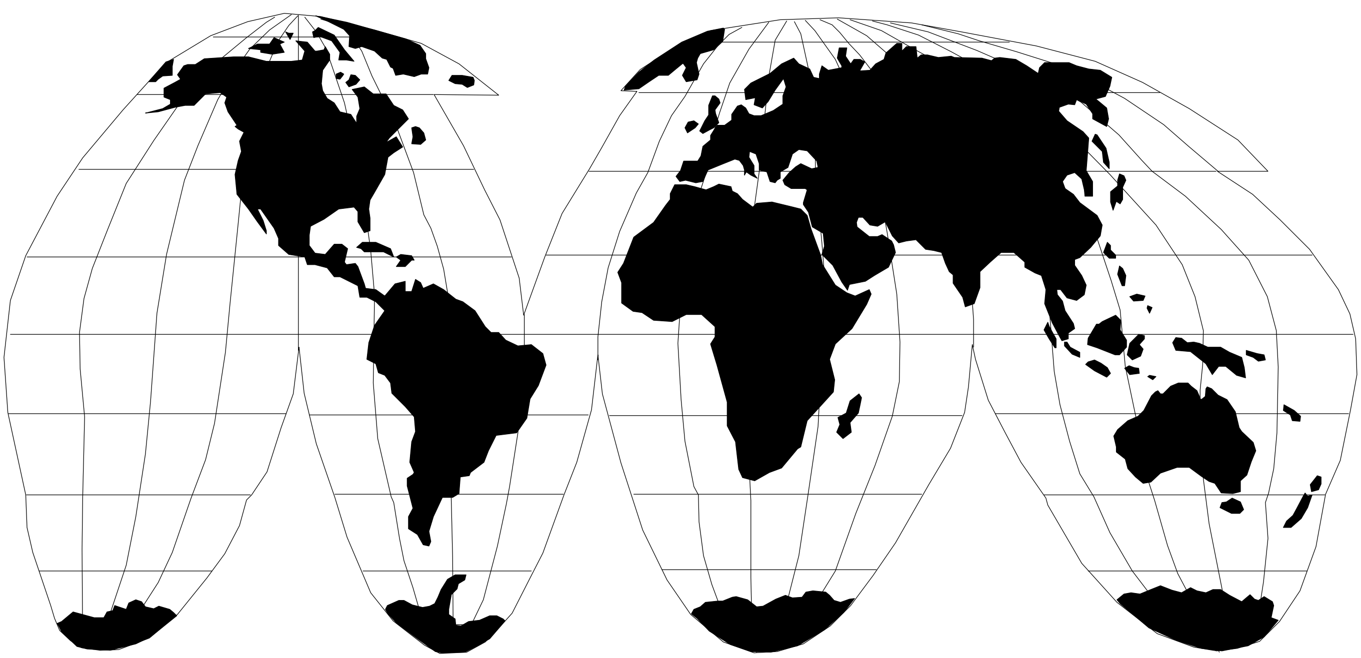
# General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by African Trading Partners

Investigation No. 332-399

**Publication 3243** **October 1999**

## U.S. International Trade Commission



**Washington, DC 20436**

# U.S. International Trade Commission

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# Abstract

Following receipt on October 15, 1998, of a request from the United States Trade Representative (USTR) (appendix A), the U.S. International Trade Commission (USITC or the Commission) instituted investigation No. 332-399, *General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by African Trading Partners*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). As requested by the USTR, this report examines the schedules of commitments of 13 African trading partners, explains the commitments in nontechnical language, and identifies the potential benefits and limitations of the commitments. Copies of the notice of the investigation were posted in the Office of the Secretary, USITC, Washington, DC 20436, and the notice was published in the *Federal Register* (vol. 63, No. 223) on November 19, 1998 (appendix B). In addition, interested parties were invited to submit written statements concerning the investigation.

The 13 trading partners examined in this report are Côte d'Ivoire, Egypt, Ghana, Kenya, Malawi, Mauritius, Morocco, Nigeria, Senegal, South Africa, Tunisia, Zambia, and Zimbabwe. These countries accounted for less than 2 percent of total U.S. services trade in 1997, with South Africa and Egypt being the most active markets for U.S. exports. The Commission examined sector-specific commitments covering distribution services (defined as wholesaling, retailing, and franchising services); education services; communication services (defined as basic and enhanced telecommunication, audiovisual, and courier services); health care services; professional services (defined as accounting and legal services); architectural, engineering, and construction (AEC) services; land-based transportation services (defined as rail and trucking services); and travel and tourism services.

Several factors limit Africa's international trade in services. Most of the service markets reviewed are in the early stages of development and, therefore, offer foreign service providers limited opportunities. U.S. and other foreign service providers also face a number of obstacles in Africa, including political and economic instability, and low demand for certain services. Where demand is relatively high, as in the telecommunication service sector, markets in the subject countries are often highly restrictive.

Overall, the General Agreement on Trade in Services commitments scheduled by these African countries cover few service sectors and provide limited advances in terms of benchmarking and transparency. The telecommunication, travel and tourism, construction, and land transportation service sectors received the most complete coverage. Among the 13 countries, Senegal and South Africa provided the most comprehensive coverage of the subject industries.

# CONTENTS


| | Page |
|---|---|
| **Abstract** | i |
| **Executive summary** | xi |
| **Chapter 1: Introduction** | 1-1 |
| Purpose and scope | 1-1 |
| Overview of the General Agreement on Trade in Services | 1-3 |
| The GATS framework | 1-3 |
| Schedules of commitments | 1-5 |
| Industry-specific commitments | 1-5 |
| Cross-industry commitments | 1-8 |
| Annexes and Ministerial decisions | 1-8 |
| Methodological approach | 1-10 |
| Impediments to examining the GATS | 1-12 |
| Organization of report | 1-13 |
| **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 | 2-4 |
| U.S. trade in services with subject trading partners | 2-7 |
| Cross-border services trade | 2-10 |
| Affiliate transactions | 2-10 |
| **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 | 3-3 |
| Senegal | 3-4 |
| South Africa | 3-6 |
| Industry opinion | 3-6 |
| Summary | 3-8 |

# CONTENTS–*Continued*


*Page*

## Chapter 4: Education services . . . . . 4-1

Introduction . . . . . 4-1
International trade in education services . . . . . 4-1
  Cross-border transactions . . . . . 4-2
Examination of commitments on education services . . . . . 4-2
  Ghana . . . . . 4-4
Industry opinion . . . . . 4-4
Summary . . . . . 4-6

## Chapter 5: Telecommunication services . . . . . 5-1

Introduction . . . . . 5-1
International trade in telecommunication services . . . . . 5-1
  Cross-border transactions . . . . . 5-3
  Sales by majority-owned affiliates . . . . . 5-4
Examination of commitments on telecommunication services . . . . . 5-5
  Côte d'Ivoire . . . . . 5-6
    Basic telecommunication services . . . . . 5-6
    Enhanced telecommunication services . . . . . 5-6
  Ghana . . . . . 5-17
    Basic telecommunication services . . . . . 5-17
    Enhanced telecommunication services . . . . . 5-17
  Mauritius . . . . . 5-17
    Basic telecommunication services . . . . . 5-17
    Enhanced telecommunication services . . . . . 5-18
  Morocco . . . . . 5-18
    Basic telecommunication services . . . . . 5-18
    Enhanced telecommunication services . . . . . 5-19
  Nigeria . . . . . 5-19
    Basic telecommunication services . . . . . 5-19
    Enhanced telecommunication services . . . . . 5-19

# CONTENTS–*Continued*

*Page*

## Chapter 5: Telecommunication services–*Continued*


Senegal . . . . . 5-20
Basic telecommunication services . . . . . 5-20
Enhanced telecommunication services . . . . . 5-21
South Africa . . . . . 5-21
Basic telecommunication services . . . . . 5-21
Enhanced telecommunication services . . . . . 5-21
Tunisia . . . . . 5-22
Basic telecommunication services . . . . . 5-22
Enhanced telecommunication services . . . . . 5-22
Zimbabwe . . . . . 5-22
Basic telecommunication services . . . . . 5-22
Enhanced telecommunication services . . . . . 5-23
Industry opinion . . . . . 5-23
Summary . . . . . 5-25

## 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 . . . . . 6-2
Examination of commitments on audiovisual services . . . . . 6-2
Egypt . . . . . 6-2
Kenya . . . . . 6-4
Tunisia . . . . . 6-4
Industry opinion . . . . . 6-6
Summary . . . . . 6-8

# CONTENTS–*Continued*


Page

## Chapter 7: Courier services . . . . . 7-1

Introduction . . . . . 7-1
International trade in courier services . . . . . 7-1
Examination of commitments on courier services . . . . . 7-2
- Senegal . . . . . 7-4
- South Africa . . . . . 7-4

Industry opinion . . . . . 7-4
Summary . . . . . 7-6

## 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
- Malawi . . . . . 8-4
- South Africa . . . . . 8-4
- Zambia . . . . . 8-6

Industry opinion . . . . . 8-6
Summary . . . . . 8-7

## 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
- Malawi . . . . . 9-4
- Morocco . . . . . 9-4
- South Africa . . . . . 9-4
- Zambia . . . . . 9-6

Industry opinion . . . . . 9-6
Summary . . . . . 9-8

# CONTENTS–*Continued*


*Page*

## Chapter 10: Legal services . . . . . . . . . . 10-1

Introduction . . . . . . . . . . 10-1
International trade in legal services . . . . . . . . . . 10-1
Cross-border transactions . . . . . . . . . . 10-2
Sales by majority-owned affiliates . . . . . . . . . . 10-2
Examination of commitments on legal services . . . . . . . . . . 10-2
South Africa . . . . . . . . . . 10-4
Industry opinion . . . . . . . . . . 10-4
Summary . . . . . . . . . . 10-6

## Chapter 11: Architectural, engineering, and construction services . . . . . . . . . . 11-1

Introduction . . . . . . . . . . 11-1
International trade in architectural, engineering, and construction services . . . . . . . . . . 11-2
Cross-border transactions . . . . . . . . . . 11-2
Examination of commitments on AEC services . . . . . . . . . . 11-4
Commitments on architectural and engineering services . . . . . . . . . . 11-4
Côte d'Ivoire . . . . . . . . . . 11-4
Morocco . . . . . . . . . . 11-6
Senegal . . . . . . . . . . 11-6
South Africa . . . . . . . . . . 11-7
Commitments on construction services . . . . . . . . . . 11-7
Côte d'Ivoire . . . . . . . . . . 11-7
Egypt . . . . . . . . . . 11-11
Ghana . . . . . . . . . . 11-11
Malawi . . . . . . . . . . 11-12
Morocco . . . . . . . . . . 11-12
South Africa . . . . . . . . . . 11-12
Zambia . . . . . . . . . . 11-13
Industry opinion . . . . . . . . . . 11-13
Summary . . . . . . . . . . 11-16

# CONTENTS–*Continued*


Page

## Chapter 12: Land transportation services ................. 12-1

Introduction ........ 12-1
International trade in land transportation services ........ 12-1
Cross-border transactions ........ 12-2
Sales by majority-owned affiliates ........ 12-2
Examination of commitments on land transportation services ........ 12-2
Côte d'Ivoire ........ 12-8
Egypt ........ 12-8
Kenya ........ 12-8
Morocco ........ 12-9
Nigeria ........ 12-10
South Africa ........ 12-10
Tunisia ........ 12-11
Industry opinion ........ 12-11
Summary ........ 12-14

## Chapter 13: Travel and tourism services ................. 13-1

Introduction ........ 13-1
International trade in travel and tourism services ........ 13-1
Cross-border transactions ........ 13-1
Sales by majority-owned affiliates ........ 13-2
Examination of commitments on travel and tourism services ........ 13-4
Côte d'Ivoire ........ 13-4
Egypt ........ 13-4
Ghana ........ 13-13
Kenya ........ 13-14
Malawi ........ 13-14
Mauritius ........ 13-14
Morocco ........ 13-15
Nigeria ........ 13-15
Senegal ........ 13-15
South Africa ........ 13-15
Tunisia ........ 13-16
Zambia ........ 13-16
Zimbabwe ........ 13-16
Industry opinion ........ 13-16
Summary ........ 13-18

# CONTENTS–*Continued*


*Page*

## Chapter 14: Summary . . . . . . . . . . 14-1

Introduction . . . . . . . . . . 14-1
GATS overview . . . . . . . . . . 14-1
Overview of schedules submitted by African trading partners . . . . . . . . . . 14-2
Cross-industry commitments . . . . . . . . . . 14-2
Industry-specific commitments . . . . . . . . . . 14-5
MFN exemptions . . . . . . . . . . 14-6
Conclusion . . . . . . . . . . 14-8

## Appendices

A. Request letter . . . . . . . . . . A-1
B. *Federal Register* 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 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 balances, 1988-97 . . . . . . . . . . 2-3
2-3. U.S. merchandise, services, and current account balances, 1988-97 . . . . . . . . . . 2-5
2-4. U.S. cross-border service exports and imports, by industry, 1997 . . . . . . . . . . 2-6
2-5. Affiliate service transactions: U.S. sales, purchases, and balances, 1988-96 . . . . . . . . . . 2-7
2-6. Affiliate service transactions: U.S. sales and purchases, by industry, 1996 . . . . . . . . . . 2-8
2-7. U.S. services trade volume, by region . . . . . . . . . . 2-9
3-1. Franchising fees: U.S. cross-border exports, imports, and trade balance, 1992-97 . . . . . 3-2
3-2. Wholesale service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96 . . . . . . . . . . 3-3
3-3. Retail service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96 . . . . . . . . . . 3-4
4-1. Education services: U.S. cross-border exports, imports, and trade balance, 1992-97 . . . 4-3
5-1. Telecommunication services: U.S. cross-border exports, imports, and trade balance, 1992-97 . . . . . . . . . . 5-5
6-1. Audiovisual services: U.S. cross-border exports, imports, and trade balance, 1992-97 . . . . . . . . . . 6-3

# CONTENTS–*Continued*

## Figures–*Continued*


| | | *Page* |
|---|---|---|
| 6-2. | Audiovisual services: U.S. cross-border exports of film and tape rentals, by principal markets, 1997 | 6-3 |
| 6-3. | Audiovisual service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96 | 6-4 |
| 8-1. | Health care service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96 | 8-3 |
| 9-1. | Accounting services: U.S. cross-border exports, imports, and trade balance, 1992-97 | 9-3 |
| 9-2. | Accounting service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96 | 9-3 |
| 10-1. | Legal services: U.S. cross-border exports, imports, and trade balance, 1992-97 | 10-3 |
| 10-2. | Legal services: U.S. cross-border exports, by principal markets, 1997 | 10-3 |
| 11-1. | Architectural, engineering, and construction services: U.S. cross-border exports, imports, and trade balance, 1992-97 | 11-3 |
| 11-2. | Architectural, engineering, and construction services: U.S. cross-border exports, by principal markets, 1997 | 11-3 |
| 12-1. | Land transportation services: U.S. cross-border exports, imports, and trade balance, 1992-97 | 12-3 |
| 13-1. | Travel and tourism services: U.S. cross-border exports, imports, and trade balance, 1992-97 | 13-2 |
| 13-2. | Travel and tourism services: U.S. cross-border exports, by principal markets, 1997 | 13-3 |
| 13-3. | Travel and tourism service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96 | 13-3 |


## Tables


| | | |
|---|---|---|
| 1-1. | Summary of industry-specific commitments scheduled by subject trading partners, by service sector | 1-7 |
| 1-2. | Summary of cross-industry commitments by trading partners | 1-9 |
| 1-3. | Summary of MFN exemptions by subject trading partners, by service sector | 1-11 |
| 3-1. | Highlights of industry-specific restrictions on distribution services | 3-5 |
| 4-1. | Highlights of industry-specific restrictions on education services | 4-5 |
| 5-1. | Highlights of industry-specific restrictions on basic telecommunication services | 5-7 |
| 5-2. | Highlights of industry-specific restrictions on enhanced telecommunication services | 5-15 |
| 6-1. | Highlights of industry-specific restrictions on audiovisual services | 6-5 |
| 6-2. | 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 legal services | 10-5 |
| 11-1. | Highlights of industry-specific restrictions on architectural and engineering services | 11-5 |
| 11-2. | Highlights of industry-specific restrictions on construction services | 11-8 |
| 12-1. | Highlights of industry-specific restrictions on land transportation services | 12-4 |
| 12-2. | Summary of MFN exemptions on land transportation services | 12-7 |
| 13-1. | Highlights of industry-specific restrictions on travel and tourism services | 13-5 |
| 14-1. | Highlights of cross-industry commitments | 14-3 |
| 14-2. | Highlights of most-favored-nation exemptions pertaining to subject industries | 14-7 |

# Executive Summary

On October 9, 1998, the United States Trade Representative requested that the U.S. International Trade Commission (USITC) examine the schedules of commitments submitted by 13 African trading partners under the General Agreement on Trade in Services (GATS). The GATS provides a framework for government policy concerning trade and investment in service industries and obligates signatory countries to establish schedules of commitments. These schedules indicate, on an industry-by-industry basis, the extent to which signatory members accord market access and national treatment to foreign service providers. The 13 trading partners examined in this report are Côte d'Ivoire, Egypt, Ghana, Kenya, Malawi, Mauritius, Morocco, Nigeria, Senegal, South Africa, Tunisia, Zambia, and Zimbabwe. These countries accounted for less than 2 percent of total U.S. services trade in 1997. The USITC was requested 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 the commitments. The eight industries are as follows:

- Distribution services (defined as wholesaling, retailing, and franchising services);
- Education services;
- Communication services (defined as basic and enhanced telecommunication, audiovisual, and courier services);
- Health care services;
- Professional services (defined as accounting, advertising, and legal services);
- Architectural, engineering, and construction (AEC) services;
- Land-based transport services (defined as rail and trucking services); and
- Travel and tourism services.

Because none of the subject countries scheduled commitments on advertising services, this sector is not covered in this report.

The GATS schedules of commitments confer benefits on 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 them 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 (not subject to a commitment), no benchmarks have been established and signatories may introduce trade-impeding measures without penalty. Overall, the subject countries scheduled commitments that covered few service sectors, and provided limited advances in terms of benchmarking and transparency. Senegal and South Africa provided the most comprehensive coverage. The findings of this report are summarized broadly below, and a more detailed summation is presented in chapter 14.

# Examination of Industry-Specific Commitments

Among the industries covered in this report, the most complete coverage provided by the 13 subject countries was for basic and enhanced telecommunication, travel and tourism, construction, and land transportation services. Audiovisual, courier, distribution, and education services received few commitments. None of the subject countries scheduled commitments on advertising services. South Africa and, to a lesser degree, Senegal scheduled a broad range of commitments, indicating that they are taking steps to foster trade in services. The schedules of the remaining states are largely incomplete and, therefore, achieve little in terms of promoting services trade.

### *Examination of Cross-Industry Commitments*

As was customary among most GATS signatories, commitments offered by subject trading partners concerning the entry and temporary stay of business persons applied only to selected types of employees, typically senior managers and specialists. Measures affecting most other types of employees remain unbound. While foreign firms will likely be able to relocate essential employees as required, the presence of needs-testing and nationality restrictions generates uncertainty. Additional unknowns include the extent to which policies will be implemented consistently and 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 are not in line with this principle as they accord preferential treatment to selected countries or individuals. Egypt, Morocco, South Africa, and Tunisia listed MFN exemptions affecting the land transportation service industry, and Egypt and Tunisia also listed MFN exemptions to the audiovisual service industry. In most cases, these exemptions only modestly influence the competitive position of foreign firms. For example, in audiovisual and land transportation services, Egypt accords preferential treatment to other Arab countries to promote intra-Arab trade and to maintain cultural identity.

# Industry Viewpoint

The service markets in most of the subject countries are in the early stages of development and offer limited opportunities to foreign service providers. Consequently, few U.S. service providers expressed interest in greatly expanding their presence in the subject countries. Industry representatives indicated that the modest level of services trade in these markets is usually due more to limited consumer demand than to trade-impeding measures. Industry representatives also noted that actual market access conditions may be more or less favorable than commitments indicate. In some cases, the absence of industry-specific commitments does not reflect closed markets, while in others, full commitments do not necessarily reflect open markets. This suggests that specific commitments must be carefully assessed and cross-checked against current market conditions. Industry representatives reported that some African countries did not participate extensively in the GATS scheduling process because with the limited scope of their trade in services, they did not expect to benefit substantially from services liberalization. Still, U.S. service providers recognize that the GATS process of successive negotiations holds considerable promise for progressive market liberalization and reportedly are encouraged by the subject countries' participation in the GATS, however modest.

# Conclusion

The GATS schedules of the subject African countries include few commitments that liberalize trade and investment. However, by establishing binding benchmarks in certain service sectors, providing greater regulatory transparency, and subscribing to a framework for future services trade liberalization, the subject trading partners have constructed an effective foundation for further 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 the World Trade Organization negotiations scheduled to commence in January 2000.

# 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 treatment[2] to foreign service providers, subject to defined exceptions; and serve as benchmarks[3] for future efforts to liberalize global trade in services.

## Purpose and Scope

At the request of the United States Trade Representative (USTR) (appendixes A and B), the United States International Trade Commission (USITC or the Commission) has examined the schedules of commitments submitted by Côte d'Ivoire, Egypt, Ghana, Kenya, Malawi, Mauritius, Morocco, Nigeria, Senegal, South Africa, Tunisia, Zambia, and Zimbabwe. These 13 trading partners appear to account for slightly over 1 percent of U.S. service exports in 1997;[4] in that same year, the entire African continent accounted for 1.5 percent of U.S. exports of services (chapter 2). This study is the fifth in a series that examine the schedules of commitments submitted by various U.S. trading partners. The first study focused on the European Union, Canada, Japan, and Mexico. The findings were presented in a report entitled *General Agreement on Trade in Services: Examination of Major Trading Partners' Schedules of*

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[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 Apr. 15, 1994. The number of WTO members has increased to 133. Found at Internet address www.wto.org, posted Dec. 21, 1998, retrieved Jan. 7, 1999.

[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, national treatment, or both. Partial commitments are obligations to accord foreign firms at least some degree of market access, national treatment subject to specified limitations, or both. 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.

[4] South Africa is the only subject trading partner for which country-specific services trade data are available. This presentation is based substantively on official trade statistics prepared by the U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA).

*Commitments* (USITC publication 2940, Dec. 1995), which was submitted to the USTR in December 1995. The subject countries of the second report were Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru, Uruguay, and Venezuela. Entitled *General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments* (USITC publication 3007, Dec. 1996), the report was submitted to the USTR in December 1996. The subject countries of the third report were Australia, Hong Kong, India, Indonesia, Korea, Malaysia, New Zealand, the Philippines, Singapore, and Thailand. The third 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 fourth report were Bulgaria, the Czech Republic, Hungary, Iceland, Liechtenstein, Norway, Poland, Romania, the Slovak Republic, Slovenia, Switzerland, and Turkey. The fourth report, entitled *General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Eastern Europe, the European Free Trade Association, and Turkey* (USITC publication 3127, Sept. 1998), was submitted to the USTR in September 1998.[5]

For this report, the USTR requested that the Commission (1) examine the content of the foreign schedules of commitments and explain the commitments in nontechnical language,[6] and (2) identify the potential benefits and limitations that the subject trading partners have conferred or imposed on foreign service providers, emphasizing the effects on U.S. firms. The USTR also requested that the Commission focus on the subject countries' commitments pertaining to the following service industries:[7]

- Distribution services (defined as wholesaling, retailing, and franchising services);
- Education services;
- Communication services (defined as basic and enhanced telecommunication, audiovisual, and courier services);
- Health care services;
- Professional services (defined as accounting, advertising, and legal services);
- Architectural, engineering, and construction (AEC) services;
- Land-based transport services (defined as rail and trucking services); and
- Travel and tourism services.

None of the subject African countries scheduled commitments on advertising services. Consequently, this report provides no discussion of this service industry.

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[5] 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* from the World Trade Organization, Publications Services, Centre William Rappard, Rue de Lausanne 154, CH-1211 Geneva. WTO publications are also available by telephone: (022) 7395208/5308; by fax: (022) 7395792; and through the Internet at www.wto.org.

[6] See appendix C for a glossary of technical terms.

[7] 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).*

# Overview of the General Agreement on Trade in Services

The GATS is the first legally enforceable, multilateral agreement to establish obligations and disciplines pertaining to international trade and investment in services.[8] An integral part of the Uruguay Round Agreements, the GATS entered into force on January 1, 1995.[9] Three elements constitute the text of the GATS: (1) a framework of rules for government policy concerning 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) treatment[10] (article II) and regulatory transparency (article III).[11] 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 regulatory measures as they are applied on an industry-

[8] Uruguay Round Agreements Act Statement of Administrative Action (SAA), published in H.R. 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 Sept. 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 WTO and the agreements annexed to that agreement (the Uruguay Round Agreements).

[9] The GATS and various other agreements negotiated during the Uruguay Round are set forth as annexes to the Agreement Establishing the WTO. The WTO replaced the GATT on Jan. 1, 1995, as the institutional foundation of the multilateral trading system.

[10] 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, such exemptions 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.

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

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

**GATS**

**Framework of rules**

*Contains general obligations conducive to international trade in services, including:*

* Most-Favored-Nation treatment
* Transparency
* Increasing participation of developing countries
* Economic integration
* Domestic regulation
* Recognition
* Monopolies and exclusive service suppliers
* Business practices
* Emergency safeguard measures
* Payments and transfers
* Restrictions to safeguard the balance of payments
* Government procurement
* General exceptions
* Subsidies

**National schedules of commitments**

*Submitted by each of 133 signatory countries. Schedules contain commitments regarding restrictions and limitations to market access and national treatment. Schedules typically comprise:*

* Cross-industry commitments
* Industry-specific commitments with respect to 4 modes of supply:
  - -Cross-border supply
  - -Consumption abroad
  - -Commercial presence
  - -Presence of natural persons

**Annexes and Ministerial decisions**

*Provide information regarding subsequent negotiations and rights to temporary MFN exemptions, including:*

* Annex on MFN exemptions
* Annex on movement of natural persons supplying services under the Agreement
* Annex on air transport services
* Annex on financial services
* Second annex on financial services
* Annex on negotiations on maritime transport services
* Annex on telecommunications
* Annex on negotiations on basic telecommunications
* Decision on Institutional Arrangements for the GATS
* Decision on Certain Dispute Settlement Procedures for the GATS
* Decision on Trade in Services and the Environment
* Decision on Negotiations on Movement of Natural Persons
* Decision on Financial Services
* Decision on Negotiations on Maritime Transport Services
* Decision on Negotiations on Basic Telecommunications
* Decision on Professional Services
* Understanding on Commitments in Financial Services

specific basis. The other section follow the dispute settlement procedures set forth in the Uruguay Round Agreements.[12]

## *Schedules of Commitments*

National schedules specify commitments undertaken by signatories to accord market access and national treatment to foreign firms.[13] The schedules provide most of the detail of the final agreement and are bifurcated in structure. One section describes specifies cross-industry commitments, which are broad conditions and restrictions applicable across all industries listed in the schedule.[14]

### Industry-Specific Commitments

The industry-specific section of the schedules consists of a matrix wherein countries have identified market access and national treatment commitments on service industries[15] 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 provider 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, national treatment, or both. 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

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

[13] 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.

[14] 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.

[15] 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.

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 describing any current limitations imposed on foreign firms. Except for these limitations, market access and national treatment is otherwise accorded. Both full and partial commitments are “binding” in the sense that no further trade or investment impediments 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 absence of a commitment is indicated by the word “unbound” in the appropriate cell of the matrix,[16] or by exclusion of the industry from a country’s schedule.[17]

Most commitments that were submitted by individual countries during the Uruguay Round are essentially standstill commitments; i.e., a continuation of policies in effect. Although standstill commitments do not liberalize trade, they do meet important goals 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.

Commitments scheduled by developing countries, such as certain African countries, reflect an understanding by members of the WTO that developing countries might require a more gradual approach to scheduling commitments and liberalizing their service markets. To accommodate such needs, the Uruguay Round Agreements included measures designed to provide special treatment for developing countries participating in the trade liberalization process. The Decision on Measures in Favor of Least Developed Countries permits such countries to “undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs, or their administrative and institutional capabilities.”[18] The GATS includes a similar provision in Article IV, Increasing Participation of Developing Countries, which states that, with respect to scheduling industry-specific commitments and achieving progressive liberalization, “particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade, and financial needs.”[19]

Thus, the GATS acknowledges that developing countries would initially schedule fewer commitments. This is reflected in table 1-1, which indicates the countries that scheduled commitments for specific industries with an ‘X’ displayed in the relevant

[16] In certain instances, the term “unbound” coupled with an asterisk (i.e., unbound*) identifies 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.

[17] None of the subject African countries addressed advertising services in their schedules. Consequently, limitations on advertising services are understood to be unbound in the subject markets.

[18] *Final Texts of the GATT Uruguay Round Agreements Including the Agreement Establishing the World Trade Organization,* Apr. 1994, p. 385.

[19] Ibid., p. 288.

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

| | Côte d'Ivoire | Egypt | Ghana | Kenya | Malawi | Mauritius | Morocco | Nigeria | Senegal | South Africa | Tunisia | Zambia | Zimbabwe |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Accounting | | | | | X | | X | | | X | | X | |
| Architectural, engineering, and construction | X | X | X | | X | | X | | X | X | | X | |
| Audiovisual | | | | X | | | | | | | | | |
| Courier | | | | | | | | | X | X | | | |
| Distribution | | | | | | | | | X | X | | | |
| Education | | | X | | | | | | | | | | |
| Health care | | | | | X | | | | | X | | X | |
| Land-based transportation | X | | | X | | | X | X | | X | | | |
| Legal | | | | | | | | | | X | | | |
| Telecommunications | X | | X | | | X | X | X | X | X | X | | X |
| Travel/tourism | X | X | X | X | X | X | X | X | X | X | X | X | X |

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

cell. Also, the GATS urges developed countries to offer assistance to less developed countries by according them access to trade-facilitating technology, distribution channels, and information networks. Article IV encourages developed countries to establish "contact points" to help firms in developing countries gain market access by providing commercial and regulatory information. Since nearly all of the subject economies may be considered developing countries,[20] it should be expected that these countries would schedule fewer commitments.

### 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.[21] For example, to establish a commercial presence in Zambia, 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*

The eight annexes attached to the GATS form an integral part of the agreement. For the purpose of this discussion, the annex on Article II Exemptions may be the most important.[22] This annex allows countries to submit a list of MFN exemptions,[23] 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 seven of the countries examined in this report, attached MFN exemptions to their schedules.[24] Signatories included MFN exemptions

[20] In the context of the GATS, countries that have claimed "developing" status are generally those outside the Organization for Economic Cooperation and Development (OECD).

[21] 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 will improve the discussion in terms of clarity and comprehensiveness.

[22] See USTR, *Final Texts of the GATT Uruguay Round Agreements*, p. 305.

[23] Most MFN exemptions accord preferential treatment to selected countries in all or some service industries. A lesser number indicate that certain signatories will be subject to less favorable treatment.

[24] Although 7 subject countries attached MFN exemptions to their schedules, only 4 countries submitted MFN exemptions that are relevant to the services covered in this report.

**Table 1-2**
**Summary of cross-industry commitments by subject trading partners**

| | Côte d'Ivoire | Egypt | Ghana | Kenya | Malawi | Mauritius | Morocco | Nigeria | Senegal | South Africa | Tunisia | Zambia | Zimbabwe |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Investment | | | X | X | | | | X | | X | X | | X |
| Real estate acquisition | | X | | | | | | | | | X | | |
| Entry and temporary stay of natural persons | | X | X | X | X | X | X | X | | X | X | X | X |

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

because of concerns regarding "free-ridership."[25] MFN exemptions relevant to this report generally apply to land-based transportation and audiovisual services (table 1-3). Four countries submitted MFN exemptions on land transportation services. In general, these exemptions limit the foreign provision of road transport services to countries specified in bilateral or multilateral agreements. With respect to audiovisual services, Egypt and Tunisia accord preferential treatment to co-produced works on the basis of current or future cooperation arrangements. A detailed presentation of MFN exemptions listed by the subject countries is found in appendix F.

Other annexes and Ministerial decisions define the scope of certain industries for the purposes of negotiations carried over from the Uruguay Round, establish the timetables and modalities of these negotiations, and establish work programs.[26]

# Methodological Approach

USITC staff collected information mainly through primary sources. The Commission conducted extensive in-person and telephone interviews with, and made e-mail and facsimile inquiries of, domestic and foreign service providers, principal service industry associations, and U.S. and foreign regulatory authorities.

Each service industry discussion begins by defining the scope of the services covered and identifying the principal channels through which service providers deliver services to foreign consumers.[27] To identify these channels, staff reviewed the latest available statistical estimates of international service transactions, published by the Bureau of Economic Analysis (BEA) of the U.S. Department of Commerce

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[25] 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.

[26] 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 maritime services concluded June 28, 1996, with no agreement, although negotiations in this area may recommence in January 2000. Supplementary schedules of commitments and lists of MFN exemptions were appended under the Fourth Protocol for Telecommunication Services (effective Jan. 1, 1998) and the Fifth Protocol for Financial Services (effective Mar. 1, 1999).

[27] 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. Therefore, these three service sub-sectors are covered in a single chapter. Also, the nature of commitments regarding land transportation services (i.e., rail and trucking) favored broad treatment of the industry.

**Table 1-3**
**Summary of MFN exemptions by subject trading partners, by service sector**

| | Côte d’Ivoire | Egypt | Ghana | Kenya | Malawi | Mauritius | Morocco | Nigeria | Senegal | South Africa | Tunisia | Zambia | Zimbabwe |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| All services | | X | | | | | | | | | | | |
| Audiovisual | | X | | | | | | | | | X | | |
| Land-based transportation | | X | | | | | X | | | X | X | | |

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

(USDOC).[28] 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 and MFN exemptions 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 commitments. 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 USITC 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, 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 accommodate rapid technological and regulatory change, and to provide signatories with 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 employs a "positive listing" approach to scheduling commitments, which requires 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

[28] Among the member countries of the OECD, only the United States compiles detailed annual 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.

pertaining to this sector in the future, but need not provide any information regarding current restrictions.

Finally, as noted earlier, identifying the difference between *de facto* and *de jure*[29] 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 delineate these practices in national 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 13 examine specific service industries.[30] Finally, chapter 14 provides an overall perspective on the accomplishments of the Uruguay Round with respect to services, and highlights significant aspects of the 13 trading partners' schedules with respect to cross-industry commitments, industry-specific commitments, and exemptions from most-favored-nation treatment.

[29] *De facto* restrictions are restrictions imposed in practice, whereas *de jure* restrictions are imposed by law, but which may not be applied in practice.

[30] None of the subject African countries scheduled commitments on advertising services. Consequently, this report provides no discussion of this service industry.

# CHAPTER 2
# OVERVIEW OF INTERNATIONAL TRADE IN SERVICES

## Introduction

This chapter provides a context for the industry-specific discussions that follow in chapters 3 through 13. 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 services trade data track both cross-border sales and 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.[2] 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.[3] With respect to affiliate transactions, this report covers only

[1] This presentation is based substantively on official trade statistics prepared by the USDOC, 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 1996 for affiliate transactions, and only through 1997 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] USDOC, BEA, *Survey of Current Business*, July 1992, pp. 82-86; and USDOC, BEA, *U.S. Direct Investment Abroad: 1994 Benchmark Survey*, *Final Results*, May 1998, p. M-17.

[3] The balance of payments records investment income from both majority-owned affiliates and minority-owned affiliates.

affiliate sales reported by majority-owned affiliates.[4] Data regarding sales by affiliates in which U.S. persons hold only minority interests are not available on an industry-specific basis.

Services trade is categorized somewhat differently in the GATS, which identifies four different modes for 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, as defined by the BEA, 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, such as for tourism or education services, which are purchased outside the consumer's home country. Sales made by U.S. persons who have entered a foreign market for less than 1 year to supply a service (presence of natural persons) are also counted as cross-border exports.[5] 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 in the foreign market. As noted, 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

Worldwide, 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 $19 billion in 1988 to $83 billion in 1997. As a result, trade in services has significantly reduced the

[4] 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 owner" resides receives credit for sales to U.S. persons. An ultimate beneficial owner 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.

[5] There is no record in the balance of payments statistics of the activities of natural persons who are resident in a foreign country for longer than 1 year, except that workers' remittances record the financial transfers that they make. WTO, Council for Trade in Services, *GATS and Statistics on Trade in Services* (S/C/W/5), July 17, 1995.

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

**Services trade**

**Cross-border trade**
*Reported as exports and imports in the balance of payments*

**Cross-border supply**: The service crosses the border to the consumer, while the supplier remains in its home country. For example, architectural services may be provided as design drawings sent by mail to a consumer in a foreign country.

**Consumption abroad**: The consumer crosses the border to consume the service. A tourist visiting a foreign country or a student studying in a foreign university are examples of consumption abroad.

