: Architectural services <i>Subclass 86711</i>: Advisory and pre-design architectural services <i>Subclass 86712</i>: Architectural design services <i>Subclass 86713</i>: Contract administration services <i>Subclass 86714</i>: Combined architectural design and contract administration services <i>Subclass 86719</i>: Other architectural services</p> <p><i>Class 8672</i>: Engineering services <i>Subclass 86721</i>: Advisory and consultative engineering services <i>Subclass 86722</i>: Engineering design services for the construction of foundations and building structures <i>Subclass 86723</i>: Engineering design services for mechanical and electrical installations for buildings <i>Subclass 86724</i>: Engineering design services for the construction of civil engineering works <i>Subclass 86725</i>: Engineering design services for industrial processes and production <i>Subclass 86726</i>: Engineering design services, not elsewhere classified <i>Subclass 86727</i>: Other engineering services during the construction and installation phase <i>Subclass 86729</i>: Other engineering services</p> <p><i>Class 8673</i>: Integrated engineering services <i>Subclass 86731</i>: Integrated engineering services for transportation infrastructure turnkey projects <i>Subclass 86732</i>: Integrated engineering and project management services for water supply and sanitation works turnkey projects <i>Subclass 86733</i>: Integrated engineering services for the construction of manufacturing turnkey projects <i>Subclass 86739</i>: Integrated engineering services for other turnkey projects</p> <p><i>Class 9312</i>: Medical and dental services</p> <p><u>Group 932</u>: Veterinary services <i>Subclass 93191</i>: Deliveries and related services, nursing services, physiotherapeutic and para-medical services</p>

Concordance of industry classification--*continued*

GATT Secretariat's Services Sectoral Classification List	United Nations' Provisional Central Product Classification System (CPC)
<p>F. Other business services</p> <p>a) Advertising services</p>	<p><u>Group 871</u>: Advertising services</p>
<p>2. COMMUNICATION SERVICES</p> <p>B. Courier services</p> <p>C. Telecommunication services</p> <p>f) Facsimile services</p> <p>h) Electronic mail</p> <p>l) Voice mail</p> <p>j) On-line information and data base retrieval</p> <p>k) Electronic data interchange</p> <p>l) Enhanced/value-added facsimile services (including store and forward, store and retrieve)</p> <p>m) Code and protocol conversion</p> <p>n) On-line information and/or data processing (including transaction processing)</p> <p>D. Audiovisual services</p> <p>a) Motion picture and video tape production and distribution services</p> <p>b) Motion picture projection service</p> <p>c) Radio and television services</p> <p>d) Radio and television transmission services</p> <p>e) Sound recording</p> <p>f) Other</p>	<p>Class 7512: Courier services <i>Subclass 75121</i>: Multi-modal courier services</p> <p>Class 7521: Public telephone services Class 7529: Other telecommunication services</p> <p>Class 7523: Data and message transmission services</p> <p><i>No corresponding CPC</i></p> <p><u>Group 843</u>: Data processing services</p> <p>Class 9611: Motion picture and video tape production and distribution services <i>Subclass 96112</i>: Motion picture or video tape production services</p> <p>Class 9612: Motion picture projection services <i>Subclass 96121</i>: Motion picture projection services</p> <p>Class 9613: Radio and television services</p> <p>Class 7524: Program transmission services</p> <p><i>No corresponding CPC</i></p> <p><i>No corresponding CPC</i></p>

Concordance of industry classification--*continued*

GATT Secretariat's Services Sectoral Classification List	United Nations' Provisional Central Product Classification System (CPC)
<p>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</p> <p>A. General construction work for buildings</p> <p>B. General construction work for civil engineering</p> <p>C. Installation and assembly work</p> <p>D. Building completion/finishing work</p> <p>E. Other</p>	<p><u>Group 512</u>: Construction work for buildings <u>Subclass 5121</u>: Construction work for one- and two-dwelling buildings <u>Subclass 5122</u>: Construction work for multi-dwelling buildings <u>Subclass 5124</u>: Construction work for commercial buildings <u>Subclass 5127</u>: Construction work for educational buildings <u>Subclass 5128</u>: Construction work for health buildings</p> <p><u>Group 513</u>: Construction work for civil engineering Class 5131: Construction work for highways (except elevated highways), streets, roads, railways, and airfield runways Class 5135: Construction work for local pipelines and cables, ancillary works</p> <p><u>Group 514</u>: Assembly and erection of prefabricated constructions <u>Group 516</u>: Installation work <u>Subclass 5161</u>: Heating, ventilation, and air conditioning work <u>Subclass 5162</u>: Water plumbing and drain laying work <u>Subclass 5163</u>: Gas fitting construction work <u>Subclass 5164</u>: Electrical work</p> <p><u>Group 517</u>: Building completion and finishing work</p> <p><u>Group 511</u>: Pre-erection work at construction site <u>Group 515</u>: Special trade construction work <u>Group 518</u>: Renting services related to equipment for construction or demolition of building or civil engineering work, with operator</p>
<p>4. DISTRIBUTION SERVICES</p> <p>A. Commission agents' services</p> <p>B. Wholesale trade services</p> <p>C. Retailing services</p> <p>D. Franchising</p>	<p><u>Group 621</u>: Commission agents' services</p> <p><u>Subclass 61111</u>: Wholesale trade services of motor vehicles <u>Group 622</u>: Wholesale trade services Class 6222: Wholesale trade services of food, beverages, and tobacco</p> <p>Class 6111: Sales of motor vehicles <u>Subclass 61112</u>: Retail sales of motor vehicles Class 6113: Sales of parts and accessories of motor vehicles Class 6121: Sales of motorcycles and snowmobiles and related parts and accessories <u>Group 613</u>: Retail sales of motor fuel <u>Group 631</u>: Food retailing services <u>Group 632</u>: Non-food retailing services Class 6329: Other specialized retail sales of non-food products <u>Group 633</u>: Repair services of personal and household goods</p> <p>Class 8929: Other non-financial intangible assets</p>

Concordance of industry classification--*continued*

GATT Secretariat's Services Sectoral Classification List	United Nations' Provisional Central Product Classification System (CPC)
<p>5. EDUCATIONAL SERVICES</p> <p>A. Primary education services</p> <p>B. Secondary education services</p> <p>C. Higher education services</p> <p>D. Adult education services</p> <p>E. Other education services</p>	<p><u>Group 921</u>: Primary education services <i>Subclass 9211</i>: Preschool education services <i>Subclass 9219</i>: Other primary education services</p> <p><u>Group 922</u>: Secondary education services <i>Subclass 9221</i>: General secondary education services <i>Subclass 9222</i>: Higher secondary education services <i>Subclass 9223</i>: Technical and vocational secondary education services</p> <p><u>Group 923</u>: Higher education services <i>Subclass 9231</i>: Post-secondary technical and vocational educational services <i>Subclass 9239</i>: Other higher education services</p> <p><u>Group 924</u>: Adult education services, not elsewhere classified</p> <p><u>Group 929</u>: Other education services</p>
<p>8. HEALTH RELATED AND SOCIAL SERVICES, <i>excludes those subsectors listed in section 1A(h-j), under Business Professional Services. (see page G-2)</i></p> <p>A. Hospital services</p> <p>B. Other human health services, <i>excludes CPC "93191: Deliveries and related services, nursing services, physiotherapeutic and para-medical services."</i></p> <p>D. Other</p>	<p>Class 9311: Hospital services</p> <p><i>Subclass 93123</i>: Dental services</p> <p>Class 9319: Other human health services <i>Subclass 93193</i>: Residential health facilities services other than hospital services <i>Subclass 93199</i>: Other human health services, not elsewhere classified</p> <p><i>No corresponding CPC</i></p>
<p>9. TOURISM AND TRAVEL RELATED SERVICES</p> <p>A. Hotels and restaurants, <i>includes catering services</i></p> <p>B. Travel agencies and tour operators services</p> <p>C. Tourist guides services</p> <p>D. Other</p>	<p><u>Group 641</u>: Hotel and other lodging services Class 6411: Hotel lodging services Class 6412: Motel lodging services <i>Subclass 64192</i>: Holiday center and holiday home services <i>Subclass 64193</i>: Letting services of furnished accommodations <i>Subclass 64194</i>: Youth hostel and mountain shelter services <i>Subclass 64195</i>: Camping and caravanning site services</p> <p><u>Group 642</u>: Food serving services Class 6421: Meal serving services with full restaurant service Class 6422: Meal serving services in self-service facilities Class 6423: Caterer services, providing meals to outside</p> <p><u>Group 643</u>: Beverage serving services for consumption on the premises Class 6431: Beverage serving services without entertainment Class 6432: Beverage serving services with entertainment</p> <p>Class 7471: Travel agency and tour operator services</p> <p>Class 7472: Tourist guide services</p> <p><i>No corresponding CPC</i></p>

Concordance of industry classification--*continued*

GATT Secretariat's Services Sectoral Classification List	United Nations' Provisional Central Product Classification System (CPC)
<p>11. TRANSPORT SERVICES</p> <p>E. Rail transport</p> <p> a) Passenger transportation</p> <p> b) Freight transportation</p> <p>F. Road transport</p> <p> a) Passenger transportation</p> <p> b) Freight transportation</p> <p> c) Rental of commercial vehicles with operator</p> <p>G. Pipeline transport</p> <p> b) Transportation of other goods (excluding fuel)</p> <p>H. Services auxiliary to all modes of transport</p> <p> a) Cargo handling services</p> <p> b) Storage and warehouse services</p> <p> c) Freight transport agency services</p> <p> d) Other</p> <p>I. Other transport services</p>	<p>Class 7111: Rail passenger transportation</p> <p>Class 7112: Rail freight transportation</p> <p><i>Subclass 71211: Urban and suburban regular transportation</i> <i>Subclass 71213: Interurban regular transportation</i> Class 7122: Other non-scheduled passenger transportation <i>Subclass 71221: Taxi services</i> <i>Subclass 71222: Rental services of passenger cars with operator</i> <i>Subclass 71223: Rental services of buses and coaches with operator</i></p> <p>Class 7123: Freight transportation <i>Subclass 71231: Transportation of frozen or refrigerated goods</i> <i>Subclass 71232: Transportation of bulk liquids or gases</i> <i>Subclass 71233: Transportation of containerized freight</i> <i>Subclass 71234: Transportation of furniture</i></p> <p>Class 7124: Rental services of commercial freight vehicles with operator Class 7213: Rental services of seagoing vessels with operator</p> <p>Class 7139: Transportation of other goods</p> <p>Class 7411: Container handling services Class 7419: Other cargo handling services</p> <p><u>Group 742</u>: Storage and warehousing services</p> <p><u>Group 748</u>: Freight transport agency services</p> <p><u>Group 749</u>: Other supporting and auxiliary transport services</p> <p><i>No corresponding CPC</i></p>

Source: GATT Secretariat's *Services Sectoral Classification List* (MTN/GNS/W/120).

APPENDIX E

CROSS-INDUSTRY COMMITMENTS

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Bulgaria	Use of Nuclear Energy for Peaceful Purposes	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound for services relating to the exploration, extraction, and processing of fissionable and fusionable materials or other materials from which they are derived, including such services as trade; maintenance and repair of nuclear energy production facilities; transportation of such materials and processed waste matter; engineering, consulting, and software services. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound for services relating to the exploration, extraction, and processing of fissionable and fusionable materials or other materials from which they are derived, including such services as trade; maintenance and repair of nuclear energy production facilities; transportation of such materials and processed waste matter; engineering, consulting, and software services. <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound for services relating to the exploration, extraction, and processing of fissionable and fusionable materials or other materials from which they are derived, including such services as trade; maintenance and repair of nuclear energy production facilities; transportation of such materials and processed waste matter; engineering, consulting, and software services. <p>National Treatment: None</p>
	Investment	<p>Market Access:</p> <ul style="list-style-type: none"> Capital payments and transfers abroad require the authorization of the Bulgarian National Bank when related to investments and state or state-guaranteed loans. <p>National Treatment:</p> <ul style="list-style-type: none"> None for capital payments. 	<p>Market Access:</p> <ul style="list-style-type: none"> Capital payments and transfers abroad require the authorization of the Bulgarian National Bank when related to investments and state or state-guaranteed loans. Unbound for participation in privatization through state external debt bonds and for services sectors and/or service suppliers not subject to privatization under the annual privatization program. Establishment of foreign service suppliers, including joint ventures, are required to take the form of a limited liability company or joint stock company with at least 2 shareholders. Establishment of branch offices is subject to authorization. Unbound for establishment of representative offices. Representative offices may not engage in economic activity. For enterprises with public equity participation exceeding 30 percent, transfer of these shares to a third party requires authorization. <p>National Treatment:</p> <ul style="list-style-type: none"> None for capital payments. Unbound for participation in privatization through investment vouchers or other preferential privatization methods for which Bulgarian citizenship and permanent residence are required. Registration of foreign investments with the Ministry of Finance are for statistical and taxation purposes only. Permission is required for distribution of weapons, munitions, or military equipment if a foreign person or company has direct or indirect authority to adopt or block the adoption of decisions. 	<p>Market Access:</p> <ul style="list-style-type: none"> Capital payments and transfers abroad require the authorization of the Bulgarian National Bank when related to investments and state or state-guaranteed loans. <p>National Treatment:</p> <ul style="list-style-type: none"> None for capital payments.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Bulgaria (continued)	Subsidies	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> Subsidies will be reserved for Bulgarian juridical persons or citizens. The supply or subsidization of a service within the public sector does not breach this commitment. 	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> Subsidies will be reserved for Bulgarian juridical persons or citizens. The supply or subsidization of a service within the public sector does not breach this commitment. 	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> Subsidies will be reserved for Bulgarian juridical persons or citizens. The supply or subsidization of a service within the public sector does not breach this commitment.
	Real Estate	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> Foreign natural and juridical persons, including their branch operations, may not own land. Bulgarian juridical persons with foreign participation may not own agricultural land. Foreign juridical persons and foreign citizens with permanent residence abroad may acquire buildings and limited property rights subject to permission from the Ministry of Finance. This requirement does not apply to persons who have made investments in Bulgaria. Permission is required to acquire real estate if a foreign person or company has direct or indirect authority to adopt or block the adoption of firm decisions. 	<p>Market Access: None</p> <p>National Treatment: None</p>

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Bulgaria (continued)	Entry and Temporary Stay of Natural Persons	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound except for measures concerning the entry and temporary stay of natural persons in the following categories: <ul style="list-style-type: none"> - The following intracorporate transferees, with residence and work permits, are allowed temporary stay provided that the service supplier is a juridical person and that the transferees have been employed by the supplier for at least 1 year immediately preceding the transfer. The number of such transferees is not to exceed 10 percent of the average annual number of Bulgarian citizens employed by the respective Bulgarian juridical person. For Bulgarian juridical persons with less than 100 persons employed, the number of intracorporate transferees may exceed 10 percent with authorization. The duration of temporary stay is limited to an initial 1-year period that may be extended for up to 1 additional year for a total term not to exceed 3 years (clarification from Bulgaria is necessary to resolve whether the total term of stay is 2 or 3 years): <ul style="list-style-type: none"> - One or more senior executives, but not exceeding 10 percent of the total number, who primarily direct the management of the juridical person; receive only general supervision or direction from the board of directors or stockholders of the business or their equivalent; direct the establishment or a department or subdivision of the establishment; supervise or control the work of other supervisory, professional, or managerial employees; have the authority to hire and fire or recommend the hiring, firing, or other personnel actions; and do not directly perform tasks concerning the actual supply of services. - Persons, working for a juridical person, who possess uncommon knowledge essential to the establishment's service, research equipment, techniques, or management. Knowledge specific to the establishment, a high level of qualification in terms of type of work or trade requiring specific technical knowledge, including membership of an accredited profession, is used to assess uncommon knowledge.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Bulgaria (continued)	Entry and Temporary Stay of Natural Persons, continued			<p>Market Access, continued:</p> <ul style="list-style-type: none"> - The following natural persons, with business visitor visas, are allowed temporary stay of 3 months within 1 calendar year: <ul style="list-style-type: none"> - Representatives, not residing in Bulgaria, of a service provider who are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service provider. These representatives will not be engaged in making direct sales to the general public or in supplying services themselves. - Senior executives who are responsible for setting up a commercial presence of a service provider of a WTO member when the establishment's representatives are not engaged in making direct sales or supplying services, and the service provider has its principal place of business in the territory of a WTO member other than Bulgaria and has no representative office, branch, or subsidiary in Bulgaria. Senior executives primarily direct the management of the juridical person; receive only general supervision or direction from the board of directors or stockholders of the business or their equivalent; direct the establishment or a department or subdivision of the establishment; supervise or control the work of other supervisory, professional, or managerial employees; have the authority to hire and fire or recommend the hiring, firing, or other personnel actions; and do not directly perform tasks concerning the actual supply of services. <p>National Treatment:</p> <ul style="list-style-type: none"> • None for the categories indicated under Market Access.
Czech Republic	Real Estate	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment:</p> <ul style="list-style-type: none"> • Limitations on real estate acquisition by foreign natural and legal entities. Foreign entities may acquire real property by establishing Czech legal entities or participating in joint ventures. Acquisition of land by foreign entities is subject to authorization. 	<p>Market Access: None National Treatment: None</p>

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Czech Republic (continued)	Entry and Temporary Stay of Natural Persons	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound except for measures concerning the entry and temporary stay of natural persons in the following categories: <ul style="list-style-type: none"> - The following intracorporate transferees are allowed temporary presence provided that the service supplier is a juridical person and that the transferees have been employed by the supplier for at least 1 year immediately preceding the transfer: <ul style="list-style-type: none"> - Essential senior executives who primarily direct the management of the establishment or one of its departments and receive only general supervision or direction from the board of directors or stockholders. Senior executives would not directly perform tasks related to the actual provision of services. - Specialists, working for a juridical person, who possess high or uncommon knowledge essential to the establishment's service, research equipment, techniques, or management. Knowledge specific to the establishment and a high level of qualification in terms of type of work or trade requiring specific technical knowledge, including membership in an accredited professional association, are used to assess uncommon knowledge. - The following natural persons are allowed temporary presence: <ul style="list-style-type: none"> - Representatives, not residing in the Czech Republic, of a service provider who are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service provider. These representatives will not be engaged in making direct sales to the general public or in supplying services themselves. - Senior executives who are responsible for setting up a commercial presence in the Czech Republic of a service provider, who are not engaged in making direct sales or supplying services, and the service provider has its principal place of business in the territory of a WTO member other than the Czech Republic and has no representative office, branch, or subsidiary in the Czech Republic. Senior executives primarily direct the management of the establishment or one of its departments and receive only general supervision or direction from the board of directors or stockholders. Senior executives would not directly perform tasks related to the actual provision of services. <p>National Treatment:</p> <ul style="list-style-type: none"> • None for the categories indicated under Market Access.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Hungary	Investment	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> Commercial presence should take the form of a limited liability company, joint stock company, or representative office. Initial entry as a branch operation is not permitted. Unbound for the acquisition of state-owned properties. National Treatment: <ul style="list-style-type: none"> Unbound for the acquisition of state-owned properties. 	Market Access: None National Treatment: None
	Subsidies	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> Unbound with respect to subsidies. 	Market Access: None National Treatment: None
	Real Estate	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> Unbound with respect to acquisition of real estate by foreign natural persons.