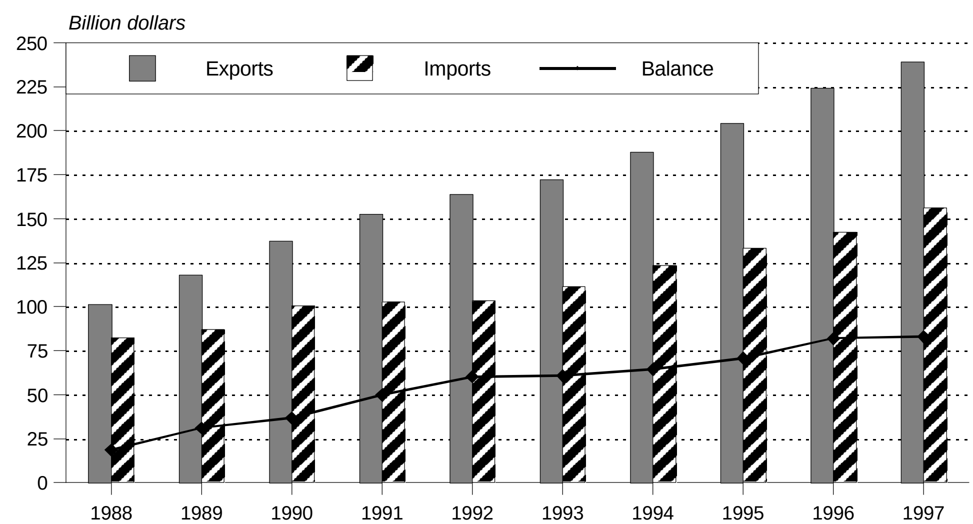
**Presence of natural persons**: The service supplier crosses the border temporarily to provide a service through the presence of a "natural person." For example, an accountant might travel abroad to provide services to a client.

**Sales through affiliates**
*Reported as investment income in the balance of payments*

**Commercial presence**: The service supplier establishes a "commercial presence" in a foreign market, through which it provides services to foreign consumers. For example, an advertising firm might establish a commercial office overseas to better provide services to foreign customers.

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 balances, 1988-97**[1]




[1] Data exclude public sector transactions.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, pp. 86, 87.

deficit on the current account of the U.S. balance of payments (figure 2-3).[6] Cross-border trade in services largely reflects travel and tourism, freight transportation, and passenger fares (predominantly air fares). Taken together, these industries accounted for just under 51 percent of service exports and 63 percent of service imports in 1997 (figure 2-4).

Private cross-border service exports grew by an average annual rate of 10 percent during 1988-97, increasing from $101 billion in 1988 to $239 billion in 1997. The strongest growth in exports occurred in the professional service industries, which recorded average annual export growth of 15 percent during this period. Intellectual-property-related exports, measured by the collection of royalties and license fees, also increased rapidly, by 12 percent per year, on average. Receipts from tourism and passenger fares grew by 10 percent per annum during the period, reflecting an overall rise in the number of tourists visiting the United States. Travel and tourism represented the largest category of imports, accounting for 31 percent of total cross-border services exports in 1997.

In contrast, cross-border service imports expanded less quickly than exports. During 1988-97, U.S. cross-border service imports grew by an average annual rate of 7 percent, increasing from $82 billion in 1988 to $156 billion in 1997. As with exports, imports of professional and intellectual-property-related services were the fastest growing, both averaging annual growth rates of 15 percent during 1988-97. Within the professional services sector, imports of legal and accounting services grew by 22 percent and 30 percent, respectively. Also similar to exports, travel and tourism services represented the largest category of imports, accounting for 33 percent of all cross-border service imports in 1997. Import growth in the travel and tourism sector averaged 5 percent per year during 1988-97.

## Sales by Majority-Owned Affiliates

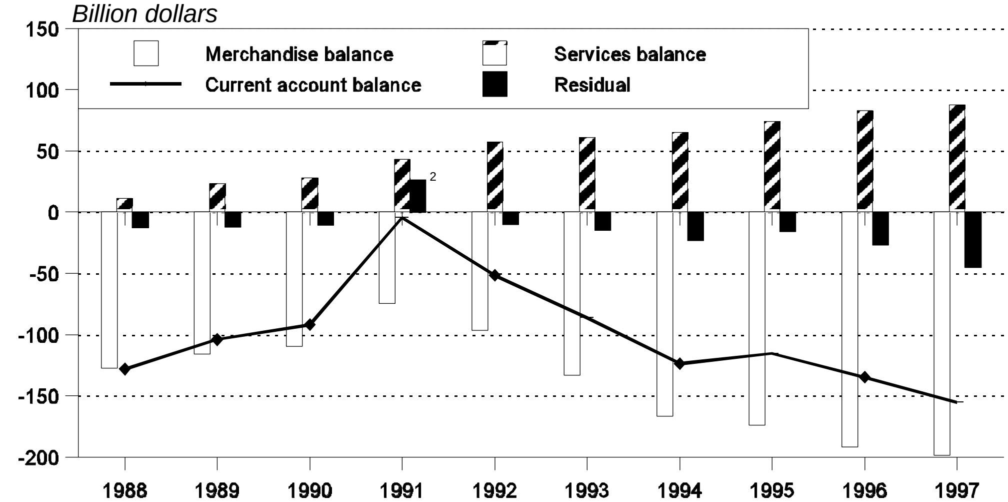
Since many services require continuous contact between service providers and customers, a large share of international trade in services takes place through foreign-based affiliates. In 1996, 50 percent of total U.S. service sales[7] were accounted for by foreign affiliates of U.S. firms, and 53 percent of total U.S. service purchases were accounted for by U.S.-based affiliates of foreign firms (figure 2-5).[8] In 1996,

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

[7] Includes both cross-border sales (exports) and affiliate sales.

[8] 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.

**Figure 2-3**
**U.S. merchandise, services, and current account balances, 1988-97[1]**




[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.
[2] Surplus reflects Gulf War remittances.

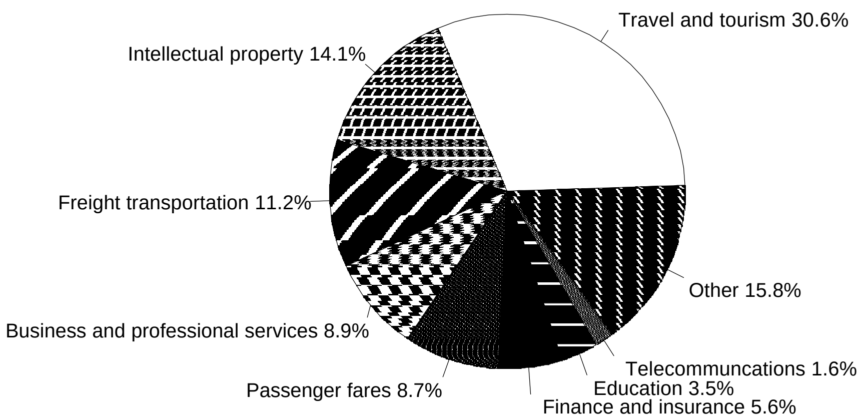
Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* July 1998, p. 69.

U.S. investment abroad financed the acquisition or establishment of 406 additional foreign affiliate firms, which contributed to a 16-percent increase in sales of services.[9]

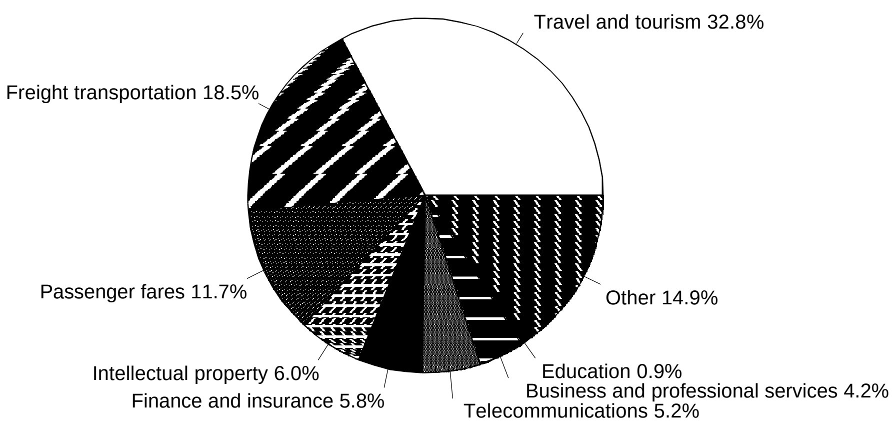
During 1988-96, sales by U.S.-owned affiliates in foreign markets grew by an average annual rate of 13 percent, from nearly $84 billion in 1988 to $221 billion in 1996. Insurance firms, wholesalers, nonbank finance firms, and certain professional service firms, such as computer and data processing firms, 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 approximately 10 percent during 1988-96, from $73 billion in 1988 to $161 billion in 1996. Once again, insurance affiliates represented by far the largest source of U.S. purchases in 1996 with just under 35 percent, reflecting the strong presence of foreign-owned insurance companies in the U.S. market. Nonbank finance affiliates accounted for the next largest share of U.S. purchases, 7 percent, followed closely by real estate firms, accounting for just under 7 percent of total purchases.

[9] USDOC, BEA, *Survey of Current Business*, Sept. 1998, p. 59.

**Figure 2-4**
**U.S. cross-border service exports and imports, by industry, 1997**



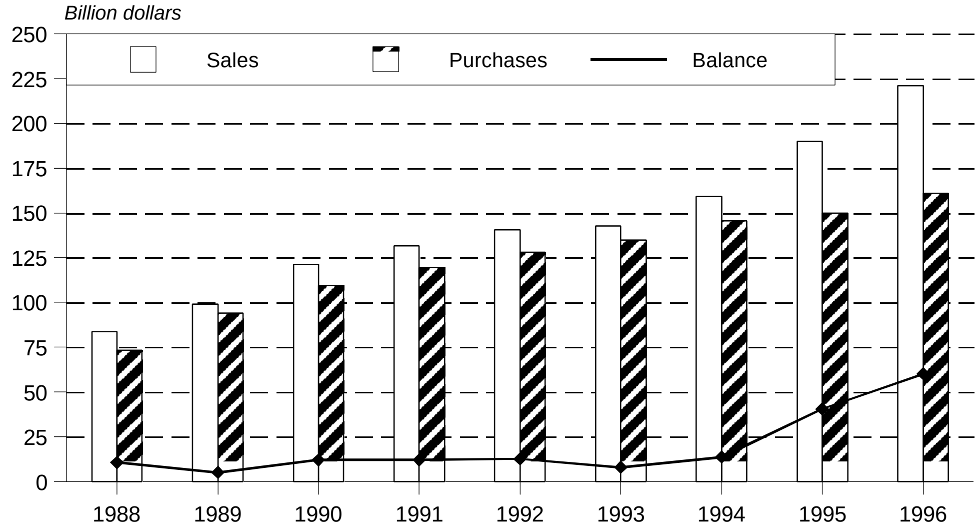

**Total exports = $239 billion**




**Total imports = $156 billion**

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1998, pp. 86-87.

**Figure 2-5**
**Affiliate service transactions: U.S. sales, purchases, and balances, 1988-96**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, p. 71.

# U.S. Trade in Services With Subject Trading Partners

In 1997, total cross-border services trade with the 13 subject African trading partners[10] represented up to an estimated 1.5 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 33 percent of total cross-border services trade, while trade with Latin America and Japan accounted for 14 percent and 12 percent, respectively.[12] 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 1996.[13] Canada and Japan represented the second- and third-largest affiliate trading partners, accounting for 13 percent and 11 percent of service transactions through affiliates, respectively.[14] The subject African economies represent a much smaller portion of affiliate trade in services.

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[10] Data pertaining to U.S. trade with the 13 subject trading partners of this report are not reported separately. Data estimates reflect U.S. trade with the entire African Continent. Consequently, staff estimates overstate the subject countries' volume of trade with the United States.

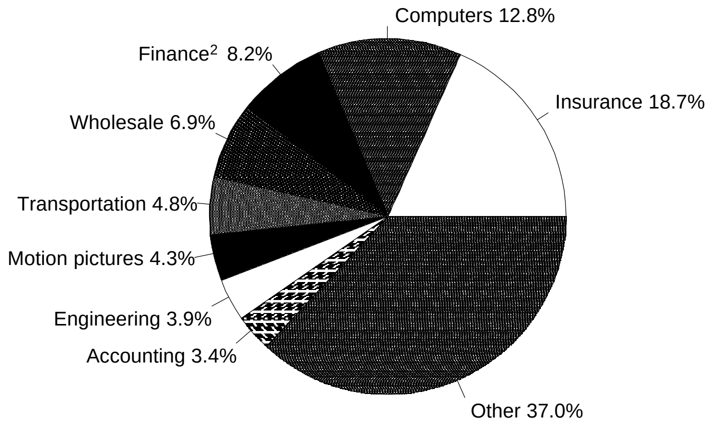
[11] The volume of total cross-border services trade is the sum of U.S. exports and imports of services, and the volume of affiliate transactions is the sum of sales and purchases through foreign affiliates.

[12] USDOC, BEA, *Survey of Current Business*, Oct. 1998, pp. 88, 89.

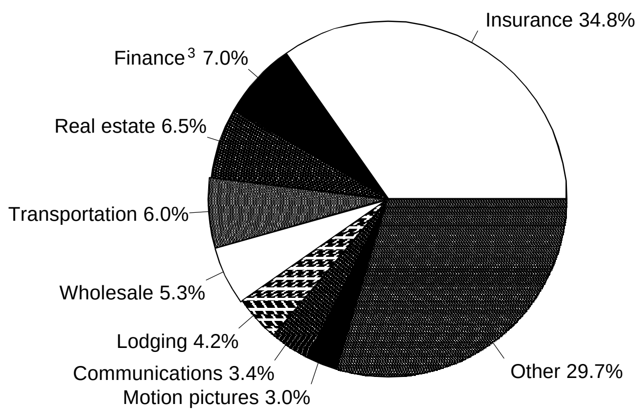
[13] Ibid.

[14] Ibid.

**Figure 2-6**
**Affiliate service transactions: U.S. sales and purchases, by industry, 1996**[1]




**Total sales = $221 billion**

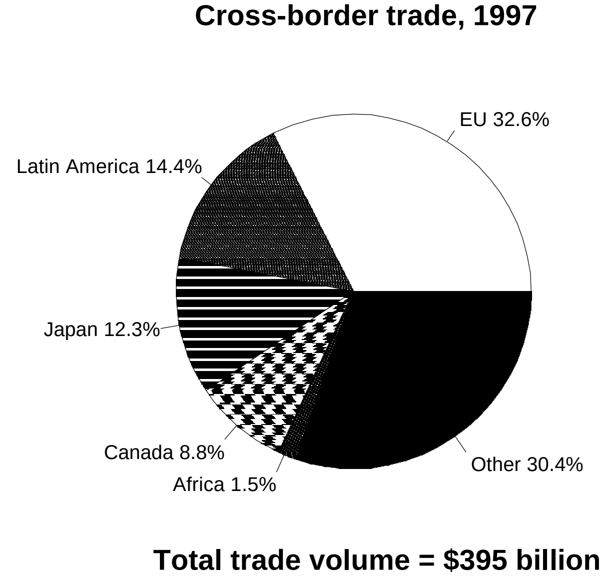


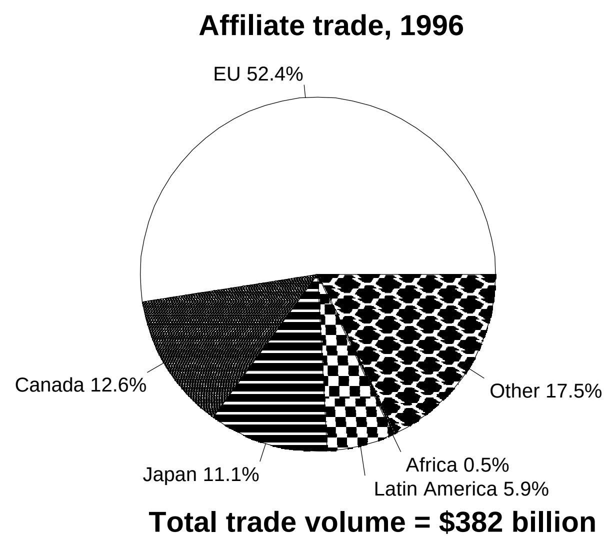

**Total purchases = $161 billion**

[1] Due to rounding, figures may not add to 100 percent.
[2] This figure excludes transactions by depository institutions.
[3] Excludes banking transactions.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1998, pp. 115, 116.

**Figure 2-7**
**U.S. services trade volume, by region**[1]




[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. 1998, pp. 88, 89, and 114.

### *Cross-Border Services Trade*

In 1997, the United States recorded a surplus in cross-border services trade with the subject economies of up to $1.1 billion, or up to 1.4 percent of the total U.S. surplus in cross-border services trade.[15] South Africa is the only subject country for which there is country-level services trade data. South Africa accounted for 29 percent of total U.S. service exports to Africa, or 0.4 percent of total U.S. service exports. All other African countries combined accounted for 1.1 percent of both total U.S. service exports and total U.S. service imports.[16]

### *Affiliate Transactions*

In 1996, U.S. sales of services to South Africa (the only subject country for which official data are available) through affiliates accounted for $662 million, or less than 1 percent of total U.S. sales. U.S. purchases of services from affiliates of South African firms totaled $173 million, or less than 1 percent of total U.S. purchases. Thus, U.S.-owned affiliates' sales in South Africa exceeded South African-owned affiliates' sales in the United States by $489 million.[17]

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[15] Ibid.

[16] Because of rounding, the sum of the percentages may not equal total U.S. exports and imports from Africa.

[17] USDOC, BEA, *Survey of Current Business*, Oct. 1998, p. 114.

# CHAPTER 3
# DISTRIBUTION SERVICES[1]

## Introduction

The distribution services industry provides wholesale trade services, retail trade services, and franchising services.[2] Wholesalers take title to products supplied by others and subsequently resell them to retailers and other business concerns, including other wholesalers. Retailers sell goods and services to the public for personal or household use, while franchisors sell intangible intellectual property, principally in the form of business formats. In addition to selling merchandise, wholesalers and retailers also often provide auxiliary services such as inventory maintenance, credit, and advertising.

## International Trade in Distribution Services

Distribution services trade includes both cross-border and affiliate transactions. Wholesalers and retailers, the largest suppliers of distribution services, predominantly conduct transactions through foreign-based affiliates. Franchisors conduct trade on a cross-border basis, receiving royalties and licensing fees in return for intangible intellectual property, such as the right to use a business format or trademark.

### *Cross-Border Transactions*

Franchising is the only distribution service for which there is cross-border trade data. In 1997, the United States earned $463 million from franchising exports and spent $8 million for franchising imports (figure 3-1). Exports increased by 9 percent, faster than the average annual rate of 6 percent recorded during 1992-1996, while imports grew 33 percent, well above the average annual rate of 5 percent for 1992-1996. The European Union remained the largest regional market for U.S. franchising services, importing $167 million, and accounting for 36 percent of total franchising exports from the United States. The Asia-Pacific region followed closely, accounting for 33 percent of total franchising exports.

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[1] Among the individuals consulted in preparation of this report were those affiliated with the following organizations: Ace Hardware; A & W Restaurants; Brinker International Inc.; Chickfil-A; McDonald's Corporation; Tricon Restaurants International; and the Bureau of Economic Analysis (BEA), U.S. Department of Commerce (USDOC).

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

**Figure 3-1**
**Franchising fees: U.S. cross-border exports, imports, and trade balance, 1992-97**


Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Nov. 1996, p. 90; Oct. 1997, p. 116; and Oct. 1998, pp. 94-97.

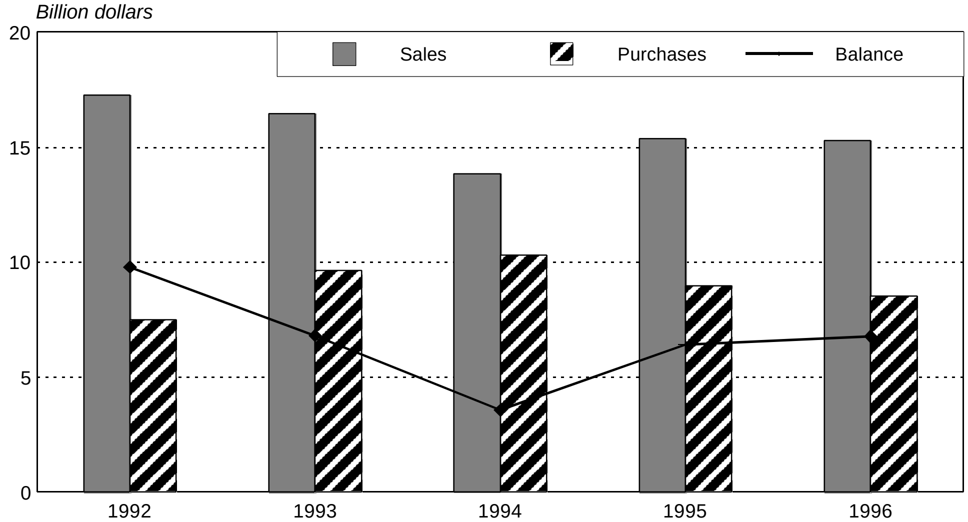
During 1997, African countries collectively accounted for $11 million, or approximately 2 percent of U.S. franchising exports. South Africa, the only subject country to be treated separately, accounted for exports valued at $4 million, or almost 1 percent of total U.S. franchising exports. Official U.S. trade data report no franchising imports from Africa.[3]

## *Sales by Majority-Owned Affiliates*

Wholesale trade services are the largest component of distribution services and account for one of the largest shares of affiliate trade. In 1996, sales by foreign wholesaling affiliates of U.S. firms reached $15 billion, while purchases from U.S.-based affiliates of foreign firms totaled $8.5 billion (figure 3-2). Sales of wholesaling services remained relatively flat in 1996, declining by less than 0.5 percent from 1995. Overall, sales by foreign affiliates of U.S. firms declined by 4 percent during 1992-1995, despite an increase in 1995. In 1996, wholesale trade services purchased from U.S. affiliates of foreign firms declined by 5 percent, in stark contrast to the 6-percent average annual increase observed during 1992-1995, but a continuation of the decline recorded in 1995. Europe accounted for 60 percent of sales by foreign wholesaling affiliates of U.S. firms in 1996, the largest share held by any region. Sales to the United Kingdom represented 9 percent, the largest single country share. U.S. affiliates of Japanese firms provided the majority of wholesaling

[3] USDOC, BEA, *Survey of Current Business*, Oct. 1998, p. 97.

**Figure 3-2**
**Wholesale service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Sept. 1995, pp. 104 -105; Nov. 1996, pp. 111-112; Oct. 1997, pp. 136-137; and Oct. 1998, pp. 115-116.

services purchased by U.S. consumers in 1996, accounting for 57 percent of total purchases. Data collection agencies do not report wholesale trade data for the subject countries.

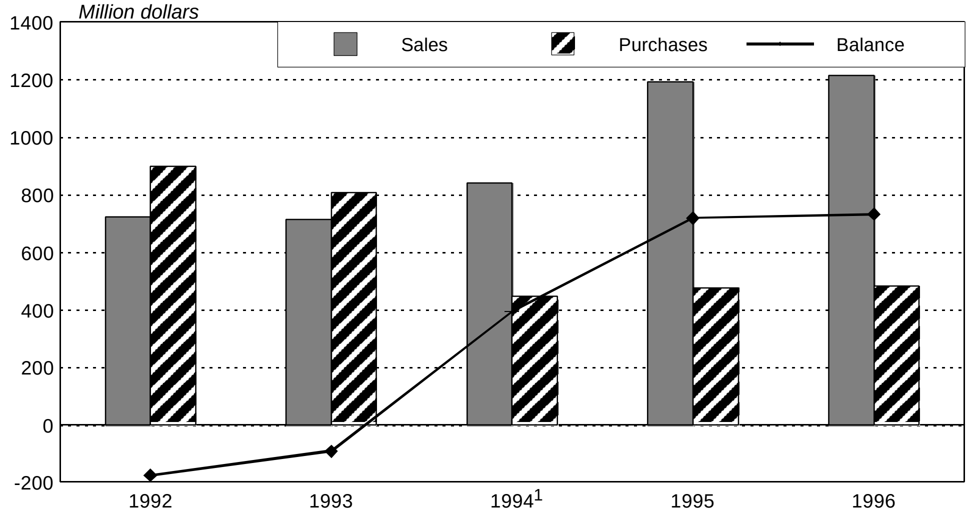
Retailing accounts for a smaller portion of overall trade by affiliates than does wholesale trade. Affiliate retailing also represents a comparatively smaller portion of distribution services. In 1996, U.S. sales and purchases of retail services through affiliates totaled $1.2 billion and $481 million, respectively (figure 3-3). Sales increased by 2 percent, continuing the growth trend observed since 1992. Purchases increased by 1 percent, in contrast to the average annual decline of 19 percent observed during 1992-1995.

Bilateral trade analysis of the United States' major trading partners is not possible as BEA suppressed sales information to avoid disclosing confidential business information. On a regional basis, U.S. retailing affiliates of European firms accounted for $227 million, or 47 percent of retail services purchased by U.S. consumers. Data collection agencies do not report retail trade data for the subject countries.

# Examination of Commitments on Distribution Services

As noted, distribution services are provided to consumers on an affiliate or cross-border basis. Since retailers and wholesalers trade primarily through affiliates, establishing a direct commercial presence in foreign markets is generally required. Thus, commercial presence barriers usually have adverse effects on these types of

**Figure 3-3**
**Retail service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96**




[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. 1995, pp. 104 -105; Nov. 1996, pp. 111-112; Oct. 1997, pp. 136-137; and Oct. 1998, pp. 115-116.

distributors. By contrast, franchising services are less likely to be affected by commercial presence barriers since they do not trade through affiliates, but rather on a cross-border basis. In addition, local residents, who are not subject to foreign trade and investment barriers, often own such businesses.

Of the 13 subject countries, only Senegal and South Africa scheduled distribution services commitments (table 3-1). Those countries that did not schedule commitments are able to impose market access and national treatment limitations without penalty.

## *Senegal*

Senegal scheduled commitments that cover only wholesale and retail services. Senegal declined to schedule commitments for franchising services, thereby leaving limitations on these services unbound. For wholesaling services, Senegal's commitments accord full market access and national treatment to foreign wholesalers providing services through cross-border supply, consumption abroad, and commercial presence. For retailing services,[4] Senegal's commitments accord full market access and national treatment to foreign retailers providing services through cross-border supply and consumption abroad. However, Senegal places unbound limitations on retailing through a commercial presence. Market access and national treatment of natural persons also remains unbound in both the wholesaling and retailing industries.

[4] Senegal's commitments on retailing exclude the retailing of motor vehicles, motor vehicle parts, and motorcycles.

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

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Senegal** | **WHOLESALE TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **WHOLESALE TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **WHOLESALE TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **WHOLESALE TRADE SERVICES:**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 622 - Wholesale trade services. |
| | **RETAIL TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **RETAIL TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **RETAIL TRADE SERVICES:**<br>**Market Access:** Unbound<br>**National Treatment:** None | **RETAIL TRADE SERVICES:**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 631 - Food retailing services.<br>• CPC 632 - Non-food retailing services. |
| **South Africa** | **WHOLESALE TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **WHOLESALE TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **WHOLESALE TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **WHOLESALE TRADE SERVICES:**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 622 - Wholesale trade services. |
| | **RETAIL TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **RETAIL TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **RETAIL TRADE SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **RETAIL TRADE SERVICES:**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 631 - Food retailing services.<br>• CPC 632 - Non-food retailing services.<br>• CPC 6111 - Sales of motor vehicles.<br>• CPC 6113 - Sales of parts and accessories of motor vehicles.<br>• CPC 6121 - Sales of motorcycles and snowmobiles and related parts and accessories. |
| | **FRANCHISING SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **FRANCHISING SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **FRANCHISING SERVICES:**<br>**Market Access:** None<br>**National Treatment:** None | **FRANCHISING SERVICES:**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 8929 - Other non-financial intangible assets (franchising services). |

### *South Africa*

South Africa scheduled broad commitments covering wholesaling, retailing, and franchising services. South Africa accords full market access and national treatment to wholesalers, retailers, and franchisors through cross-border supply, consumption abroad, and commercial presence. South Africa's measures regarding natural persons remain unbound except for cross-industry measures that permit the entry and 3-year stay of service salespersons, intra-corporate transferees, and persons engaged to establish a business in South Africa.

## Industry Opinion

Distribution services do not account for a large portion of services trade with the subject countries. In addition to limited business activity, U.S. service providers face many challenges within the subject countries. For example, fast-food franchisors in Islamic countries such as Egypt, Morocco, and Tunisia must develop special menus (e.g., no pork) and observe holidays such as Ramadan (the month in which observers fast from dawn to dusk).[5] Other factors, such as regional political unrest, complicated legal systems, and reportedly inefficient bureaucracies also limit opportunities in the region.[6] In Egypt, for instance, four separate ministries regulate restaurant operations.[7]

However, U.S. distribution service providers are entering those subject country markets that have relatively large disposable incomes and a desire for U.S. products.[8] For example, franchising is growing in Egypt, where U.S. franchising firms, including many fast food operations, hold 72 percent of the market.[9] Non-food franchises, including Berlitz Language Center, Radio Shack, and Futurekids, are also growing in popularity.[10] Although foreign franchising firms can own 100-percent equity in an Egyptian business, joint-venture projects with a local partner are more likely to gain government approval.[11] McDonald's operates joint-ventures in Egypt and Morocco, and is reportedly able to remit royalties, develop real estate, import products, and hire

[5] Richard Martin, "War Specter Clouds Middle East Foodservice Landscape," *Nation's Restaurant News*, Feb. 16, 1998.

[6] Leonard N. Swartz, "Exploring Global Franchising Trends," *Franchising World*, Mar./Apr. 1997.

[7] U.S. Department of Agriculture (USDA), Foreign Agricultural Service (FAS), "Egypt's Food Market," *Food Market Reports*, July 15, 1996.

[8] Martin, "War Specter Clouds Middle East Foodservice Landscape," and Swartz, "Exploring Global Franchising Trends."

[9] Fast food franchises in Egypt include McDonald's, Kentucky Fried Chicken, Pizza Hut, TGI Friday's, Chili's, Arby's, Jack in the Box, Subway, and Cheese Cake Factory. USDOC, NTDB, ITA "Egypt: Marketing U.S. Products and Services," *Country Commercial Guides*, July 1998; and USDA, FAS, "Egypt's Food Market," July 15, 1996.

[10] USDOC, NTDB, ITA "Egypt: Marketing U.S. Products and Services," July 1998.

[11] Swartz, "Exploring Global Franchising Trends," Mar./Apr. 1997.

local staff without restrictions.[12] However, since all importers must be of Egyptian nationality, distribution firms with foreign ownership often rely on domestic partners for wholesale and retail distribution.[13] Many foreign distributors reportedly operate freely in Mauritius, including McDonald's and Pizza Hut.[14]

South Africa is the largest subject trading partner with regard to distribution services. The country's developed infrastructure and legal and financial systems, coupled with a government that reportedly favors open markets, are attractive to foreign direct investment in wholesaling and retailing. There are reportedly no barriers to foreign investment in South Africa.[15] In addition, franchising is the fastest growing industry in South Africa.

Foreign fast-food chains account for an estimated 35 percent of total fast food sales.[16] The entry of TGI Friday's, Dominoes, and McDonald's after the 1994 democratic elections reflects interest by U.S. businesses in the South African market.[17] McDonald's franchises reportedly operate without any significant government restrictions.[18] Furthermore, the government apparently welcomes any opportunity to reduce the country's 34-percent unemployment rate.[19]

Despite the favorable climate in South Africa, certain limitations exist. Royalty agreements with the Reserve Bank are necessary to repatriate income,[20] reportedly to control capital outflow.[21] Local expertise is often necessary to manage a market with 12 different national languages, and various cultures and traditions.[22] In addition, registration of intellectual property is essential.[23] For example, after another firm registered the name "McDonald's" in South Africa, the U.S. firm was forced into litigation to regain sole rights to its trademark.[24]

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[12] Industry representative, facsimile responses to questions posed by USITC staff, Mar. 11, 1999.

[13] USDOC, NTDB, ITA "Egypt: Marketing U.S. Products and Services," July 1998.

[14] Industry representative, interview by USITC staff, Geneva, Mar. 23, 1999.

[15] Industry representative, facsimile response to questions posed by USITC staff, Mar. 29, 1999.

[16] Ibid.

[17] Ibid.

[18] Industry representative, facsimile response to questions posed by USITC staff, Mar. 11, 1999.

[19] Industry representative, facsimile response to questions posed by USITC staff, Mar. 29, 1999.

[20] Ibid.

[21] Industry representative, telephone interview with USITC staff, Feb. 1, 1999.

[22] Karola McArthur, "Global Powers of Retailing, Retail Industry Profiles - Selected Economies, South Africa," *Stores*, Feb. 1999, Sec. 2, p. s44.

[23] Industry representative, facsimile response to questions posed by USITC staff, Mar. 29, 1999.

[24] Industry representatives, facsimile responses to questions posed by USITC staff, Mar. 1999.

Foreign business persons reportedly have a significant presence in Tunisia.[25] However, Tunisia's distribution services market is highly restrictive. Tunisia discourages any foreign investment that may compete with domestic industries, including restaurants and retail distribution.[26] In one case, the Tunisian partner of a U.S. retailer encountered difficulties after the Tunisian Government received complaints from competitors.[27] For the past 2 years, McDonald's franchisee has been denied authorization to open a restaurant.[28] McDonald's eventually suspended efforts to enter Tunisia because of the regulatory environment.[29] Pizza Hut, which currently has three franchises in Tunisia, reports severe difficulties with customs officials, and operations were shut down on two occasions.[30] Retailers also report customs clearance problems, including having merchandise shipments delayed by up to 120 days and constantly changing demands for documentation.[31]

## Summary

The majority of the subject countries declined to schedule distribution services commitments, yielding limited success in establishing benchmarks or improving transparency. South Africa scheduled the broadest commitments and has the largest amount of investment by foreign affiliates of U.S. distribution service providers. Although few African countries scheduled commitments covering distribution services, a lack of commitments does not necessarily reflect a difficult market for foreign service providers. While Morocco and Egypt did not address this service sector, they are reportedly large markets for foreign providers of distribution services.

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[25] Tunisian Government official, interview by USITC staff, Geneva, Mar. 23, 1999.

[26] U.S. Department of State telegram, "Services Trade Regime in Tunisia," message reference No. 004617, prepared by U.S. Embassy, Tunis, Oct. 6, 1998.

[27] Industry representative, telephone interview by USITC staff, Jan. 26, 1999.

[28] Industry representative, facsimile response to questions posed by USITC staff, Mar. 11, 1999.

[29] U.S. Department of State telegram, "Impediments to Private Investment in Tunisia," message reference No. 005008, prepared by U.S. Embassy, Tunis, Oct. 30, 1998.

[30] U.S. Department of State telegram, "Impediments to Private Investment in Tunisia," Oct. 30, 1998.

[31] Industry representative, telephone interview by USITC staff, Jan. 26, 1999.

# CHAPTER 4
# EDUCATION SERVICES[1]

## 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, such as 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] Likewise, 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 less common, 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. Occasionally, U.S. universities offer accredited undergraduate or graduate courses to foreigners through affiliate institutions established abroad. Official data on affiliate transactions are not available in sufficient detail to provide any insight into growth trends or regional significance.

### *Cross-Border Transactions*

[1] Among the individuals contacted by USITC staff in preparation of this report were those affiliated with the following organizations: American Council on Education, Council on International Educational Exchange, Educational Testing Services (ETS), Institute of International Education, the National Association of State Universities and Land Grant Colleges (NAFSA), and the World Trade Organization.

[2] The corresponding 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 estimate.

[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.

U.S. exports of education services reached $8.3 billion in 1997 (figure 4-1), reflecting a 5-percent increase from the previous year.[6] Such growth was slower than the 6-percent annual average growth rate experienced during 1992-96. Expenditures by U.S. students in pursuit of language skills and experience abroad also increased, to $1.3 billion in 1997. This reflects growth of 8 percent from the previous year, compared with the 13-percent annual average growth rate observed during 1992-96. Overall, trade in education services produced a surplus of $6.9 billion in 1997. This surplus increased by 4 percent during 1996-97, slower than the 5-percent average annual growth rate experienced during 1992-96.

In 1997, the Asia/Pacific region was overwhelmingly the leading export market for U.S. education services, accounting for $4.7 billion, or 57 percent, of total U.S. exports of these services. In contrast, Africa as a whole[7] accounted for $378 million, or 5 percent of total U.S. education services exports. South Africa, the only subject country for which official trade data are available, accounted for $36 million, or less than 10 percent of U.S. education services exports to Africa in 1997.[8] However, among the 13 subject countries, Kenya seems to be the largest consumer of U.S. education services, sending 3,723 students to study in the United States during the 1996/97 academic year.[9] Regarding U.S. imports of education services, Europe was the leading supplier, accounting for $761 million, or 56 percent, of total U.S. imports in 1997. Africa accounted for $25 million, or 2 percent, of total U.S. education services imports, while South Africa accounted for $2 million, or 8 percent, of total U.S. education services imports from Africa.[10] Kenya hosted more U.S. students than any other subject country during the 1996/97 academic year, with 530.[11]

## Examination of Commitments on Education Services

As noted in the preceding section, trade in education services occurs primarily through the cross-border exchange of students. Consequently, an open regime for

[6] USDOC, BEA, *Survey of Current Business*, Oct. 1998. Official trade data reported for 1997 on education services include services provided during the 1996-97 academic year. The same pattern of reporting holds for each year beginning in 1989, which spans the 1988-89 academic year.