Cross-Industry commitments¹

E-6

		Mode of Supply ²		
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Hungary (continued)	Entry and Temporary Stay of Natural Persons	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound except for the entry and temporary stay of natural persons in the following categories: <ul style="list-style-type: none"> - Senior officials have the highest rank within the juridical person established in Hungary with foreign participation, and primarily direct the management of that commercial presence. One senior official per business venture is allowed for the duration of the business directed by that person. - Personalities of internationally recognized reputation invited by higher educational institutions, scientific research institutes, or public educational institutions for the duration of the invitation. - The following intracorporate transferees, having been employed by a juridical person of another WTO member for at least 1 year without interruption, are allowed entry and temporary stay in order to render services to a juridical person constituted in Hungary which is owned by the aforementioned juridical person: <ul style="list-style-type: none"> - Executives who primarily direct the management of the juridical person or establish goals and policies for the juridical person or a major component or function of the juridical person, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives of the juridical person. - Managers who direct the organization or department or subdivision of the juridical person; supervise and control the work of other supervisory, professional, or managerial employees; have the authority to hire and fire; and exercise discretionary authority over day-to-day operations at a senior level. - Specialists who possess knowledge at an advanced level of expertise; possess proprietary knowledge of the juridical person's product, service, research equipment, techniques, or management; and are essential to the operation of the juridical person constituted in Hungary. - Business visitors who are sales representatives of a service provider and are seeking temporary entry for the purposes of negotiating for the sale of services for that service provider. These sales representatives may not be remunerated from within Hungary and may not engage in direct sales to the general public or supply the services themselves. Entry and stay shall be for a period no more than 90 days. <p>National Treatment:</p> <ul style="list-style-type: none"> • Unbound except as indicated under Market Access.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Iceland	Investment	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Foreign investment and currency transfers must be reported to the Central Bank of Iceland. • Investment by a Foreign State or companies/organizations owned by a Foreign State requires a special concession from the Ministry of Commerce. • Non-residents, natural as well as legal persons, involved in trade in goods or rental of videos require a trade permit. These licenses are required of Icelandic as well as non-resident providers of such services. • Services provided by natural persons, whether self-employed or participating in a business with an unlimited liability company, require a concession by the Ministry of Commerce if the persons involved are non-residents. <p>National Treatment:</p> <ul style="list-style-type: none"> • Treatment accorded to subsidiaries of third-country companies formed in accordance with the law of an EEA Member State may not be extended to branches or agencies. • Less favorable treatment may be accorded to subsidiaries of third-country companies formed in accordance with the law of an EEA Member State unless they show that they possess an effective and continuous link with the economy of one of the EEA Member States. • Managers and the majority of the members of the board of directors in all domestic enterprises must be domiciled in Iceland unless exempted from this requirement by the Ministry of Commerce. • At least one of the auditors of an Icelandic limited liability company must be a resident in Iceland or a competent resident CPA company. 	<p>Market Access: None National Treatment: None</p>
	Subsidies	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment:</p> <ul style="list-style-type: none"> • Eligibility for subsidies may be limited to juridical persons established within the territory of Iceland. • Unbound for subsidies related to research and development. 	<p>Market Access: None National Treatment:</p> <ul style="list-style-type: none"> • Subsidies available only to natural persons may be limited to Icelandic citizens.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Iceland (continued)	Real Estate	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Non-residents cannot conclude an agreement on real estate leases without the permission of the Ministry of Justice if the lease is for a period exceeding 3 years and not for use in conducting normal business activities. • Non-residents may only acquire real estate in conjunction with their business activities and can only obtain proprietary rights linked to the real estate. • Non-residents are excluded from obtaining full property rights of real estate if unusual rights are linked to it, such as waterfall or geothermal energy rights. • Contracts concerning ownership and long-term use of real estate by non-residents are not valid unless endorsed in writing by the Ministry of Justice. <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>
	Entry and Temporary Stay of Natural Persons	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound except for the temporary entry of the following service providers as intra-corporate transferees, which does not require compliance with labor market tests: <ul style="list-style-type: none"> - Executives who primarily direct the management of the organization, establish the organization's goals, and generally have wide decision-making authority. Executives would not necessarily perform tasks related to the actual provision of the service. - Managers who direct the organization or a department of the organization, and are at a senior level with responsibility for supervising, controlling, hiring, and firing personnel. Managers also have authority to recommend the hiring and firing of personnel as well as other personnel actions. - Specialists who possess knowledge at an advanced level of expertise, possess essential or proprietary knowledge of the juridical person's, service, research equipment, techniques, or management. - Service sellers who, as representatives of a service provider, are seeking temporary entry for the purposes of negotiating or entering into agreements to sell services for that service provider. These service sellers may not engage in direct sales to the general public. <p>National Treatment:</p> <ul style="list-style-type: none"> • None for the categories offered under market access.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Liechtenstein	Subsidies and/or Taxation	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> • Unbound for subsidies, tax incentives, and tax credits. • Once the EEA Agreement has entered into force for Liechtenstein, treatment accorded to subsidiaries of third-country companies formed in accordance with the law of an EEA Member State may not be extended to branches or agencies. • Less favorable treatment may be accorded to subsidiaries of third-country companies which have only their registered office in the territory of an EEA Member State unless they show that they possess an effective and continuous link with the economy of one of the EEA Member States. 	<p>Market Access:</p> <ul style="list-style-type: none"> • Establishment of a commercial presence by a juridical person, including branch offices, requires no objection for reasons of national economy (balanced proportion of national and foreign capital; balanced ratio of foreigners in comparison with the number of residents; balanced ratio of total number of jobs in the economy in comparison with the number of residents; balanced geographic situation; balanced development of the national economy, between and within economic sectors). <p>National Treatment:</p> <ul style="list-style-type: none"> • Establishment of a commercial presence by an individual requires prior residence during a certain period of time and permanent domicile in Liechtenstein. The individual must possess sector specific government-recognized professional qualifications. • Establishment of a commercial presence by a juridical person, including branch offices, requires that at least one of the managers has fulfilled the prior residence, permanent domicile, and professional qualifications requirements discussed above. Also, the majority of administrators (authorized to manage and represent the juridical person) must be resident in Liechtenstein and have Liechtenstein citizenship or prior residence during a certain period of time in Liechtenstein. General and limited partnerships must fulfill the same conditions as limited liability corporations (juridical persons). In addition, the majority of the associates must have Liechtenstein citizenship or have prior residence during a certain period of time in Liechtenstein. • Liechtenstein law does not prohibit joint stock companies from foreseeing in their articles of incorporation the preclusion or limitation of the transfer of registered shares. • Once the EEA Agreement has entered into force for Liechtenstein, treatment accorded to subsidiaries of third-country companies formed in accordance with the law of an EEA Member State may not be extended to branches or agencies. • Less favorable treatment may be accorded to subsidiaries of third-country companies which have only their registered office in the territory of an EEA Member State unless they show that they possess an effective and continuous link with the economy of one of the EEA Member States. 	<p>Market Access: None</p> <p>National Treatment: None</p>
	Real Estate	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment:</p> <ul style="list-style-type: none"> • All real estate acquisitions are subject to authorization. Such authorization is granted only if an actual and proven requirement for living or business purposes is given and a certain period of residence has been completed. Non-residents are excluded from the acquisition of real estate. 	<p>Market Access: None</p> <p>National Treatment: None</p>

Cross-Industry commitments¹

					Mode of Supply ²			
Trading Partner	Category	Cross-Border Supply	Commercial Presence		Presence of Natural Persons			
Liechtenstein (continued)	Entry and Temporary Stay of Natural Persons	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>		<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except for measures permitting the entry and temporary stay of executives, senior managers, or specialists. Entry and stay of foreign services suppliers in Liechtenstein is subject to authorization (requirement of residency permit and work permit). Authorization is granted subject to measures fixing overall numbers of work permits allocated. For essential personnel as defined below, the period of stay is limited to a period of three years. Also, essential persons must have been employed by the enterprise for a period of 1 year prior to submitting their application for admission. Persons staying in or entering Liechtenstein with an open-ended or prolonged residence permit based on an employment contract not limited in time are not considered as persons residing in or entering Liechtenstein for the purpose of temporary stay or temporary employment. <ul style="list-style-type: none"> Executives and senior managers are persons within an organization who primarily direct the enterprise or one of its departments and receive only general supervision or direction from higher-level executives, the board of directors, or shareholders of the business. Executives and senior managers would not directly perform tasks related to the actual supply of services of the enterprise. Specialists are persons within an enterprise who are essential for the provision of a specific service and possess knowledge at an advanced level of expertise in the field of services, research equipment, techniques, or management of the enterprise. <p>National Treatment:</p> <ul style="list-style-type: none"> Unbound except for the categories indicated under Market Access and the following limitations and conditions: laws and/or collective agreements related to working conditions (with respect to remuneration, working hours, etc.), measures limiting professional mobility, regulations related to statutory systems of social security and public retirement plans (with respect to qualifying period, residency requirement, etc.) and all other legislation relating to immigration, entry, stay and work. The enterprise employing such persons shall cooperate, upon request, with the authorities in charge of the enforcement of these measures. 			

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Norway	Investment	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> • Treatment accorded to subsidiaries of third-country companies formed in accordance with the law of an EEA Member State may not be extended to branches or agencies. • Less favorable treatment may be accorded to subsidiaries of third-country companies formed in accordance with the law of an EEA Member State unless they show that they possess an effective and continuous link with the economy of one of the EEA Member States. • The managing director in a joint stock company, at least half of the founders, at least half of the members of the board of directors, at least half of the corporate assembly, and at least half of the committee of representatives must be residents of Norway and have resided there for the last 2 years. The Ministry of Industry and Energy may grant exemptions from these rules. 	Market Access: None National Treatment: None
	Subsidies	Market Access: Unbound National Treatment: Unbound	Market Access: None National Treatment: <ul style="list-style-type: none"> • Eligibility for subsidies may be limited to juridical persons established in Norway. • Unbound for research and development subsidies. 	Market Access: None National Treatment: <ul style="list-style-type: none"> • Subsidies available to natural persons may be limited to Norwegian citizens.

Cross-Industry commitments¹

		Mode of Supply ²		
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
E-11 Norway (continued)	Real Estate	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment:</p> <ul style="list-style-type: none"> • Corporations registered in Norway, in which more than 1/3 of the voting rights are controlled by non-nationals or foreign-controlled companies, or the chairman and the majority of the board members are non-nationals, are subject to concession when acquiring real estate or entering into certain lease contracts. • Foreigners and foreign-controlled companies in Norway need a concession for purchases of real property (building and/or land). • Leases of real property for a period of more than 10 years are subject to a concession requirement. If the property is to be used for manufacturing purposes, a concession is required regardless of the lease period. • Foreign citizens residing in Norway who purchase or lease real property for housing, secondary residences, and business activities without a concession, are subject to the condition that the real property is acquired for their own personal use. • A concession can only be granted when it is not contrary to the public interest. An acquisition is normally judged on the impact it will have on future activity and employment in the company and the society as a whole. Legislation governing acquisitions has traditionally been liberally applied. It authorizes the setting of conditions, in a large majority of the cases involving over 1/3 of foreign ownership, related to voting shares. Conditions are largely standardized. Two conditions are regarded as important and are stipulated in most cases: a majority of the board and its chairman must be Norwegian nationals, and the transactions between the Norwegian company and the foreign owner must be based on OECD principles of arm's length prices. 	<p>Market Access: None National Treatment:</p> <ul style="list-style-type: none"> • Foreign citizens residing in Norway who purchase or lease real property for housing, secondary residences, and business activities without a concession, are subject to the condition that the real property is acquired for their own personal use. • A concession can only be granted when it is not contrary to the public interest. An acquisition is normally judged on the impact it will have on future activity and employment in the company and the society as a whole. Legislation governing acquisitions has traditionally been liberally applied. It authorizes the setting of conditions, in a large majority of the cases involving over 1/3 of foreign ownership, related to voting shares. Conditions are largely standardized. Two conditions are regarded as important and are stipulated in most cases: a majority of the board and its chairman must be Norwegian nationals, and the transactions between the Norwegian company and the foreign owner must be based on OECD principles of arm's length prices.

Cross-Industry commitments¹

		Mode of Supply ²		
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Poland	Investment	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> • Establishment by foreign service suppliers may only take the form of a limited liability company or a joint stock company. The same legal form is required in the case of joint-ventures between Polish and foreign companies. • Unbound with respect to branch and representative offices. • Unbound in relation to acquisition of state-owned property, i.e. the regulations governing the privatization process. • Authorization for the establishment of a company with foreign equity is required in cases of establishment; purchase or acquiring of shares or stocks in an existing company; extending the company's activities when the scope includes at least one of the following areas: <ul style="list-style-type: none"> - management of seaports and airports; - real estate or acting as an intermediary in real estate transactions; - supplying the defense industry when supply is not covered by other licensing requirements; - wholesale trade in imported consumer goods; - provision of legal advisory services; - establishment of a joint-venture company with foreign equity in which the Polish party is a state legal person and is contributing non-pecuniary assets as initial capital; - arranging a contract that includes the right to use state property for more than 6 months or decisions on the acquisition of such property. National Treatment: None	Market Access: None National Treatment: None
	Subsidies	Market Access: <ul style="list-style-type: none"> • Unbound in relation to subsidies and other forms of public assistance. National Treatment: <ul style="list-style-type: none"> • None 	Market Access: None National Treatment: None	Market Access: None National Treatment: None
	Real Estate	Market Access: None National Treatment: <ul style="list-style-type: none"> • Acquisition of real estate, direct and indirect, by foreigners and foreign legal persons requires permission. 	Market Access: <ul style="list-style-type: none"> • None National Treatment: <ul style="list-style-type: none"> • Acquisition of real estate, direct and indirect, by foreigners and foreign legal persons requires permission. 	Market Access: None National Treatment: <ul style="list-style-type: none"> • Acquisition of real estate, direct and indirect, by foreigners and foreign legal persons requires permission.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Poland (continued)	Entry and Temporary Stay of Natural Persons	Market Access: None National Treatment: None	Market Access: None National Treatment: None	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except for the temporary employment of managers or specialists who possess advanced or uncommon qualifications or knowledge necessary for the functioning of the enterprise. Such persons must have been employed by the enterprise for at least 1 year. Work permits are issued exclusively for the specified period, up to 1 year with the possibility of extension, for a specified foreign person working for a specified employer. Also, a market test is required. No restrictions on business visits, up to three months, related to negotiating or concluding transactions if they do not involve direct provision of services. <p>National Treatment: None</p>
Romania	Investment	Market Access: None National Treatment: None	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound for foreign investor participation in the privatization of commercial companies. Thirty percent of the capital of state-owned commercial companies has been distributed to Romanian citizens through "Ownership Certificates" which cannot be sold to foreign legal and natural persons. The remaining 70 percent of the capital of these companies is to be put on sale. During the privatization process, foreign investors can buy assets and shares of commercial companies but Romanian legal and natural persons have priority in this respect. The right to purchase a commercial company is reserved for its employees when privatization is through the MEBO (Management-Employee-Buy-Out) method. <p>National Treatment:</p> <ul style="list-style-type: none"> The sole administrator or the Chairman of the Board of Administration as well as half of the total number of administrators of commercial companies must be Romanian citizens unless otherwise stipulated in the company contract or in its statutes. The majority of the commercial companies' auditors and their deputies must be Romanian citizens. Unbound for foreign investor participation in the privatization of commercial companies. Thirty percent of the capital of state-owned commercial companies has been distributed to Romanian citizens through "Ownership Certificates" which cannot be sold to foreign legal and natural persons. The remaining 70 percent of the capital of these companies is to be put on sale. During the privatization process, foreign investors can buy assets and shares of commercial companies but Romanian legal and natural persons have priority in this respect. The right to purchase a commercial company is reserved for its employees when privatization is through the MEBO (Management-Employee-Buy-Out) method. 	<p>Market Access: None National Treatment: None</p>

Cross-Industry commitments¹

		Mode of Supply ²		
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
E-15 Romania (continued)	Real Estate	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Natural persons not having Romanian citizenship and residence in Romania, as well as legal persons not having Romanian nationality and their headquarters in Romania, cannot acquire ownership over any kind of land through <u>inter vivos</u> acts <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Natural persons not having Romanian citizenship and residence in Romania, as well as legal persons not having Romanian nationality and their headquarters in Romania, cannot acquire ownership over any kind of land through <u>inter vivos</u> acts <p>National Treatment: None</p>
	Entry and Temporary Stay of Natural Persons	<p>Market Access: None National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Unbound except for the entry and temporary stay of natural persons serving in management and expert jobs necessary to operate the foreign investment. Natural persons serving in management jobs are those persons with relevant higher education who, within an organization, manage the organization or one of its departments or divisions. Natural persons serving in expert jobs are those persons who have university degrees related to their position. <p>National Treatment:</p> <ul style="list-style-type: none"> None for the categories indicated under Market Access.
E-11 Slovak Republic	Investment	<p>Market Access:</p> <ul style="list-style-type: none"> Foreign exchange authorization required for acceptance of financial credits from foreign subjects, direct capital investments abroad, acquisition of real estate abroad and purchase of foreign securities. <p>National Treatment: None</p>	<p>Market Access: None National Treatment:</p> <ul style="list-style-type: none"> A foreign natural person whose name is to be registered in the Commercial Register as a person authorized to act on behalf of an entrepreneur is required to submit a Slovak Republic residence permit. 	<p>Market Access: None National Treatment: None</p>
	Real Estate	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> None except for acquisition of land. <p>National Treatment:</p> <ul style="list-style-type: none"> Limitations on real estate acquisition by foreign physical and legal entities. Foreign entities may acquire real property through the establishment of Slovak legal entities or participation in joint ventures. Acquisition of land by foreign entities is subject to authorization. 	<p>Market Access:</p> <ul style="list-style-type: none"> None except for acquisition of land. <p>National Treatment:</p> <ul style="list-style-type: none"> Limitations on real estate acquisition by foreign physical and legal entities. Foreign entities may acquire real property through the establishment of Slovak legal entities or participation in joint ventures. Acquisition of land by foreign entities is subject to authorization.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Slovak Republic (continued)	Entry and Temporary Stay of Natural Persons	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound except for the temporary entry, stay, and work of the following categories of natural persons: <ol style="list-style-type: none"> i) The temporary presence of the following natural persons as intracorporate transferees, provided that the service supplier is a juridical person and that the persons concerned have been employed by it for at least one year immediately preceding such movement: <ol style="list-style-type: none"> a) Essential senior executives working within a juridical person who primarily direct the management of the establishment or one of its departments and who receive only general supervision or direction principally from the board of directors or stockholders. Executives would not directly perform tasks related to the actual provisions of the services of the establishment. b) Specialists working within a juridical person who possess advanced or uncommon qualifications and knowledge essential to the establishment's service, research equipment, techniques, or management. In assessing such knowledge, account will be taken not only of the knowledge specific to the establishment but also of whether the specialist has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession. ii) The temporary presence of natural persons in the following categories: <ol style="list-style-type: none"> a) Persons not residing in the territory of the Slovak Republic who are representatives of a service provider and are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreement to sell services for that service provider. These representatives will not be engaged in making direct sales to the general public or in supplying services themselves b) Persons working in senior position as defined in (i)(a) above who are responsible for the setting up in the Slovak Republic of a commercial presence provided these persons are not engaged in making direct sales or supplying services and the service provider has its principal place of business in the territory of a WTO Member other than the Slovak Republic and has no representative office, branch, or subsidiary in the Slovak Republic. <p>National Treatment:</p> <ul style="list-style-type: none"> • None for the categories indicated under Market Access.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Slovenia	Investment	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Foreign participation exceeding 10 percent of the total value of a company undergoing privatization requires authorization and is limited to an amount determined by the Government. The following additional criteria shall be considered: <ul style="list-style-type: none"> - the importance of a trademark; - the effect of the foreign investment in the company on the acquisition of new technologies or modern equipment; - the effect of the foreign investment in the company on the acquisition of additional working or fixed capital; - the effect of the foreign investment in the company on maintaining the current employment level or the employment of new personnel; • Prior Government authorization is required for any foreign purchases exceeding 10 percent of the capital or voting rights in an existing Slovenian company already privatized with a value exceeding 5 million ECU, and for any purchases of equity of an existing Slovenian company with a value exceeding 1.25 million ECU if this equity is used with respect to an independent part, division, or plant of an enterprise. • An assessment of investments of the type discussed in the two categories above is made after considering the effects on the economy of the country, including the following criteria: <ul style="list-style-type: none"> - the company's affect on domestic and foreign markets in terms of a monopoly position and the influence of the foreign investor on the monopoly position of an existing company, in accordance with the Law on Protection of Competition; - the price of the acquired stake or shares in relation to the competitiveness of the company in domestic and foreign markets; - the potential threat to fair competition of incorporating foreign investors; - the prevention of an acquisition or take-over of a company that would result in the closing down of an otherwise profitable and competitive producer or would result in the elimination of competition from and within the Republic of Slovenia for given products or markets; - the current ownership structure of the company; - the effect of the purchase on the development of the company with respect to the manner and period of purchase. • There are no limitations on establishment of a new business establishment ("greenfield" investments). <p>National Treatment:</p> <ul style="list-style-type: none"> • Requires registration of the parent foreign company in a court register in the country of origin for at least 1 year prior to establishment of branch offices. • At least half of the ordinary members of the Board of Directors have to be nationals of the Republic of Slovenia. The managing director of a limited liability company or at least the procurator has to be a Slovenian national. A non-Slovenian director of a branch, established in Slovenia by a foreign juridical person, has to be a resident in the Republic of Slovenia. 	<p>Market Access: None National Treatment: None</p>