[7] Official data on U.S. trade with Africa are not available in sufficient detail to determine the precise value of U.S. exports to each of the 13 subject countries.

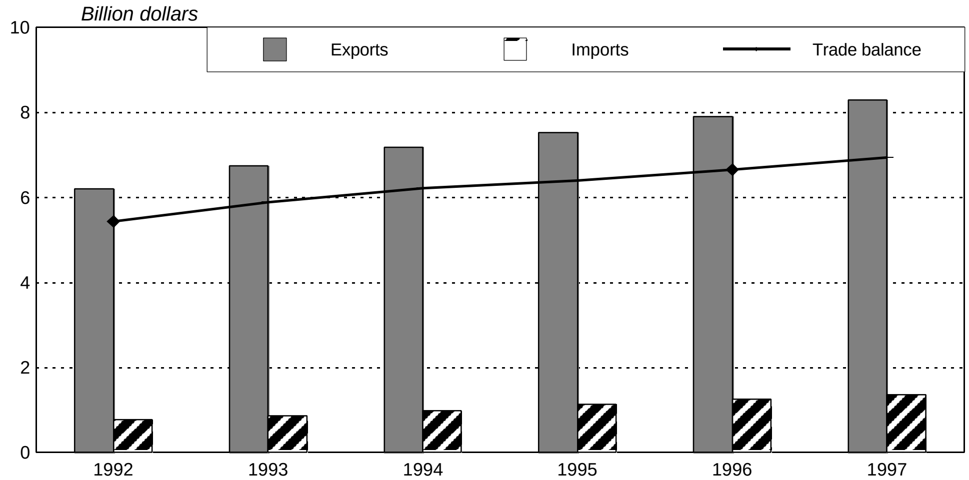
[8] USDOC, BEA, *Survey of Current Business*, Oct. 1998.

[9] In comparison, Nigeria, South Africa, and Egypt, respectively, sent 2,184; 1,851; and 1,540 students to study in the United States during the 1996/97 academic year. Todd M. Davis, ed. *Open Doors* 1996/97, (New York: Institute of International Education, 1997), p. 10.

[10] USDOC, BEA, *Survey of Current Business*, Oct. 1998.

[11] In comparison, South Africa, Ghana, and Egypt, respectively, hosted 414; 405; and 247 U.S. students during the 1996/97 academic year. Enrollment figures provided by Todd M. Davis, *Open Doors*.

**Figure 4-1**
**Education services: U.S. cross-border exports, imports, and trade balance, 1992-97**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, pp. 86-87.

consumption abroad is critical for trade in education services.[12] To a lesser extent, education services are also provided through foreign affiliates and by scholars who travel abroad to teach or conduct research. For example, a relatively significant number of Mauritian teachers provide education services abroad, particularly in other African countries and the Pacific islands.[13] 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.

Worldwide, education services are often not considered a commercial activity *per se*, and, consequently, are considered beyond the scope of trade liberalization.[14] However, these views are slowly changing. Academics, government officials, and businesspeople are beginning to see the economic, financial, and institutional importance of treating education as a commercial service. Further, the private sector, primarily private universities, is increasingly interested in liberalizing education services. To date, however, there have been no negotiations focusing specifically on education services and most of the existing trade policy regarding education services was established during the Uruguay Round.[15]

[12] Reportedly, countries do not typically place restrictions on services provided through consumption abroad, as it is difficult to restrict this mode of supply effectively. WTO official, interview with USITC staff, Geneva, Switzerland, Mar. 25, 1999.

[13] Mauritian Government official, interview with USITC staff, Geneva, Mar. 23, 1999.

[14] WTO official, interview with USITC staff, Geneva, Mar. 25, 1999.

[15] Ibid.

Ghana is the only subject country that scheduled commitments on education services (table 4-1). Thus, restrictions on the foreign provision of education services in most of the subject countries remain unbound, meaning these countries can impose additional restrictions on market access and national treatment in the educational services sector without penalty. The limited GATS commitments offered by the subject countries may be a result of factors including limited resources, inadequate infrastructure, and the lack of a sustained presence in Geneva, the headquarters of the WTO.[16] In addition, some African countries do not believe that they will benefit from services liberalization, as they are not net exporters of services.[17]

### *Ghana*

Ghana's commitments accord full market access and national treatment to foreign providers of secondary and other education services. Ghana lists no limitations pertaining to cross-border supply, consumption abroad, and commercial presence. However, Ghana did not schedule commitments on primary education services, higher education services, or adult education services. As noted, higher education programs, especially those associated with colleges and universities, account for the overwhelming portion of U.S. trade in education services.

With respect to services provided through the presence of natural persons, Ghana automatically grants entry and work permits to a maximum of 4 senior executives or specialists per enterprise. However, affiliates of foreign-owned firms must train Ghanaians for high-skill positions. Ghana declined to specify permissible lengths of stay for intra-corporate transferees. Although no binding commitment is undertaken in this respect, Ghana may not impose conditions that nullify the benefits accorded to foreign service providers by industry-specific commitments.[18]

## Industry Opinion

When considering the markets for education services in African countries, there are often discrepancies between formal commitments and *de facto* regulations. As a result, markets in the subject countries may be more liberal than the schedules of commitments might suggest.[19]

Overall, industry representatives indicate that they have not experienced significant barriers to the cross-border exchange of students between the United States and Africa.[20] African countries reportedly do not prevent their nationals from traveling

[16] WTO officials, interviews with USITC staff, Geneva, Mar. 22 and 23, 1999.
[17] WTO official, interview with USITC staff, Geneva, Mar. 25, 1999.
[18] GATT Secretariat, *Scheduling of Initial Commitments in Trade in Services: Explanatory Note*, Nov. 30, 1993.
[19] WTO official, interview with USITC staff, Geneva, Mar. 25, 1999.
[20] Industry representatives, telephone interviews with USITC staff, Jan. 13-20, 1999.

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

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Ghana** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 922, 929 - Secondary and other education services.<br><br>These commitments exclude:<br>• CPC 921 - Primary education services.<br>• CPC 923 - Higher education services.<br>• CPC 924 - Adult education services. |

abroad to pursue an education.[21] However, factors such as currency restrictions, general economic conditions in Africa, and the orientation of African educational systems may affect U.S. education services trade with the subject countries. For example, Tunisia limits the amount of currency that can be taken out of the country,[22] possibly affecting payments to U.S. education service providers. Several industry representatives indicated that a lack of financial resources effectively prohibits many Africans from studying in the United States.[23] In addition, because the educational systems of some African countries are modeled after European systems, U.S. degrees may not be recognized in some African countries.[24] This is especially true for countries with educational systems modeled after the French system.[25] Despite such difficulties, many students choose to study abroad.[26]

With the exception of obtaining visas and overcoming logistical difficulties resulting from inadequate infrastructure, U.S. providers of education services generally do not report any barriers to the establishment of programs in Africa.[27]

# Summary

Overall, the schedules of commitments submitted by the 13 subject trading partners do not liberalize trade or improve transparency in the education services sector. Ghana is the only subject country that scheduled commitments on education services, but these commitments do not cover higher education services, which account for the majority of U.S. exports of education services. *De facto* restrictions may be more liberal than the lack of commitments on education services suggest. However, in the absence of GATS commitments, new restrictions could be imposed without penalty.

[21] WTO official, interview with USITC staff, Geneva, Mar. 25, 1999.
[22] Industry representative, telephone interview with USITC staff, Jan. 20, 1999.
[23] Industry representatives, telephone interviews with USITC staff, Jan. 13, 14, 15, 1999.
[24] Industry representative, telephone interview with USITC staff, Jan. 13, 1999; and WTO official, interview with USITC staff, Geneva, Mar. 25, 1999.
[25] Industry representative, telephone interview with USITC staff, Jan. 13, 1999.
[26] WTO official, interview with USITC staff, Geneva, Mar. 25, 1999.
[27] Industry representatives, telephone interviews with USITC staff, Jan. 15, 20, 1999.

# CHAPTER 5
# TELECOMMUNICATION SERVICES

## Introduction[1]

Telecommunication services consist of both basic and enhanced, or value-added, telecommunication services.[2] Generally, basic services entail transmitting voice and data signals over telecommunication networks, without changing the form or content of the signal.[3] Enhanced services add value to the transmission of basic voice and data signals.[4] This chapter examines basic telecommunication services including voice telephone; packet- and circuit-switched data transmission; telex, telegraph, and facsimile services; and voice and data transmissions over private leased circuits. This chapter also examines enhanced telecommunication services 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 Telecommunication Services

Cross-border trade, which occurs when a telecommunication service originates in one market and terminates in another, is the dominant mode of trade. However, affiliate

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[1] In preparation of this report, USITC staff consulted with individuals affiliated with the following organizations: AirTouch, AT&T, GlobalOne (Sprint), the International Telecommunication Union (ITU), MCI WorldCom, SBC Communications, USDOC, BEA, and the World Trade Organization (WTO).

[2] Classifying services as either basic or enhanced is a subjective process undertaken by WTO trade officials to facilitate trade negotiations. The WTO notes that the GATS definitions of basic and enhanced services do not necessarily correspond to any government's classification system. Additionally, with the increasing convergence of voice, video, and data services, the distinctions between the two are less apparent. Industry representatives, telephone interviews by USITC staff, Jan. 26-27, 1999; and WTO official, interview with USITC staff, Geneva, Mar. 24, 1999.

[3] Basic telecommunication services are captured under the UN Central Product Classification (CPC) codes 7521, voice telephone services, including public local, long distance, and international telephone services, and some facsimile services; 7522, telegraph and some private leased circuit services; 7523, packet- and circuit-switched data transmission, telex, and some private leased circuit services; and 7529, additional facsimile services.

[4] Enhanced telecommunication services are captured under the CPC codes 7523, electronic mail, voice mail, online 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 covers code and protocol conversion, for which there is no applicable CPC code.

trade is increasingly important as state-owned monopolies are privatized and foreign ownership restrictions are liberalized, thereby creating opportunities for overseas participation by U.S. carriers. Related services, such as telecommunications training and consultancy, also constitute a growing portion of telecommunication services trade. Both cross-border and affiliate trade have benefitted from rapidly advancing technologies and rising demand for services by global customers. Services such as call-back,[5] country direct services,[6] pre-paid calling cards,[7] international toll-free phone numbers,[8] and roaming agreements for cellular and mobile satellite telecommunication services have spurred trade.[9]

Enhanced telecommunication services are delivered to foreign consumers via public and private telecommunication networks. A private network comprises dedicated circuits leased from one or more telecommunication carriers.[10] Leased lines may provide a permanent link between two points, or be adapted as either part of a wider private network or linked to the public switched network to create an international virtual private network.[11] Users may connect to an enhanced telecommunication network to access services such as electronic mail or EDI. Typically, the customer will dial directly from a personal computer into the network using a local or toll-free number. When a local connection is not available, the network is often accessible through direct long-distance dialing by using an Integrated Services Digital Network (ISDN)[12] connection. Leading global suppliers of enhanced telecommunication services include: IBM Global Network, AT&T and partners,[13] 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). These service providers typically cater to large, multinational corporate clients.

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[5] Call-back services give customers from outside the United States access to a computer-driven U.S. dial tone, allowing them to make calls that essentially originate in the United States. These calls appear as outbound U.S. calls for accounting purposes.

[6] Country direct services allow customers to place calls from outside the United States that are billed by U.S. carriers at relatively lower rates. These calls appear as outbound U.S. calls for accounting purposes.

[7] With pre-paid calling cards, a fixed amount of calling time or monetary value is purchased and stored on a card.

[8] Toll-free numbers are those in which the receiver pays for the call (e.g., 800 and 888 numbers).

[9] Before offering transnational services, cellular and mobile satellite service providers are required to have licensing requirements or "roaming agreements" with foreign carriers and governments.

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

[11] ITU, *World Telecommunication Development Report* (Geneva: ITU, 1995), p. 60.

[12] ISDN provides high capacity digital transmission using an internationally accepted standard for voice, data, and signaling.

[13] In December 1998, AT&T and British Telecommunications (UK) announced a joint venture to offer new global voice and data services to corporate clients. See Tom Leithauser, "AT&T Takes First Step Toward BT Alliance," *Communications Today*, Nov. 12, 1998, pp. 5-6.

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 U.S. Government survey on such services reported U.S. receipts (exports) of $100 million for 1996 and U.S. payments (imports) of less than $50 million for the same year.[14] Data pertaining to foreign affiliate sales of enhanced telecommunication services are not available; however, in 1996, the European market for value-added network services accounted for $3.8 billion of revenue for the ten leading service providers.[15] One estimate projects that European revenue for these 10 service providers will reach $7.6 billion in 2001.[16] AT&T's recent alliance with BT will provide corporate customers with global enhanced telecommunication services in 100 cities in 40 countries, and is expected to generate $10 billion of revenue in its first year and have 15 percent annual growth.[17]

## *Cross-Border Transactions*

As compensation for terminating incoming international calls, U.S. carriers periodically collect settlement payments from foreign carriers based upon bilaterally negotiated accounting rates and accounting rate shares.[18] Similarly, foreign carriers collect settlement payments from U.S. carriers for terminating calls from the United States. U.S. settlement payments to foreign carriers are recorded as imports in the U.S. balance of payments, while settlement payments collected from foreign carriers are recorded as exports. The United States consistently recorded a trade deficit in cross-border telecommunication services during 1992-97, primarily because most calls between the United States and foreign countries originate in the United States, and U.S. carriers terminate more collect calls, which obligates U.S. carriers to remit payments to the originating foreign carrier. Other factors that affect the trade balance include the average length of calls, which tends to be longer for calls originating in the United States; relatively low U.S. international calling prices; the exchange rate of the dollar, which may increase or decrease the size of settlement payments; and the substantial amount of U.S. direct investment abroad, which results in outbound calls from U.S.-based parent companies to foreign affiliates.

In 1997, U.S. exports of telecommunication services totaled $3.8 billion, while U.S. imports measured $8.1 billion (figure 5-1), resulting in a $4.3-billion deficit in

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[14] USDOC, BEA, *Survey of Current Business*, Oct. 1997, p. 100.

[15] Steve Wallage, *European VANS Markets: 1997 Edition* (New York: McGraw-Hill, June 1997), p. 5.

[16] Ibid., p. 6.

[17] Leithauser, "AT&T Takes First Step," p. 6.

[18] The Federal Communication Commission (FCC), through its International Settlements Policy, regulates accounting rate agreements between U.S. and foreign carriers. Although telegraph and telex services figure into settlement payments, telephone service accounts for virtually all payments and receipts. For a detailed discussion of the accounting rate system and settlement payments, see FCC, *Trends in the U.S. International Telecommunications Industry* (Washington, DC: FCC, Aug. 1998), pp. 62-80.

telecommunication services trade.[19] Exports increased by 15 percent in 1997, significantly faster than the 3-percent average annual increase during 1992-96. Meanwhile, U.S. imports declined by 2 percent, in stark contrast to the 8-percent average annual increase during 1992-96. The $4.3-billion deficit represents a $690-million, or 14 percent, drop from the year before in the long-standing trade deficit in telecommunication services.

Trade in telecommunication services between the United States and the 13 subject countries is comparatively small. In 1997, trade with Africa as a whole accounted for $137 million in exports, of which South Africa accounted for $54 million, and $328 million in imports, of which South Africa accounted for $50 million. In 1997, trade with Africa as a whole accounted for 4 percent of both U.S. exports and imports of telecommunication 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. In 1996, sales of telecommunication services by all foreign affiliates of U.S. firms generated revenues of $6.2 billion. This represents a 94-percent increase over 1995 sales of $3.2 billion, compared to a 6-percent average annual decline during 1992-95. Even more dramatic is the increase in sales of services by U.S. affiliates of foreign firms. Such sales rose from $876 million in 1995 to $5.5 billion in 1996, representing a 528 percent increase, compared to a 4 percent decline during 1992-95.[20] These large increases do not represent increased sales by existing affiliates, but rather record inbound and outbound direct investment and the creation of new affiliates, both foreign affiliates of U.S. firms and U.S. affiliates of foreign firms.[21]

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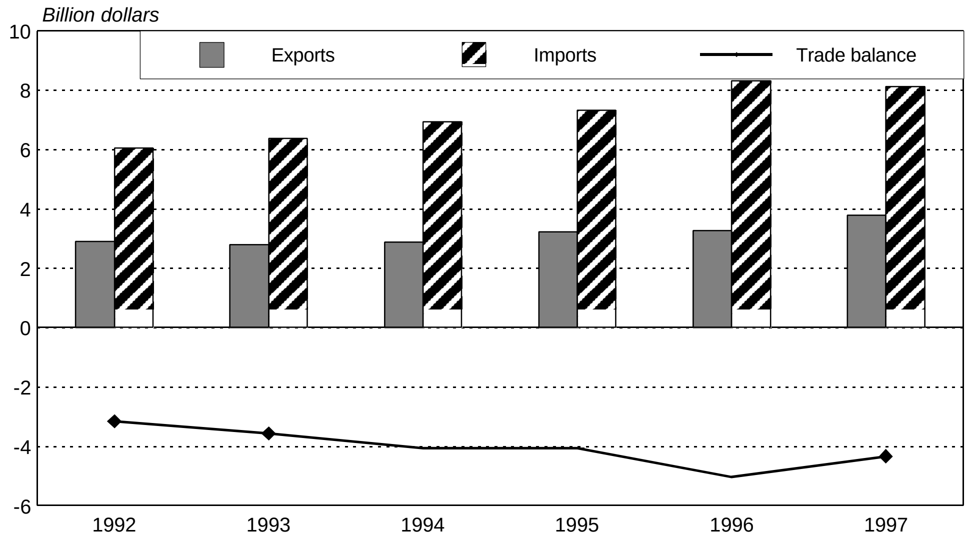
[19] Cross-border trade data for telecommunication services include both basic and enhanced telecommunication services. However, in 1996, the last year for which data on enhanced services is available, basic services accounted for approximately 97 percent of cross-border receipts and approximately 99 percent of cross-border payments. Estimated by USITC staff and USDOC, BEA, *Survey of Current Business*, Oct. 1997 and Oct. 1998.

[20] USDOC, BEA, *Survey of Current Business*, Oct. 1998, pp.115-116. Data on affiliate sales of telecommunication services are bundled with other services, such as radio and broadcasting services, and presented as “communication” sales. Telephone and telegraph services sales constitute an estimated 80 percent of such sales. Data on affiliate transactions of communication services are not available in certain years or in sufficient detail to identify all major trading partners. BEA official, telephone interview by USITC staff, Oct. 20, 1998.

[21] USDOC, BEA, *Survey of Current Business*, Oct. 1998, pp. 84-85; and BEA official, telephone interview by USITC staff, Jan. 12, 1999.

**Figure 5-1**
**Telecommunication services: U.S. cross-border exports, imports, and trade balance, 1992-97**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, pp. 86-87.

# Examination of Commitments on Telecommunication Services

Basic and enhanced telecommunication services are supplied to foreign consumers across borders or through a foreign commercial presence. Some of the major impediments affecting these delivery channels include restrictive licensing requirements;[22] explicit prohibitions on the provision of certain services; limitations on foreign ownership and participation in joint ventures; discriminatory access to, and non-cost-based pricing,[23] of leased telecommunication lines; and technical difficulties caused by underdeveloped or unreliable telecommunication infrastructures.

Of the report's 13 subject countries, Côte d'Ivoire, Ghana, Mauritius, Morocco, Senegal, South Africa, and Tunisia scheduled commitments pertaining to basic telecommunication services. Two of these countries–Côte d'Ivoire and Mauritius–addressed all basic telecommunication services. Ghana, Senegal, and South Africa excluded only telegraph services. Morocco scheduled no commitments on circuit-switched data transmission, telegraph, and facsimile services; and Tunisia scheduled no commitments on voice, circuit-switched data transmission, telegraph,

[22] To guard against potential bottlenecks imposed by foreign public telecommunication network carriers, the GATS 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.

[23] 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.

facsimile, or private leased circuit services. Six of the 7 countries temporarily reserved important services, in particular fixed-line telephone services,[24] to current monopolies or duopolies. Five of the 7 countries adopted the WTO's *Reference Paper* on pro-competitive regulatory principals; Mauritius and Tunisia did not.[25] Table 5-1 highlights the industry-specific limitations imposed on market access and national treatment, by trading partner and mode of supply.

Five subject countries scheduled commitments pertaining to enhanced telecommunication services. South Africa and Zimbabwe seem to have bound the least restrictive environments. Morocco and Nigeria both scheduled commitments covering all enhanced telecommunication services except code and protocol conversion and on-line information and/or data processing services. Senegal scheduled commitments only on electronic mail services. Morocco, Nigeria, South Africa, and Zimbabwe stipulated that all services must be provided through the monopoly service provider's public telephone network.[26] Table 5-2 highlights the industry-specific limitations imposed on market access and national treatment, by trading partner and mode of supply.

## *Côte d'Ivoire*

### Basic Telecommunication Services

Among the subject countries that scheduled commitments for basic telecommunication services, Côte d'Ivoire appears to be comparatively liberal. Côte d'Ivoire scheduled commitments on all basic telecommunication services, and accords full market access and national treatment for the provision of such services via cross-border supply, consumption abroad, and presence of natural persons. With respect to commercial presence, Côte d'Ivoire reserves telephone services between fixed points and telex services, both of which are reserved for the monopoly service provider, Côte d'Ivoire Telecom (CI-Telecom), until 2005. Beyond 2005, no such limitations will be imposed on commercial presence.

### Enhanced Telecommunication Services

Côte d'Ivoire did not schedule commitments on enhanced telecommunication services.

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[24] Fixed-line, wireline, or landline telecommunication services are those provided over terrestrial circuits, such as wire, fiber, or microwave. Traditional residential telephone service is an example of fixed-line telecommunication service.

[25] For a more detailed examination of how the GATS Services Sectoral Classification list organizes telecommunications into 14 subsectors, see World Trade Organization, Council for Trade in Services, *Telecommunication Services* (S/C/W/74), Dec. 8, 1998.

[26] Ibid.

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

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Côte d' Ivoire** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Telephone and telex services provided by national monopoly through 2004. None from 2005 onwards.<br>• None for other services.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• Telephone services; packet- and circuit-switched data; telex; telegraph; facsimile; private leased circuit; domestic and international satellite services, links, and capacity; satellite ground stations; international switching and other international gateway facilities; mobile; analog and digital cellular; PCS; paging; mobile data; and teleconferencing services. (Cote d'Ivoire does not specify CPC codes for these services.) |
| **Ghana** | **Market Access:**<br>• Bypassing duopoly operators is not permitted.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Duopoly operators have five-year exclusivity period.<br>• Regulator can license additional local-service suppliers in under-served areas after duopoly operators decline to do so.<br>• Services may only be provided through a joint venture with Ghanaian national(s).<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7521 - Voice telephone services over fixed network infrastructure, including public pay telephone services, and operator and emergency services.<br>• CPC 7522, 7523 - Private leased circuit services. |
| | **Market Access:**<br>• Bypassing duopoly operators is not permitted.<br>**National Treatment:**<br>• None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Operators may establish network facilities or obtain transmission capacity, but only from the duopoly operators.<br>• Services may be provided only through joint venture with Ghanaian national(s).<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7521, 7529 - Facsimile services.<br>• CPC 7523 - Public-use packet-and circuit-switched data transmission, and telex services.<br>• CPC 7526 - Internet and Internet access services (except voice).<br>• CPC 75292 - Teleconferencing services. |

**Table 5-1, *continued***
**Highlights of industry-specific restrictions on basic telecommunication services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Ghana (*continued*)** | **Market Access:**<br>• For voice services, commercial arrangements with duopoly operators required. For non-voice services, bypass of duopoly operators is not permitted.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Services may be provided only through joint venture with Ghanaian national(s).<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Cellular/mobile telephone, mobile data, PCS, and trunked radio system services. (Ghana does not specify CPC codes for these services.)<br>• CPC 75291 - Paging services.<br>• Fixed satellite services. |
| | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 75410 - Telecommunications equipment sales. |
| | **Market Access:**<br>• Commercial presence required.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Only through joint venture with Ghanaian national(s).<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | • CPC 75420 - 75450 - Telecommunications equipment rental, maintenance, connection, repair, and consulting services. |
| **Mauritius** | **Market Access:**<br>• Alternative calling practices such as call-back and refile are not permitted. Country direct calling card service is permitted under agreements concluded between operators.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• The provision of services is reserved, on a *de facto* basis, to monopoly or exclusive supplier.<br>• Resale is not permitted.<br>• A second cellular operator was operational as of Sept. 5, 1996.<br>• Monopoly and exclusive rights in domestic and international services will be eliminated by 2004.<br>**National Treatment:**<br>• The Companies Act 1994 requires companies to maintain a registered office in Mauritius. | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Voice telephone, packet- and circuit-switched data transmission, telex, telegraph, and private leased circuit services. (Mauritius does not specify CPC codes for these services.) |

**Table 5-1, *continued***
**Highlights of industry-specific restrictions on basic telecommunication services**

| | **Mode of Supply** | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Mauritius (*continued*)** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:**<br>• The Companies Act 1994 requires companies to maintain a registered office in Mauritius. | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Facsimile, paging, and private mobile radio services. (Mauritius does not specify CPC codes for these services.)<br>• Equipment rental, sales, and maintenance services. (Mauritius does not specify CPC codes for these services.)<br>• Mobile satellite services. (Mauritius does not specify CPC codes for these services.) |
| **Morocco** | **Market Access:**<br>• Services may be provided through the Itissalat Al-Maghrib (IAM) network.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• The provision of services is reserved to IAM monopoly until Dec. 31, 2001.<br>• Restrictions on the foreign capital investment in IAM remain unbound.<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Point-to-point voice telephone, telex, and ISDN services. (Morocco does not specify CPC codes for these services.)<br>• Morocco's commitments, and their entry into force, are subject to the adoption and promulgation of a new telecommunications law. |
| | **Market Access:**<br>• Commercial presence required.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Operator is subject to establishment and operating licensing requirements to install own transmission infrastructure.<br>• Operator must file declaration if transmission capacity is leased to other operators.<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Packet-switched data transmission and frame relay services. (Morocco does not specify CPC codes for these services.) |
| **Morocco (*continued*)** | **Market Access:**<br>• Commercial presence required.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Reserved for operators selected through public tendering procedure, in accordance with National Telecommunications Regulatory Agency (ANRT) specifications.<br>• Subject to establishment and operating licensing requirements.<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Mobile telephone, paging, PCS, and mobile data transmission services. (Morocco does not specify CPC codes for these services.) |


5-9

**Table 5-1, *continued***
**Highlights of industry-specific restrictions on basic telecommunication services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| | **Market Access:**<br>• Commercial presence required.<br>**National Treatment:** None | **Market Access:**<br>• Must utilize available capacity of existing public telecommunication networks.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Private leased circuit services. (Morocco does not specify CPC codes for these services.) |
| **Senegal** | **Market Access:**<br>• Services can only be provided through the Sonatel network.<br>• Sonatel maintains a monopoly in international services until Dec. 31, 2003 at the earliest and Dec. 31, 2006 at the latest.<br>• After 2003, Senegal will consider opening international services to other operators.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Sonatel maintains a monopoly in local and long-distance services until Dec. 31, 2003 at the earliest and Dec. 31, 2006 at the latest.<br>• After 2003, the authorities will consider opening international services to other operators.<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• Voice telephone, packet- and circuit-switched data transmission, telex, facsimile, and private leased circuit services, excluding radio or television program distribution services. (Senegal does not specify CPC codes for these services.) |
| | **Market Access:**<br>• Services can only be provided through the Sonatel network.<br>• Sonatel maintains a monopoly in international services until Dec. 31, 2003 at the earliest and Dec. 31, 2006 at the latest.<br>• After 2003, Senegal will examine the possibility of opening international services to other operators.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• For each service, the maximum number of service providers is three.<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• Paging and professional multichannel system services. (Senegal does not specify CPC codes for these services.) |
| **Senegal (*continued*)** | **Market Access:**<br>• Services can only be provided through the Sonatel network.<br>• Sonatel maintains a monopoly in international services until Dec. 31, 2003 at the earliest and Dec. 31, 2006 at the latest.<br>• After 2003, Senegal will examine the possibility of opening international services to other operators.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• During 1997, the Senegalese Government will select 1 or 2 operators following an international call for tenders.[1]<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• Mobile cellular services, including mobile data services. (Senegal does not specify CPC codes for these services.) |

**Table 5-1, *continued***
**Highlights of industry-specific restrictions on basic telecommunication services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| | **Market Access:**<br>• Services can only be provided through the Sonatel network.<br>• Sonatel maintains a monopoly in international services until Dec. 31, 2003 at the earliest and Dec. 31, 2006 at the latest.<br>• After 2003, the authorities will examine the possibility of opening international services to other operators.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• Fixed satellite services. (Senegal does not specify CPC codes for these services.) |
| | **Market Access:**<br>• Mobile satellite communication terminals may be used by a visitor to Senegal only:<br>  • if the length of stay does not exceed 7 calendar days, after which the service supplier must comply with the current regulations in Senegal; and<br>  • if the service supplier has undertaken to provide the information concerning the communications to or from such terminals within the time-limit set by the authorities.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• In 1997, the authorities will establish the maximum number of operating licenses for mobile satellite services in Senegal, including the installation of gateways if necessary.[2]<br>• Creation of permanent establishment (juridical person) in Senegal is required.<br>**National Treatment:**<br>• National or foreign service suppliers established in Senegal are subject to the same tax rules. | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• Mobile satellite services. (Senegal does not specify CPC codes for these services.) |

See footnote at end of table.

**Table 5-1, *continued***
**Highlights of industry-specific restrictions on basic telecommunication services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **South Africa** | **Market Access:**<br>• For international traffic, services may be offered only through Telkom's network or subsequent duopoly.<br>• Telkom monopoly will be terminated not later than Dec. 31, 2003; thereafter a duopoly.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Telkom monopoly will be terminated not later than Dec. 31, 2003; thereafter a duopoly.<br>• Foreign investment is limited to a cumulative maximum of 30 percent.<br>• **National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Voice services, except over value-added networks; packet- and circuit-switched data transmission; telex; facsimile; and private leased circuit services. (South Africa does not specify CPC codes for these services.)<br>• Authorities will consider by Dec. 31, 2003, the feasibility of additional suppliers other than the duopoly.<br>• Between 2000 and 2003, resale services will be liberalized, under terms and conditions, including foreign investment limitations, set by the South African authorities. |
| | **Market Access:**<br>• For international traffic, services may be offered only through Telkom's network or subsequent duopoly.<br>• Telkom monopoly will be terminated not later than Dec. 31, 2003; thereafter a duopoly.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• None, except that foreign investment in suppliers is limited to cumulative maximum of 30 percent.<br>• **National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Paging, personal radio communication, and trunked radio system services. (South Africa does not specify CPC codes for these services.) |
| | **Market Access:**<br>• For international traffic, services may be offered only through Telkom's network or subsequent duopoly.<br>• Telkom monopoly will be terminated not later than Dec. 31, 2003; thereafter a duopoly.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Services supplied on a duopoly basis. One additional mobile cellular license will be granted within two years.<br>• Foreign investment in suppliers is limited to cumulative maximum of 30 percent.<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Mobile cellular, including mobile data. (South Africa does not specify CPC codes for these services.)<br>• Authorities to examine feasibility of additional suppliers by Dec. 31, 1998.[2] |

See footnotes at end of table.

**Table 5-1, *continued***
**Highlights of industry-specific restrictions on basic telecommunication services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **South Africa (*continued*)** | **Market Access:**<br>• Services may be offered only through the network of Telkom monopoly or subsequent duopoly on international traffic.<br>• Telkom monopoly will be terminated not later than Dec. 31, 2003; thereafter a duopoly.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Services reserved to Telkom monopoly until Dec. 31, 2003; thereafter a duopoly.<br>• Foreign investment is limited to cumulative maximum of 30 percent.<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• Satellite-based services. (South Africa does not specify CPC codes for these services.)<br>• Authorities to examine feasibility of additional suppliers by Dec. 31, 2003. |
| **Tunisia** | **Market Access:**<br>• Services may be provided through the Tunisian public telecommunications network (PTN).<br>• None from 1999 for telex and packet-switched data transmission services.<br>• None from 2000 for mobile telephone, frame relay, paging, and teleconferencing services.<br>• None from 2003 for local telephone distribution.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Services may be provided through the PTN only.<br>• Start-up and operating permit, conditioned on national development needs, is required.<br>• None from 1999 for telex and packet-switched data transmission services.<br>• None from 2000 for mobile telephone, frame relay, paging, and teleconferencing services.<br>• None from 2003 for local telephone distribution. | **Market Access:**<br>• None, except as indicated in cross-industry commitments.<br>**National Treatment:**<br>• None, except as indicated in cross-industry commitments. | These commitments cover:<br>• Point-to-point local telephone distribution, packet-switched data transmission (local service) and frame relay, telex, mobile and digital cellular telephone, paging, and teleconferencing services. (Tunisia does not specify CPC codes for these services.) |
| **Tunisia (*continued*)** | | | **National Treatment:**<br>• None, except capital structure limitations applied to telecommunication firms.<br>• Companies must meet permit conditions:<br>  • be a juridical person;<br>  • be governed by Tunisian law; and,<br>  • 51 percent of equity must be held by Tunisian citizens.<br>• Foreign equity in Tunisie Télécom will be permitted from 2002 and limited to 10 percent.<br>• None from 1999 for telex and packet-switched data transmission services.<br>• None from 2000 for mobile telephone, frame relay, paging, and teleconferencing services.<br>• None from 2003 for local telephone distribution. | | • As a condition of liberalization, Tunisia requires telecommunication service suppliers to:<br>  • supply services in rural areas;<br>  • supply telephone service in certain designated areas; and,<br>  • supply distress telecommunication services. |

See footnotes at end of table.

**Table 5-1, *continued***
**Highlights of industry-specific restrictions on basic telecommunication services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |

[1] The Senegalese Government issued a second license in summer 1998.
[2] As of April 1999, no number has been established.

**Table 5-2**
**Highlights of industry-specific restrictions on enhanced telecommunication services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Morocco** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Services must be provided through the network operated by the public operator.<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 7523 - Value-added services, excluding telephone and telex, but including electronic mail, voice mail, on-line information and data base retrieval, electronic data interexchange (EDI), and enhanced facsimile services, including store and forward, and store and retrieve. |
| **Nigeria** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• CPC 7523 - Value added services.<br>• The national carrier, NITEL, maintains a monopoly over all public switched and international services, and is responsible for network infrastructure expansion.<br>• The provision of any service across the border (i.e., international services) by bypassing the network or by diverting international traffic from NITEL is not permitted. Such measures can only be taken in cooperation with NITEL. |
| **Senegal** | **Market Access:**<br>• Services must be supplied via public network leased line only.<br>**National Treatment:**<br>• Services must be supplied via public network leased line only. | **Market Access:** None<br>**National Treatment:** Unbound | **Market Access:**<br>• Establishment required, subject to prior government approval, limit on number of operators, and access fees payable to the public network licensee.<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 7523 - Electronic mail. |
| | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• Protocol conversion and speed conversion (CPC not available). |

**Table 5-2, *continued***
**Highlights of industry-specific restrictions on enhanced telecommunication services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **South Africa** | **Market Access:**[1]<br>• Bypass of South African facilities for routing of domestic and international traffic is limited.<br>• Telkom South Africa is acting as a de facto regulator by means of agreements entered into with VANS providers in South Africa.<br>• VANS providers can only provide international services with the consent of Telkom SA Ltd.<br>• Legislation has been proposed to introduce a regulator to oversee the licensing function.<br>**National Treatment:**<br>• None | **Market Access:**[1]<br>• Bypass of South African facilities for routing of domestic and international traffic is limited.<br>• Telkom South Africa is acting as a de facto regulator by means of agreements entered into with VANS providers in South Africa.<br>• VANS providers can only provide international services with the consent of Telkom SA Ltd.<br>• Legislation has been proposed to introduce a regulator to oversee the licensing function.<br>**National Treatment:**<br>• None | **Market Access:**[1]<br>• Bypass of South African facilities for routing of domestic and international traffic is limited.<br>• Telkom South Africa is acting as a de facto regulator by means of agreements entered into with VANS providers in South Africa.<br>• VANS providers can only provide international services with the consent of Telkom SA Ltd.<br>• Legislation has been proposed to introduce a regulator to oversee the licensing function.<br>**National Treatment:**<br>• None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7523 - Electronic mail; voice mail; on-line information and data base retrieval; electronic data interchange (EDI); enhanced facsimile services, including store and forward and store and retrieve.<br>• Code and protocol conversion services (CPC not available).<br>• CPC 843 - On-line information and/or data processing (including transaction processing). |
| **Zimbabwe** | **Market Access:**<br>• None, except unauthorized bypass of the PTC network is not permitted.<br>**National Treatment:** None | **Market Access:**<br>• None, except unauthorized bypass of the PTC network is not permitted.<br>**National Treatment:** None | **Market Access:**<br>• None, except unauthorized bypass of the PTC network is not permitted.<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7523 - Electronic mail; voice mail; on-line information and data base retrieval; electronic data interchange (EDI); and enhanced facsimile services, including store and forward and store and retrieve.<br>• CPC 843 - On-line information and/or data processing, including transaction processing.<br>• Code and protocol conversion (CPC not available). |

[1] The South African Government created an independent regulatory body, the South African Telecommunications Regulatory Authority, in early 1997.

## *Ghana*

### Basic Telecommunication Services

Ghana's schedule of commitments addresses all basic telecommunication services except telegraph services. Ghana also scheduled commitments addressing other telecommunication services such as Internet and Internet access services, excluding voice over Internet; teleconferencing services; mobile services, including cellular telephone, mobile data, PCS, paging, and trunked radio system services; and fixed satellite services.

Services including packet- and circuit-switched data transmission; telex, telegraph, and facsimile; Internet and Internet access; private leased circuit; and voice telephone services may be provided via cross-border supply, but the operator may not bypass the duopoly service providers' networks. With regard to most of these services, foreign service providers may establish their own network facilities or obtain transmission capacity from the duopoly operators. However, a commercial presence may only be established through a joint venture with Ghanaian nationals.

Firms providing mobile and fixed satellite services, via cross-border supply, must make commercial arrangements with the duopoly operators if they intend to provide voice services. Data services may not bypass the duopoly operators' networks. A commercial presence must be in the form of a joint venture with Ghanaian nationals.

For all of the services addressed in Ghana's schedule, limitations on market access and national treatment applicable to the presence of natural persons remain unbound, except as indicated in the cross-industry commitments. According to its cross-industry commitments, Ghana grants automatic entry and work permits for up to four expatriate senior executives and personnel with special skills in accordance with the Investment Promotion Law. Government approval is required for the entry and stay of additional personnel. Firms must also provide training in "higher" skills for Ghanaians to enable them to assume specialized roles.

### Enhanced Telecommunication Services

Ghana did not schedule commitments for enhanced telecommunication services.

## *Mauritius*

### Basic Telecommunication Services

Mauritius' schedule of commitments addresses all basic telecommunication services. Mauritius also scheduled commitments addressing other telecommunication services, including paging; private mobile radio; equipment sales, rental, and maintenance; and satellite-based mobile services.

The provision of the following services via commercial presence is reserved to the monopoly service provider, Mauritius Telecom: voice telephone services, packet- and circuit-switched data transmission, telex, telegraph, and private leased circuit services. However, limited competition has been permitted for the provision of cellular services, and monopoly and exclusive rights for the provision of domestic and international services will be terminated by 2004. Resale of these services is not permitted and, in accordance with the Companies Act of 1994, foreign companies must maintain a registered office in Mauritius.

For all of the services addressed by Mauritius, limitations on market access and national treatment for the provision of such services via presence of natural persons remain unbound, except as indicated in the cross-industry commitments. Mauritius's cross-industry commitments provide for the entry and temporary stay of highly qualified natural persons. The presence of natural persons is governed by, *inter alia*, the Passport Act of 1969 and the Immigration Act of 1973.

### Enhanced Telecommunication Services

Mauritius did not schedule commitments for enhanced telecommunication services.

## *Morocco*

### Basic Telecommunication Services

According to Morocco's schedule of commitments, foreign firms providing point-to-point voice telephone, telex, and ISDN services through a commercial presence may do so only through the network of the monopoly service provider, Itissalat Al Maghrib (IAM). This restriction is to remain in place until December 31, 2001. Limitations on national treatment for the provision of these services via commercial presence and limitations on foreign investment in IAM remain unbound.

Morocco requires the establishment of a commercial presence for the foreign provision of packet switched data transmission, frame relay, mobile telephone, paging, personal communication, and mobile data transmission services. Firms providing packet-switched data transmission services must obtain an operating license to install transmission infrastructure. Provision of mobile telephone, paging, PCS, and mobile data transmission services is reserved to operators selected by public tender, in accordance with National Telecommunications Regulatory Agency (ANRT) specifications. Limitations on national treatment for the provision of these services via commercial presence remain unbound.

For all of the services addressed, limitations on market access and national treatment for the provision of such services via presence of natural persons remain unbound, except as indicated in the cross-industry commitments. Morocco's cross-industry commitments permit the temporary presence, for an unspecified period of time, of intra-corporate transferees,[27] including managers, senior executives, and specialists who possess knowledge that is essential to the provision of service. Temporary presence of sales agents is limited to 90 days.

### Enhanced Telecommunication Services

Morocco accords full market access and national treatment for the cross-border supply of the following enhanced telecommunication services: electronic mail; voice mail; on-line information and data base retrieval; EDI; and enhanced/value-added facsimile services, including store and forward, and store and retrieve. With regard to market access via a commercial presence, service providers must traverse the networks of the monopoly public operator, IAM. No limitations exist on national treatment for the provision of these services via commercial presence. Morocco's cross-industry commitments regarding enhanced telecommunication services are similar to those specified for basic services.

## *Nigeria*

### Basic Telecommunication Services

Nigeria did not schedule commitments for basic telecommunication services.

### Enhanced Telecommunication Services

Nigeria scheduled broad commitments on all enhanced services, except code and protocol conversion, and on-line information and/or data processing services. Nigeria accords full market access and national treatment for the provision of these services via all means of delivery. However, Nigeria requires that firms providing services through cross-border supply do so through the network run by the national service provider, NITEL. NITEL has a monopoly on all public switched and international services, and is responsible for all network infrastructure expansion. However, the government is believed to be contemplating introducing some element of privatization and competition in the telecommunication services market.[28]

Nigeria accords full market access and national treatment for those firms providing, via commercial presence and presence of natural persons, pay phone services and mobile voice and data communications, including cellular, paging,

[27] Intra-corporate transferees must be transferred to a subsidiary of the parent company, or to a company that is incorporated in Morocco and belongs to, or is controlled by, the parent company.

[28] Industry representative, telephone interview by USITC staff, Jan. 27, 1999.

and other mobile services.[29] Limitations on market access and national treatment for the cross-border supply and consumption abroad of the above mobile communication services remain unbound. Nigeria determined that the two modes of supply, cross-border supply and consumption abroad, are not applicable as they relate to the provision of pay phone services.

Nigeria's cross-industry commitments indicate that limitations on the presence of natural persons are unbound, except for unspecified measures concerning the entry and temporary stay of senior management and specialists in implementing foreign investments. The employment of such persons must be approved by the Industrial Development Coordinating Committee (IDCC) Secretariat within the Federal Ministry of Industry.

## *Senegal*

### Basic Telecommunication Services

Senegal's commitments address local, long-distance, and international basic telecommunication services supplied over public telecommunications networks using any technology (i.e., wireline, cellular, or satellite technology), on a facilities or resale basis. The schedule of commitments addresses all basic telecommunication services, except telegraph services. Senegal also scheduled commitments specifically addressing paging services; professional multichannel system services; mobile cellular services, including mobile data services; and fixed and mobile satellite services.

The national service provider, SONATEL, maintains a monopoly in most basic services until December 31, 2003, at the earliest and December 31, 2006, at the latest. After 2003, the Senegalese Government will examine the possibility of opening up local and long-distance services to other operators. The Senegalese Government has restricted the number of service providers for paging and professional multichannel system services to three. In accordance with its schedule of commitments, the Senegalese Government issued a second license to a private firm for the provision of mobile cellular services. Firms wishing to provide any of these services via cross-border supply must do so through SONATEL's network.

[29] These services are not generally considered enhanced, or value-added, telecommunication services. The WTO's classification of telecommunication services does not necessarily reflect any government's classification system for basic and value-added telecommunication services. For a detailed explanation of definitions of basic and value-added telecommunication services in the GATS Services Sectoral Classification List (MTN.GNS/W/120), see WTO, Council for Trade in Services, "Telecommunication Services: Background Note by the Secretariat," SC/W/74, Dec. 8, 1998.

### Enhanced Telecommunication Services

Senegal's commitments appear very restrictive, addressing only electronic mail and protocol conversion. To provide e-mail, foreign firms must establish in Senegal and operate through circuits leased from the public network, SONATEL. Foreign firms may provide protocol conversion services through cross-border supply and commercial presence without limitation. Limitations on the presence of natural persons are unbound.

## *South Africa*

### Basic Telecommunication Services

South Africa's commitments address the following basic telecommunication services: voice, packet- and circuit-switched data transmission, telex, facsimile, and private leased circuit services. Additionally, South Africa listed commitments specifically addressing paging, personal radio communication, trunked radio, cellular (including mobile data), and satellite-based services. South Africa explicitly excludes voice over value-added networks from its commitment on voice services. With regard to the provision of telecommunication services via commercial presence, foreign investment in South African service suppliers is limited to a cumulative maximum of 30 percent.

South Africa reserves the cross-border provision of nearly all basic telecommunication services, and access to all telecommunication facilities, to the monopoly service provider, Telkom. However, South Africa commits to eliminate the monopoly by December 31, 2003, replacing it with a duopoly. South Africa will continue to prohibit foreign provision of resale services until 2000, at the earliest, and 2003, at the latest.

Limitations on the provision of basic telecommunication services via presence of natural persons remain unbound, except as indicated in the cross-industry commitments. South Africa's cross-industry commitments permit the temporary presence, for a period of up to 3 years, of intra-corporate transferees,[30] including executives, managers, specialists, professionals, and those personnel engaged in establishing a commercial presence. Temporary presence of services salespersons is limited to 90 days.

### Enhanced Telecommunication Services

South Africa scheduled partial commitments for all enhanced telecommunication services. However, enhanced service providers may not bypass domestic and international network facilities controlled by the network monopoly, Telkom. While

[30] Intra-corporate transferees must have been employed by the parent company for at least 1 year immediately preceding the date of application for admission into South Africa.

Telkom is a *de facto* regulator, an independent regulator, South African Telecommunications Regulatory Authority (SATRA), was established in early 1997, and any firm wishing to provide services in South Africa must obtain a license from SATRA.

Limitations on market access and national treatment via presence of natural persons remain unbound, except as indicated in the cross-industry commitments. South Africa's cross-industry commitments regarding the foreign provision of enhanced telecommunication services are similar to those specified for basic services.

## *Tunisia*

### Basic Telecommunication Services

Tunisia's schedule of commitments addresses the following services: point-to-point local voice telephone services; local packet-switched data and frame relay services; telex; mobile cellular services, including digital cellular services; paging; and teleconferencing services. Local voice services provided via cross-border supply or commercial presence must traverse the network of the Tunisian monopoly service provider, Tunisie Télécom. There appear to be no limitations on the provision of packet-switched data transmission and telex services. Firms within the telecommunications' sector must be 51 percent Tunisian owned. Also, they must obtain startup and operating permits, which are issued subject to national development needs.

The Tunisian Government has scheduled certain liberalization measures. As of 2000, for instance, there will be no limitations on market access and national treatment for the provision of mobile telephony, frame relay, paging, and teleconferencing services via any mode of supply. As of 2002, foreign equity investment in Tunisie Télécom will be allowed, up to a maximum of 10 percent. As of 2003, there will be no limitations on market access and national treatment for the provision of local voice telephone services via any mode of supply. In conjunction with liberalization, the Tunisian Government requires telecommunication services suppliers to provide rural and emergency telecommunication services.

#### Enhanced Telecommunication Services

Tunisia did not schedule commitments for enhanced telecommunication services.

## *Zimbabwe*

### Basic Telecommunication Services

Zimbabwe did not schedule commitments for basic telecommunication services.

### Enhanced Telecommunication Services

Zimbabwe scheduled commitments for all enhanced telecommunication services. Additionally, Zimbabwe scheduled commitments on private automatic branch exchange (PABX) services for a single building, facsimile services, and data transmission services provided through point-to-point transmission facilities leased from the monopoly service provider, the Posts & Telecommunications Company (PTC). Zimbabwe accords full market access and national treatment for the provision of enhanced services via cross-border supply, consumption abroad, and commercial presence, with the exception that firms wishing to provide such services may not bypass the PTC network without authorization. Additionally, PABX services may be provided by subsidiaries of foreign companies; however, the provision of PABX services for public sector buildings are reserved to the PTC.

Limitations on market access and national treatment for service provision via presence of natural persons remain unbound, except as indicated in the cross-industry commitments. Zimbabwe's cross-industry commitments indicate that there are certain measures that provide for the entry and temporary stay of intra-corporate transferees, including executives, senior managerial personnel, and specialists. In all other cases, the presence of natural persons is prohibited unless it can be demonstrated that there is a shortage of qualified workers in the Zimbabwean labor market.

## Industry Opinion

U.S. telecommunication firms have a limited presence in the subject markets. Participants include SBC Communications, Inc., in South Africa,[31] AirTouch Communications in Egypt, and Telecel International in Côte d'Ivoire. Motorola, the U.S. equipment manufacturer and mobile services provider, is part of a consortium, MobilNil, that bought a controlling stake in Egyptian Company for Mobil Services (ECMS) in 1998. Other foreign firms operating in the subject countries include Vodafone (UK) in Egypt; France Telecom or its subsidiary, France Cable et Radio, in Côte d'Ivoire, Senegal, and Egypt; Telecom Malaysia in Malawi; and Belgacom in Côte d'Ivoire, Ghana, Morocco, Senegal, South Africa, and Zimbabwe. In early 1998, Portugal Telecom SA and Spain's Telefonica de Espana SA announced they were forming a joint venture to invest in South Africa and Morocco. Foreign firms are principally involved in the mobile cellular

[31] In May 1997, South Africa's Ministry of Posts, Telecommunications, and Broadcasting (MPTB) sold a 30-percent stake in Telkom for $1.3 billion to Thintana Communications, a consortium formed by SBC and Telekom Malaysia Berhad.

markets, where the subject countries can benefit from the advanced telecommunication technologies supplied by foreign firms.[32]

A lack of GATS commitments does not necessarily indicate that a country's telecommunications sector is closed to competition. Some countries have open telecommunication markets, but have not scheduled bindings in this sector.[33] Some African countries are reluctant to liberalize their telecommunication services markets because monopoly rents and the high cross-border payments for international telecommunication traffic provide significant revenue with which to build telecommunications infrastructure as well as fund additional government initiatives.[34]

Many of the subject countries that submitted broad commitments, such as South Africa, require that foreign firms provide services via networks controlled by monopoly service providers.[35] This reportedly limits U.S. firms' interest in these markets. Further, U.S. firms reportedly would be apprehensive about investing in the African telecommunications market irrespective of the restrictive regulatory environment, as the customer base is limited and the expected return on investment does not appear to be acceptable.[36]

Although Egypt did not schedule commitments on telecommunication service, industry representatives generally have favorable views of Egypt's wireless services market, characterizing it as competitive, although somewhat underdeveloped. Although U.S. firms are unaware of significant legal or regulatory barriers to entering the wireless telecommunication services market, they believe that the Egyptian Government is not presently considering issuing new licenses for mobile telephone services. However, U.S. firms expect Egypt to liberalize its telecommunication services market eventually, as demand increases.[37]

Kenya recently opened its telecommunication services market. A Malaysian company, Telecom Malaysia Barat, currently controls 60 percent of Kenya's national telecommunication company. The Kenyan Government controls the

[32] Although South Africa currently has limited the number of cellular licences to two, a third license may be awarded in the near future.

[33] ITU official, interview with USITC staff, Geneva, Mar. 24, 1999.

[34] WTO official, interview with USITC staff, Geneva, Mar. 24, 1999.

[35] Countries in Africa tend to allow corporate self-use (private virtual networks or intranets). However, such activities do not involve the sale of a service and, thus, permission to engage in such activities does not contribute to market openness. WTO official, interview by USITC staff, Geneva, Mar. 24, 1999.

[36] Industry representatives, telephone interviews and electronic mail correspondence by USITC staff, Jan. 26-27, 1999.

[37] Ibid.

remaining 40 percent, although it is planning to sell its remaining stake in the near future.[38] In addition, Kenya reportedly has recently drafted a GATS schedule on basic telecommunication services.[39]

The Mauritian Government undertook a partial privatization of Mauritius Telecom (MT) in 1998, selling 19 percent of its stock to private investors. The government plans to sell an additional 22 percent to a strategic partner, reportedly by June 1999, and an initial public offering may soon follow.[40] Morocco, is also moving towards a more open telecommunications environment, although the partial privatization of its national carrier, Itissalat Al Maghreb, scheduled for 1999, has been delayed until year-end 1999.[41]

## Summary

Of the 13 subject trading partners, 7 scheduled commitments on basic telecommunication services, 5 scheduled commitments on enhanced telecommunication services, and 3 scheduled commitments on both. Egypt, Kenya, Malawi, and Zambia did not schedule commitments on telecommunication services.

With respect to basic telecommunication services, two (Côte d'Ivoire and Mauritius) of the seven countries that submitted schedules addressed all basic telecommunication services. These countries, together with Senegal and South Africa, both of which excluded only telex services, seemed to have the most open regulatory environments. By contrast, Tunisia scheduled binding commitments on only two basic services.

With respect to enhanced services, South Africa and Zimbabwe seem to have bound the most open environments, although both countries stipulate that all services must be provided through the public telephone network controlled by the monopoly service provider. Morocco and Nigeria both scheduled broad commitments covering most enhanced services, but excluded certain important enhanced services, namely code and protocol conversion and online information and/or data processing services. Senegal appeared most restrictive, scheduling commitments only on one enhanced service.[42]

Overall, the telecommunication services markets in the subject countries are highly restrictive. With few exceptions, where foreign firms operate, the services that may be provided are limited, and they must be provided over the network facilities

[38] WTO official, interview by USITC staff, Geneva, Mar. 23, 1999.
[39] WTO official, interview by USITC staff, Geneva, Mar. 24, 1999.
[40] "Mauritius: 22% of MT to be sold," *TelecomFinance,* Feb. 24, 1999.
[41] Moroccan Government official, interview with USITC staff, Geneva, Mar. 22, 1999.
[42] For a more detailed examination of how the GATS Services Sectoral Classification List breaks down telecommunications into its 14 subsectors, see World Trade Organization, Council for Trade in Services, *Telecommunication Services* (S/C/W/74), Dec. 8, 1998. The WTO notes that the GATS break down for basic and value-added services does not necessarily correspond to any particular government's system of classification.

controlled by indigenous monopolies.  Except in limited sectors, wireless services, for instance, industry representatives expressed little interest because of regulatory restrictions.  Some of these representatives also expressed concerns about the political stability of many of the subject countries, less-than-favorable economic conditions, and inadequate potential returns on investment.  Thus, foreign investors may be hesitant to enter African telecommunication markets even if they become more open.[43]

[43] Industry representatives, telephone interviews and electronic mail correspondence by USITC staff, Jan. 26-27, 1999.

# CHAPTER 6
# AUDIOVISUAL SERVICES[1]

## Introduction

For this study, audiovisual services[2] include 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 works; projection in theaters; and television, pay television, and radio broadcasting. Revenues from audiovisual services trade are derived from transactions in royalties and license fees, rental fees, and sales of the rights to display, reproduce, or distribute material prerecorded on motion picture film or television tape.[3] However, available trade data are limited to a few types of audiovisual service transactions, as discussed below.

## 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 film and tape rentals between the United States and foreign countries. With regard to trade in services provided by the motion picture industry, affiliate sales data reflect sales to foreign consumers by foreign-based, U.S.-owned affiliates, while affiliate purchases data measure sales to U.S. consumers by foreign-owned affiliates located in the United States. Available data suggest that most U.S. trade in audiovisual services is transacted through affiliate channels.

### *Cross-Border Transactions*

Cross-border trade data record international transactions in film and tape rentals between the United States and foreign countries. In 1997, the United States exported $6.2 billion in cross-border audiovisual services, and imported $247 million, resulting in a $5.9-billion trade surplus (figure 6-1).[4] U.S. cross-border exports of audiovisual services increased by 23 percent in 1997, faster than the 18-percent average annual

[1] In preparation of this report, USITC staff contacted representatives of the Motion Picture Association of America (MPA).
[2] These services are captured in UN Provisional Central Product Classification (CPC) codes 9611, motion picture and video tape production and distribution services; 9612, motion picture projection service; 9613, radio and television services; 7524, radio and television transmission services; and sound recording and other audiovisual services (no CPC codes).
[3] USDOC, BEA representative, interview by USITC staff, Washington, DC, Dec. 10, 1998.
[4] USDOC, BEA, *Survey of Current Business*, Oct. 1998, pp. 98-105.

growth recorded during 1992-95. European countries, principally the Netherlands, the United Kingdom, and Germany, are leading trade partners, representing 40 percent of both exports and imports in 1997 (figure 6-2). Over the same year, African countries collectively accounted for $74 million, or 1.2 percent, of U.S. exports of audiovisual services. South Africa, the largest U.S. trading partner among the subject countries, accounted for $69 million, or 93 percent, of U.S. exports of audiovisual services to the African continent. Country-specific data on U.S. exports to the remaining subject countries are not available. Official trade data report no U.S. imports of audiovisual services from Africa.

### *Sales by Majority-Owned Affiliates*

Data on affiliate transactions measure the sales of services by majority-owned affiliates in the motion picture industry. Foreign-based affiliates of U.S. motion picture studios generated sales of $9.6 billion in 1996, reflecting a 28-percent increase in affiliate sales from 1995. Western Europe accounted for most sales. The United Kingdom provided U.S.-owned affiliates with the largest single market for motion pictures, accounting for $1.3 billion in sales in 1996, or 14 percent of total audiovisual services sales by U.S. affiliates.[5] Meanwhile, motion picture sales by U.S.-based affiliates of foreign firms fell by 42 percent, from $8.5 billion in 1995 to $4.9 billion in 1996 (figure 6-3).[6] Consequently, U.S. sales exceeded U.S. purchases by $4.7 billion in 1996. Data on U.S. affiliate transactions of audiovisual services with Africa are not available.

## Examination of Commitments on Audiovisual Services

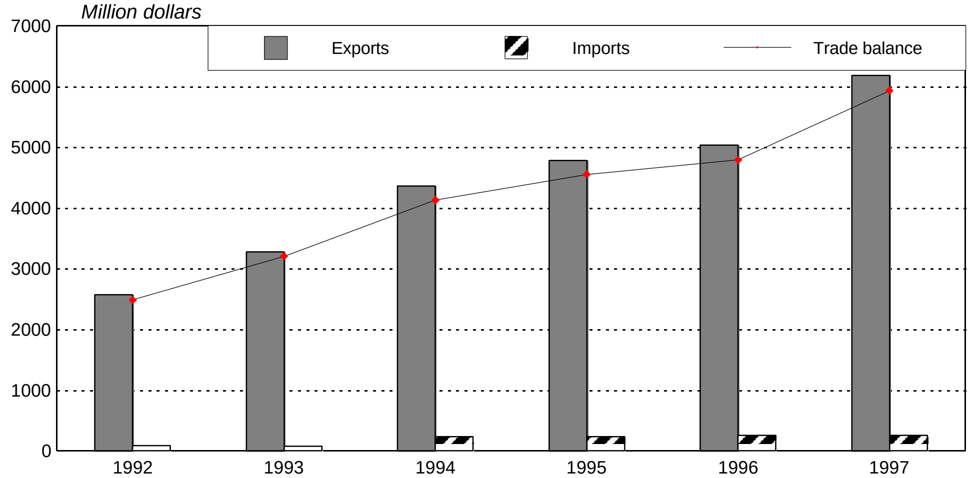
Kenya is the only subject country to offer commitments in audiovisual services (table 6-1). Egypt and Tunisia scheduled most-favored-nation (MFN) exemptions of indefinite duration, reserving the right to grant preferential treatment in the production of audiovisual works from countries with which co-production agreements have been concluded (table 6-2).

### *Egypt*

Egypt listed an MFN exemption in audiovisual services reserving the right to grant full national treatment to audiovisual works originating in countries with which bilateral or multilateral co-production agreements exist. This measure, which is valid for the duration of the agreements or their extensions, is intended to preserve Arabic culture and identity.

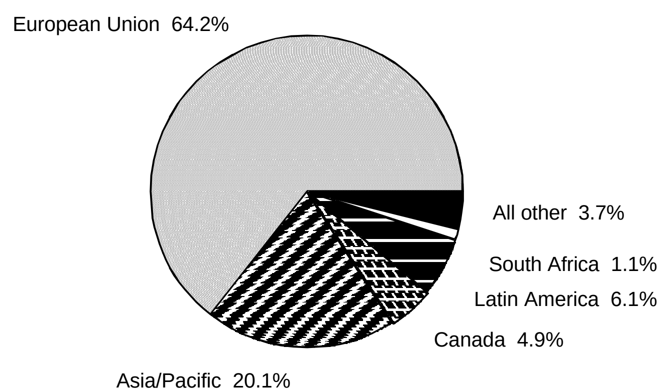
[5] Ibid.
[6] USDOC, pp. 115-116.

**Figure 6-1**
**Audiovisual services: U.S. cross-border exports, imports, and trade balance, 1992-97**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Nov. 1996, pp. 94-95, Oct. 1997, pp. 121-122, and Oct. 1998, pp. 121-122.

**Figure 6-2**
**Audiovisual services: U.S. cross-border exports of film and tape rentals, by principal markets, 1997[1]**

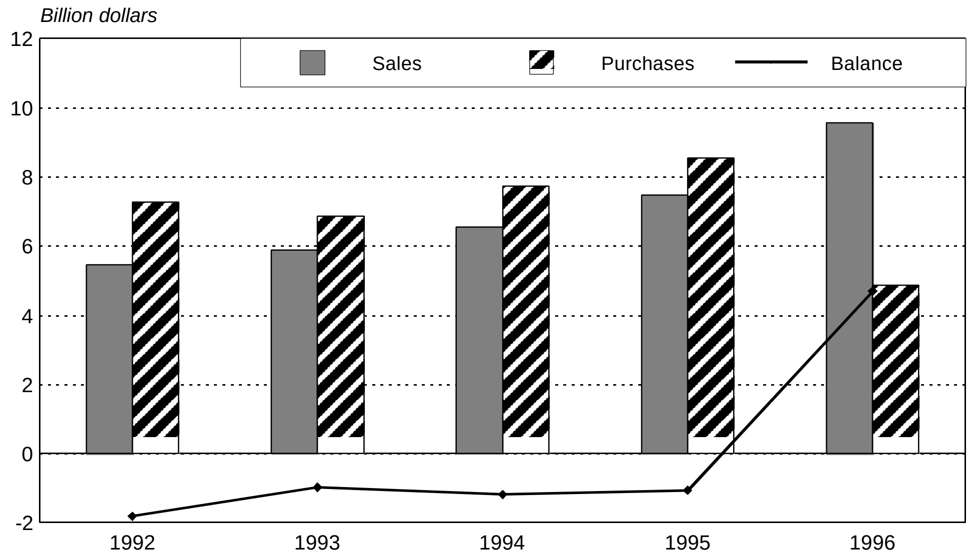



**Total exports = $6.2 billion**

[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. 1998, p. 104.

**Figure 6-3**
**Audiovisual service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Sept. 1995, pp. 104 -105; Nov. 1996, pp. 111-112; Oct. 1997, pp. 137-136; and Oct. 1998, pp. 115-116.

## *Kenya*

Kenya offered commitments in audiovisual services limited to motion picture and video tape production services, excluding distribution, and to motion picture projection services. With respect to production services, the commitments grant unrestricted market access and national treatment for the cross-border supply and consumption abroad of these services, but preserve Kenya's right to restrict market access and national treatment to foreign service providers desiring to establish a commercial presence in Kenya. With respect to projection services, Kenya grants full market access and national treatment for consumption abroad and commercial presence. For both services, Kenya reserves the right to impose market access restrictions on the presence of natural persons, except for managers and experts employed in the implementation of foreign investment. The employment of such persons requires agreement between the contracting parties, and between the parties and the government.

## *Tunisia*

Tunisia lists an MFN exemption reserving the right to grant preferential treatment to all countries in the co-production of films, in accordance with existing or future bilateral agreements. This exemption, of unspecified duration, is intended to promote cultural links with specific countries.

**Table 6-1**
**Highlights of industry-specific restrictions on audiovisual services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Kenya** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except as indicated in cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• Motion picture and video tape production services (excluding distribution services) |
| | **Market Access:**<br>• Unbound due to technical infeasibility.<br>**National Treatment:**<br>• Unbound due to technical infeasibility. | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• Motion picture projection services |

**Table 6-2**
**Summary of MFN exemptions on audiovisual services**

| Country | Scope of audiovisual services to which exemption applies | Description of measure | Criteria | Countries awarded preference | Duration of preference | Reasons for listing MFN |
|---|---|---|---|---|---|---|
| **Egypt** | Audiovisual services | National treatment | Bilateral or multilateral co-production agreements with Egypt | Algeria, Cyprus, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Sudan, Syria, Tunisia, United Arab Emirates, and possibly other countries. | Duration of bilateral or multilateral co-production agreements. | To maintain Arab culture and identity. |
| **Tunisia** | Co-production of films | According to terms of co-production agreements | Existing or future bilateral co-production agreements | All countries | Indefinite | To promote cultural links. |

# Industry Opinion

With the exception of South Africa and Egypt, African countries constitute small markets for U.S. audiovisual services in terms of revenue generation. South Africa is one of the top 20 export markets worldwide for U.S. movies, and the largest market among the countries in this study.[7] As noted, South Africa accounted for more than $69 million, or 93 percent, of U.S. cross-border audiovisual services sales to Africa in 1997.[8] Compared with other countries in this study, Egypt is also a large audiovisual services market, generating $5 million in revenue for U.S. motion picture firms in 1996.[9] The remaining markets each represent less than $1 million in revenue for U.S. firms in 1996. For example, U.S. motion picture industry revenues from Kenya and Nigeria amounted to $900,000 and $500,000, respectively.[10]

African countries generally produce few audiovisual products and of these, most are intended for local audiences. Currently, South Africa is the only subject country with a sizable television programming industry. However, the demand for programming is growing among other African countries.[11] For example, South African television programs showcasing the continent are increasingly popular throughout Sub-Saharan Africa.[12] Egyptian motion pictures, which are most often in the Arabic language, are viewed throughout the Arabic-speaking world, including North African countries. French and Indian movies also enjoy a measure of popularity in Africa.[13]

U.S. industry representatives attribute Africa's limited expenditures on audiovisual services to small discretionary incomes and inadequate distribution infrastructure.[14] Theaters in Africa are generally small, in need of updating, and limited to urban areas; and telecommunications infrastructure is weak. In many countries, free-to-air or cable television broadcast services are unavailable. Because the costs of upgrading such infrastructures are prohibitive for most countries, U.S. industry analysts estimate that television services in Africa will likely be introduced by international satellite service providers.[15] For example, Malawi's first television

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[7] Industry representative, interview by USITC staff, Washington, DC, Dec. 10, 1998.
[8] USDOC. BEA, *Survey of Current Business*, Oct. 1998, p. 104.
[9] Industry representative, interview by USITC staff, Washington, DC, Dec. 10, 1998.
[10] Ibid.
[11] Amy C. Cosper, "Africa: The sleeping giant awakens," *Satellite Communications*, Oct. 1996.
[12] M-Net, Annual Report 1998, found at www.mnet.co.za/annual/aboutMnet1.html, retrieved Dec. 17, 1998.
[13] Mauritian Government representative, interview by USITC staff, Geneva, Mar. 23, 1999.
[14] Ibid.
[15] James M. Gifford and Amy C. Cosper, "Out of (and into) Africa," *Satellite Communications*, Apr. 1998.

services were introduced in 1995 in co-operation with Malaysia's TV Three.[16] M-Net (Electronic Media Network), a South African satellite television company and the largest supplier of pay-television in Africa, serves more than 1.2 million households in 41 countries and is often the market's only pay-television service provider. M-Net is experiencing rapid growth throughout Africa and is introducing television to many previously unserved areas.[17] NBC holds a minority interest in the Mauritius satellite distributor, Skyvision, and supplies programming.[18]

Foreign providers of audiovisual services face a number of challenges in Africa. Producing audiovisual products for mass consumption is often difficult because many different languages are spoken in most African countries.[19] In addition, there are many small markets, each with onerous regulatory standards governing broadcasting services. For example, in Egypt, foreign films are subject to import quotas and a 40-percent admissions tax.[20] In Kenya, importing and distributing foreign films is reserved for the Kenyan Film Corporation, a government-owned monopoly.[21] The Nigerian Government restricts the repatriation of earnings from foreign films.[22] South Africa requires a 50-percent local content quota for state-owned broadcasters and a 30-percent quota for private broadcasters.

Infringement of intellectual property rights (IPR) also constitutes a formidable barrier to trade in audiovisual services in Africa. The U.S. motion picture industry estimates that a large portion of the foreign audiovisual products viewed in Africa is pirated, providing the creators with no revenue.[23] According to industry estimates, losses from unauthorized copying of U.S. motion pictures in 1998 amounted to $11 million in Egypt and $12 million in South Africa.[24] The industry also estimates that most of the home videos sold in Kenya and Nigeria originate from illegally duplicated imported masters or satellite transmissions, and that up to 60 percent of all new titles in South Africa may be pirated before release.[25] Further, pirated videos are routinely broadcast on television and cable television channels in Kenya and Nigeria.[26] Some countries, such as Mauritius, aggressively enforce IPR laws, although they report that piracy

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[16] Mbendi Information Services, *African Computers and Communications: Television*, modified Jan. 27, 1997, found at www.mbendi.co.za/indy/cotl/cotlaftv.htm, retrieved Dec. 17, 1998.

[17] Mbendi Information Services, *African Computers and Communications: Television*; and M-Net, Annual Report 1998, found at www.mnet.co.za/annual/aboutMnet1.html, retrieved Dec. 17, 1998; and James M. Gifford and Amy C. Cosper, "Out of (and into) Africa."

[18] Mauritian Government representative, interview by USITC staff, Geneva, Mar. 23, 1999.

[19] Ibid.

[20] MPA, *Trade Barriers to Exports of U.S. Filmed Entertainment, 1999 Report to the United States Trade Representative,* Dec. 1998.

[21] Ibid.

[22] Ibid.

[23] Industry representative, interview by USITC staff, Washington, DC, Dec. 16, 1998.

[24] MPA, *Trade Barriers to Exports of U.S. Filmed Entertainment.*

[25] Ibid.

[26] Ibid.

nevertheless persists.[27] Mauritius is also strengthening its IPR legislation to conform with WTO standards.

## Summary

Kenya is the only subject country to schedule commitments in audiovisual services, thereby enhancing regulatory transparency and establishing a benchmark against which to measure possible future liberalization. Egypt and Tunisia posted MFN exemptions reserving the right to accord preferential treatment to services originating in countries with which bilateral co-production agreements have been concluded. The exemptions were taken to promote cultural goals.

Although Africa is a fragmented market and accounts for a small portion of U.S. motion picture exports, the demand for programming content is growing. The main barriers to trade in audiovisual services include low discretionary income, weak distribution infrastructure, and onerous regulations governing broadcasting services. In addition, the U.S. motion picture industry has identified IPR piracy as a widespread and serious problem.

[27] Government representative, interview by USITC staff, Geneva, Mar. 23, 1999.

# CHAPTER 7
# COURIER SERVICES[1]

## Introduction

In the Uruguay Round, courier services[2] were principally defined as the pickup and delivery of packages and documents. However, courier companies, sometimes called integrated express delivery firms, provide a wide range of services. Among these are customs brokerage, air cargo and freight forwarding, postal services (delivery services), and warehousing and distribution. The majority of international trade in this area takes place through large, integrated companies such as Federal Express Corporation (FedEx), United Parcel Service (UPS), and DHL Worldwide Express (DHL), but at least 10,000 smaller companies also serve the U.S. courier services market.[3] Because the GATS agreement does not address air transportation services, this report focuses solely on land-based courier services, which entail the delivery of packages within a national market once they have cleared customs.

The largest courier companies own their own air and ground transportation fleets, and have global networks of business offices. Smaller international courier companies, in contrast, have less extensive networks, ship parcels on commercial cargo flights, and generally subcontract ground delivery to local companies. However, when servicing African countries, both large and small U.S. companies usually provide air transport, and then subcontract out the ground-transport segment to local firms. The exception is South Africa, where the large international courier companies maintain extensive local delivery operations, primarily through franchise and joint-venture arrangements.[4] FedEx operations are conducted through a franchise owned by Rennies, a South African company. UPS operates through a joint venture with Quick Company of South Africa.

## International Trade in Courier Services

Official data for U.S. cross-border and affiliate trade in courier services are not available. Worldwide, international couriers operate in over 200 countries, move

[1] Among the individuals contacted in the preparation of this report were those affiliated with the following organizations: Airborne Courier Conference of America (ACCA), DHL Worldwide Express (DHL), International Courier Network (ICN), TNT Express, United Parcel Service (UPS), and Airborne Express, Dec. 1998-Jan. 1999.

[2] The UN Central Product Classification (CPC) code applicable to courier services is 7512.

[3] Prehearing Brief of Federal Express Corp., submitted to the USITC, investigation No. 332-367, July 12, 1996, pp. 5-8.

[4] Industry representatives, telephone interviews with USITC staff, Jan. 1999. See also "Post Office Takes Over XPS," *Cargo Info Africa*, Mar. 6, 1998, found at Internet address rapidttp.com/cargo, retrieved Mar. 12, 1999.

more than 25 million packages each day, and earn annual revenue in excess of $50 billion. The industry has achieved average annual growth rates of 20 percent during the past two decades, and expects rapid growth to continue.[5] Africa represents a small portion of the industry's worldwide market, however, and reliable data on African courier services trade are not available.