Cross-Industry commitments¹

		Mode of Supply ²		
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Slovenia (continued)	Subsidies	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> • None, other than for branches established in the Republic of Slovenia by a foreign company. Eligibility for subsidies from the Republic of Slovenia may be limited to juridical persons established within the territory of the Republic of Slovenia or a particular geographical sub-division thereof. • Unbound for subsidies for research and development. • The supply of a service, or its subsidization, with the public sector is not in breach of this commitment. 	Market Access: None National Treatment: <ul style="list-style-type: none"> • Availability of subsidies to natural persons may be limited to nationals of the Republic of Slovenia.
	Real Estate	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> • Juridical persons established in the Republic of Slovenia with foreign capital participation may only acquire real estate necessary for the conduct of the economic activities for which they are established. • Branches established in the Republic of Slovenia by foreign persons may only acquire real estate, except land, necessary for the conduct of the economic activities for which they are established. • Ownership of real estate located within 10 kms of border areas, by companies in which the majority of capital or voting rights belongs directly or indirectly to juridical persons or nationals of another Member, is subject to special permission. National Treatment: None	Market Access: None National Treatment: None

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Slovenia (continued)	Entry and Temporary Stay of Natural Persons	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound, except for measures concerning the entry and temporary stay of natural persons in the following categories: <ul style="list-style-type: none"> - Business visitors who stay in the Republic of Slovenia without acquiring remuneration from or within the Republic of Slovenia. These visitors also do not engage in making direct sales to the general public or supplying services. Business visitors participate in business meetings and business contacts, including negotiations for the sale of services or other similar activities. Business visitors also may prepare the establishment of commercial presence in the Republic of Slovenia. The duration of temporary stay is limited to a 90 day visa. - Intracorporate transferees are natural persons of another Member who have been employed by juridical persons of another Member for a period of not less than 3 years immediately preceding the entry, or have been partners in the enterprise (other than majority shareholders). The duration of temporary stay for "intracorporate transferees" is limited with a "business visa" and a residence permit, which may be granted for up to 1 year with extensions. Intracorporate transferees include: <ul style="list-style-type: none"> - Senior personnel who primarily direct the management of the establishment, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent. These persons also supervise and control the work of other supervisory, professional, or managerial employees, and have the authority to hire and fire or other personnel actions. - Natural persons who possess special knowledge and uncommon qualifications essential to the establishment's service, research equipment, techniques, or management. In assessing such knowledge, account will be taken of knowledge specific to the establishment, and whether the person has a high level of qualifications referring to a type of work or trade requiring specific technical knowledge, including membership in an accredited profession. <p>National Treatment:</p> <ul style="list-style-type: none"> • Unbound except as indicated under Market Access.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Switzerland	Investment	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> The majority of the board of directors of a "joint stock company" must be Swiss citizens with domicile in Switzerland (except for holding companies). At least one manager of a "corporation with limited liability" must have his domicile in Switzerland. The administrators of a "co-operative society" must be composed of a majority of Swiss citizens with domicile in Switzerland. Joint stock companies are not prohibited to foresee in their articles of incorporation that shareholders can be denied registration in the shareholder register, inter alia in case federal law requires a certain composition of shareholders. The establishment of a branch requires a representative (natural person) with domicile in Switzerland who is duly authorized by the company to fully represent it. The establishment of a commercial presence by natural persons or in the form of an enterprise without juridical personality according to Swiss law (i.e. in a form other than "joint stock company", "cooperation with limited liability" or "co-operative society") is subject to the requirement of a permanent residency permit of the associate(s) by cantonal law. 	Market Access: None National Treatment: None
	Subsidies and/or Taxation	Market Access: None National Treatment: <ul style="list-style-type: none"> Unbound for subsidies, tax incentives, and tax credits. 	Market Access: None National Treatment: <ul style="list-style-type: none"> Eligibility for subsidies, tax incentives, and tax credits may be limited to persons established in a particular geographical sub-division of Switzerland. 	Market Access: None National Treatment: None
	Real Estate	Market Access: None National Treatment: None	Market Access: None National Treatment: <ul style="list-style-type: none"> Authorization is required for the acquisition of real estate by foreigners who are not permanently established in Switzerland, and by enterprises with headquarters abroad and/or under foreign control. For the purpose of personal housing needs (except the acquisition of holiday residences), professional use, and business activities, authorization is granted upon verification of the purpose. Prohibited are purely financial investments; real estate business operations; acquisition, on a professional basis, of holiday apartments and facilities other than hotels (e.g. apartment houses, camps, sport areas); and acquisition of agricultural real estate. 	Market Access: None National Treatment: None

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Switzerland (continued)	Entry and Temporary Stay of Natural Persons	Market Access: None National Treatment: None	Market Access: None National Treatment: None	Market Access: <ul style="list-style-type: none"> • Unbound except for measures concerning the entry and temporary stay of natural persons, as defined in paragraphs I and II below, and subject to the following limitations and conditions: Entry and stay of foreign service suppliers in Switzerland is subject to authorization (requirement of residency permit and work permit). Authorization is granted subject to measures fixing overall numbers of work permits allocated. For essential personnel as defined in paragraph I below, the period of stay is limited to a period of 3 years, which may be extended to a maximum of 4 years. For other essential personnel as defined in paragraph II below, the period of stay is limited to 3 months within 1 year; if an authorization for such a period of stay is renewed the following year, the applicant must stay abroad at least 2 months between the 2 consecutive periods of stay in Switzerland. Persons staying in or entering Switzerland with an open-ended or prolonged residence permit based on an employment contract not limited in time for Switzerland are not considered as persons residing in or entering Switzerland for the purpose of temporary stay or temporary employment in Switzerland. I. Intracorporate transferees are employees of a business or company (hereafter enterprise) providing services in Switzerland through a branch, subsidiary or affiliate established in Switzerland and who have been prior employees of their enterprise outside Switzerland for a period of not less than 1 year immediately preceding their application for admission: <ol style="list-style-type: none"> a) Executives and senior managers who primarily direct the enterprise or one of its departments and who receive only general supervision or direction from high-level executives, the board of directors, or the stockholders of the enterprise. Executives and senior managers would not directly perform tasks related to the actual provision of services of the enterprise. b) Specialists are highly qualified persons who are essential for the provision of a specific service by reason of their knowledge at an advanced level of expertise in the field of services, research equipment, techniques, or management of the enterprise. II. Other essential persons moving to Switzerland: <ol style="list-style-type: none"> a) Services sellers are persons employed or mandated by an enterprise and who stay temporarily in Switzerland in order to conclude the contract for the sale of a service on behalf of the enterprise which employs them or has mandated them. Services sellers may not sell services directly to the general public or supply services themselves. b) Persons who are employees of an enterprise not having commercial presence in Switzerland and who have been employees of that enterprise outside Switzerland for a time period not less than 1 year immediately preceding their application for admission, and who fulfil the conditions of paragraph I.a) above, and who are entering Switzerland for

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Switzerland (continued)	Entry and Temporary Stay of Natural Persons, continued			<p>the purpose of setting up a commercial presence of that enterprise in Switzerland. Persons responsible for the setting-up of a commercial presence may not engage in making direct sales to the general public or supply services themselves.</p> <p>National Treatment:</p> <ul style="list-style-type: none"> • Unbound except for measures concerning the categories of natural persons referred to under Market Access, subject to the following limitations and conditions: Working conditions prevailing in the branch and the place of activity provided by law and/or collective agreement (with respect to remuneration, working hours, etc.), measures limiting professional and geographical mobility within Switzerland, regulations related to statutory systems of social security and public retirement plans (with respect to qualifying period, residency requirement, etc.), and all other provisions of the legislation relating to immigration, entry, stay, and work. The enterprise employing such persons shall cooperate, upon request, with the authorities in charge of the enforcement of these measures. • Eligibility for subsidies, tax incentives, and tax credits may be limited to persons domiciled in a particular geographical subdivision of Switzerland.