Industry representatives identify postal monopolies as a common business restriction in many countries, although the problem is reportedly not particularly pervasive in the subject African countries.[6] Trade may also be impaired when governments define courier businesses as postal businesses, subjecting them to restrictions covering postal services, including letter delivery. According to the Universal Postal Union (UPU), postal monopoly restrictions in the subject countries fall into three groups. In Kenya, Malawi, Nigeria, and Zambia, such restrictions either do not exist or they are not enforced, although courier companies in Kenya are reportedly concerned that the recently reformed national postal service now has monopoly rights on delivering letters weighing under 350 grams.[7] In Ghana, Côte d'Ivoire, Mauritius, South Africa, Senegal, and Zimbabwe, the national postal systems have monopolies covering the delivery of letters and some small parcels, but private couriers are allowed to deliver most parcels. In Morocco, Tunisia, and Egypt, postal monopolies exist with limited or no competition.[8]

The UPU also reports that in some of the subject countries, the national postal service faces intense competition from foreign couriers. In Mauritius, for example, seven private courier operators hold approximately 70 percent of the express delivery market,[9] and in Malawi, private couriers have an estimated 20-percent market share.[10] The large international courier companies, particularly DHL, FedEx, UPS, and TNT Express, control the majority of the private-sector, international courier services. Smaller African companies generally handle the domestic courier business.

## Examination of Commitments on Courier Services

Senegal and South Africa were the only subject trading partners to schedule commitments on courier services. Highlights of commitments specific to the courier industry are presented in table 7-1.

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[5] Statement submitted to the USTR by the Air Courier Conference of America International, "Regarding the World Trade Organization's Third Ministerial Conference," Oct. 16, 1998.

[6] Ibid.

[7] "Big Changes Expected As KPTC Privatization Starts," *Africa News Service*, found at Internet address today.newscast.com, retrieved Apr. 6, 1999.

[8] Universal Postal Union (UPU), "The UPU and its Members," found at Internet address www.upu.int/status, retrieved Jan. 11, 1999. Where restrictions exist, letters under 500 grams and parcels under 1 kilogram are usually reserved for the domestic postal service.

[9] UPU, "The UPU and its Members: Mauritius," found at Internet address www.upu.int/status, retrieved Jan. 11, 1999.

[10] Ibid.

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

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Senegal** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Approval required and conditional upon the national post office being a shareholder.<br>**National Treatment:**<br>• Exclusively express international mail. | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 7512 - Courier services. |
| **South Africa** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7512 - Courier services. |

[1] Côte d'Ivoire, Egypt, Ghana, Kenya, Malawi, Mauritius, Morocco, Nigeria, Tunisia, Zambia, and Zimbabwe did not schedule commitments on courier services.

### *Senegal*

With respect to cross-border supply, Senegal accords foreign companies full market access and national treatment. Courier services providers are permitted to establish a commercial presence within Senegal upon receiving approval from the Senegalese Government, provided that the national post office becomes a shareholder in the company.[11] Senegal accords full national treatment to foreign companies that exclusively provide express international mail services.[12] The Government of Senegal reserves the right to impose restrictions, without penalty, on the presence of natural persons.

### *South Africa*

South Africa imposes no restrictions on market access or national treatment for foreign provision of courier services through cross-border delivery or commercial presence. With respect to the presence of natural persons, restrictions are unbound except as indicated in the cross-industry commitments.[13] Foreigners who represent companies from outside South Africa and who are engaged solely in selling services may enter the country for up to 90 days. These individuals are not permitted to receive any compensation from sources inside South Africa, and may not supply services directly to the general public. Also, persons employed by a corporation outside South Africa for at least 1 year may be transferred to that company's branch, subsidiary, or affiliate for as long as 3 years, if they fall into one of the following categories: executives, managers, specialists, professionals, or persons engaged in establishing a commercial presence inside South Africa on behalf of a foreign company.[14]

## Industry Opinion[15]

While the U.S. courier services industry is reportedly encouraged that courier services were addressed in the GATS negotiations, the industry has called for simultaneous trade liberalization in several sectors that are now treated separately under the GATS. Requests include access to air and land transportation networks in

[11] GATS, *Senegal: Schedule of Specific Commitments,* GATS/SC/75, Apr. 15, 1994.
[12] Ibid.
[13] GATS, *South Africa: Schedule of Specific Commitments,* GATS/SC/78, Apr. 15, 1994.
[14] Ibid.
[15] Industry sources interviewed for this report represent firms that range in size from companies shipping 10 to 12 packages per day to Africa, to the largest international companies. One representative reports shipping approximately 10,000 packages per week out of South Africa alone.

all markets and the ability to compete with local postal services, at least in terms of international mail delivery. U.S. industry also desires the simplification and standardization of clearance procedures.[16]

Overall, both U.S. and foreign courier services companies report few trade restrictions in Africa.[17] None of the contacted industry representatives currently operating in Africa reported that postal monopolies limit market access or national treatment. The limited trade restrictions in place include licensing fees and foreign equity caps. In Tunisia, for example, foreign equity in a mail delivery company, including express delivery services, is limited to 49 percent.[18] In Morocco, the national postal service charges private enterprises a $3.00 licensing fee for each package weighing under 1 kilogram.[19]

Industry representatives report that South Africa is their largest market in Africa, followed most commonly by Nigeria and then Kenya. Also, at least one major U.S. courier services firm operates in Mauritius.[20] Large U.S. and European courier companies tend to maintain affiliate offices and employ African workers only in the largest two or three markets, particularly in South Africa. In other countries, local agents generally use their own land transport facilities and are paid on a per-delivery basis.[21]

Because the African market is small, few companies have sought to make significant investments in the subject countries. However, several developments indicate that courier services trade in Africa is growing. For instance, South Africa and the United Kingdom signed a development aid agreement in December 1998, to assist the South African Government's new Customs Transformation Service.[22] The courier industry is reportedly likely to benefit, as industry representatives cite customs delays as a barrier to trade in South Africa.[23] The South African Government presented a bill in Parliament in June 1998 to reform the postal service, to allow greater competition and to reduce the post office monopoly on letter

[16] Statement by the Air Courier Conference of America International (ACCA) regarding the World Trade Organization's Third Ministerial Conference, Oct.16, 1998.

[17] Industry representatives, telephone interviews with USITC staff, Jan. 1999.

[18] U.S. Department of State telegram, "Services Trade Regime in Tunisia," message reference No. 004617, prepared by U.S. Embassy, Tunis, Oct. 6, 1998.

[19] U.S. Department of State telegram, "Information on Morocco's Services Trade Regime," message reference No. 006342, prepared by U.S. Embassy, Rabat, Oct. 1, 1998.

[20] Mauritian Government official, interview with USITC staff, Geneva, Mar. 23, 1999.

[21] Industry sources in the United States and overseas, telephone interviews with USITC staff, Jan. 8 and 13, 1999.

[22] *Business Day*, Johannesburg, South Africa, Dec. 3, 1998, found at Internet address web.lexis-nexis.com/ln.universe, retrieved Jan. 8, 1999.

[23] Industry representatives, telephone interviews with USITC staff, Jan. 8 and 19, 1999. See also "Reference List of Elements of a Fully Liberalized International Express Delivery Service Sector," Air Courier Conference of America International, undated, delivered to USITC Jan. 7, 1999.

delivery.[24] In Mauritius, the government plans to build an air cargo center adjacent to the international airport, which will have facilities for courier services and other cargo-based air services.[25]

## Summary

Although only Senegal and South Africa scheduled commitments in courier services as part of the GATS agreement, industry representatives report encountering very few barriers to trade in Africa, the most significant being customs delays. Most of the large international courier companies have affiliate operations in South Africa, and industry representatives generally anticipate that the market for courier services will continue to grow.[26] Industry representatives report that they have not encountered any significant barriers to trade in South Africa, and believe that this open trading environment is likely to remain intact. Secondary markets mentioned by industry representatives include Kenya and Nigeria. In these countries, and in the other subject trading partners where the courier services market is very small, most U.S. courier companies provide services by subcontracting to local agents, rather than establishing affiliate operations.

[24] U.S. Department of State telegram, "Information on the Services Trade Regime in South Africa," message reference No. 011058, prepared by U.S. Embassy, Pretoria, Sept. 2, 1998. As of March 1999, there was no indication that the bill had been passed.

[25] USDOC, ITA,"Mauritius: FY 1998 Country Commercial Guide," ch. 5, p. 10, Aug. 1997.

[26] Industry representatives, telephone interviews with USITC staff, Jan. 1999.

# CHAPTER 8
# HEALTH CARE SERVICES[1]

## 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 encompasses both cross-border transactions and sales by affiliates 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.

### *Cross-Border Transactions*

In 1997, U.S. cross-border exports of health care services amounted to $888 million, representing a 2-percent increase over the previous year. This was less than the average annual export growth rate of nearly 5 percent recorded during 1992-96. Slow growth in health care services exports may reflect currency devaluations in Asia, Latin America, and Canada, which made travel to the United States for health care considerably more expensive in 1997. Statistics on imports of health care services are

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[1] Among the individuals consulted by USITC staff in preparation of this report were those affiliated with the following organizations: Johnson & Johnson; Arrow Africa; United Health Corporations; Allergan South Africa; Eli Lilly; and the U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA).

[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 UN Central Product Classification (CPC) codes 9311, hospital services; 9312, medical and dental services; 9319, other human health services; and 932, veterinary services.

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

not available because data on medical services are not reported by official data collection agencies.[5]

Canada reportedly remained the leading export market for U.S. health care services in 1997, accounting for nearly 50 percent of cross-border exports.[6] Other leading export markets were the United Kingdom, Germany, Mexico, Australia, and Japan. Regional analysis of U.S. imports of health care services is not possible due to data collection limitations.

## *Sales by Majority-Owned Affiliates*

Sales by foreign-based affiliates of U.S. health care companies totaled $360 million in 1996 (figure 8-1). This amount represents a 47-percent decline from the previous year, in sharp contrast with the 25-percent average annual growth rate achieved during 1992-95. Lower sales reflect a retrenchment by U.S. health care service providers, particularly Tenet Healthcare, Columbia/HCA, and Transitional Hospitals Corporation (formerly Community Psychiatric Centers).[7] These companies have restructured programs to focus on core business activities in the U.S. market.[8] A major U.S.-based hospital chain's divestiture of a group of hospitals in Singapore and Malaysia also contributed to the decline in sales.[9] For the African countries covered in this report, country-level figures on sales by U.S. health care affiliates are not available.

Purchases of health care services through U.S.-based affiliates of foreign health care companies amounted to $3.5 billion in 1996, representing a 126-percent increase over the previous year. This increase reflects a jump from the 4-percent average annual rate of decline recorded during 1992-95. This may be due, in part, to two major acquisitions by the German firms, Paracelsus Healthcare and Fresenius AG. In August 1996, Paracelsus Healthcare merged with Champion Healthcare to form a for-profit hospital management company that owns and operates 31 acute care and

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[5] Reportedly, such data are very difficult to capture and presumed to be quite small. BEA representative, telephone interview by USITC staff, Nov. 24, 1998.

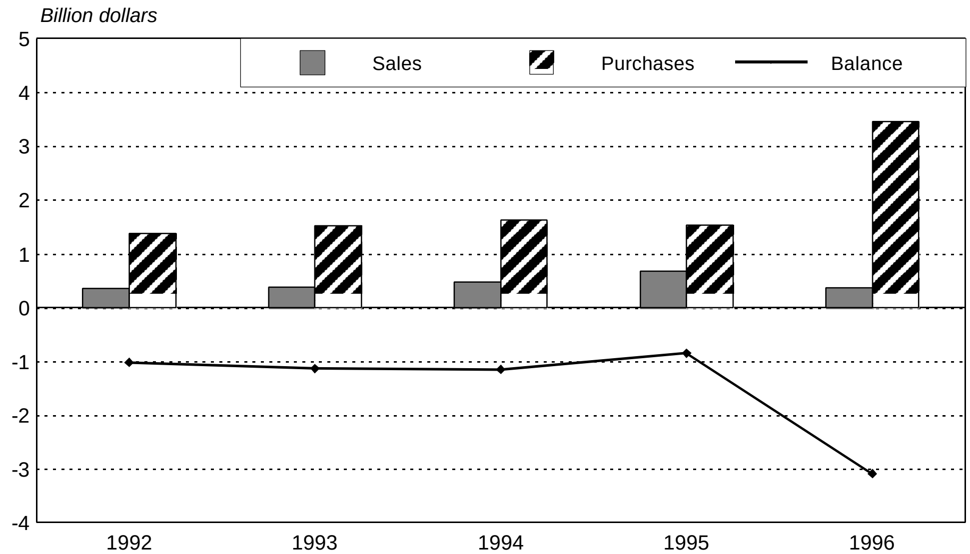
[6] U.S. industry representatives, telephone interviews by USITC staff, Oct. 27-29, 1997.

[7] In 1996, Tenet Healthcare divested $464 million in assets. Columbia/HCA sold 50 percent of four hospitals it owned in the United Kingdom to PPP Healthcare Group, and Transitional Hospitals Corporation sold Priory Hospitals, an acute psychiatric company in the United Kingdom, to Foray 911 Ltd., for $135 million. Corporate annual report filings with the U.S. Securities and Exchange Commission, found at Internet address www.sec.gov, retrieved Dec. 2-4, 1998.

[8] In the case of Tenet, the restructuring was driven in part by major law suits brought by the U.S. Dept. of Justice, resulting in a settlement that required Tenet to sell 75 percent of its U.S. hospitals. Transitional Hospitals Corporation's withdrawal from foreign markets was due to changes in the structure of the psychiatric care industry, which reduced profitability. J.M. Wynne, "The Corporate Scene in Health," found at Internet address www.uow.edu.au, retrieved Dec. 4, 1998.

[9] U.S. industry representative, telephone interview by USITC staff, Nov. 18, 1998.

**Figure 8-1**
**Health care service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Sept. 1995, pp. 104 -105; Nov. 1996, pp. 111-112; Oct. 1997, pp. 137-136; and Oct. 1998, pp. 115-116.

psychiatric hospitals in eight States.[10] Meanwhile, Fresenius became the world's largest fully integrated renal health care company in September 1996 by acquiring National Medical Care, Inc., formerly a subsidiary of W.R. Grace.[11]

U.S. sales of services through foreign-based health care affiliates were concentrated in the United Kingdom, which accounted for 51 percent of total sales in 1996.[12] Switzerland also accounted for significant sales of health care services through U.S.-owned affiliates, although an official value is not reported to avoid disclosing the financial data of individual firms. German-owned firms account for the majority of U.S. purchases of health care services from affiliates, followed by Canadian-owned affiliates. Australia and Japan are the only other countries that reported sales through U.S.-based affiliates in 1996, with sales of $14 million and $5 million, respectively.[13]

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[10] Weiss, Peck & Greer Private Equity, "Paracelsus Healthcare Corporation," found at Internet address www.wpgequity.com, retrieved Dec. 1, 1998.
[11] Fresenius Medical Care, *Annual Report 1996*, found at Internet address www.fmc-ag.com, retrieved Dec. 2, 1998.
[12] USDOC, BEA, *Survey of Current Business,* Oct. 1998; and USITC staff estimates.
[13] Ibid.

# Examination of Commitments on Health Care Services

Trade in health care services principally transpires as consumption abroad and transactions by foreign affiliates.[14] National governments generally do not restrict citizens from seeking medical treatment outside the country. The principal barriers to international trade in health care services are limitations on the establishment of a commercial presence and on the presence of natural persons. Consequently, this section will focus on examining GATS commitments pertaining to these two modes of delivery.

Among the countries covered in this report, only Malawi, South Africa, and Zambia scheduled commitments for health care service sectors (table 8-1).[15] Within the sectors covered, no specific restrictions on market access or national treatment are identified. However, all three countries left limitations on services provided through the presence of natural persons unbound, except as indicated in the cross-industry commitments. Furthermore, South Africa left unbound limitations on the foreign provision of physiotherapeutic and paramedical services provided through cross-border supply and consumption abroad.

## *Malawi*

Malawi predominantly scheduled full commitments with respect to medical and dental services, hospital services, services provided by professionals other than doctors, and other human health services provided through commercial presences. Malawi left unbound limitations on healthcare services provided through the presence of natural persons, although cross-industry commitments provide exemptions for specialized personnel.

## *South Africa*

South Africa scheduled commitments with respect to medical and dental services, and services provided by midwives, nurses, physiotherapists, and paramedical personnel. South Africa accords full market access and national treatment to foreign practitioners who offer these services through commercial presences. Limitations on cross-border supply of all health care services, except medical and dental services, were left unbound due to technical infeasibility. So, too, were limitations on physiotherapist and paramedical services provided through consumption abroad. With regard to the presence of natural persons, limitations on foreign provided health

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[14] U.S. industry officials indicate that barriers affecting affiliate trade are minimal and are not expected to 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.

[15] These subsectors include medical and dental services; services provided by midwives, physiotherapists, nurses, and paramedical personnel; hospital services; and other human health services not listed under CPC 93191.

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

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Malawi** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 9312 - Medical and dental services.<br>• CPC 93191 - Services provided by midwives, physiotherapists, nurses, and paramedical personnel.<br>• CPC 9311 - Hospital services.<br>• CPC 9319 - Other human health services (other than those listed under CPC 93191). |
| **South Africa** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 9312 - Medical and dental services. |
| | **Market Access:**<br>• Unbound due to technical infeasibility.<br>**National Treatment:**<br>• Unbound due to technical infeasibility. | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound except as indicated in the cross-industry commitments. | • CPC 93191 - Services provided by midwives and nurses. |
| | **Market Access:**<br>• Unbound due to technical infeasibility.<br>**National Treatment:**<br>• Unbound due to technical infeasibility. | **Market Access:**<br>• Unbound due to technical infeasibility.<br>**National Treatment:**<br>• Unbound due to technical infeasibility. | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound except as indicated in the cross-industry commitments. | • CPC 93191 - Physiotherapists and paramedical personnel. |
| **Zambia** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 9312 - Medical and dental services.<br>• CPC 93191 - Services provided by midwives, physiotherapists, nurses, and paramedical personnel.<br>• CPC 9311 - Hospital services.<br>• CPC 9319 - Other human health services (other than those listed under CPC 93191). |

care services were left unbound, except as indicated in the cross-industry commitments. Unlike Malawi and Zambia, South Africa did not schedule commitments with respect to hospital services, which are an area of strong interest to U.S. health care providers. South Africa also did not schedule commitments in the areas of medical specialty services, social services, or other human health services.

### *Zambia*

Zambia scheduled commitments with respect to medical and dental services, hospital services, services provided by professionals other than doctors, and other human health services. These commitments accord full market access and national treatment to foreign firms that provide health care services through cross-border supply, consumption abroad, and commercial presence. However, Zambia's limitations on the presence of natural persons remain unbound, except as indicated in the cross-industry commitments. These commitments provide for the entry and temporary stay of managers and industry experts who arrange or facilitate inbound foreign investment.

## Industry Opinion

In many African countries, health care services are provided by the government and, therefore, are often viewed as something that should be provided by public entities without charge.[16] For example, Mauritian citizens receive free health care, although the quality of these services is often substandard.[17] There is also a general perception that liberalization in the health care sector would raise costs, making such services inaccessible to many citizens. These perceptions explain, in part, the lack of commitments on health care services among the subject countries.[18]

According to U.S. industry representatives, with the exception of South Africa, most of the subject countries in this study offer very limited opportunities for foreign providers of health care services.[19] These countries generally lack the basic infrastructure necessary to support the expansion or modernization of public and private health care systems. The subject countries also lack an expanding middle class capable of supporting growth in foreign-provided health care services. Mauritius, for example, has sought to increase investment in its health care sector and reform its national health care system. While foreign health care providers are permitted to supply services in Mauritius, recruiting foreign or national healthcare professionals has proved difficult, as remuneration is generally much higher in developed countries.[20] This has hindered inbound direct investment, which is an

[16] WTO official, interview by USITC staff, Geneva, Mar. 25, 1999.
[17] Mauritian Government official, interview by USITC staff, Geneva, Mar. 23, 1999.
[18] WTO official, interview by USITC staff, Geneva, Mar. 25, 1999.
[19] U.S. industry representatives, telephone interviews by USITC staff, Feb. 17-19, 1999.
[20] Mauritian Government official, interview by USITC staff, Geneva, Mar. 23, 1999.

important source of technology and workforce training. Consequently, Mauritius' efforts to strengthen its health care system has been only marginally successful.[21]

## Summary

Out of the 13 countries covered in this report, only Malawi, South Africa, and Zambia scheduled GATS commitments with respect to health care services. These countries placed no restrictions on services provided through commercial presences. In addition, limitations on the entry and stay of professionals appear to be minimal.

Although trade in health care services faces some inherent impediments and current global economic conditions appear to be hindering expansion in regions such as Africa, the overall outlook for health care trade remains positive. The United States continues to hold leadership in technology and quality of care, which should translate into additional international opportunities. Financial limitations of the citizens in regions such as Africa pose the principal constraint on the health care field, as even wealthy countries are finding it increasingly difficult to fund high-quality treatment for all of their citizens. However, such financial constraints may also present opportunities for private firms that are able to address cost-containment concerns by developing management techniques or by serving a market niche in a cost-effective manner without compromising the quality of care.

[21] Ibrahim A. Elbadawi, "Consolidating Macroeconomic Stabilization and Restoring Growth in Africa," *Agenda For Africa's Economic Renewal*, U.S. - Third World Policy Perspectives No. 21, Overseas Development Council: Washington, DC, 1996, p. 49.

# CHAPTER 9
# ACCOUNTING SERVICES[1]

## Introduction

Accounting firms usually provide accounting services in conjunction with ancillary business services. The principal focus of this chapter is on accounting services and the closely related services, auditing and bookkeeping.[2] Tax services (except as noted), management consulting, and legal services are excluded.

## International Trade in Accounting and Related Services

International trade in accounting and related services comprises both cross-border sales and transactions through foreign affiliates of multinational companies. Affiliate transactions predominate because of the difficulties involved with providing such services across borders.[3] Also, establishing permanent operations allows service providers to interact directly with clients and to better evaluate foreign market conditions. Cross-border trade data reflect accounting, auditing, and bookkeeping services only. Affiliate data reflect a wider range of services including accounting, bookkeeping, auditing, research, and management services.

U.S. accounting firms began to establish foreign operations after World War II to continue business relationships originating 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. Usually, the firms created by partnership arrangements are wholly owned by the local partners, rather than by the multinational affiliate.[4]

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[1] Among the individuals consulted by USITC staff in preparation of this chapter were those affiliated with the following companies and organizations: Andersen Worldwide, Inc., Ernst & Young, Inc., KPMG Peat Marwick, Inc., PricewaterhouseCoopers, Inc., and the International Federation of Accountants.

[2] Accounting services data are captured under CPC code 862, accounting, auditing, and bookkeeping services. Such services include financial auditing, accounting review, compilation of financial statements, and other accounting services such as attestations, valuations, and preparation of *pro forma* statements. Business tax return preparation is also included, when provided with financial statement preparation in a package of services for a single fee.

[3] Usually, foreign service providers face fewer legal restrictions once an affiliate is established, compared with providing such services across borders.

[4] In a partnership arrangement where an affiliate of a U.S. multinational firm is owned by the local partners, sales are not recorded as sales by a U.S. affiliate. As a result, available trade data may understate U.S. involvement in foreign markets for accounting services.

### *Cross-Border Transactions*[5]

Cross-border trade data reflect accounting 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 $255 million in 1997, and U.S. cross-border imports equaled $335 million, resulting in an $80-million deficit (figure 9-1).[6] The deficit in 1997 contrasted with annual surpluses in each of the preceding 5 years. During 1992-97, the average annual rate of growth in U.S. imports, measuring 26 percent, exceeded that of exports, at 9 percent.

### *Sales by Majority-Owned Affiliates*

In 1996, sales of accounting services to foreign consumers by foreign affiliates of U.S. firms totaled $7.5 billion, while foreign-owned affiliates in the United States sold services equaling $1.9 billion to U.S. consumers (figure 9-2). During 1992-96, the 8-percent average annual growth rate for sales by foreign affiliates of U.S. firms was slower than the 11-percent growth rate for sales to U.S. customers by foreign-owned affiliates. In 1996, European affiliates of U.S. firms generated 68 percent of total sales to foreigners. Ranked individually, leading foreign markets included the United Kingdom (18 percent), Germany (15 percent), Canada (10 percent), and Switzerland (8 percent).

## Examination of Commitments on Accounting Services

Most international sales of accounting services take place through foreign-based affiliates of U.S. firms. Consequently, commitments on commercial presence and on the presence of natural persons have the greatest relevance. Policies that adversely affect affiliate sales of accounting services include limitations on international payments and capital movements; restrictions on the movement of personnel, such as nationality or residency requirements and limits on the stay of accounting professionals; requirements for professional certification; limitations on the form of commercial presence and the use of firm names; limitations on the scope of practice; quantitative restrictions on the provision of services; restrictions on advertising, solicitation, and fee setting; and differences in accounting, auditing, and other standards.[7] These measures may be applied either on an industry-specific or a cross-industry basis.

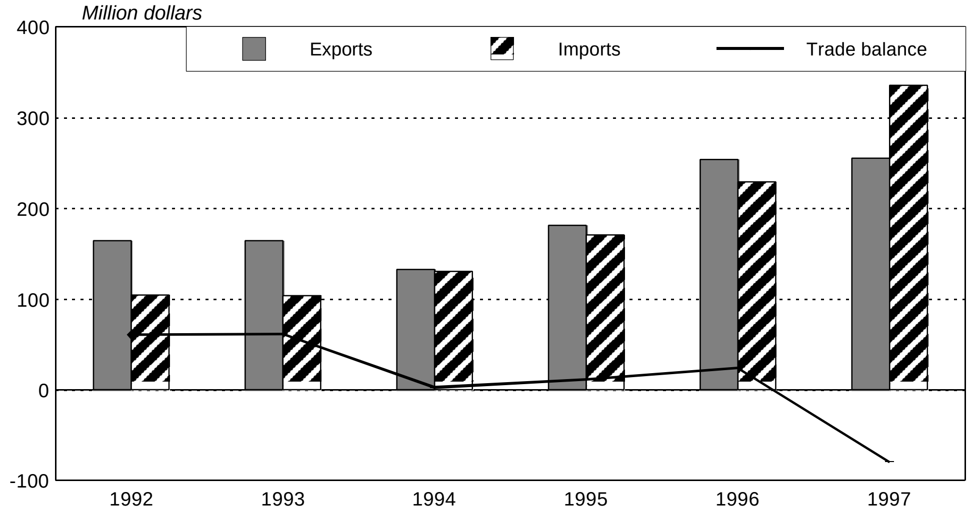
Four of the subject African countries -- Malawi, Morocco, South Africa, and Zambia -- scheduled commitments on accounting services. These four accord at least partial

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

[6] USDOC, BEA, *Survey of Current Business*, Oct. 1998, pp. 86-87.

[7] WTO, Council for Trade in Services, *Accountancy Services*, note by the Secretariat (S/C/W/73), Dec. 3, 1998, and John Hegarty, "The Accountancy Profession," *Workshop on Professional Services*, Sept. 26-27, 1994, pp. 15-18.

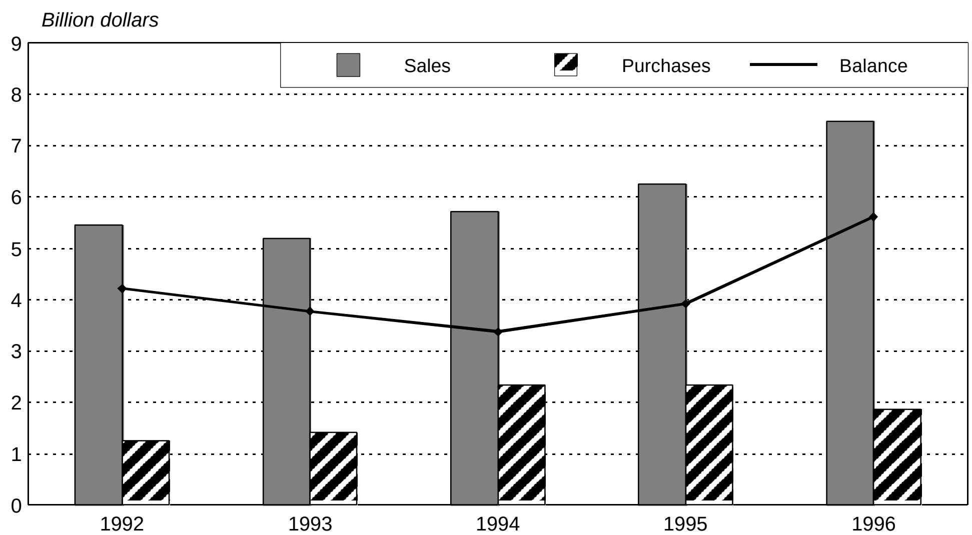
**Figure 9-1**
**Accounting services:[1] U.S. cross-border exports, imports, and trade balance, 1992-97**




[1] Also includes auditing and bookkeeping services.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, pp. 86-87.

**Figure 9-2**
**Accounting service[1] transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96**




[1] Also includes auditing, bookkeeping, research, management, and related services.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Sept. 1995, pp. 104-105; Nov. 1996, pp. 111-112; Oct. 1997, pp. 137-138; and Oct. 1998, pp. 115-116.

market access and national treatment to foreign firms that wish to operate through a commercial presence (table 9-1).[8]

## *Malawi*

Malawi accords full market access and national treatment to foreign firms providing accounting and auditing services through cross-border supply, consumption abroad, and commercial presence. However, Malawi left unbound limitations on bookkeeping services, which indicates that restrictions may be placed on the foreign provision of such services without compensation. For accounting and auditing services provided through the presence of natural persons, Malawi's cross-industry commitments permit the entry and temporary stay of persons employed in management and expert jobs as related to the implementation of foreign investment. Malawi did not provide further details regarding temporary entry and stay. Moreover, the employment of foreign management and expert personnel necessitates agreement by contracting parties and is subject to approval by the Ministry of Home Affairs, representing a further market access consideration.

## *Morocco*

Morocco's schedule of commitments applies to the full range of accounting services, including accounting, auditing, and bookkeeping services. Although Morocco grants full national treatment for these services provided through a commercial presence, a market access restriction caps foreign equity ownership at 25 percent. Limitations on both market access and national treatment for services provided through cross-border supply and consumption abroad are unbound. Accounting services provided through the presence of natural persons are reserved for Moroccan nationals, while national treatment limitations are unbound with no exceptions.

## *South Africa*

South Africa's commitments apply to auditing services only. Accordingly, other accounting services are subject to the imposition of further restrictions without penalty. With regard to auditing services, full market access is granted to services delivered through a commercial presence, although a national treatment limitation reserves accreditation for South African citizens. Service providers are also subject to cross-industry restrictions on national treatment that limit local borrowing by South African-registered companies where nonresidents hold at least 25 percent equity. Limitations remain unbound on auditing services provided through cross-border supply and consumption abroad. Limitations on such services provided through the presence of natural persons also remain unbound, except as indicated in the cross-industry commitments. One such exception permits the entry and temporary stay of service salespersons for 90 days. The other grants a stay of up to 1

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

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

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner**[1] | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Malawi** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 8621 - Accounting and auditing services. |
| **Morocco** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• Participation of foreign capital is limited to 25 percent.<br>**National Treatment:** None | **Market Access:**<br>• Moroccan nationality is required.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 862 - Accounting, auditing, and bookkeeping services. |
| **South Africa** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** None<br>**National Treatment:**<br>• Citizenship is required for accreditation of auditing services. | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 862+ - Auditing services. |
| **Zambia** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 862 - Accounting, auditing, and bookkeeping services. |

[1] Côte d'Ivoire, Egypt, Ghana, Kenya, Mauritius, Nigeria, Senegal, Tunisia, and Zimbabwe did not schedule commitments on accounting services.

year to intra-corporate transferees employed as executives, managers, specialists, and professionals, as well as persons entering South Africa to establish a commercial presence.

### *Zambia*

Zambia's schedule of commitments applies to the full range of accounting services, including accounting, auditing, and bookkeeping services. Zambia grants full market access and national treatment to such services delivered through commercial presence, consumption abroad, and cross-border supply. However, firms providing accounting or related services through a commercial presence are subject to a cross-industry national treatment measure whereby certain loans or overdrafts must be approved by the Bank of Zambia. For accounting and related services provided through the presence of natural persons, Zambia's cross-industry commitments permit the entry and temporary stay of persons employed in management and expert jobs as related to the implementation of foreign investment. Employing foreign management and expert personnel in Zambia is subject to approval by the Ministry of Home Affairs, representing additional market access considerations. Furthermore, cross-industry commitments include market access measures that require enterprises to provide Zambians with skills that will enable them to hold specialized occupations.

## Industry Opinion

Generally, African policy makers are beginning to adopt measures that will attract foreign capital and investment.[9] Such measures include privatization of industries, the creation of stock markets, and the adoption of more rigorous accounting and auditing standards. Accordingly, demand for more sophisticated and extensive accounting services is evident. The five largest U.S. multinational accounting firms (the Big Five)[10] are widely represented in the subject countries, usually through associations with local firms. These offices provide a broad range of accounting, auditing, and management consulting services for multinational and local firms. However, fees from clients in Africa constitute a minor portion of worldwide fees reported by the Big Five firms.[11]

Qualification requirements covering foreign accounting services providers are uneven in African countries. The differences are often due to recent political independence or constitutional change, the nature of the economy, and the degree to which the countries

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[9] United Nations Economic Commission for Africa, *African Economic Report - 1998,* found at Internet address www.un.org/Depts/eca/divis/espd/, retrieved Mar. 18, 1999.

[10] The "Big Five" firms include Andersen Worldwide; Deloitte, Touche, Tohmatsu; Ernst & Young; KPMG Peat Marwick; and PricewaterhouseCoopers.

[11] For example, KPMG reported that fees from Africa in 1998 amounted to $112 million, representing 1 percent of worldwide fees of $10.4 billion. For more information, see KPMG South Africa's Internet address, www.kpmg.co.za.

have inherited or cultivated a professional services sector.[12] Recognition may be granted to the nationals of a former colonizing country as part of business practice or government legislation, establishing a *de facto* mutual recognition agreement between the countries.[13] Although Mauritius offered no commitments on accounting services, degrees held by U.S. providers of professional services are reportedly recognized in Mauritius.[14]

The regulatory regimes and market environments vary widely among the subject African countries. Senegal, which made no commitments on accounting services, nevertheless reportedly provides equal treatment under law for foreign providers of accounting services. Consequently, most major U.S. multinational accounting firms have operations in Senegal.[15] In certain countries, ownership, management, and control of accounting firms remains in the hands of local partners, even at firms associated with major multinational accounting firms.[16] In several countries, regulations preclude local firms from using the more widely known name of the multinational auditing firm with which they are associated.

Despite offering only partial commitments on accounting services, Morocco maintains fairly modest barriers to the temporary entry and stay of professionals.[17] Accordingly, multinational accounting firms have a growing presence in Morocco. Opportunities for accounting services providers are also expanding. Under Morocco's newly instituted accounting law, statutory audits are now required for all stock companies, as well as for general or limited partnerships, limited liability companies, and other forms of enterprise attaining certain sales levels.[18]

Tunisia has not relaxed restrictions on accounting services since the GATS came into effect.[19] Moreover, renewal periods for residency and work permits were shortened in 1997 from 3 years to 1 year, and applicants face extensive documentation and lengthy delays in the renewal process. Foreign investment in a Tunisian accounting firm may not exceed 49 percent of the firm's capitalization without prior government authorization.

South Africa is the largest market for accounting services among the subject countries. All major U.S. multinational accounting firms are represented, as are several medium-sized foreign firms and a large number of small firms. The government reportedly is committed to accelerating the pace of privatization, improving competitiveness, and

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[12] WTO, *Accountancy Services*.

[13] WTO official, interview by USITC staff, Geneva, Mar. 22, 1999.

[14] Mauritian Government official, interview by USITC staff, Geneva, Mar. 23, 1999.

[15] U.S. Department of State telegram No. 6907, "Senegal Services Trade Regime," prepared by U.S. Embassy, Dakar, Sept. 15, 1998.

[16] WTO, *Accountancy Services.*

[17] U.S. Department of State telegram No. 6342, "Information on Morocco's Services Trade Regime," prepared by U.S. Embassy, Rabat, Oct. 1, 1998.

[18] Ernst & Young Africa Group, "Morocco: Recent Developments That Have Impacted the Accounting Profession," found at Internet address www.mbendi.co.za/ernsty/, retrieved Mar. 19, 1999.