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Turkey	Investment	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> All investment to be made within the range of \$50,000 and \$150 million by nonresidents (natural or juridical persons) through: <ul style="list-style-type: none"> - the establishment of incorporated or limited liability companies; - the purchase of shares including the portfolio investment registered under the Foreign Investment Encouragement Law No. 6224 (portfolio investment, according to the Article No. 15-F of the Decree No. 32 is subject to the registration within the framework of the Law No. 6224, if the investor desires to participate in the board of directors or general assembly of the company, as well as to interfere in the management of it in any other way); - the opening of branches; and - the creation of liaison offices will be authorized by the General Directorate of Foreign Capital provided that such activities are beneficial to the economic development of Turkey, are in the areas open to the Turkish private sector and do not entail a monopoly or special privilege. Foreign investment above \$ 150 million requires the approval of the Council of Ministers. A new Decree removing this limitation is under preparation. The capital must be brought in as foreign exchange. Authorization is required for investments by established foreign-owned enterprises or joint ventures in a new line of business and for participation or takeover of existing enterprises. For the investments in the same line of business, proposals are generally approved as a matter of course. The following sectors are closed to private investments because of public monopolies: postal services and telecommunications; railways; administration of harbors and quays; cash lotteries; football pools; and public utilities. <p>National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>
	Real Estate	<p>Market Access: None National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> Foreign firms are permitted to acquire real estate in Turkey pursuant to Foreign Investment legislation provided that the real estate to be acquired is related to the investor's permitted activities. However, foreign-controlled enterprises are prohibited from engaging in real estate trading. <p>National Treatment: None</p>	<p>Market Access: None National Treatment: None</p>

Cross-Industry commitments¹

Mode of Supply ²				
Trading Partner	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Turkey (continued)	Entry and Temporary Stay of Natural Persons	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access: None</p> <p>National Treatment: None</p>	<p>Market Access:</p> <ul style="list-style-type: none"> • Unbound except for the entry and temporary stay of natural persons in the following categories: <ul style="list-style-type: none"> A. Administrative and technical personnel <p>Work permits, for the employment of the below defined administrative and technical personnel of a foreign service provider in the branch, subsidiary, affiliate, or representative office, are given by the relevant authorities in accordance with Foreign Capital Legislation and other Laws concerning the employment of foreigners. Work permits are valid up to 2 years and subject to renewal. In addition to work permits, the Ministry of Interior gives residence permits for the same personnel for a period of up to 2 years, which can be extended.</p> <ul style="list-style-type: none"> - Managers-executives are persons who primarily direct the organization or one of its departments and who receive only general supervision or direction from higher-level executives, the board of directors or the stockholders of the organization. - Specialists are highly qualified persons who, within an organization, are indispensable for the provision of a specific service because of knowledge at an advanced level of expertise in the field of services, research equipment, techniques, or management of the organization. B. Service sellers <p>Persons employed or mandated by an organization and who stay temporarily in another signatory country in order to conclude the sale of service on behalf of the organization which employs them or has mandated them. Service sellers may not sell services directly to the general public. It is not necessary to obtain work permits and residence permits for service sellers who stay in Turkey for not more than 30 days for the following purposes: participation in business meetings, business contracts including negotiations for the sale of services, entry into contract to sell services, visit of business establishments, or other similar activities.</p> <p>National Treatment:</p> <ul style="list-style-type: none"> • The professional services which are assigned only to Turkish citizens by the relevant laws cannot be rendered by foreigners either as service providers or as the personnel of service providers. On the other hand, foreign citizens with Turkish origin may work in professions which are assigned only to Turkish citizens with the permission obtained from the Ministry of Interior. Those professions which are assigned only to Turkish citizens are as follows: doctors, pharmacists, nurses, veterinarians, responsible directors of factories producing medicine, guides, responsible directors of private hospitals, responsible directors of travel agencies, directors of newspapers, dentists, notaries,

Cross-Industry commitments¹

Trading Partner	Mode of Supply ²			
	Category	Cross-Border Supply	Commercial Presence	Presence of Natural Persons
Turkey (continued)				personnel working in Free Trade Zones other than managers and qualified personnel, personnel undertaking coastal commerce and related activities, opticians, laboratory services (including relevant doctors, pharmacists and veterinarians), lawyers who practice in Turkish Courts, accountants, and certified public accountants.

¹ Only the cross-industry limitations that apply to the services covered in this report are included in this table. Please refer to the original commitments for a comprehensive listing of all cross-industry limitations.

² Consumption abroad is not included as a mode of supply in this table because restrictions on investment, real estate, subsidies, and taxation are not applicable to consumption abroad.

Source: World Trade Organization, General Agreement on Trade in Services (GATS), Schedules of Specific Commitments, Apr. 1994.