[19] U.S. Department of State telegram No. 4617, "Services Trade Regime in Tunisia," prepared by U.S. Embassy, Tunis, Oct. 6, 1998.

promoting technological advancement in key industries, which could result in expanded market opportunities for accounting and consulting services.[20] A shortage of accountants in South Africa may create demand for foreign service providers.[21]

Industry representatives report that, overall, the business climate for accounting firms in the subject countries is gradually improving as governments endeavor to increase transparency, begin privatization, open certain markets to competition, and ease measures on foreign investment. Accounting industry organizations in most subject countries have joined international professional bodies such as the International Federation of Accountants (IFAC).[22] Moreover, many African countries supported the development of international accounting standards (IAS) by the International Accounting Standards Committee (IASC). Such standards enable capital providers to compare the financial performance of companies from different countries.[23] In many subject African countries, professional organizations have modified national accounting standards to conform with IAS or have adopted IAS in areas not covered by national standards. For example, South Africa has nearly completed a harmonization and improvement project to revise its existing Generally Accepted Accounting Principles (GAAP) in line with IAS. Also, Kenya's Institute of Certified Public Accountants has resolved to adopt IAS and phase out Kenya's national standards.[24]

# Summary

Among the 13 African countries studied in this report, only Malawi, Morocco, South Africa, and Zambia offered commitments in accounting services. The other nine offered no commitments. The market for accounting and related services is likely to grow as the subject countries reduce barriers to foreign investment, ownership, and trade in a wide range of industries. Individual and regional accounting organizations in Africa are beginning to achieve greater harmonization in areas such as accounting standards, although accounting firms still face sizable barriers with regard to forms of ownership and latitude of operations. Moreover, uneven acceptance of foreign professionals' credentials and restrictions on employees of foreign firms to enter and stay are problematic in several African countries. A greater emphasis among African

[20] USDOC, ITA, "South Africa: Privatization Progress," International Market Insight, Mar. 3, 1999.

[21] PricewaterhouseCoopers, "August 1998 International Briefings: Africa," found at Internet address www.pwcglobal.com/, retrieved Mar. 23, 1999.

[22] All of the subject African countries except Mauritius, Morocco, and Senegal have national accounting organizations that are full members of IFAC. For more information, see IFAC's Internet address www.ifac.org.

[23] International Accounting Standards Committee (IASC), "IASC Annual Review 1998: Accounting Standards Converging," Mar. 1998, found at Internet address www.iasc.org.uk, retrieved Mar. 28, 1999.

[24] IASC, "Use of IAS in Countries Around the World," found at Internet address www.iasc.org.uk, retrieved Apr. 9, 1999.

policy makers and regulators appears to be on training and retaining native professional employees within a country rather than on facilitating access by foreign professionals.

# CHAPTER 10
# LEGAL SERVICES[1]

## Introduction

For the purposes of this discussion, legal services are defined as legal advice and representation in various fields of law (e.g., criminal, 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] Internationally, U.S. legal service providers are well represented in areas such as mergers and acquisitions, intellectual property rights, multinational commercial transactions, and project finance and investment. U.S. businesses operating abroad also depend heavily on U.S. providers of legal services, principally for advice on U.S. and international law.

## International Trade in Legal Services

International trade in legal services occurs through cross-border transactions and sales by affiliates. Cross-border trade involves the movement of attorneys, legal documents, and legal counsel or advice across national boundaries. Although legal services are usually provided directly, indirect supply of legal services is growing rapidly due to factors such as advancements in communication technologies and express delivery of business documents.

Practicing as a certified attorney in a foreign country is often impractical or simply not cost effective because many nations impose accreditation restrictions on legal service providers. Consequently, legal service providers operating abroad are usually most concerned with securing full market access for foreign legal consultants (FLCs). Although foreign legal consultants are generally limited to practicing home country,[3] international, and third-country law, allowances for FLCs permit legal firms to maintain close relationships with client companies who have a commercial presence abroad. However, foreign legal consultants are often restricted from hiring locally accredited attorneys, practicing in the local court system, or entering into a joint venture with local firms.

[1] Among the individuals consulted in preparation of this report were those affiliated with the following organizations: the American Bar Association (ABA); White and Case, LLP; and Helmy and Hamza (Baker and McKenzie).

[2] Legal services are captured under CPC code 861.

[3] Home country law refers to law in the jurisdiction where the attorney is accredited.

### *Cross-Border Transactions*

In 1997, U.S. cross-border exports of legal services totaled $2.1 billion, while imports reached $568 million (figure 10-1). Exports of legal services grew by 6 percent in 1997, slower than the 10-percent average annual increase recorded during 1992-1996. Imports of legal services declined by 2 percent in 1997, contrasting with the 17-percent average annual increase achieved during 1992-1996. Declining export growth was primarily due to reduced demand for legal services by the European Union. However, the European Union remained the largest market for U.S. legal services, absorbing 47 percent of total exports (figure 10-2). The European Union is followed closely by the Asia-Pacific region, which consumed 30 percent of U.S. exports. Japan and the United Kingdom were the largest single-country consumers of U.S. legal services, importing $382 million and $381 million, respectively.

The European Union provided 45 percent of the legal services imported by the United States. The Asia-Pacific region, principally Japan, supplied an additional 31 percent of U.S. imports. The United Kingdom accounted for the largest single-country share, accounting for U.S. imports worth $129 million.

The subject African countries account for very little of U.S. trade in legal services. The entire African continent accounted for less than 1 percent of U.S. exports and imports of legal services. South Africa, the United States' largest export market in Africa, imported U.S. legal services worth $5 million, or less than one-half of 1 percent of all U.S. legal service exports.

### *Sales by Majority-Owned Affiliates*

With regard to the subject countries, sales by majority-owned foreign affiliates of U.S. legal service providers are likely small. U.S. providers of legal services encounter regulatory impediments including discriminatory treatment and unfavorable economic conditions in African markets. In addition, foreign operations of U.S. law firms are often expensive to establish.[4] Official trade data on affiliate sales of legal services to the subject countries are unavailable.

## Examination of Commitments on Legal Services

Foreign legal firms generally provide services across borders and, therefore, are most reliant on commitments that accord market access and national treatment with respect to cross-border supply and presence of natural persons. Legal service providers also value the ability to establish a commercial presence in the subject countries so as to provide foreign legal consultancy services on a continuing basis.

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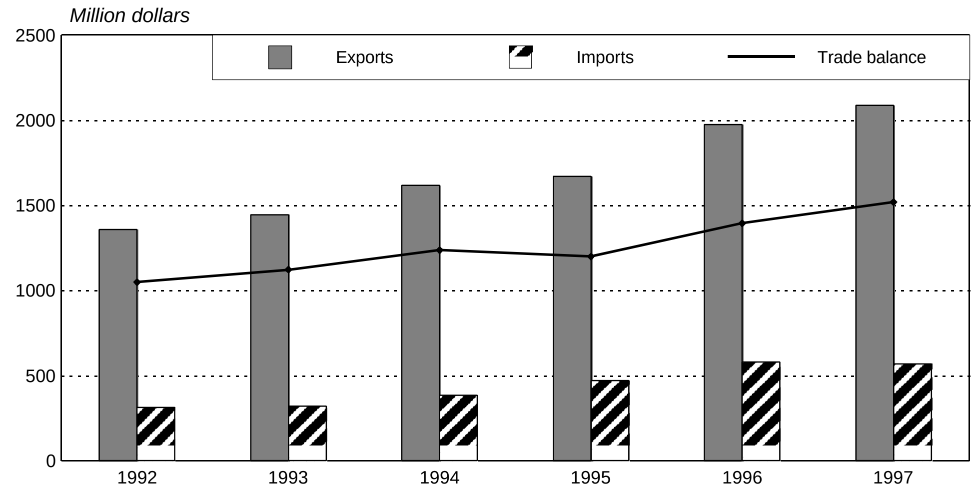
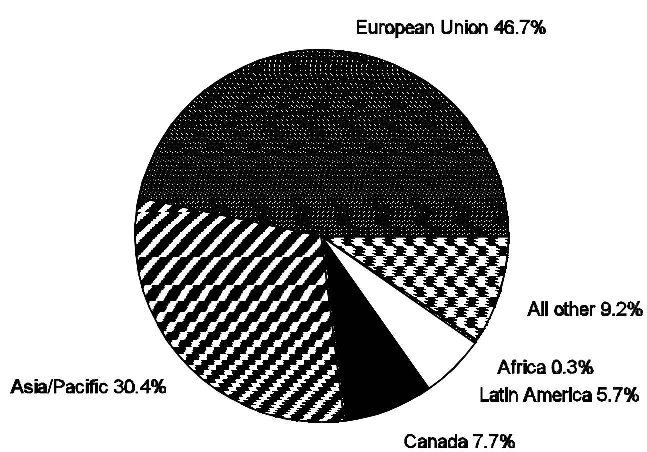
[4] Although the legal community disagrees as to the exact size of affiliate trade worldwide, the value and volume of cross-border trade appears to be much larger than that of affiliate trade. Peter D. Ehrenhaft, Esq., testimony before the USITC, June 7, 1995; and industry representative, interview by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

**Figure 10-1**
**Legal services: U.S. cross-border exports, imports, and trade balance, 1992-97**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, pp. 86-87.

**Figure 10-2**
**Legal services: U.S. cross-border exports, by principal markets, 1997**




**Total = $2.1 billion**

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1998, p. 113.

Only South Africa scheduled commitments on legal services (table 10-1). The remaining subject countries may implement restrictions on legal services without penalty.

### *South Africa*

South Africa scheduled limited commitments on legal services. South Africa accords full market access and national treatment to foreign lawyers providing advice on home country and international law through a commercial presence. Foreign firms' opportunities to practice South African law are extremely limited. Foreign attorneys are neither permitted to form a partnership with South African attorneys, nor to practice South African law through a commercial presence. South Africa's limitations on cross-border supply, consumption abroad, and presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay of service salespersons, intra-corporate transferees, and persons establishing a business in South Africa.

## Industry Opinion

The 13 subject countries represent a small market for the U.S. legal services industry. Overall, there is little activity by U.S. legal service providers in Africa.[5] However, some U.S. firms practice in the subject countries. For example, Baker and McKenzie operates in Egypt,[6] and White and Case has a commercial presence in South Africa.[7]

Some of the subject countries allow foreign attorneys to operate on a limited basis inside their borders, but declined to schedule commitments in this area. Foreign attorneys may practice law in Nigeria if they complete 1 year of study at the Nigerian Law School.[8] Mauritius reportedly recognizes U.S. professional degrees.[9] Côte d'Ivoire imposes no restrictions on foreign lawyers providing legal advice, but practicing law in the courts is reserved for lawyers accredited by the Ivoirian Bar Association, which requires Ivoirian citizenship.[10] Egypt allows foreign lawyers to provide advisory services only on home country law.[11] In some African countries, recognition of professional qualifications may be granted to the nationals of a former

[5] Industry representative, telephone interview by USITC staff, Feb. 2, 1999.
[6] Industry representative, telephone interview by USITC staff, Mar. 23, 1999.
[7] Industry representative, telephone interview by USITC staff, Feb. 17, 1999.
[8] U.S. Department of State telegram, "Nigerian Trade Services Regime," message reference No. 010329, prepared by U.S. Embassy, Lagos, Sept. 29, 1998.
[9] Industry representative, interview by USITC staff, Geneva, Mar. 23.
[10] Department of State telegram, "Additional Information on Côte d'Ivoire Services Trade Regime," message reference No. 000397, prepared by U.S. Embassy, Abidjan, Jan. 22, 1999.
[11] Industry representative, email response to questions posed by USITC staff, received Feb. 22, 1999.

**Table 10-1**
**Highlights of industry-specific restrictions on legal services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **South Africa** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 861 - Legal services concerning foreign and international law. |
| | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• Foreign lawyers are not permitted to form a partnership or a company.<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 861 - Legal services concerning domestic law. |

colonizing country as part of accepted business practice or government legislation, establishing *de facto* mutual recognition between such countries.[12]

## Summary

Opportunities for U.S. legal service providers are limited throughout much of Africa. Nationality restrictions and accreditation requirements often prevent foreign attorneys from practicing host-country law, thereby limiting them to the provision of consultancy services on international or home country law. The paucity of African commitments on legal services leaves most of the subject countries free to further restrict trade in this area. This may adversely affect U.S. legal firms should the subject African markets grow considerably in the future.

[12] WTO official, interview by USITC staff, Geneva, Mar. 22, 1999.

# CHAPTER 11
# ARCHITECTURAL, ENGINEERING, AND CONSTRUCTION SERVICES

## Introduction

Architectural, engineering, and construction (AEC) services[1] 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 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 conforms with the final design.

Construction services 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] AEC services are included in U.N. Central Product Classification (CPC) codes 8671, architectural services; 8672, engineering services; 8673, integrated engineering services; 512, general construction work for buildings; 513 general construction work for civil engineering; 514 and 516, installation and assembly work; 517, building completion and finishing work; and 511, 515, and 518, other construction and related engineering services.

# International Trade in Architectural, Engineering, and Construction Services

International trade in architectural, engineering, and construction services primarily occurs through affiliates located in foreign markets.[2] 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 overseas are better situated to form the regional expertise and networks of foreign professionals necessary to undertake large construction projects. 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 1997, cross-border exports grew by 15 percent to nearly $4.1 billion (figure 11-1). This was marginally slower growth than that experienced during 1992-96, which averaged 16 percent per year. Imports decreased by 29 percent, to $346 million in 1997. This contrasted sharply with average annual growth of 17 percent during 1992-96, and followed a 42-percent increase in 1996. The U.S. surplus in cross-border trade of AEC services grew at an average yearly rate of 17 percent, from just less than $1.7 billion in 1992 to more than $3.7 billion in 1997.[3]

In 1997, the majority of U.S. cross-border trade in AEC services occurred with Asia/Pacific nations, as they comprised three of the top five markets for U.S. exports (figure 11-2). The Asia/Pacific region received 31 percent of U.S. exports. Indonesia remained the top market at $424 million, accounting for 10 percent of all U.S. AEC services exports. Trade between the United States and African nations is comparatively small, accounting for about 8 percent of all U.S. cross-border exports of AEC services in 1997.[4] Of the 13 subject trading partners, separate data are available only for South Africa, which accounted for $13 million, less than 1 percent, of U.S. cross-border exports.

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[2] BEA data on transactions between majority-owned affiliates of U.S. AEC firms and non-affiliated firms are often limited in order to avoid disclosing confidential, proprietary information pertaining to individual firms. Nevertheless, in 1996, the latest year for which data are available, BEA estimated that total sales of architectural, engineering, and construction services by foreign affiliates of U.S. parents amounted to $9.3 billion, while purchases from U.S. affiliates of foreign firms totaled $3.9 billion. USDOC, BEA, *Survey of Current Business*, Oct. 1998, pp. 115-116.

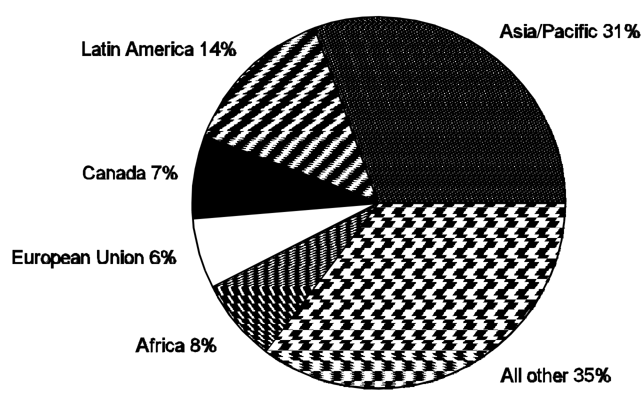
[3] USDOC, BEA, *Survey of Current Business*, Oct. 1998, pp. 86-87.

[4] USDOC, BEA, *Survey of Current Business*, Oct. 1998.

**Figure 11-1**
**Architectural, engineering, and construction services: U.S. cross-border exports, imports, and trade balance, 1992-97**


Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, pp. 86-87.

**Figure 11-2**
**Architectural, engineering, and construction services: U.S. cross-border exports, by principal markets, 1997**




**World = $4.1 billion**

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 1998, p. 113.

# Examination of Commitments on AEC Services

As a group, commitments on AEC services are difficult to examine due to the large number of activities encompassed and the varied nature of specific commitments. For greater clarity in analysis and presentation, commitments on architectural and engineering services are examined separately from commitments on construction services below.

## *Commitments on Architecture and Engineering Services*

The majority of trade in architectural and engineering services occurs through sales by affiliates in foreign markets. Thus, restrictions on commercial presence, such as investment restrictions and limitations on the presence of accredited professionals, greatly affect the ability of U.S. firms to provide architectural and engineering services internationally. Residency, nationality, and registration or licensing requirements may further impede U.S.-affiliated service providers operating in foreign markets. Such barriers may be administered through government agencies, regulatory bodies, or professional associations, and they may be specific to architectural and engineering services, or apply across industries. Thus, with respect to the architectural and engineering services industry, restrictions on commercial presence and the presence of natural persons have the greatest potential to impede international trade.

Of the African nations under consideration, only Côte d'Ivoire, Morocco, Senegal, and South Africa scheduled commitments on architectural and engineering services (table 11-1). Although South Africa addressed all sectors included in this services industry, Senegal addressed only two, and Côte d'Ivoire and Morocco addressed only one. Although these four countries maintain certain limitations, their schedules generally enhance the clarity of restrictions and regulations that apply to their respective architectural and engineering services industries.

### Côte d'Ivoire

Côte d'Ivoire scheduled industry-specific commitments on engineering services, but declined to schedule commitments regarding architectural services or integrated engineering services. Commitments on engineering services apply only to activities related to the processing of products of vegetable origin, the processing of local raw materials, the mining or processing of minerals, and the storage and market preparation of food and agricultural products. Côte d'Ivoire declined to schedule commitments on engineering services provided via cross-border supply and consumption abroad, which allows the nation to impose unbound restrictions on these modes of supply without penalty.

Côte d'Ivoire accords full market access to engineering services provided via commercial presence. With respect to national treatment for commercial presences, government approval may be contingent upon the firm's use of local service

**Table 11-1**
**Highlights of industry-specific restrictions on architectural and engineering services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner**[1] | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Côte d'Ivoire** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** None<br>**National Treatment:**<br>• To obtain government approval, enterprises may be required to use local services providers, as available, under conditions equivalent to those of like products of foreign origin. Additionally, enterprises may be required to employ and train local executives and supervisors. | **Market Access:**<br>• Unbound, except for measures affecting the entry and temporary stay of intracorporate transferees who are managers, senior executives, or specialists who posses knowledge that is essential to the provision of the service.<br>**National Treatment:** None | These commitments cover:<br>• CPC 8672 - Engineering Services applied to activities concerning the processing of products of vegetable origin, processing of local raw materials, mining or processing of minerals, and the storage and market preparation of food and agricultural products. |
| **Morocco** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• None. However, foreign enterprises are required to enter into some form of association with a Moroccan firm.<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 8672 - Engineering Services. |
| **Senegal** | **Market Access:** Unbound<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 8671 - Architectural Services. |
| | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 8672 - Communication System Engineering Services. |
| **South Africa** | **Market** Access:<br>• A locally registered architect must be used for building plans of 500 m$^2$ and over.<br>**National Treatment:** None | **Market Access:**<br>• A locally registered architect must be used for building plans of 500 m$^2$ and over.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 8671 - Architectural Services. |
| | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 8672 - Engineering Services. |

[1] Egypt, Ghana, Kenya, Malawi, Mauritius, Nigeria, Tunisia, Zambia, and Zimbabwe did not schedule commitments on architectural and engineering services.

providers.  Also, firms wishing to establish a commercial presence may be required to employ and train local executives.

Côte d’Ivoire accords full national treatment to engineering services provided via the presence of natural persons.  Market access restrictions are unbound, except for measures affecting the entry and temporary stay of certain intra-corporate transferees.

## Morocco

Morocco scheduled commitments on engineering services, but not on architectural services.   The nation accords full market access and national treatment to engineering services provided via commercial presence, though foreign firms are obligated to collaborate with Moroccan companies in the provision of engineering services.  This collaboration may be in the form of a joint venture, a subcontractor, or other form of association.  Limitations placed on the presence of natural persons remain unbound other than provisions that accord market access to certain intra-corporate transferees.  Morocco places unbound restrictions on engineering services provided via cross-border supply and consumption abroad.

## Senegal

Senegal scheduled commitments on architectural services and communication system engineering services, but declined to schedule commitments on integrated engineering services.  The nation accords full market access and national treatment to architectural services provided via consumption abroad.  With respect to architectural services provided via cross-border supply and commercial presence, Senegal grants full national treatment but retains unbound restrictions on market access.  Market access and national treatment restrictions placed on natural persons are unbound.  Senegal accords full market access and national treatment to communication system engineering services except those provided via the presence of natural persons, in which case the restrictions are unbound.

Senegal’s commitments are generally less substantial than those made by Côte d’Ivoire, Morocco, and South Africa.  The trade benefits provided by Senegal’s provision of national treatment to architectural services supplied via cross-border supply and commercial presence may be diminished by the nation’s lack of market access commitments.  Also, since the presence of natural persons is an important mode of supply for architectural and engineering services, the absence of commitments pertaining to this mode of supply in Senegal’s schedule may significantly limit international trade in this sector.  Furthermore, Senegal’s commitments on engineering services are narrowly defined, pertaining  only to communication system engineering services.

## South Africa

South Africa's schedule of commitments accords greater levels of market access and national treatment on architectural and engineering services than the other African countries that made commitments in such services. South Africa scheduled commitments on both architectural and engineering services. The nation grants national treatment to architectural and engineering services provided via cross-border supply, consumption abroad, and commercial presence. South Africa grants full market access to foreign engineering firms that provide services through cross-border supply and consumption abroad, but restricts the market access of foreign architects using these delivery channels by indicating that locally registered architects must be used for building plans of 500 square meters or more. Full market access and national treatment are accorded to architectural and engineering services provided via commercial presence. Regarding the presence of natural persons, South Africa's restrictions are unbound except for cross-industry measures permitting 3-year stays for intra-corporate transferees and certain other personnel, and 90-day stays for service salespersons.

# *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 consumption abroad, and scheduled no binding commitments on these modes of delivery. Consequently, the following analysis focuses on commitments pertaining to commercial presence and the presence of natural persons.

Of the 13 subject trading partners covered in this report, only 7 scheduled commitments on construction services (table 11-2). The schedules of Malawi, Morocco, and Zambia are the broadest in scope, covering all sectors of construction services. The commitments scheduled by Ghana and South Africa are narrower in scope, but provide coverage for principal sectors of the industry such as construction work for civil engineering and installation. Egypt and Côte d'Ivoire scheduled commitments that were comparatively narrow in scope.

## Côte d'Ivoire

Côte d'Ivoire scheduled commitments on market access and national treatment with respect to commercial presence and the presence of natural persons for a very narrow set of construction services. These commitments do not address key sectors of the

**Table 11-2**
**Highlights of industry-specific restrictions on construction services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Côte d'Ivoire** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** None<br>**National Treatment:**<br>• Government approval. Requirements may include: 1) the preferential use of local services; and 2) the employment and training of local executives and supervisors. | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** None | These commitments cover:<br>• CPC 514 - Assembly and erection of prefabricated constructions, and<br>• CPC 516 - Installation work, in the following sectors:<br>- Manufacturing activities for the processing of local raw materials<br>- Prospecting, mining or processing of minerals<br>- Storage and market preparation of food and agricultural products<br>- Energy generation, excluding wholesale or retail services relating to equipment or parts thereof |

**Table 11-2, *continued***
**Highlights of industry-specific restrictions on construction services**

| Trading Partner | Mode of Supply: Cross-Border Supply | Consumption Abroad | Commercial Presence | Presence of Natural Persons | Comments |
|---|---|---|---|---|---|
| **Egypt** | **Market Access:**<br>• Unbound due to technical infeasibility.<br>**National Treatment:**<br>• Unbound due to technical infeasibility. | **Market Access:**<br>• Unbound due to technical infeasibility.<br>**National Treatment:**<br>• Unbound due to technical infeasibility. | **Market Access:**<br>• Only joint-venture companies are allowed; foreign capital equity cap of 49 percent.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• CPC 5132 - Construction work for bridges, elevated highways, tunnels, and subways.<br>• CPC 5133 - Construction work for waterways, harbors, dams, and other waterworks.<br>• CPC 5134 - Construction work for long-distance pipelines, communication and power lines.<br>• CPC 5136 - Construction work for constructions for mining and manufacturing, for power plants only.<br>• CPC 5155 - Special trade construction work, steel bending and erection (including welding).<br>• CPC 5159 - Other special trade construction work.<br>• CPC 5163 - Installation work, gas fitting construction work.<br>• CPC 51642 - Installation work, fire alarm construction work.<br>• CPC 51649 - Installation work, other electrical construction work.<br>• CPC 5169 - Other installation work.<br>• CPC 51699 - Other installation work, n.e.c.<br>• CPC 5180 - Renting services related to equipment for construction or demolition of buildings or civil engineering works, with operator. |

**Table 11-2, *continued***
**Highlights of industry-specific restrictions on construction services**

| | Mode of Supply | | | | |
|---|---|---|---|---|---|
| **Trading Partner** | **Cross-Border Supply** | **Consumption Abroad** | **Commercial Presence** | **Presence of Natural Persons** | **Comments** |
| **Ghana** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 512 - Construction work for buildings.<br>• CPC 513 - Construction work for civil engineering.<br>• CPC 514 - Assembly and erection of prefabricated constructions.<br>• CPC 516 - Installation work. |
| **Malawi** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 51 - Construction work. |
| **Morocco** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• None; however a foreign enterprise must associate with a Moroccan enterprise (joint venture, subcontracting, etc.).<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 51 - Construction work.<br>• CPC 52 - Constructions. |
| **South Africa** | **Market Access:**<br>• Unbound due to technical infeasibility.<br>**National Treatment:**<br>• Unbound due to technical infeasibility. | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 512 - Construction work for buildings.<br>• CPC 513 - Construction work for civil engineering.<br>• CPC 514 - Assembly and erection of prefabricated constructions.<br>• CPC 516 - Installation work.<br>• CPC 517 - Building completion and finishing work. |
| **Zambia** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 51 - Construction work. |

industry such as construction work for buildings and engineering. Côte d'Ivoire's schedule includes assembly and erection of prefabricated constructions and installation work in four areas of the economy: manufacturing activities for the processing of local raw materials; prospecting, mining, or processing of minerals; storage and market preparation of food and agricultural products; and energy generation. Wholesale or retail services relating to equipment rental and parts of equipment for energy generation projects are specifically excluded by Côte d'Ivoire's commitments.

Côte d'Ivoire accords full market access for services provided through a commercial presence. National treatment may be limited by government regulations that accord preferential treatment to local service providers, or require employment and training of local executives and supervisors. With respect to the presence of natural persons, Côte d'Ivoire scheduled a full national treatment commitment, but left market access limitations unbound except for measures affecting the entry and temporary stay of managers, senior executives, and specialists.

## Egypt

Egypt scheduled commitments on a limited number of sectors of the construction industry. For construction work for civil engineering, these sectors include bridges, elevated highways, tunnels and subways; waterways, harbors, dams, and other water works; long-distance pipelines, communication and power lines; and construction for mining and manufacturing. For special trade construction work, these sectors include steel bending and erection (including welding) and other special trade construction work. For installation, these sectors include gas fitting construction work as well as several types of electrical and miscellaneous work.

Measures pertaining to the establishment and operation of a commercial presence limit such activity to joint-venture companies with no more than 49 percent foreign equity. With respect to the presence of natural persons, Egypt entered full market access and national treatment commitments. Yet, Egypt's cross-industry commitments specify that the number of foreign personnel cannot exceed 10 percent of total personnel in any entity.[5]

## Ghana

Ghana's schedule covers several significant sectors of the construction industry, including construction work for buildings, construction for civil engineering works, assembly and erection of prefabricated structures, and installation work. Ghana did not offer commitments pertaining to special trade construction work, building completion and finishing work, or renting services.

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[5] Egypt - Schedule of Commitments, GATS/SC/30, Apr. 15, 1994, p. 1.

With respect to those services covered by Ghana's industry-specific commitments, full market access and national treatment are guaranteed for foreign service providers, including those who wish to establish a commercial presence.  Restrictions on the presence of natural persons are unbound except for cross-industry measures permitting the entry and temporary stay of executives, managers, specialists, and service sellers.

## Malawi

Malawi's commitments on all sectors of the construction services industry ensure full market access and national treatment for services supplied cross-border, consumed abroad, or provided through a commercial presence.  Malawi's commitments cover construction services work under CPC 51, the most broadly defined construction services code.

Industry-specific measures on the presence of natural persons are unbound except as indicated in the cross-industry commitments.  Such commitments permit the entry and temporary stay of natural persons in management and expert jobs for the implementation of foreign investment.

## Morocco

Morocco's commitments cover all applicable sectors of the construction services industry (CPC 51), and accord full market access and national treatment for services provided through a commercial presence.  However, foreign service providers established in Morocco must associate with Moroccan enterprises through such mechanisms as joint ventures and subcontracting in the provision of construction and engineering services.

Morocco's schedule guarantees national treatment for the presence of natural persons, but places unbound limitations on market access, except as indicated by cross-industry measures.  These measures permit the entry and temporary stay of managers, senior executives, specialists, and sales agents.

## South Africa

Like several of the other African economies examined, South Africa's commitments guarantee market access and national treatment for services provided through a commercial presence.  South Africa's schedule covers a broad range of construction services, including construction work for buildings, construction for civil engineering works, assembly and erection of prefabricated structures, installation work, and building completion and finishing work.  South Africa did not offer commitments pertaining to special trade construction work or renting services.

South Africa's limitations on the presence of natural persons remain unbound except for cross-industry measures permitting the entry and temporary stay for a period of up to 3 years for intra-corporate transferees such as executives, managers, specialists, and professionals, and personnel engaged in establishing commercial presences. Service salespersons are limited to stays of 90 days.

### Zambia

Like Malawi and Morocco, Zambia scheduled commitments that cover all construction services. Full market access and national treatment are guaranteed to construction service providers who wish to establish a commercial presence. With respect to the presence of natural persons, market access and national treatment limitations are unbound except as indicated in the cross-industry commitments. These commitments provide for the entry and temporary stay of persons employed in management and expert jobs in commercial presences. The employment of such persons is overseen by Zambia's Ministry of Home Affairs. Foreign commercial enterprises must also provide skills training for Zambians that will enable them to assume specialized roles.

## Industry Opinion

The market for architectural, engineering, and construction services in the subject countries is relatively small when compared to the more developed markets in other regions of the world. However, compared to the other service industries covered in this report, opportunities for foreign provision of AEC services are numerous. Several subject countries report a tremendous need for basic infrastructure and housing, which may present a potential market for U.S. design and construction services. The Chief of the U.S. Army Corps of Engineers met with government officials in Côte d'Ivoire, Ghana, and South Africa in May 1999 to discuss U.S. involvement with infrastructure projects and water resources projects. The visit may help U.S. AEC firms establish themselves in Africa, which some industry analysts believe will be a high growth market over the next 10 to 20 years.[6]

Industry sources indicate that Egypt, which has a construction market growing by 20 percent annually, is one of the largest potential markets on the continent.[7] Egypt is developing large petrochemical facilities and has designated funds for projects such as ports, roads, tourist resorts, and water treatment facilities.[8] A large-scale irrigation project will require that a floating dredge be dismantled and trucked more than 1000 kilometers across Egypt to build a pumping station near Abu Simbel.[9] Another project under development, the world's largest swing bridge, has recruited AEC talent from

[6] Sherie Winston and Tom Ichniowski, "Corps' Ballard Hopes to Win Jobs for U.S. Firms in Africa," *Engineering News-Record*, Mar. 15, 1999, p. 11.

[7] "World Market Overview," *Engineering News-Record*, Nov. 30/Dec. 7, 1998, p. 62.

[8] Ibid.

[9] Peter Reina, "Egyptian Irrigation Project Will Require 310-km-long Canal," *Engineering News-Record*, vol. 240, No. 8, p. 16, Feb. 23, 1998.

around the world, including a German project manager and a U.S. designer.[10]

Economic development in Africa is spurring AEC activity. For example, the competition between the ports of Abidjan (Côte d'Ivoire) and Dakar (Senegal) is likely to intensify as progress is made in the West African Economic and Monetary Union (UEMOA) and as the West African market becomes more unified. To encourage maritime commerce, the Port Autonome of Dakar has taken steps to modernize the port. Plans include infrastructure projects and the procurement of specialized machinery. U.S. investors and port handling equipment providers are reportedly welcome in this market.[11]

The U.S. Department of Commerce reports that Mauritius is set to invest upwards of $1.5 billion in infrastructure over the next decade. Projects include airport and port development, and road and dam construction. Recent legislation allows private companies to pursue infrastructure projects on a build-operate-and-transfer basis, thus opening the possibility of direct private investment in public services. The business climate in Mauritius is reportedly friendly, but competitive and influenced by complex political and social linkages. It is reportedly recommended that foreign companies consider working with local partners to establish themselves in the market, as few foreign companies succeed on their own.[12]

Although U.S. AEC firms operating in Africa primarily provide their services to public clients, business opportunities also exist with private clients. Long-term private capital flows to Africa increased from $4 billion in 1996 to $8 billion in 1997.[13] The increase in private investment in Africa may drive up demand for U.S. firms' AEC services.[14] However, worrisome economic conditions are developing in some of the subject countries. Figures released by the South African Reserve Bank show that the national economy experienced a recession in the fourth quarter of 1998. One of the main contributors to the slowdown of the South African economy was the

[10] "Egypt plans record swing bridge over Suez Canal," *Civil Engineering-ASCE*, vol. 68, No. 2, Feb. 1998, p. 19.

[11] Planned activities include construction of a 50-megawatt power plant, a 49-acre distribution center, and an upgraded petroleum wharf. A U.S. company is conducting a feasibility study, financed by the U.S. Trade and Development Agency, for the construction of a large bulk grain discharge facility. U.S. Department of State, "Dakar port modernization spells opportunity for U.S. companies," prepared by U.S. Embassy, Dakar, Sept. 14, 1998.

[12] U.S. Department of Commerce, "Mauritius - FY 1999 Country Commercial Guide," and "IMI: Mauritius Freeport," Aug. 1998, both prepared by U.S. Embassy, Port Louis.

[13] World Bank, "The World Bank Annual Report 1999," found at Internet address www.worldbank.org, retrieved Mar. 11, 1999.

[14] U.S. Department of State cable, "South Africa (SA): Economic Highlights," message reference No. 002942, prepared by U.S. Embassy, Pretoria, Mar. 2, 1999.

construction industry, which contracted by 4 percent due to high interest rates.[15]

In conjunction with reducing its trade barriers, the South African Government has undertaken a program of measures, entitled "Growth, Employment, and Redistribution," to ensure a well managed and sound economy. Measures include relaxation of exchange controls, reduction of tariffs, and tax incentives to stimulate new investment. The government has also enacted legislation and invited tenders from the private sector for investment opportunities created by the economic development program.[16] An early example of action taken under the program was the award in 1996 of a contract for the design, construction, finance, operation, and maintenance of an existing national highway as a toll road. The Maputo Development Corridor links Johannesburg to the eastern ocean port in Mozambique.[17]

Owing to reported shortages of professional staff and skilled labor in Africa, there are substantial opportunities for firms providing AEC services to bring in their own project staff. Some firms have experienced little difficulty in having educational degrees and credentials of their professional personnel recognized in Africa.[18] For example, government officials report that U.S. professionals should have no difficulty getting their degrees recognized in Mauritius. Additionally, there is significant use of foreign labor in the construction industry within Mauritius.[19] In general, firms have experienced few, if any, requirements to hire local labor and few restrictions in acquiring visas or on the length of stay for foreign personnel.[20] The high cost of the compensation packages necessary to attract skilled U.S. workers reportedly results in a significant portion of these positions, such as those for resident engineers, going to Europeans, especially as some European countries, such as the United Kingdom, provide substantial tax incentives for expatriate workers.[21]

Industry representatives indicate that market conditions vary widely across the subject countries. Some industry representatives believe restrictive procurement rules and payment schedules discourage U.S. firms from doing business in many African nations.[22] Some countries may also seek funding for large-scale projects from multilateral sources, such as the Lomé Convention, which may result in contracts for

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[15] Ibid.

[16] Jabulani Mtshali, "New South Africa boosts private project investment," *International Financial Law Review*, July 1998.

[17] Ibid.

[18] Industry representative, interview by USITC staff, Lausanne, Switzerland, Mar. 25, 1999.

[19] Mauritian Government official, interview by USITC staff, Geneva, Switzerland, Mar. 23, 1999.

[20] Industry representative, interview by USITC staff, Lausanne, Switzerland, Mar. 25, 1999.

[21] Ibid.

[22] Winston and Ichniowski, p. 11.

specific firms or firms from specific countries.[23] Moreover, although the region has resources for development, and privatization is becoming more prevalent, the lack of stability and relatively high interest rates in some countries have made for increased uncertainty in the AEC market.[24]

# Summary

Among the subject countries, no country chose to schedule full commitments on the complete range of architectural, engineering, and construction services. With respect to architectural and engineering services, only Côte d'Ivoire, Morocco, Senegal, and South Africa scheduled commitments. With respect to construction services, just over half the countries scheduled commitments. The schedules of Malawi, Morocco, and Zambia account for the broadest commitments.

With significant needs for basic infrastructure and other facilities, Africa may someday become a substantial market for the services of U.S. architectural, engineering, and construction firms. However, despite the GATS commitments of some of the subject countries, considerable restrictions remain for U.S. providers of AEC services. The absence of commitments in most of the subject countries provides those countries with the opportunity to impose additional restrictions on market access and national treatment in most sectors of AEC services.

[23] Mauritian Government official, interview by USITC staff, Geneva, Mar. 23, 1999.
[24] Industry representative, telephone interview by USITC staff, Feb. 9, 1999.

# CHAPTER 12
# LAND TRANSPORTATION SERVICES[1]

## 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 for 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 services to be provided usually determines the mode of delivery that is used. For some types of transportation services, geographic proximity determines whether or not a permanent commercial presence is required to provide the services. For example, a U.S. trucking firm would find it infeasible to provide transportation in South Africa 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 mandatory. These services primarily involve the arrangement of freight transportation. Official trade data do not allow for a determination of the relative importance of cross-border trade and affiliate transactions.