APPENDIX F

MOST-FAVORED-NATION (MFN) EXEMPTIONS

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Bulgaria	Audiovisual services	National treatment accorded preferentially to co-produced motion pictures and television productions, particularly for distribution and access to funding.	All countries with which cultural co-operation agreement may be desirable, already exists, or is in the process of conclusion.	Indefinite	To promote cultural links between the countries concerned and to promote a greater diversity of foreign audiovisual works in the Bulgarian market.
	Audiovisual services	National treatment accorded to financial support of and market access to broadcasting or similar forms of transmission. Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	European countries	Indefinite	To promote cultural exchanges within Europe.
	Legal services	Full national treatment on the establishment and operation of companies, as well as on the provision of services by foreign citizens, may be extended only to companies established in, and citizens of, the countries listed.	Countries with which preferential agreements are or will be concluded.	Indefinite	To meet obligations under international agreements.
	Rail passenger and freight transportation services	Measures taken under existing or future agreements which govern access and/or traffic rights and the terms of conduct of such services in Bulgaria or between signatories.	Parties to agreements	Indefinite	To protect infrastructure and the environment. To regulate traffic rights in Bulgaria and between countries, taking into account the regional specificity of rail transport services.
	Road passenger and freight transportation services	Measures taken under existing or future agreements which reserve or restrict the supply of these services and specify terms and conditions, including transit permits and/or preferential road taxes, in Bulgaria or across its borders.	Parties to agreements	Indefinite	To protect infrastructure and the environment. To regulate traffic rights in Bulgaria and between countries.
	Road passenger and freight transportation services	Exemption of vehicle tax and VAT on the basis of conventions or de facto reciprocity with certain countries.	Austria and other European countries	Indefinite	Reciprocity, historical links, and other regionally specific factors.
	Medical and dental services	Public medical insurance, subsidization, and compensation plans and programs, which cover the costs and expenses of these services provided to foreign citizens in Bulgaria are granted reciprocity.	Parties to agreements	Indefinite	Obligations under international agreements.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Czech Republic	Audiovisual services	National treatment according to terms of co-production agreements.	Parties to agreements	Indefinite	To promote cultural links. To promote diversity of foreign audiovisual works in the Czech market.
	Audiovisual services	Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	European countries	Indefinite	To promote cultural exchanges within Europe.
	Rail passenger and freight transportation services	Measures taken under existing or future agreements which regulate traffic rights, operating conditions, and the provision of these services in the Czech Republic and between the countries concerned.	Parties to agreements	Indefinite	To protect infrastructure and the environment. To regulate traffic rights in the Czech Republic and between countries.
	Road passenger and freight transportation services	Measures taken under existing or future agreements which reserve or limit the provision of services and specify operating conditions, including transit permits and/or preferential road taxes on transport services into, in, across and out of the Czech Republic and the countries concerned.	Parties to agreements	Indefinite	To protect infrastructure and the environment. To regulate traffic rights in the Czech Republic and between countries.
Hungary	Audiovisual services	National treatment according to terms of co-production agreements.	Parties to agreements	Indefinite	To promote cultural links.
	Audiovisual services	Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	European countries	Indefinite	To promote cultural exchange among European countries.
	Road passenger and freight transportation services	Measures taken under existing or future bilateral agreements which reserve or limit the provision of services and specify operating conditions, including transit permits and/or preferential road taxes on transport services into, in, across and out of Hungary.	Parties to agreements	Indefinite	To protect infrastructure and the environment. To regulate traffic rights in Hungary.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Iceland	All services	Measures aimed at promoting Nordic cooperation such as: <ul style="list-style-type: none"> - guarantees and loans to investment projects and exports (The Nordic Investment Bank) - financial support to R&D projects (The Nordic Industrial Fund) - funding of feasibility studies for international projects (The Nordic Fund for Project Exports) - financial assistance to companies (including East European companies, which are co-operating with a Nordic company) utilizing environmental technology (The Nordic Environment Finance Corporation). 	Denmark, Finland, Iceland, Norway, and Sweden	Indefinite	To maintain and develop Nordic cooperation.
	Audiovisual services	National treatment for the transmission of audiovisual programs in accordance with EC Television Broadcasting Directive (no. 89/552).	Parties to the Council of Europe Convention on Transfrontier Television or other European countries with which an agreement may be concluded.	Indefinite	To promote cultural identity within the broadcasting sector in Europe. To achieve certain linguistic policy objectives.
	Audiovisual services	Support programs such as MEDIA and EURIMAGES for the production and distribution of motion pictures and television programs.	European countries	Indefinite	To preserve and promote the regional identity of the region concerned.
	Audiovisual services	Support programs for the production and distribution of motion pictures and television programs (the Nordic Film and TV Fund).	Denmark, Finland, Iceland, Norway, and Sweden	Indefinite	To maintain and develop Nordic cooperation.
	Audiovisual services	National treatment accorded to audiovisual works, in relation to distribution and access to funding, covered by measures based upon government-to-government framework agreements and plurilateral agreements.	All countries with whom cultural cooperation may be desirable (agreements already exist, or are being negotiated, with the following countries: France, Canada)	Indefinite	To promote cultural links between the countries concerned.
Liechtenstein	All services	Mutually grant permits of temporary stay and permanent residency to citizens of Switzerland.	Switzerland	Indefinite	Side measure to customs, monetary, and postal union between the Principality of Liechtenstein and Switzerland.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Liechtenstein (continued)	All services	Preferential treatment accorded to nationals of countries other than Liechtenstein, belonging to traditional recruiting areas according to Liechtenstein legislation on immigration, when granting permits for entry, stay and work in Liechtenstein (year round resident, short time resident, seasonal worker) to natural persons providing services other than essential persons as defined in the Liechtenstein schedule of cross-industry commitments.	EC and EFTA countries	Indefinite	To regulate immigration into Liechtenstein by measures based on long standing links with traditional recruiting areas.
	All services	Presence of natural persons in all sectors is dependent on reciprocity for services providers from Liechtenstein	All countries	Indefinite	To ensure adequate market access to services providers from Liechtenstein.
	Audiovisual services	National treatment to audiovisual works covered by bi- or plurilateral agreements on co-production, particularly in relation to access to funding and distribution	All countries with which cultural cooperation may be desirable	Indefinite	To promote common cultural objectives.
	Audiovisual services	National treatment to audiovisual works and/or to suppliers of audiovisual services. Support programs such as MEDIA and EURIMAGES, screen time allocation measures in Council of Europe Convention on Transfrontier Television.	European countries	Indefinite	To promote cultural objectives based on long-standing cultural links.
	Audiovisual services	Concessions for the operation of radio or television broadcast stations may be granted to persons of countries other than Liechtenstein	All countries	Indefinite	To promote common cultural objectives. To regulate access to a market limited in scale in order to preserve diversity of supply.
	Construction and related engineering services	Commercial presence and the presence of natural persons is dependent on reciprocity for service providers from Liechtenstein.	All countries	Indefinite	To ensure adequate market access to services providers from Liechtenstein.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Liechtenstein (continued)	Distribution services	Grant work permits to employees of establishments, involved in commerce in goods, of enterprises of member countries of the Convention establishing the European Free Trade Association (EFTA).	Members of EFTA	Indefinite	Side measure to the provision on free trade in goods under the EFTA Agreement.
	Road passenger and freight transportation services	To allow, on the basis of mutual access to the market, transport services by vehicles registered in countries other than Liechtenstein to undertake transportation of goods and/or passengers in, into, out of, or in transit through Liechtenstein territory, normally based on bilateral agreements	All countries with whom bilateral agreements on road transport or other arrangements relating to road transport exist or may be desirable (at present approx. 30 countries)	Exemption needed until agreement on multilateral liberalization of road transport services, taking into account regional specificity and environmental effects of road transport.	To protect infrastructure and the environment. To take into account regional specificity of the provision of road transport services.
Norway	All services	Measures aimed at promoting Nordic cooperation such as: <ul style="list-style-type: none"> - guarantees and loans to investment projects and exports (The Nordic Investment Bank) - financial support to R&D projects (The Nordic Industrial Fund) - funding of feasibility studies for international projects (The Nordic Fund for Project Exports) - financial assistance to companies (including East European companies, which are cooperating with a Nordic company) utilizing environmental technology (The Nordic Environment Finance Corporation). 	Denmark, Finland, Iceland, Norway, and Sweden.	Indefinite	To maintain and develop Nordic cooperation.
	Audiovisual services	National treatment to audiovisual programs meeting specific origin criteria including regulations such as the EC Television Broadcasting Directive (No. 89/552) and those which define programs of European origin.	Parties to the Council of Europe Convention on Transfrontier Television or other European countries with which an agreement may be concluded.	Indefinite	To promote cultural identity within the broadcasting sector in Europe. To achieve certain linguistic policy objectives.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Norway (continued)	Audiovisual services	National treatment to the production and distribution of audiovisual works through government-to-government framework agreements on film co-production. Such works may receive access to funding when this would not otherwise be available to co-production.	All countries (existing agreement with the United Kingdom).	Indefinite	The aim of such agreements is to promote cultural links between the countries concerned.
	Audiovisual services	Support programs such as the Nordic Film and TV Fund in order to enhance the production and distribution of audiovisual works produced in Nordic countries.	Denmark, Finland, Iceland, Norway, and Sweden.	Indefinite	To preserve and promote the regional identity of the countries concerned.
	Audiovisual services	Support programs such as MEDIA and EURIMAGES for the production and distribution of motion pictures and television programs.	European countries	Indefinite	To preserve and promote the regional identity of the countries concerned.
	Road passenger and freight transportation services.	Provisions of existing and future road transport agreements with one or more countries to reserve traffic rights for carriage to/from Norway and between third countries. Road cabotage can also be allowed for specific countries.	All countries	Indefinite	Regional specificity of road transport services.
Poland	All services	Commercial presence notions contained in: - commerce and navigation treaties; - business and economic relation treaties; - promotion and protection of foreign investment agreement; that go beyond limitations embodied in Poland's schedule of commitments	All countries	Indeterminate	Reciprocal provisions of existing and future agreements.
	All services	Poland accepts compulsory arbitration of investor/state investment disputes brought by or in respect of service suppliers of countries with which Poland has or may have agreements providing for such procedures.	All countries	Indeterminate	To promote and protect foreign investment.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Poland (continued)	Audiovisual services	Preferential treatment production and distribution of audiovisual works including preferential access to funding.	All countries	Indefinite	To promote cultural links between countries concerned on the basis of co-production agreements.
	Audiovisual services	Preferential treatment for the production and distribution of motion pictures and television programs that are adopted for the implementation of benefits, in conformity with support programs and suppliers of these programs, meeting specific European origin criteria.	European countries	Indefinite	To preserve and promote the regional identity of the countries concerned.
	Audiovisual services	Preferential measures on the transmission of audiovisual works to the public that are applied for the implementation and in conformity with regulations such as the EC Television Broadcasting Directive (No 89/552) and which define programs of European origin in order to extend national treatment to audiovisual programs meeting specific criteria.	Parties to the Council of Europe Convention on Transfrontier Television or other European countries with which an agreement may be concluded.	Indefinite	To promote cultural identity within the broadcasting sector in Europe. To achieve certain cultural policy objectives.
	All passenger and freight transportation services (excluding maritime transport)	Reciprocity of supply of transport services by suppliers of countries concerned - in, into, and across the territory of such countries.	All countries	Indefinite	System of reciprocal existing and future agreements on transport cooperation, and promotion and protection of foreign investments. Includes implementation, among others, of transportation quotas resulting from bilaterally agreed system of permits.
Romania	Road transportation services	Permission for vehicles registered in another specified country to transport goods and/or passengers in accordance with existing and future bilateral road agreements. Road cabotage is reserved to domestic registered vehicles.	Austria, Albania, Belgium, Bulgaria, Czech Republic, Cyprus, Croatia, Denmark, Switzerland, Latvia, Lithuania, France, Finland, Italy, Iran, Germany, Greece, Luxembourg, Great Britain, Norway, Netherlands, Poland, Portugal, Spain, Sweden, Slovak Republic, Syria, Slovenia, Turkey, Hungary, and possibly other countries in the future.	Indefinite	The need for the exemption is linked to the regional specificity of the cross-border provision of road transport services.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Slovak Republic	Audiovisual services	Measures that are taken for the implementation of and in conformity with existing or future co-production agreements and which provide for national treatment to the works covered.	Parties to the agreements.	Indefinite	To promote cultural objectives and links between the parties concerned. To promote greater diversity among foreign audiovisual works on the Slovak market.
	Audiovisual services	Measures that are taken for the implementation of and in conformity with support programs such as the Council of Europe Convention on Transfrontier Television, Eureka, MEDIA and EURIMAGES to audiovisual programs and suppliers to these programs meeting specific origin criteria.	European countries	Indefinite	To promote cultural exchange among European countries based on traditional cultural links.
	Rail passenger and freight transportation services	Measures that are taken under existing or future agreements which regulate traffic rights and operating conditions and the provision of transport services in the territory of the Slovak Republic and between the countries concerned.	All countries with which agreements are or will be in force.	Indefinite	To protect the integrity of rail transport infrastructure and the environment. To regulate traffic rights in the territory of the Slovak Republic and between the countries concerned.
	Road passenger and freight transportation services	Measures that are taken under existing or future agreements which reserve or limit the provision of such services and specify operating conditions, including transit permits and/or preferential road taxes of such services into, in, across, and out of the Slovak Republic to the contracting parties concerned.	All countries with which agreements are or will be in force.	Indefinite	To protect the integrity of road transport infrastructure and the environment. To regulate traffic rights in the territory of the Slovak Republic and between the countries concerned.
Slovenia	Audiovisual services	Measures applied for the implementation of and in conformity with existing or future co-production agreements. Measures which provide for national treatment to the works covered.	Parties to the agreements.	Indefinite	To promote cultural links between the parties concerned.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Slovenia (continued)	Audiovisual services	Measures applied for the implementation of and in conformity with support programmes such as the Council of Europe Convention on Transfrontier Television, Eureka, MEDIA and EURIMAGES to audiovisual programs and suppliers to these programs meeting specific origin criteria.	European countries	Indefinite	To promote cultural exchange among European countries based on traditional cultural links.
	Audiovisual services	Preferential treatment of audiovisual works meeting European origin criteria regarding screen-time access.	European countries	Indefinite	To promote common cultural links and to protect a common cultural heritage.
	Road passenger and freight transportation services	Measures applied under existing or future agreements which reserve or limit the provision of transport services and specify operating conditions, including transit permits and/or preferential road taxes of transport services into, in, across, and out of the Republic of Slovenia to the parties concerned.	All countries with which agreements are or will be in force.	Indefinite	To protect the integrity of road transport infrastructure and the environment and to regulate traffic rights in the territory of the Republic of Slovenia and between the countries concerned.
Switzerland	All services	Mutually grant permits of temporary stay and permanent residency in the territory of the parties, without certain limitations.	Principality of Liechtenstein	Indefinite	Side measure to customs, monetary, and postal union between Switzerland and the Principality of Liechtenstein.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Switzerland (continued)	All services	Preferential treatment accorded to nationals of countries belonging to traditional recruiting areas according to Swiss legislation on immigration, when granting permits for entry, stay and work in Switzerland (year round resident, short time resident, seasonal workers) to natural persons providing services other than essential persons as defined in the horizontal commitments; and measures based on bilateral agreements with the European Community and/or its Member States and/or EFTA States with the objective of providing for the movement of all categories of natural persons supplying services.	EC and EFTA countries	Indefinite	To regulate immigration into Switzerland by measures based on longstanding links with traditional recruiting areas.
	Audiovisual services	National treatment to audiovisual works covered by bilateral or plurilateral agreements on co-production in the field of audiovisual works, particularly in relation to access to funding and to distribution.	All countries with whom cultural cooperation may be desirable (at present agreements exist with member countries of the Council of Europe and with Canada).	Indefinite	To promote common cultural objectives.
	Audiovisual services	Measures granting the benefit of support programs, such as MEDIA and EURIMAGES, and measures relating to the allocation of screentime which implement arrangements such as the Council of Europe Convention on Transfrontier Television and confer national treatment to audiovisual works and/or to suppliers of audiovisual services meeting specific European origin criteria	European countries	Indefinite	To promote cultural objectives based on longstanding cultural links.
	Audiovisual services	Concessions for the operation of radio or television broadcast stations may be granted, normally on the basis of bilateral agreements, to persons of countries other than Switzerland.	All countries with whom cultural cooperation may be desirable.	Indefinite	To promote common cultural objectives and to regulate access to a market limited in scale (given the size of Switzerland) in order to preserve diversity of supply.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Switzerland (continued)	Distribution services	To grant work permits, without certain limitations, to employees of establishments of enterprises of member countries of the Convention establishing the European Free Trade Association (EFTA). The establishment's activity involves commerce in goods.	Members of EFTA	Indefinite	Side measure to the provisions on free trade in goods under the EFTA Agreement.
	Road passenger and freight transportation services	To allow, on the basis of mutual access to the market, transport services by vehicles registered in countries other than Switzerland to undertake transportation of goods and/or passengers in, into, out of, or in transit through Swiss territory.	All countries with whom bilateral agreements on road transport or other arrangements relating to road transport exist or may be desirable (at present approximately 30 countries).	Exemption needed until multilateral liberalization of road transport services is agreed upon, taking into account regional specificity and environmental effects of road transport.	To take into account regional specificity of the provision of road transport services and to protect the integrity of road infrastructure and of the environment
	Road freight transportation services	To allocate transit quotas for perishable or otherwise urgent cargo by trucks heavier than 28 tons registered in countries other than Switzerland in case the capacity of combined transport is exhausted.	EC	Bilateral agreement between Switzerland and the EC to be reviewed 12 years after implementation.	To protect the integrity of road infrastructure and of the environment.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Turkey	All services	<p>a) Extending full national treatment for investments by nationals or companies of certain countries.</p> <p>b) i)Executing the transfers, in specific periods, of the nationals and companies of certain countries which have made investments in Turkey (Belgium-Luxembourg, Kuwait). ii)Granting foreign exchange risk guarantee for certain countries for the transfers which are not realized due to the difficulties in balance of payments.</p> <p>c) Covering "trade risk" in subrogation (Japan).</p> <p>d) Agreements with 5 countries, the MFN Articles of which do not include the derogation paragraphs relating to the privileges which are accorded to third countries' investors resulting from its membership in or association with a free trade zone, an economic cooperation, a customs union, or a common market (Japan, Bangladesh, Poland, Germany, South Korea).</p>	Germany, United States, the Netherlands, Belgium, Luxembourg, Romania, Bangladesh, Austria, Switzerland, Denmark, Japan, Kuwait, Tunisia, South Korea, Poland, China, United Kingdom, Finland, Hungary, Argentina, Albania, Kyrgyzstan, Turkmenistan, Kazakhstan, Uzbekistan, Georgia, Jordan, Malaysia, Spain, Italy, Norway, Algeria, Russian Federation, Mongolia, Lithuania, France, Sweden, Bulgaria, Moldova, Estonia, Latvia, Azerbaijan, Israel, Ukraine.	Indefinite	To create favorable conditions for greater economic cooperation between Turkey and listed countries and to encourage investments by nationals and companies of one country in the territory of the other countries.
	All services	Restriction on the transfer of premiums for long-term insurance schemes and the employment of foreign workers by foreign companies is waived for one country. (Not applied in a de facto manner).	Libya	Indefinite	To ensure social security and continuous employment of Turkish workers in Libya.
	All services	If the amount of consulate duties collected from Turkish nationals by any country is higher than the amount written in the tariff list, the amount of consulate duties which are collected from the nationals of that country will be increased reciprocally.	All countries	Indefinite	To ensure equal treatment of Turkish nationals.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Turkey (continued)	All services	Foreign real persons may own real estate in Turkey by acquisition or by inheritance as long as legal provisions are reserved and reciprocity exists.	All countries	Indefinite	To secure the right of Turkish nationals to acquire real estate in a foreign country.
	Professional services	If any country places legal and administrative conditions against Turkish citizens for performing arts and supplying services, similar activities by citizens of that country could be prohibited in Turkey.	All countries	Indefinite	To create favorable circumstances for Turkish citizens to perform their activities under equal conditions in other countries.
	Accounting services	Citizens of the countries which have officially codified principles for the profession of "financial advisory" services may be authorized, under reciprocal conditions, to perform such services provided that these persons have the characteristics required for the profession of financial advisory in Turkey and have rights to perform similar services in their own countries.	All countries	Indefinite	To create favorable conditions for Turkish financial advisors to perform their jobs under equal conditions all over the world.
	Telecommunications services	To apply, on the basis of reciprocity, a reduction in fees for transit land connections and use of satellite ground stations.	Iran, Syria	Indefinite	To facilitate telecommunications services between Turkey and the mentioned countries.
	Transportation services	Income and corporate tax rates for foreign road, maritime, and air transport companies can reciprocally be decreased down to zero or increased to a new rate not exceeding one times the existing rate on a country by country basis. (As in the case of the United States, Israel, and Switzerland).	All countries	Indefinite	To facilitate and to lower the costs of transportation services between Turkey and other countries.
	Transportation services	Transit or bilateral transportation services can be excluded from VAT. This exception is granted, with the condition of reciprocity, to the related countries' tax payers who do not have residence, legal or business centers in Turkey.	All countries	Indefinite	To lower costs and to create favorable conditions for the provision of services in this sector.

Most-favored-nation (MFN) exemptions

Trading Partner listing MFN Exemption	Services to which Exemption Applies	Description of Measures Inconsistent with MFN principle	Countries to Which the Measure Applies	Duration of Preference	Reason for Listing MFN Exemption
Turkey (continued)	Transportation services	To apply, on the basis of reciprocity, restrictions, prohibitions, different treatments and different tariffs to the goods and transportation vehicles of countries which apply restrictions, prohibitions, and different treatments to Turkish road, air and maritime transportation vehicles.	All countries	Indefinite	To secure the smooth functioning of mutual transportation services.
	Road transportation services	To grant, on the basis of reciprocity, privileges concerning quotas and fees, and exemptions from permission procedures. If the partners of these Road Transport Agreements agree to remove the measures, Turkey will also do so.	Afghanistan, Austria, Belgium, Bulgaria, Former Czechoslovakia, Denmark, Germany, Finland, France, the Netherlands, Iraq, United Kingdom, Iran, Sweden, Switzerland, Italy, Kuwait, Hungary, Norway, Poland, Romania, Former Yugoslavia, Greece, Syria, Saudi Arabia, Jordan, Luxembourg, Albania, Ukraine, Slovenia, Moldova, Egypt, Lithuania, Macedonia, Lebanon.	Indefinite	To facilitate road transport services between Turkey and other countries.
	Rail transportation services	The bilateral reduction in railway wagon rental fees of countries mentioned in paragraph a and the application of national treatment to tariff rates on the reciprocal transportation of goods with the countries in paragraph b.	a) Syria, Iraq, Iran, Lebanon b) Commonwealth of Independent States and the Baltic Republics.	Indefinite	To facilitate rail transport services between Turkey and other countries.

Source: World Trade Organization, General Agreement on Trade in Services (GATS), Final List of Article II (MFN) Exemptions, Apr. 1994.