### *Cross-Border Transactions*

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[1] Among the individuals consulted by USITC staff in preparation of this report were those affiliated with the following organizations: American Trucking Association, Andersen Consulting, Association of American Railroads, C.H. Powell Company, Danzas Worldwide, DHL Worldwide, Emery Worldwide, Fritz Companies, Inc., J.B. Hunt Logistics, Inc., and other industry officials.

[2] Land transportation services are included in the UN 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 warehouse services; 748, freight transport agency services; and 749, other services auxiliary to all modes of transport.

The largest components of land transportation services covered by this report include road passenger transport and road freight transport services. In 1997, U.S. exports of these transportation services totaled $2.7 billion, whereas imports equaled $2.3 billion (figure 12-1).[3] Canada represents the largest market for U.S. exports of land transportation services, accounting for 70 percent of total exports in 1997.[4] The Asia/Pacific region is the second-largest export market, with approximately 15 percent of total exports. By comparison, the 13 African trading partners covered in this study accounted for less than 1 percent of U.S. cross-border exports of all land transportation services. In 1997, total U.S. exports of land-based transport services to South Africa totaled $9 million.[5] Of the trading partners addressed in this study, country-specific data is available only for South Africa.

### *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 business information. Sales of all transportation services to foreign persons by majority-owned affiliates of U.S. companies totaled $10.6 billion in 1996.[6] This includes receipts for land, air, and maritime transportation. Purchases of all transportation services (including air and maritime) through majority-owned affiliates of foreign companies were approximately $9.7 billion in 1996.[7] The U.S. balance on affiliate transactions in all transportation services amounted to $954 million in 1996, up from $144 million 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. These modes of

[3] U.S. exports and imports of land transportation services include data pertaining to road freight transport only.

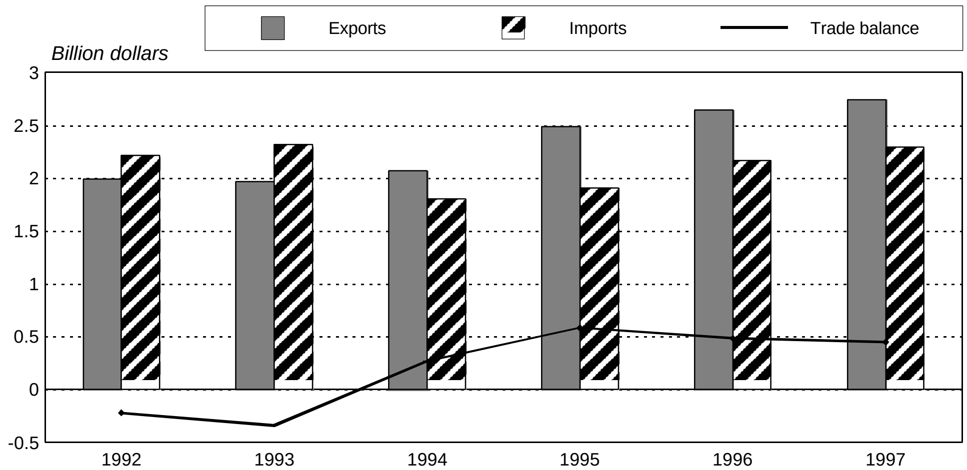
[4] In the October 1998 *Survey of Current Business*, "other" freight receipts and payments for the transportation of U.S. goods exports by truck between the United States and Canada were revised by the BEA to incorporate new data from Statistics Canada. A new analysis by Statistics Canada indicates that previous U.S. estimates of exports and imports of truck transportation services between the United States and Canada may have been overstated. USDOC, BEA, *Survey of Current Business*, Oct. 1998, p. 76.

[5] This number is the value of receipts received by U.S. rail transportation companies for the shipment of South African goods across the United States. BEA official, telephone interview by USITC staff, Apr. 16, 1999.

[6] USDOC, BEA, *Survey of Current Business*, Oct. 1998, p. 115.

[7] USDOC, BEA, *Survey of Current Business*, Oct. 1998, p. 116.

**Figure 12-1**
**Land transportation services: U.S. cross-border exports, imports, and trade balance, 1992-97**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, pp. 90-93; Oct. 1997, p. 112; and Nov. 1996, p. 86.

supply encounter numerous trade barriers that vary according to the type of transportation service. For example, freight forwarders[8] and customs brokers are 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 on commercial presence, such as investment barriers and other establishment restrictions, also affect the ability of most U.S. transportation service providers to compete in foreign markets. In addition, land transportation service providers are affected by the lack of standardization of operational rules and regulations, which is not addressed under the GATS.

Among the 13 countries examined, only Côte d'Ivoire, Kenya, Morocco, Nigeria, and South Africa scheduled commitments on land transportation services (table 12-1). In most cases, the scope of the commitments is fairly narrow. Commitments predominantly pertain to services provided through a commercial presence or the presence of natural persons. In some instances, cross-industry commitments regarding entry and temporary stay of natural persons mitigate restrictions placed on the movement of persons by extending business visas to certain categories of personnel, including managers, senior executives, and specialists.

Four of the trading partners addressed in this study, Morocco and South Africa (table 12-1) and Egypt and Tunisia (table 12-2), listed most-favored-nation (MFN)

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[8] A freight forwarder is an individual or firm retained by the shipper to handle all or part of the arrangements pertaining to the export of merchandise, including transportation and documentation. Freight forwarding services are classified under CPC 748, freight transport agency services.

Table 12-1
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** |
| **Côte d'Ivoire** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Ivorian equity participation floor of 51 percent.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• CPC 7121 - Scheduled road passenger transport.<br>• CPC 7122 - Non-scheduled road passenger transport.<br>• CPC 7123 - Road freight transport. |
| | **Market Access:**<br>• Unbound due to lack of technical feasibility.<br>**National Treatment:**<br>• Unbound due to lack of technical feasibility. | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Ivorian equity participation floor of 51 percent.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• CPC 6112 and 8867 - Maintenance and repair of road transport equipment. |
| **Kenya** | **Market Access:** None<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• None, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7121 - Scheduled road passenger transport. |
| | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 7123 - Road freight transport.<br>• CPC 7124 - Rental of commercial vehicles with operator.<br>• CPC 744 - Supporting services for road transport services. |
| | **Market Access:**<br>• Unbound due to lack of technical feasibility.<br>**National Treatment:**<br>• Unbound due to lack of technical feasibility. | **Market Access:** None<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 6112 and 8867 - Maintenance and repair of road transport equipment. |

12-5

**Table 12-1, *continued***
**Highlights of industry-specific restrictions on land transportation services**

| Trading Partner | Mode of Supply: Cross-Border Supply | Consumption Abroad | Commercial Presence | Presence of Natural Persons | Comments |
|---|---|---|---|---|---|
| **Morocco** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Commercial presence must be through a company incorporated under Moroccan law.<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 7121 - Scheduled road passenger transport, international component only.<br>• CPC 7122 - Non-scheduled road passenger transport, international component only. |
| | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** None<br>**National Treatment:** Unbound | **Market Access:**<br>• Foreigners are required to establish a commercial presence through a company incorporated under Moroccan law.<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 7123 - Road freight transport.<br>• CPC 71219 - Other scheduled passenger transportation, pertaining to the transport of tourists only.<br><br>MFN exemption on road passenger and road freight transport services:<br>• Morocco will accord preferences to countries with which it has existing and future bilateral or multilateral agreements on the international road transportation of passengers and goods. |
| **Nigeria** | **Market Access:**<br>• Unbound due to lack of technical feasibility.<br>**National Treatment:**<br>• Unbound due to lack of technical feasibility. | **Market Access:**<br>• Unbound due to lack of technical feasibility.<br>**National Treatment:**<br>• Unbound due to lack of technical feasibility. | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• CPC 8868 - Maintenance and repair of rail transport equipment. |
| **South Africa** | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7121 - Scheduled road passenger transport.<br>• CPC 7122 - Non-scheduled road passenger transport.<br>• CPC 7123 - Road freight transport. |

**Table 12-1, *continued***
**Highlights of industry-specific restrictions on land transportation services**

| Trading Partner | Mode of Supply: Cross-Border Supply | Consumption Abroad | Commercial Presence | Presence of Natural Persons | Comments |
|---|---|---|---|---|---|
| **South Africa (*continued*)** | **Market Access:**<br>• Unbound due to lack of technical feasibility.<br>**National Treatment:**<br>• Unbound due to lack of technical feasibility. | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 6112 - Maintenance and repair of road transport equipment.<br><br>MFN exemption on road passenger and road freight transport services:<br>• Any country with which South Africa is engaged in either a bilateral or multilateral treaty may transport goods or passengers to and from South Africa and between applicable third-party countries. Cabotage is reserved for vehicles (with operators) that are registered in South Africa. Countries to which this exemption applies include Botswana, Lesotho, Swaziland, Malawi, Zimbabwe, and other sub-Saharan African nations. |

**Table 12-2**
**Summary of MFN exemptions on land transportation services**

| Trading Partner | Description of measure | Countries to which this measure applies | Intended Duration | Conditions creating the need for the exemption |
|---|---|---|---|---|
| **Egypt** | The supply of road transport services (both passenger and freight) by foreign providers into and across Egypt is limited to vehicles registered in countries with which Egypt maintains bilateral or multilateral agreements. | The Arab League countries and, possibly, other countries. | As long as the agreements with countries referred to in preceding column remain in force. | To promote intra-Arab trade and to facilitate the movement of Arab citizens into Egypt in accordance with the Arab League Agreement. |
| **Morocco** | Measures contained in existing and future bilateral or multilateral agreements on the international road transportation of passengers and goods. | All countries. | Indefinite. | To protect Moroccan international road transport enterprises by guaranteeing market share and to promote bilateral cooperation. |
| **South Africa** | The rights to carry goods and passengers to or from South Africa are reserved for the road transport operators of the contracting parties to existing and future agreements. | Botswana, Lesotho, Swaziland, Malawi, Zimbabwe, and other Sub-Saharan African countries. | Indefinite. | To foster the development of an integrated road transport system, which, in turn, encourages the economic development of the region. |
| **Tunisia** | The supply of road transport to, from, and within Tunisia is limited to foreign providers from countries with which Tunisia has concluded or may conclude international agreements. | All countries. | Not specified. | To promote Tunisia's road transport sector through reciprocity agreements. |

exemptions pertaining to land transportation. Egypt and Tunisia did not schedule commitments on land transportation services. In the absence of commitments, MFN exemptions permit members to treat certain signatories less favorably than others. Morocco and South Africa, listed exemptions, of indefinite duration, which reserve the right to extend preferential treatment to selected trading partners. For all four countries, the MFN exemptions apply to road transport services only.

### *Côte d'Ivoire*

Côte d'Ivoire's commitments on road passenger transportation, road freight transportation, and maintenance and repair of road transport equipment accord full market access and national treatment for services provided through consumption abroad and the presence of natural persons. However, limitations on road passenger and road freight transport services provided through cross-border supply remain unbound, which indicates that such services may be subject to the imposition of measures limiting either market access or national treatment. Equally, restrictions on maintenance and repair of road transport equipment remain unbound due to lack of technical feasibility. While Côte d'Ivoire places no limitations on the national treatment of road transport services provided through commercial presence, services provided through this mode are subject to a market access restriction limiting foreign equity participation to 49 percent.[9] Côte d'Ivoire did not schedule commitments in the areas of rail transport, pipeline transport, or auxiliary transport services.

### *Egypt*

Egypt scheduled an MFN exemption on road passenger and road freight transport services, although it did not offer commitments in any of the land transport sectors.[10] The exemption limits the foreign supply of road transport services into and across Egypt to vehicles registered in countries with which Egypt maintains bilateral or multilateral agreements. These countries comprise primarily Arab League members. The exemption remains in force for the length of the agreements.

### *Kenya*

Overall, Kenya scheduled commitments pertaining to road passenger and freight transport, the rental of commercial vehicles with operator, supporting services for

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[9] This includes road passenger transport, road freight transport, and the maintenance and repair of road transport equipment.

[10] Reportedly, Egypt used its own classification system when scheduling commitments in the service sector. As a result, commitments pertaining to land-based transport services involving tourist operations were scheduled under "Tourism and Travel-Related Services." WTO official, interview by USITC staff, Geneva, Mar. 22, 1999.

road transport services,[11] and the maintenance and repair of road transport equipment. For road passenger transport, Kenya guarantees full market access and national treatment only for services delivered through cross-border supply. Restrictions on commercial presence remain unbound, preserving Kenya's ability to impose future limitations on market access or national treatment without penalty. For consumption abroad, Kenya guarantees full national treatment but leaves measures affecting market access unbound. Kenya left limitations on services delivered through the presence of natural persons unbound, with the exception of cross-industry commitments, which provide for the entry and temporary stay of managers and specialists.[12]

With respect to road freight transport, rental of commercial vehicles with operator, and support services, Kenya accords full market access and national treatment for services provided through cross-border supply and consumption abroad. Restrictions on services provided through commercial presence remain unbound. Similarly, limitations on the provision of services through the presence of natural persons remain unbound, although measures affecting market access are subject to the exceptions found in the cross-industry commitments.

With regard to the maintenance and repair of road transport equipment, Kenya accords full market access and national treatment to services provided through consumption abroad only. For cross-border supply, market access and national treatment limitations remain unbound due to lack of technical feasibility. Kenya's commitments with respect to services provided through a commercial presence or the presence of natural persons also remain unbound. Market access restrictions pertaining to the latter are subject to the exceptions found among the cross-industry commitments. Kenya did not schedule commitments in the areas of rail transport, pipeline transport, or auxiliary transport services.

## *Morocco*

Morocco scheduled commitments on road passenger and freight transport services, and on other scheduled passenger transportation services, which mostly cover tourist services. Morocco did not schedule commitments in the areas of rail transport, pipeline transport, or auxiliary transport services. With respect to road passenger transportation, Morocco guarantees full market access and national treatment only for services delivered through consumption abroad.[13] Restrictions on cross-border supply remain unbound. Additionally, limitations on the provision of road passenger transport services through the presence of natural persons remain unbound, except for

[11] This category comprises bus station services; highway, bridge, and tunnel operation services; parking services; and other supporting services for road transport, including commercial road vehicle maintenance and minor repair services.

[12] Unless otherwise specified, specialists are defined as persons who possess a high level of knowledge and expertise relating to the organization's product, service, research equipment, techniques, or management.

[13] These commitments apply only to the international component of scheduled and non-scheduled road transport services.

cross-industry measures[14] permitting the entry and temporary stay of senior executives, managers, specialists, and sales agents.[15] While Morocco imposes no national treatment restrictions on services provided through a commercial presence, market access limitations require that foreigners establishing a commercial presence do so through a company incorporated under Moroccan law.

Morocco's limitations regarding the cross-border supply of road freight and other scheduled passenger transportation (pertaining to tourist transport only) remain unbound. For the provision of these services through consumption abroad, market access is granted but national treatment limitations remain unbound. Restrictions on delivery through the presence of natural persons are also unbound, except for the cross-industry measures providing exemptions for certain personnel. Morocco accords full national treatment for services delivered through commercial presence, but market access limitations require foreigners to establish a company incorporated under Moroccan law.

Morocco scheduled an MFN exemption on passenger and road freight transportation. This exemption allows Morocco to accord preferential treatment to any country with which it maintains agreements on international road transport services. Morocco declined to specify the duration of this exemption.

## *Nigeria*

Nigeria's commitments on land transportation services are limited to the maintenance and repair of rail transport equipment. Nigeria's commitments accord full market access and national treatment for services provided through a commercial presence and the presence of natural persons. Limitations on services provided through cross-border supply and consumption abroad remain unbound due to lack of technical feasibility. Nigeria did not schedule commitments in the areas of road transport, pipeline transport, or auxiliary transport services.

## *South Africa*

South Africa's commitments offer limited coverage of land transportation services. South Africa scheduled commitments on road passenger transport, road freight transport, and the maintenance and repair of road transport equipment. For these areas, South Africa guarantees full market access and national treatment for services delivered through commercial presence only. Restrictions on the provision of road passenger and road freight transport services through cross-border supply and consumption abroad are unbound. At the same time, restrictions on the cross-border supply of the maintenance and repair of road transport equipment also remain unbound due to lack of technical feasibility. South Africa did not make any

[14] Such measures apply to market access only.

[15] Senior executives, managers, and specialists are eligible to receive work permits only after they have signed employment contracts. Sales agents are permitted temporary stay for a maximum of 90 days.

commitments on rail transport, pipeline transport, or auxiliary transport services.

Limitations on services provided through the presence of natural persons remain unbound except as indicated in the cross-industry commitments. Such measures permit the entry and temporary stay of service salespersons, intra-corporate transferees, executives, managers, specialists, business professionals, and personnel engaged in establishment.[16] Intra-corporate transferees are permitted a temporary stay of up to 3 years, provided that they are employed with the parent company for at least a full year immediately preceding entry. Executives, managers, specialists, business professionals, and personnel engaged in establishment are also granted a temporary presence of up to 3 years, while service salespersons are limited to a temporary stay of 90 days.

South Africa scheduled an MFN exemption on passenger and freight road transportation, which indicates that preferential treatment may be accorded to specified countries in connection with existing or future agreements on road transport services. These countries include Botswana, Lesotho, Swaziland, Malawi, Zimbabwe, and other southern African nations. Service providers from these countries are granted the right to carry goods and passengers to or from South Africa and between third-party countries. Cabotage is reserved for vehicles and vehicle operators registered in South Africa. The duration of this exemption is indefinite.

### *Tunisia*

Although Tunisia scheduled no commitments on land transportation services, it listed an MFN exemption, of unspecified duration, on road transport services. This exemption limits the delivery of road transport services to, from, and within Tunisian territory to foreign providers from countries connected with existing or future agreements. The measure applies to delivery through both cross-border supply and commercial presence.

## Industry Opinion

Within the subject countries, U.S. firms appear to be most active in the provision of land transport auxiliary services, such as logistics and freight forwarding. U.S. industry sources report that only a small proportion of their business is conducted in Africa,[17] with South Africa representing their largest market on the continent. Most

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[16] Personnel engaged in establishment are defined within South Africa's schedule of commitments as natural persons who have been employed as managers or executives by a juridical person (i.e., a corporation or other legal business entity) for a period of longer than 1 year immediately preceding the date of application for admission, and who are entering South Africa for the purpose of establishing a commercial presence on behalf of the juridical person.

[17] A report by the WTO estimated the relative significance of the African road transport market by comparing the number of freight trucks registered in Africa to those of other

(continued...)

U.S. companies operating in Africa provide freight forwarding services for air and ocean shipments to and from the region, and contract with local African firms who furnish ground transportation services.[18] U.S. firms indicate that the principal impediments to doing business in the region include cumbersome customs clearance procedures and restrictions on the establishment of a commercial presence.[19] For example, Kenya reportedly requires nearly 20 separate government authorization stamps on bills of lading[20] to clear shipments through customs.[21] In other countries, disputes regarding customs duties reportedly cause U.S. firms to encounter long delays in processing goods at air and sea ports.[22]

Restrictions on the establishment of a commercial presence require some U.S. freight forwarders to subcontract with local companies for ground transport, warehousing, and storage services. In some cases, this has led to logistical problems and compromised the quality of service provided by U.S. firms. Further, in certain countries, only African entities are authorized to act as importers or customs brokers, requiring U.S. firms to conduct such activities through local agents.[23] U.S. companies report having an affiliate presence in South Africa, although commercial operations in other African countries are usually limited to joint ventures with local firms and to sales offices.[24] South Africa was one of only two subject countries that placed no restrictions on the establishment of a commercial presence by foreign service providers.

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[17] (...continued)
regions. For example, while Africa has roughly 5.6 million such vehicles, or approximately 3 percent of the worldwide total, North America (including the United States, Canada, and Mexico) has 65.5 million, or 48 percent; Asia, 45.2 million, or 27 percent; and Europe 34.8 million, or 21 percent. South Africa's fleet is the largest in Africa, comprising over 50 percent of all freight vehicles in the region.

[18] Industry representatives, telephone interviews by USITC staff, Jan. 6-20, 1999.

[19] Industry representative, response via electronic mail to questions posed by USITC staff, Jan. 14, 1999.

[20] A bill of lading is a receipt listing goods that are either shipped overseas by air or ocean or transported inland by truck or rail.

[21] Michael Fabey, "Moving the Goods to Africa: A Vexing Issue at Best," *World Trade,* Mar. 1997, p. 58.

[22] Industry representative, telephone interview by USITC staff, Jan. 20, 1999.

[23] Industry representative, response via electronic mail to questions posed by USITC staff, Jan. 21, 1999.

[24] For example, one U.S. freight forwarder reports having a majority-owned affiliate in South Africa; a joint-venture with a local firm in Egypt; and agent agreements in Kenya, Mauritius, Senegal, and Zimbabwe. Industry representative, response via electronic mail to questions posed by USITC staff, Jan. 14, 1999.

Plans by African countries to develop their transport sectors reportedly have encouraged investment by foreign service providers. For instance, South Africa[25] has employed build-operate-transfer (BOT) arrangements to entice private investors to construct and operate[26] South African toll roads.[27] Kenya, which opened its first private railway 3 years ago, contracted with a U.S. electric firm to provide mechanical expertise for rehabilitating railway equipment.[28] Some African countries are developing their passenger transport segments[29] and have purchased equipment from U.S. and other foreign manufacturers.[30] The development of road and rail infrastructure in Africa, along with plans by some African countries to privatize their transport sectors, may continue to result in opportunities for foreign service providers.[31]

Trade officials familiar with the nature of Africa's land transport sector have identified potential reasons for the absence of Africa's land transportation commitments in the GATS. First, officials note that much of Africa's road transport sector is organized informally, with service providers largely comprising individuals who operate their own transport equipment. With the exception of South Africa, there are no African countries with administrative entities, comparable to those found in developed countries, that regulate road transport services. Second, the rail transport sector of many African countries is dominated by government-owned monopolies and, as such, is a less likely candidate for liberalization.[32] Third, unionized labor in Africa's road and rail transport sectors complicates efforts towards

[25] South Africa's transport sector is controlled by the government-owned holding company, Transnet Limited, which oversees seven separate transport businesses. Reportedly, Transnet is presently being privatized. South African Embassy official, telephone interview with USITC staff, Apr. 16, 1999.

[26] Highway, bridge, and tunnel operation services are classified under CPC 7442.

[27] Jabulani Mtshali, "New South Africa Boosts Private Project Investment," *International Financial Law Review*, July 1998, pp. 52-54.

[28] Barrack Otieno, "Kenya's First Private Railway," *African Business*, May 1998, found at Internet address dialspace.dial.pipex.com, retrieved Jan. 13, 1999. Maintenance and repair of rail transport equipment is classified under CPC 8868.

[29] Reportedly, South Africa's passenger transport sector is more formally organized than those of other subject countries, and is a likely candidate for foreign direct investment. WTO official, interview by USITC staff, Geneva, Mar. 22, 1999.

[30] USDOC, ITA, "Senegal–Transport Liberalization," Market Research Reports, Jan. 22, 1996; and U.S. Department of State telegram," Quarterly Report: October 1 - December 31, 1996," message reference No. 000406, prepared by U.S. Embassy, Accra, Jan. 22, 1997.

[31] USDOC, ITA, "Senegal–Transport Liberalization," Market Research Reports, Jan. 22 1996; U.S. Department of State telegram, "Department of Transportation Inquiry on the Opportunities to Expand Bilateral Cooperation in Africa," message reference No. 006267, prepared by U.S. Embassy, Accra, Sept. 23, 1997; and World Bank, "Côte d'Ivoire–Transport Sector: Adjustment/Investment Program," Jan. 29, 1997, found at Internet address www.worldbank.org, retrieved Dec. 24, 1998.

[32] In some cases, African countries have privatized their rail transport sectors through the separation of infrastructure from the provision of service. The latter is then supplied by private firms who are granted government concessions. WTO official, interview by USITC staff, Geneva, Switzerland, Mar. 22, 1999.

opening these service areas to foreign competition. Finally, as net importers of land transportation services, most African countries perceive that they will not benefit from offering commitments under the GATS.[33]

Due to the limited presence of U.S. firms in Africa, industry representatives were unable to comment on the significance of GATS commitments to their Africa operations. Moreover, apart from onerous customs clearance procedures and limitations on the establishment of a commercial presence, industry sources did not specify any trade restrictions that hinder their business in Africa. Further, none of the U.S. industry representatives interviewed identified Africa as a major market, due most likely to the generally underdeveloped transport infrastructure of the region and to the relatively modest size of the African market for transport services. Where comments regarding Africa's land transport sector were made, industry representatives indicated that the standardization of operational rules and regulations pertaining to customs clearance procedures would enhance the efficiency of their operations in the region.[34]

# Summary

The commitments scheduled by the subject trading partners accord a handful of benefits to U.S. providers of land transport services. Five of the 13 subject countries established benchmarks on land transportation services. Of the five countries, Kenya scheduled commitments across the broadest range of sectors, including road passenger transport, road freight transport, rental of commercial vehicles with operator, and supporting services for road transport services. By contrast, Nigeria scheduled commitments in only one sector, the maintenance and repair of rail transport equipment. The remaining three countries, Côte d'Ivoire, Morocco, and South Africa, scheduled commitments principally in the areas of road freight and road passenger transport. Additionally, Egypt and Tunisia scheduled MFN exemptions without offering commitments. In both cases, the MFN exemptions limit the foreign supply of road transport services to providers from countries with which Egypt and Tunisia maintain reciprocity agreements.

Although the majority of the subject countries failed to schedule commitments in the land transport sector, U.S. industry representatives generally report few categorical restrictions on doing business in the region. Most industry sources noted, however, that their operations in Africa are small, and that they conduct business only in those countries which are hospitable to foreign service providers.[35] Further development of Africa's road and rail infrastructure is likely to attract a greater number of foreign

[33] WTO official, interview by USITC staff, Geneva, Switzerland, Mar. 22, 1999.

[34] Industry representative, telephone interview by USITC staff, Jan. 20, 1999; and industry representative, response via electronic mail to questions posed by USITC staff, Jan. 21, 1999.

[35] Industry representative, response via electronic mail to questions posed by USITC staff, Jan. 14, 1999.

land transport service firms to the region.  This, in turn, may heighten the level of industry attention focused on Africa's commitments on land transportation services in the GATS.

# CHAPTER 13
# TRAVEL AND TOURISM SERVICES

## 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 services provided by travel agents, tour operators, and tourist guides.[1] This discussion excludes air transportation services, which are governed by various specific bilateral agreements, and computer reservation services, which are classified as computerized database services in the General Agreement on Trade in 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 data reflect 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 pay for the tourism services purchased abroad.[2] 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 1997, the United States recorded cross-border travel and tourism exports of $73.3 billion and imports of $51.2 billion, resulting in a $22 billion cross-border trade surplus (figure 13-1). Travel and tourism services play an important role in U.S. international trade, accounting for 31 percent of total U.S. service exports in 1997. Cross-border exports increased by 5 percent in 1997, slightly slower than the 6-percent average annual growth rate achieved during 1992-96. Cross-border imports grew by 7 percent, slightly above the 6-percent average annual growth rate achieved during 1992-96. Visitors from the Asia/Pacific region and the European Union

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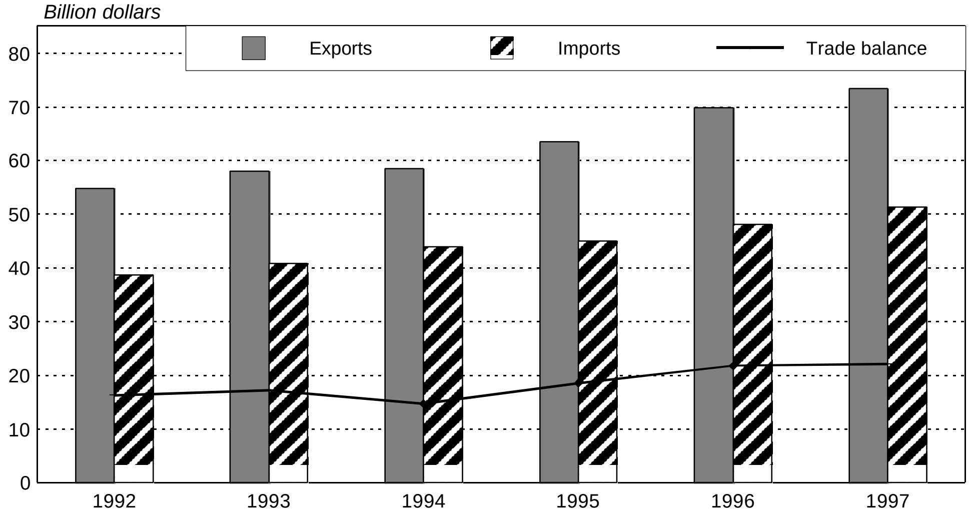
[1] For the purpose of this report, providers of travel and tourism services fall under U.N. Central Product Classification (CPC) codes 641-643, hotels and restaurants, including caterers; 7471, travel agency and tour operator services; and 7472, tourist guide services.

[2] "Tourism and the General Agreement on Trade in Services (GATS)," World Tourism Organization, Madrid, Apr. 1994.

**Figure 13-1**
**Travel and tourism services: U.S. cross-border exports, imports, and trade balance, 1992-97**



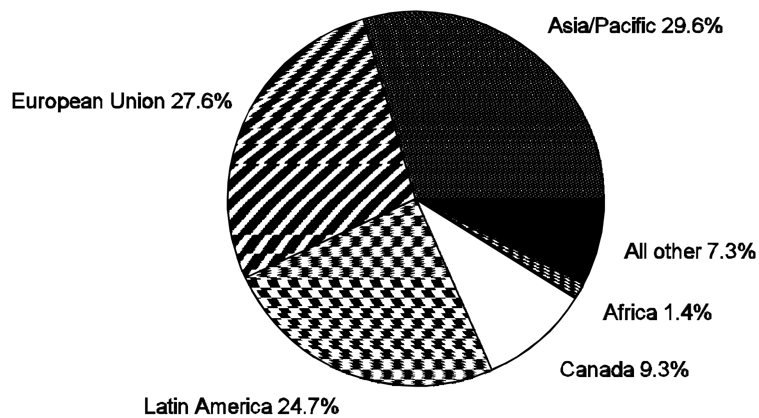

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, pp. 86-87.

accounted for just over one-half of U.S. cross-border travel and tourism exports in 1997 (figure 13-2), with large numbers arriving from Japan, the United Kingdom, Canada, and Germany. The leading travel and tourism destinations for U.S. citizens are Mexico, Canada, the United Kingdom, and Japan. The subject African trading partners accounted for approximately 1 percent of total U.S. travel and tourism exports and 2 percent of imports. Among these countries, South Africa figured most prominently, accounting for U.S. exports and imports of $370 million and $267 million, respectively.

## *Sales by Majority-Owned Affiliates*

Data on affiliate trade in travel and tourism services are available only for the lodging industry, and reflect sales of lodging, food, and beverage services in hotels, motels, and similar establishments. Foreign-based lodging affiliates of U.S. firms generated sales of $2.9 billion in 1996 (figure 13-3), reflecting a 5-percent increase from 1995. Purchases from affiliates of foreign companies in the United States declined by 6 percent in 1996, to $6.8 billion, reversing the 11-percent average annual growth rate of U.S. purchases recorded during 1992-95. By market, available data indicate that U.S. sales in 1996 were highest in the United Kingdom, Canada, and Australia, whereas most U.S. purchases were from affiliates with parent companies in Japan, the United Kingdom, and France. The extent of U.S. lodging service transactions with the subject African countries is not sufficiently large to be reported by official data collection agencies.

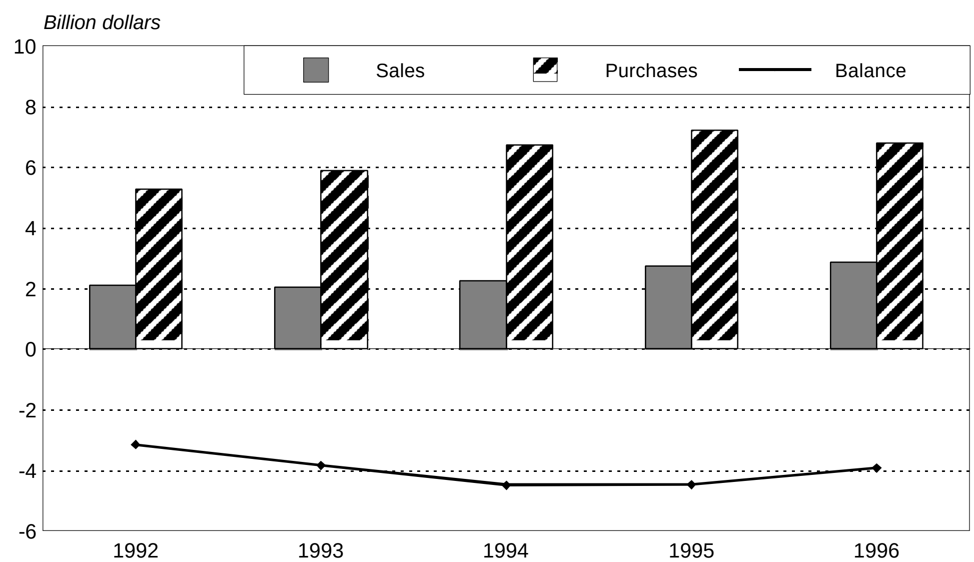
**Figure 13-2**
**Travel and tourism services: U.S. cross-border exports, by principal markets, 1997**




**World = $73.3 billion**

Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Oct. 1998, p. 93.

**Figure 13-3**
**Travel and tourism service transactions by majority-owned affiliates: U.S. sales, purchases, and balance, 1992-96**




Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* Sept. 1995, pp. 104-105; Nov. 1996, pp. 111-112; Oct. 1997, pp. 137-138; and Oct. 1998, pp. 115-116.

# Examination of Commitments on Travel and Tourism Services

Trade in travel and tourism services takes place predominantly through the modes of consumption abroad and commercial presence. Consequently, an open regulatory regime for consumption abroad facilitates international travel. Further, liberal policies governing foreign investment permit foreign firms to establish or acquire a commercial presence, which is a precondition for affiliate trade. In general, the subject nations impose no limitations on the movement of their citizens to destinations outside their borders, indicating that services provided through consumption abroad are unrestricted. However, a number of limitations on establishing a commercial presence were scheduled. In addition, some measures pertaining to the presence of natural persons may have bearing on firms operating through a commercial presence. Consequently, the following discussion focuses on industry-specific commitments made with respect to establishment of commercial presences and the presence of natural persons.

All 13 of the trading partners examined in this report scheduled commitments on travel and tourism services (table 13-1). Eight of these countries (Côte d'Ivoire, Kenya, Malawi, Morocco, Nigeria, South Africa, Zambia, and Zimbabwe) scheduled broad commitments, indicating that they maintain few restrictions on market access and national treatment. Three other countries (Ghana, Senegal, and Tunisia), also scheduled significant commitments, but excluded some subsections, notably tourist guide services, from the scope of their schedules. The remaining two countries (Egypt and Mauritius) provided relatively complex schedules and appear to impose the most onerous limitations, including foreign equity restrictions and staff training requirements.

## *Côte d'Ivoire*

Côte d'Ivoire scheduled broad commitments on travel and tourism services, guaranteeing full market access and national treatment to foreign firms wishing to establish a commercial presence. These commitments apply to the full range of travel and tourism services. With respect to the presence of natural persons, Côte d'Ivoire indicates that all supervisors must be Ivorian nationals, which may affect the operations of foreign firms. Côte d'Ivoire's cross-industry commitments indicate that limitations on the presence of natural persons remain unbound except for measures permitting the entry and temporary stay of senior managers and specialists.

## *Egypt*

Egypt lists a number of limitations on the establishment of hotels and restaurants. Market access is conditioned upon the findings of an economic needs test.[3] Market

[3] Egypt's economic needs test assesses market need and location factors.

**Table 13-1**
**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** |
| **Côte d'Ivoire** | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• Unbound due to technical infeasibility except for catering services, for which there are no limitations.<br>**National Treatment:**<br>• Unbound due to technical infeasibility except for catering services, for which there are no limitations. | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• Supervisors must be Côte d'Ivoire nationals.<br>**National Treatment:**<br>• None | These commitments cover:<br>• CPC 641-643 - Hotel and restaurant services, including catering. |
| | **TRAVEL AGENCY, TOUR OPERATOR, AND TOURIST GUIDE SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AGENCY, TOUR OPERATOR, AND TOURIST GUIDE SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AGENCY, TOUR OPERATOR, AND TOURIST GUIDE SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AGENCY, TOUR OPERATOR, AND TOURIST GUIDE SERVICES**<br>**Market Access:**<br>• Supervisors must be Côte d'Ivoire nationals.<br>**National Treatment:** None | These commitments cover:<br>• CPC 7471 - Travel agency and tour operator services.<br>• CPC 7472 - Tourist guide services. |
| **Egypt** | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• Unbound due to technical infeasibility.<br>**National Treatment:**<br>• Unbound due to technical infeasibility. | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• License required which is subject to an economic needs test which assesses market need and location factors for different lodging categories.<br>• Casino services can only be provided through 5-star hotels, and only foreigners are permitted to gamble.<br>• Foreign equity capital may not exceed 49 percent in projects to be established in Sinai.<br>**National Treatment:**<br>• Training of Egyptian employees should be performed by the foreign natural persons within the terms of the contract. | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• CPC 641 - Hotels and other commercial accommodations, which includes hotels and motels, resort hotels and accommodation facilities, and casino hotels.<br>• CPC 642 - Restaurants, bars, and canteens, which includes only full service restaurants, fast food restaurants, and canteens.<br><br>These commitments appear to exclude:<br>• CPC 6423 - Catering services, although institutional food service catering is addressed below.<br>• CPC 643 - Beverage serving services. |

**Table 13-1–*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** |
| **Egypt (*continued*)** | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:**<br>• The total number of service operations may be limited on the basis of an economic needs test.<br>**National Treatment:**<br>• Training of Egyptian employees should be performed by foreign natural persons within the terms of the contract. | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• CPC 7471 (in part) - Travel agencies and tour operators services.<br><br>These commitments exclude:<br>• CPC 7472 (in part) - Tourist guide services. |
| | **OTHER TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **OTHER TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **OTHER TOURISM SERVICES**<br>**Market Access:**<br>• Bound only for representative offices.<br>• The total number of service operations may be limited on the basis of an economic needs test.<br>**National Treatment:**<br>• Training of Egyptian employees should be performed by foreign natural persons within the terms of the contract. | **OTHER TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• Tourism management services, which includes tourism property management and the rental or lease of tourism property. |
| | **INSTITUTIONAL FOOD SERVICE CATERING**<br>**Market Access:** None<br>**National Treatment:** None | **INSTITUTIONAL FOOD SERVICE CATERING**<br>**Market Access:** None<br>**National Treatment:** None | **INSTITUTIONAL FOOD SERVICE CATERING**<br>**Market Access:** None<br>**National Treatment:** None | **INSTITUTIONAL FOOD SERVICE CATERING**<br>**Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• Institutional food service caterers, except for airport catering facilities which are confined only to the national air carriers. |
| **Ghana** | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 641-643 - Hotel and restaurant services, including catering.<br>• CPC 7471 - Travel agency and tour operator services.<br><br>These commitments exclude:<br>• CPC 7472 - Tourist guide services. |

**Table 13-1–*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** |
| **Kenya** | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:**<br>• None except for hotel and restaurant services (including catering), which are unbound due to technical infeasibility.<br>**National Treatment:**<br>• None except for hotel and restaurant services (including catering), which are unbound due to technical infeasibility. | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• None for those categories of persons referenced in the market access column of the cross-industry commitments. | These commitments cover:<br>• CPC 641-643 - Hotel and restaurant services, including catering.<br>• CPC 7471 - Travel agency and tour operator services.<br>• CPC 7472 - Tourist guide services. |
| **Malawi** | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 641-643 - Hotel and restaurant services, including catering.<br>• CPC 7471 - Travel agency and tour operator services.<br>• CPC 7472 - Tourist guide services. |
| **Mauritius** | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• With respect to hotels, incorporation is required under the Hotel Management Act of 1982.<br>• With respect to restaurants, foreign participation is allowed in projects of more than RS 10 million.<br>**National Treatment:**<br>• Free repatriation of profit governed by the Bank of Mauritius Act and Income Tax Act. | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• With respect to hotels, foreign participation in hotels with less than 100 rooms is limited to 49 percent. Full foreign ownership is permitted for larger hotels.<br>• With respect to restaurants, minimum project value must be at least RS 10 million (approximately $400,000).<br>**National Treatment:**<br>• Foreign establishments must be staffed predominantly by Mauritians. | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 641-643 - Hotel and restaurant services, including catering. |

**Table 13-1–*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** |
| **Mauritius (*continued*)** | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:**<br>• Travel agencies established outside of Mauritius must work through an agency established in Mauritius.<br>• Tour operators must be Mauritian nationals.<br>**National Treatment:**<br>• None for travel agencies.<br>• Tour operators must be Mauritian nationals. | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:**<br>• For travel agencies, a bank guarantee and license is required, and clearance must be granted by the Ministry of Tourism and the Ministry of Internal and External Communication.<br>• For tour operators, a permit must be received from the Ministry of Tourism, the Ministry of Finance, and the Office of the Prime Minister.<br>**National Treatment:**<br>• None for travel agencies.<br>• Tour operators must comply with the regulations of the National Transport Authority. | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7471 - Travel agency and tour operator services. |
| | **TOURIST GUIDE SERVICES**<br>**Market Access:**<br>• Mauritian nationality required, except in cases where the languages are not spoken by Mauritians.<br>**National Treatment:**<br>• None other than those imposed by Immigration Laws. | **TOURIST GUIDE SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TOURIST GUIDE SERVICES**<br>**Market Access:**<br>• Allowed only in areas of linguistic scarcity.<br>**National Treatment:**<br>• None other than those imposed by Income Tax Laws. | **TOURIST GUIDE SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7472 - Tourist guide services. |
| **Morocco** | **LODGING SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **LODGING SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **LODGING SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **LODGING SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 64110 - Hotel lodging services.<br>• CPC 64120 - Motel lodging services.<br>• CPC 64192 - Holiday center lodging services.<br>• CPC 64199 - Boarding house (pension) lodging services. |

**Table 13-1–*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** |
| **Morocco *(continued)*** | **RESTAURANT SERVICES**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | **RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **RESTAURANT SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 642 - Food serving services.<br><br>These commitments exclude:<br>• CPC 643 - Beverage serving services.<br><br>Morocco's schedule states that these commitments apply to Restaurant services, but lists CPC 643 (Beverage services) as the relevant code. In the absence of further clarification from Moroccan representatives, it is presumed that Morocco intended these commitments to apply to Restaurant services (CPC 642). |
| | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:**<br>• Agencies established outside Morocco must work through a Moroccan travel agency or a foreign agency established in Morocco.<br>**National Treatment:** None | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:**<br>• Operating license required.<br>**National Treatment:** None | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 7471 - Travel agency and tour operator services. |
| | **TOURIST GUIDE SERVICES**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | **TOURIST GUIDE SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TOURIST GUIDE SERVICES**<br>**Market Access:**<br>• Moroccan nationality required, but groups may be accompanied by tour leaders.<br>**National Treatment:** Unbound | **TOURIST GUIDE SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 7472 - Tourist guide services. |
| **Morocco *(continued)*** | **OTHER TOURISM SERVICES**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | **OTHER TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **OTHER TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **OTHER TOURISM SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 64191 - Children's holiday camp services.<br>• CPC 64193 - Letting services of furnished accommodation.<br>• CPC 64194 - Youth hostel and mountain shelter services.<br>• CPC 64195 - Camping and caravaning site services.<br>• CPC 64196 - Sleeping car services. |

**Table 13-1–*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** |
| **Nigeria** | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | These commitments cover:<br>• CPC 641-643 - Hotel and restaurant services.<br>• CPC 7471 - Travel agency and tour operator services.<br>• CPC 7472 - Tourist guide services. |
| **Senegal** | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:**<br>• None, except for hotel and restaurant services, which are unbound due to technical infeasibility.<br>**National Treatment:**<br>• None, except for hotel and restaurant services, which are unbound due to technical infeasibility. | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:**<br>• License required<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 641-643 - Hotel and restaurant services.<br>• CPC 7471 - Travel agency and tour operator services.<br><br>These commitments exclude:<br>• CPC 7472 - Tourist guide services.<br><br>Senegal's schedule places restaurants, bars, and canteens within CPC 643, which applies only to beverage serving services (The relevant code for restaurants is CPC 642). However, since Senegal explicitly described the relevant industry sector as "restaurants, bars, and canteens," these commitments are interpreted to apply to food serving services (CPC 642) as well as beverage serving services (CPC 643). |

**Table 13-1–*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** |
| **South Africa** | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:**<br>• None for travel agency and tour operator services.<br>• Unbound for hotel and restaurant services, and unbound for tourist guide services due to technical infeasibility.<br>**National Treatment:**<br>• Unbound for tourist guide services due to technical infeasibility. | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments include:<br>• CPC 641 - Hotel and other lodging services.<br>• CPC 7471 - Travel agency and tour operator services.<br>• CPC 7472 - Tourist guide services.<br><br>These commitments exclude:<br>• CPC 642 - Food serving services.<br>• CPC 643 - Beverage serving services.<br><br>By listing only CPC 641 under the sector heading of "Hotels and Restaurants (including catering)," South Africa appears to have carved out CPC 642 and CPC 643 from the scope of its commitments. |
| **Tunisia** | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• Unbound due to technical infeasibility.<br>**National Treatment:**<br>• Unbound due to technical infeasibility. | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 6411 - Hotel lodging services.<br>• CPC 6421 - Meal serving services with full restaurant service.<br><br>These commitments exclude:<br>• CPC 6412 - Motel lodging services.<br>• CPC 6419 - Other lodging services.<br>• CPC 6422 - Meal serving services in self-service facilities.<br>• CPC 6423 - Caterer services.<br>• CPC 6429 - Other food serving services. |
| **Tunisia *(continued)*** | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | **TRAVEL AGENCY AND TOUR OPERATOR SERVICES**<br>**Market Access:** Unbound<br>**National Treatment:** Unbound | These commitments cover:<br>• CPC 7471 - Travel agency and tour operator services.<br><br>These commitments exclude:<br>• CPC 7472 - Tourist guide services. |

**Table 13-1–*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** |
| **Zambia** | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AND TOURISM SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 641-643 - Hotel and restaurant services.<br>• CPC 7471 - Travel agency and tour operator services.<br>• CPC 7472 - Tourist guide services. |
| **Zimbabwe** | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **HOTEL AND RESTAURANT SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 641-643 - Hotel and restaurant services. |
| | **TRAVEL AGENCY, TOUR OPERATOR, AND TOURIST GUIDE SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AGENCY, TOUR OPERATOR, AND TOURIST GUIDE SERVICES**<br>**Market Access:** None<br>**National Treatment:** None | **TRAVEL AGENCY, TOUR OPERATOR, AND TOURIST GUIDE SERVICES**<br>**Market Access:**<br>• Tour operators operating a vehicle of over 3 tons or using more than 20 vehicles must pay an annual levy for each park.<br>**National Treatment:**<br>• Foreign-based tour operators must pay park entry fees in foreign currency. Only locally registered Safari operators may obtain concessions to offer hunts through "leasing;" or auctions by which hunting areas are leased out. | **TRAVEL AGENCY, TOUR OPERATOR, AND TOURIST GUIDE SERVICES**<br>**Market Access:**<br>• Unbound, except as indicated in the cross-industry commitments.<br>**National Treatment:**<br>• Unbound, except as indicated in the cross-industry commitments. | These commitments cover:<br>• CPC 7471 - Travel agency and tour operator services.<br>• CPC 7472 - Tourist guide services. |

access for casinos is restricted to five-star hotels, and only foreigners are permitted to gamble. In the Sinai region, foreigners may not hold more than 49-percent of the equity in a tourism project. Hotels and restaurants may be adversely affected by a national treatment limitation that requires foreign natural persons working through a commercial presence to train Egyptian employees. These commitments appear to exclude catering services and beverage serving services, although Egypt listed binding commitments to accord full market access and national treatment to foreign providers of institutional food service catering services.[4] With respect to providing travel agency and tour operator services through a commercial presence, market access may be based on the findings of an economic needs test, while national treatment is limited by a measure requiring foreign natural persons to provide training to Egyptian employees. Egypt's schedule excludes tourist guide services, which means that limitations on such services remain unbound by the agreement.

Egypt included additional commitments on tourism management services, which are defined as tourism property management and the rental or leasing of tourism property. For such services, Egypt made a binding commitment only concerning the establishment of representative offices, and further stipulated that the total number of service operations may be limited based on the findings of an economic needs test. As with other tourism services, Egypt's schedule indicates that foreign natural persons must provide training to Egyptian employees.

Egypt's industry-specific commitments indicate that services provided through the presence of natural persons are not subject to any market access or national treatment limitations. However, Egypt's cross-industry commitments appear to be applicable to travel and tourism services. These cross-industry measures stipulate that limitations on the presence of natural persons remain unbound except for measures permitting the entry and temporary stay of senior managers and specialists.

## *Ghana*

Ghana made significant commitments on travel and tourism services, according full market access and national treatment to foreign providers of hotel, restaurant, travel agency, and tour operator services through a commercial presence. Tourist guide services were excluded from the scope of Ghana's commitments, however. With respect to the presence of natural persons, limitations remain unbound except for measures permitting the entry and temporary stay of senior managers and specialists.

[4] Institutional food service catering excludes airport facilities, which are confined to the national air carriers.

### *Kenya*

Kenya made broad commitments to accord full market access and national treatment to foreign providers of all travel and tourism services through a commercial presence. With respect to the presence of natural persons, limitations remain unbound except for measures permitting the entry and temporary stay of senior managers and specialists.

### *Malawi*

Malawi made broad commitments to accord full market access and national treatment to foreign providers of all travel and tourism services through a commercial presence. With respect to the presence of natural persons, limitations remain unbound except for measures permitting the entry and temporary stay of senior managers and specialists.

### *Mauritius*

Mauritius' commitments indicate that foreign firms may hold full ownership only of hotels larger than 100 rooms.  For smaller hotels, foreign equity is limited to 49 percent.  With respect to restaurant services, foreign participation is similarly permitted only in larger projects with a value of at least RS 10 million ($400,000). For both hotels and restaurants, foreign-owned establishments must be staffed predominantly by Mauritians.

With respect to travel agency and tour operator services, a bank guarantee and license is required to establish a commercial presence.  In addition, travel agencies must receive clearance by the Ministry of Tourism and the Ministry of Internal and External Communication, while tour operators must obtain a permit from the Ministry of Tourism, the Ministry of Finance, and the Office of the Prime Minister.  Tour operators must also comply with the regulations of the National Transport Authority. Mauritius maintains some measures that may limit the provision of travel agency and tour operator services through cross-border supply.  Specifically, travel agencies established outside of Mauritius must work through an agency established in Mauritius, and tour operators must be Mauritian nationals.

With respect to tourist guide services, foreign firms may establish a commercial presence only in cases where Mauritian nationals are unable to meet the linguistic needs.  Such firms are not subject to any additional national treatment limitations, except for those contained in the income tax laws.  Tourist guide services provided through cross-border supply are similarly limited to Mauritian nationals unless the relevant language is not spoken by Mauritians.

## *Morocco*

Morocco accords full market access and national treatment to foreign providers of lodging and restaurant services conducting business through a commercial presence, although beverage serving services remain unbound. Travel agency and tour operator service providers must obtain an operating license to establish a commercial presence, and agencies established outside of Morocco must work through a local travel agency. Tourist guide service providers are subject to a nationality requirement, although tour groups may be accompanied by foreign tour leaders. In addition, national treatment limitations on tourist guide services remain unbound, which indicates that Morocco may impose additional restrictions in the future without penalty.

## *Nigeria*

Nigeria made broad commitments to accord full market access and national treatment to foreign providers of all travel and tourism services through all modes of supply. With respect to the presence of natural persons, limitations remain unbound except for measures permitting the entry and temporary stay of senior managers and specialists.

## *Senegal*

Senegal scheduled significant commitments to accord market access and national treatment to foreign providers of travel and tourism services. Senegal's schedule indicates that the only limitation on market access through a commercial presence is a licensing requirement that also applies to domestic service providers. However, Senegal's commitments exclude tourist guide services, which means that any existing limitations remain undeclared and additional restrictions may be imposed without penalty. With respect to the presence of natural persons, limitations remain unbound except for measures permitting the entry and temporary stay of senior managers and specialists.

## *South Africa*

South Africa scheduled commitments to accord full market access and national treatment to foreign providers of lodging, travel agency, tour operator, and tourist guide services. Because its schedule lists only CPC 641, which applies to hotel and lodging services, under the heading of "Hotels and Restaurants," it appears that South Africa carved out food and beverage serving services from the scope of its commitments.

### *Tunisia*

Tunisia scheduled limited, but nonetheless significant, commitments on travel and tourism services. Foreign providers of hotel and restaurant services are generally granted full market access and national treatment. However, certain subcategories of services are excluded from coverage. Whereas hotel lodging services are included, motel and other lodging services are not. Similarly, meal serving services in full restaurants are covered, but self-service facilities, catering, or other food serving services are excluded. Tunisia scheduled commitments on travel agency and tour operator services, but these have little practical effect as measures remain unbound for cross-border supply and commercial presences. In addition, tourist guide services are excluded from coverage under Tunisia's commitments.

### *Zambia*

Zambia scheduled broad commitments according full market access and national treatment to foreign providers of all travel and tourism services through a commercial presence. With respect to the presence of natural persons, limitations remain unbound except for measures permitting the entry and temporary stay of senior managers and specialists.

### *Zimbabwe*

Zimbabwe scheduled broad commitments on hotel and restaurant services provided through a commercial presence, according full market access and national treatment to foreign firms. With respect to travel agency, tour operator, and tourist guide services, Zimbabwe indicated that market access may be limited by a requirement that tour operators with vehicles larger than 3 tons, or with more than 20 vehicles, must pay an annual fee at each park. National treatment limitations also apply to foreign-based tour operators, who must pay park entry fees in foreign currency. In addition, only locally registered safari operators may obtain concessions to offer hunts.

## Industry Opinion

Generally, the tourism services sector is open to competition in most of the subject countries,[5] and U.S. providers of such services have established a presence in Africa.[6] However, hampered by weak demand, insufficient air routes, and poor infrastructure, Africa received only 1.9 percent of the world's international tourism receipts in 1996.[7]

[5] WTO official, interview by USITC staff, Geneva, Mar. 23, 1999.
[6] Industry representative, interview by USITC staff, Lausanne, Switzerland, Mar. 25, 1999.
[7] World Travel & Tourism Council, "Millennium Vision for Africa," World Tourism Organization, "African Nations Take Steps to Improve Tourism Safety," *WTO News*, July/August 1997, found at Internet address www.world-tourism.org, retrieved Sept. 19,

Such adverse market conditions, combined with political instability and health and safety concerns, pose greater challenges to foreign providers of travel and tourism services than do government policies.[8] In fact, many governments in the region actively solicit participation from foreign firms to bolster employment and foreign currency reserves.[9] For example, Ghana announced a plan for tourism in March 1997 that focuses on attracting leisure travelers interested in cultural and recreational experiences, like eco-tourism, as well as convention and business travel.[10] Even countries with relatively strong tourist traffic, such as South Africa, continue to see a need for additional tourism development. Despite a tripling in the number of visitors during 1990-96,[11] tourism still accounts for only 3 percent of South Africa's gross domestic product, as compared to the worldwide average of 10 percent.[12] As a result, the government established a goal to increase tourism significantly by 2000.[13]

In addition to implementing tourism development programs, many African governments are privatizing their national travel and tourism industries. For example, Zambia is selling a state enterprise that owns part of an Intercontinental Hotel; Malawi is selling its main government-owned hotel group; Morocco privatized 18 of 37 hotels, 4 of which were sold wholly or partially to foreign interests; and South Africa privatized part of Aventura Resorts, a tourist and resort entity.[14] Such privatization initiatives appear to offer considerable opportunities for foreign firms to participate in the travel and tourism industry in Africa.

While privatization and tourism development initiatives augur well for foreign travel and tourism providers, investment policies maintained by some of the subject countries may modestly restrict or impede the activities of foreign firms. As indicated by their schedules of commitments, Egypt and Mauritius limit the level of equity that foreign firms may hold in certain types of establishments and also impose measures that require foreign firms to hire and train local employees. The trade-impeding effect of investment restrictions is moderated by practices within the tourism industry, however, where franchising or licensing arrangements between foreign firms and domestic investors are common practice.[15] For example, Hyatt International does not own any hotels outside of the United States, but instead provides hotel and resort management

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1997; and WTO representative, interview by USITC staff, Geneva, Switzerland, Mar. 23, 1999.

[8] Industry representative, interview by USITC staff, Lausanne, Switzerland, Mar. 25, 1999.

[9] Ibid.

[10] WTO, "Ghana Presents Tourism Master Plan," found at Internet address www.world-tourism.org, retrieved June 26, 1997.

[11] Mark Roberts, "Home and Away," *The Economist*, Jan. 10, 1998, pp. 3-5.

[12] U.S. Department of State cable, "Outlooks on Tourism in South Africa," message reference No. 011676, prepared by U.S. Embassy, Pretoria, South Africa, Sept. 15, 1998.

[13] U.S. Department of State cable, "Information on the Services Trade Regime in South Africa," message reference No. 011058, prepared by U.S. Embassy, Pretoria, South Africa, Sept. 2, 1998.

[14] Ibid.; and Mbendi, "African Travel Industry," found at Internet address mbendi.co.za, retrieved Jan. 25, 1999.

[15] Industry representatives, telephone interviews by USITC staff, Jan. 28 to Feb. 14, 1998.

services under the Hyatt brand name.[16] Similarly, training requirements or mandatory staffing levels have a relatively limited effect on the travel and tourism industry as, with the exception of senior management and specialists, most foreign firms would prefer to employ and train local personnel who are considerably less costly than expatriates and who are better able to serve local cultural needs.[17] Consequently, measures limiting foreign equity interest or personnel policies may not be as restrictive in the travel and tourism industry as with other industries.

# Summary

Of the 13 countries under consideration, all scheduled commitments pertaining to travel and tourism services, thereby improving regulatory transparency and establishing benchmarks regarding market access and national treatment. Eight countries scheduled broad commitments that generally offer guarantees that foreign firms will receive full market access and national treatment across the full range of relevant travel and tourism services. These countries are Côte d'Ivoire, Kenya, Malawi, Morocco, Nigeria, South Africa, Zambia, and Zimbabwe. Commitments from the remaining five countries varied in terms of restrictiveness and approach. Specifically, Ghana, Senegal, and Tunisia made binding commitments to accord full market access and national treatment, but excluded tourist guide services and some other subsections from the scope of their schedules. Egypt and Mauritius provided the most complex and apparently most restrictive schedules, as these countries indicated that they maintain equity restrictions, personnel training or staffing requirements, and, in the case of Egypt, may condition market access on the findings of an economic needs test.

Despite the appearance of restrictiveness for a few of the subject countries, in practice, foreign travel and tourism service providers are welcomed throughout the region. Policy initiatives to encourage tourism and reduce direct government involvement provide significant opportunities for foreign firms to establish a commercial presence. The relatively few limitations imposed on services provided through a commercial presence do not appear to pose significant barriers to foreign service providers. Instead, the principal obstacles encountered by foreign firms arise from weaknesses in the market environment.

[16] Industry representative, interview by USITC staff, Lausanne, Switzerland, Mar. 25, 1999.

[17] Ibid.

# CHAPTER 14
# SUMMARY

## Introduction

The preceding chapters examine the schedules of commitments submitted to the World Trade Organization (WTO) by Côte d'Ivoire, Egypt, Ghana, Kenya, Malawi, Mauritius, Morocco, Nigeria, Senegal, South Africa, Tunisia, Zambia, and Zimbabwe. 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 from industry representatives as to the relative restrictiveness of the subject trading partners' markets and the extent to which relevant commitments provide benchmarks[1] 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 13 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 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 merchandise. Parties to the GATS designed the framework as a mechanism for challenging trade-impeding measures. 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

[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 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.

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 trade-impeding measures in effect.

# Overview of Schedules Submitted by African Trading Partners

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 and proceeding to industry-specific commitments. MFN exemptions, whether on all service industries or a particular service, are also discussed. The summary indicates that most of the subject African trading partners' schedules of commitments are not comprehensive in their industry coverage. However, some countries, such as Senegal and South Africa, provide a relatively high degree of benchmarking and transparency.

## *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 at the beginning of their schedules. These restrictions typically apply to services delivered through commercial presence and through the presence of natural persons. Of the 13 subject countries, only Côte d'Ivoire and Senegal did not schedule cross-industry commitments. Table 14-1 highlights the major cross-industry commitments scheduled by the remaining 11 trading partners.

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, and those involved with bringing foreign investment into the country. Essential staff members typically

[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, 1988), pp. 191-195.

**Table 14-1**
**Highlights of cross-industry commitments**

| | Mode of Supply | |
|---|---|---|
| **Trading Partner** | **Commercial Presence** | **Presence of Natural Persons** |
| **Egypt** | • Authorization is required for the acquisition of land and/or real estate property. | • Foreign personnel cannot exceed 10 percent of a firm's staff, unless otherwise specified in a sectoral entry. |
| **Ghana** | • Wholly foreign-owned companies must have a minimum equity capital outlay of US$ 200,000. A joint-venture company must have at least US$ 10,000 in cash or kind. Agency establishment must have authority to negotiate and conclude contracts on behalf of foreign parent companies. | • Automatic entry and work permits are granted to up to 4 expatriate senior executives and specialized skill personnel. Approval is required for any additional expatriate workers. Enterprises must provide Ghanaians with training in higher skills to enable them to assume specialized roles. |
| **Kenya** | • Foreign service providers must incorporate or establish their business locally. | • Market access is accorded for the entry and temporary stay of natural persons employed in management and expert jobs for the implementation of foreign investment. |
| **Malawi** | • A foreign-controlled company may obtain loans or overdrafts of up to one-third of the value of its capital investment, with permission from the Reserve Bank of Malawi. | • Market access is accorded for the entry and temporary stay of natural persons employed in management and expert jobs for the implementation of foreign investment. |
| **Mauritius** | • Foreign service providers are governed by various national laws. | • Market access is accorded for the entry and temporary stay of highly qualified natural persons. |
| **Morocco** | • None provided. | • Natural persons having resident status may transfer up to 50 percent of their savings from income such as wages, salaries, and other remuneration, fees and profits from professional activities and pensions. |
| **Nigeria** | • Foreign enterprises have the same rights and responsibilities as Nigerian enterprises, and may transfer profits abroad in accordance with existing regulations.<br>• Foreign service providers must incorporate or establish their business locally in accordance with the relevant provisions of Nigerian laws and, where applicable, regulations applicable to land and building acquisition, lease, rental, etc. | • Market access is accorded for the entry and temporary stay of personnel employed in senior management and expert jobs, for the implementation of foreign investment. |
| **South Africa** | • Limitations exist on local borrowing by South African registered companies with a non-resident shareholding of 25 percent or more. | • Market access is accorded for temporary presence for up to 3 years, unless otherwise specified, of services salespersons, intra-corporate transferees, executives, managers, specialists, professionals, and personnel engaged in establishment of investment, without requiring compliance with an economic needs test. |
| **Tunisia** | • Foreign investment in services, other than financial or export-oriented services, is not limited.<br>• Agricultural land cannot be the object of appropriation.<br>• Acquisition of land by foreign investors for developing industrial/tourist projects is subject to administrative authorization. | • Market access is accorded for the entry and temporary stay of natural persons employed in management for the implementation of foreign investment. |

**Table 14-1--*continued***
**Highlights of cross-industry commitments**

| | Mode of Supply | |
|---|---|---|
| **Trading Partner** | **Commercial Presence** | **Presence of Natural Persons** |
| **Zambia** | • With permission from the Bank of Zambia, a foreign-controlled company may obtain loans or overdrafts of up to one-third of the value of its paid-in capital. | • Market access is accorded for the entry and temporary stay of natural persons employed in management and expert jobs for the implementation of foreign investment.<br>• Foreign enterprises must provide Zambians with training in higher skills to enable them to assume specialized roles. |
| **Zimbabwe** | • Foreign investors face limits on the number of shares they may acquire in companies listed on the Zimbabwe Stock Exchange. | • Market access is accorded for the entry and temporary stay of executive and senior managerial personnel who are intra-corporate transferees, subject to lack of availability in the local labor market. |

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

include senior managers, executives, and specialists. Limitations affecting other types of employees often remain unbound. The subject African trading partners generally do not impose barriers such as needs-testing policies and nationality restrictions. Needs-testing leaves a high level of uncertainty concerning how consistently policies will be implemented and how objectively assessment criteria will be determined.

Cross-industry commitments on commercial presence generally govern the form and location of establishment, and the type and volume of financial transactions permissible for foreign-owned enterprises. The latter appear to be designed to prevent balance of payments difficulties. There appear to be few restrictions on forms of establishment and none of the subject African trading partners specifies economy wide foreign equity caps in their cross-industry commitments.

## *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 impose unspecified restrictions without penalty.

The extent to which the subject African trading partners, taken as a group, established benchmarks and enhanced transparency differed significantly by industry. All 13 countries scheduled commitments covering travel and tourism services, and most covered telecommunication, land transportation, and architecture, engineering, and construction services. Audiovisual, legal, and education services were only covered by one country each, and none of the subject countries scheduled commitments on advertising. Overall, the sparse commitments do not appear to reflect an intent to limit services trade. Rather, demandeurs simply made few requests of the subject countries due to the less developed state of African service markets.

Although most of the subject countries scheduled telecommunication commitments, the telecommunication service markets in the subject countries remain highly restrictive. With few exceptions, the services that foreign firms may provide are severely limited and must be provided over network facilities controlled by indigenous monopolies. Except in limited areas, industry representatives expressed general displeasure with the lack of liberalization in the subject markets.

All of the subject African countries scheduled commitments pertaining to travel and tourism services. Côte d'Ivoire, Kenya, Malawi, Morocco, Nigeria, South Africa, Zambia, and Zimbabwe scheduled broad commitments that generally guarantee that foreign firms receive full market access and national treatment across the full range of relevant travel and tourism services. Egypt and Mauritius provided the most complex and apparently most restrictive schedules, as they maintained equity restrictions and cumbersome personnel training or staffing requirements.[4]

With respect to land transportation services, 5 of the 13 subject countries established benchmarks. Kenya scheduled commitments across the broadest range of sectors, including road passenger transport, road freight transport, rental of commercial vehicles with operator, and support services for road transport services. By contrast, Nigeria scheduled commitments only on the maintenance and repair of rail transport equipment. The remaining countries, Côte d'Ivoire, Morocco, and South Africa, scheduled commitments principally in the areas of road freight and road passenger transport. Although the majority of the subject countries failed to schedule commitments in the land transport sector, U.S. industry representatives generally report few categorical restrictions on doing business in the region. Most industry sources noted, however, that their operations in Africa are relatively small.

## *MFN Exemptions*

MFN exemptions describe existing regulatory measures that are inconsistent with the most-favored-nation principle by according preferential treatment to selected countries or individuals. Egypt, Morocco, South Africa, and Tunisia listed MFN exemptions applicable to the service industries under examination (table 14-2). MFN exemptions principally consist of broad measures that apply to audiovisual and land transportation services. These exceptions generally apply to contiguous countries that provide reciprocal access to each others' markets. For U.S. companies, the effect of these MFN exemptions is usually muted as they receive no less than the minimum levels of market access and national treatment specified in the relevant schedule of commitments.

With respect to audiovisual services, Egypt and Tunisia listed MFN exemptions. These exemptions accord preferential treatment in connection with co-production agreements, and promote common cultural links and regional identity. With respect to land transportation services, Egypt, Morocco, South Africa, and Tunisia listed

[4] A complex GATS schedule does not necessarily lead to a restrictive national trade regime. In practice, nations with such schedules often provide less restrictive markets than nations that offer no commitments.

**Table 14-2**
**Highlights of most-favored-nation exemptions pertaining to subject industries**

| Trading | Services Affected | Description of Measures |
|---|---|---|
| **Egypt** | All services | Full national treatment is extended to foreign personnel of certain countries, including those that provide Egyptian nationals with satisfactory opportunities. |
| | Audiovisual services | Full national treatment is extended to audiovisual works originating in countries with which Egypt is a party to bilateral or multilateral agreements, to maintain the Arab culture and identity. |
| | Road transport services | Road transport services supplied by foreign suppliers are limited to vehicles registered in countries with which Egypt is a party in bilateral or multilateral agreements, to promote intra-Arab trade and free movement of people. |
| **Morocco** | International road transport | All countries are subject to measures contained in existing and future bilateral or multilateral agreements on international road transportation of passengers and goods, to protect national enterprises and promote cooperation among international professionals. |
| **South Africa** | Road transportation services | Preferential treatment accorded to Botswana, Lesotho, Swaziland, Malawi, Zimbabwe, and other Sub-Saharan African countries to enhance the development of an integrated road transport system to underpin the economic development of the region. |
| **Tunisia** | Audiovisual services | Preferential treatment accorded in connection with bilateral agreements on the co-production of films with all countries to promote cultural links. |
| | Road transport services | The provision of services is confined to nationals of countries with which Tunisia has concluded or may conclude an international agreement in this field, or under a partnership agreement. |

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

MFN exemptions. Egypt and Tunisia scheduled MFN exemptions regarding transportation without offering commitments and, in both cases, the MFN exemptions limit the foreign supply of road transport services to providers from countries with which reciprocity agreements are maintained. Morocco and South Africa listed exemptions, of indefinite duration, which reserve the right to extend preferential treatment to selected trading partners. For all four countries, the MFN exemptions regarding transportation apply to road transport services only.

# Conclusion

The GATS schedules of the subject African economies include few trade and investment liberalizing commitments. Among service sectors, the 13 subject countries provided the most complete coverage for basic and enhanced telecommunication; travel and tourism; architectural, engineering, and construction; and land transportation services. Audiovisual, courier, distribution, legal, and education services received few commitments. South Africa and, to a lesser degree, Senegal, scheduled a broad range of commitments, indicating that these nations are taking deliberate steps to foster trade in services. The schedules of the remaining nations are largely incomplete and, therefore, appear to do little in terms of promoting services trade.

As was common practice among all participants during this first round of negotiations on services trade, the subject countries' schedules include few trade 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.

# APPENDIX A

# REQUEST LETTER

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# APPENDIX B

# FEDERAL REGISTER NOTICE

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# 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) |
|---|---|
| 1. BUSINESS SERVICES | |
| A. Professional services | |
| a) Legal services | Group 861: Legal services<br>*Subclass 86119*: Legal advisory and representation services in judicial procedures concerning other fields of law<br>*Class 8612*: Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.<br>*Class 8613*: Legal documentation and certification services<br>*Class 8619*: Other legal advisory and information services |
| b) Accounting, auditing, and bookkeeping services | Group 862: Accounting, auditing, and bookkeeping services<br>*Subclass 86212*: Accounting review services |
| d) Architectural services | Class 8671: Architectural services<br>*Subclass 86711*: Advisory and pre-design architectural services<br>*Subclass 86712*: Architectural design services<br>*Subclass 86713*: Contract administration services<br>*Subclass 86714*: Combined architectural design and contract administration services<br>*Subclass 86719*: Other architectural services |
| e) Engineering services | Class 8672: Engineering services<br>*Subclass 86721*: Advisory and consultative engineering services<br>*Subclass 86722*: Engineering design services for the construction of foundations and building structures<br>*Subclass 86723:* Engineering design services for mechanical and electrical installations for buildings<br>*Subclass 86724:* Engineering design services for the construction of civil engineering works<br>*Subclass 86725*: Engineering design services for industrial processes and production<br>*Subclass 86726:* Engineering design services, not elsewhere classified<br>*Subclass 86727*: Other engineering services during the construction and installation phase<br>*Subclass 86729:* Other engineering services |
| f) Integrated engineering services | Class 8673: Integrated engineering services<br>*Subclass 86731*: Integrated engineering services for transportation infrastructure turnkey projects<br>*Subclass 86732*: Integrated engineering and project management services for water supply and sanitation works turnkey projects<br>*Subclass 86733*: Integrated engineering services for the construction of manufacturing turnkey projects<br>*Subclass 86739*: Integrated engineering services for other turnkey projects |
| h) Medical and dental services | Class 9312: Medical and dental services |
| I) Veterinary services | Group 932: Veterinary services |
| j) Services provided by midwives, nurses, physiotherapists and para-medical personnel | *Subclass* 93191: Deliveries and related services, nursing services, physiotherapeutic and para-medical services |

**Concordance of industry classification--*continued***

| GATT Secretariat's Services Sectoral Classification List | United Nations' Provisional Central Product Classification System (CPC) |
|---|---|
| F. Other business services | |
| a) Advertising services | Group 871: Advertising services |
| 2. COMMUNICATION SERVICES | |
| B. Courier services | Class 7512: Courier services<br>*Subclass 75121*: Multi-modal courier services |
| C. Telecommunication services | |
| f) Facsimile services | Class 7521: Public telephone services<br>Class 7529: Other telecommunication services |
| h) Electronic mail | Class 7523: Data and message transmission services |
| I) Voice mail | Class 7523: Data and message transmission services |
| j) On-line information and data base retrieval | Class 7523: Data and message transmission services |
| k) Electronic data interchange | Class 7523: Data and message transmission services |
| l) Enhanced/value-added facsimile services (including store and forward, store and retrieve) | Class 7523: Data and message transmission services |
| m) Code and protocol conversion | *No corresponding CPC* |
| n) On-line information and/or data processing (including transaction processing) | Group 843: Data processing services |
| D. Audiovisual services | |
| a) Motion picture and video tape production and distribution services | Class 9611: Motion picture and video tape production and distribution services<br>*Subclass 96112*: Motion picture or video tape production services |
| b) Motion picture projection service | Class 9612: Motion picture projection services<br>*Subclass 96121*: Motion picture projection services |
| c) Radio and television services | Class 9613: Radio and television services |
| d) Radio and television transmission services | Class 7524: Program transmission services |
| e) Sound recording | *No corresponding CPC* |
| f) Other | *No corresponding CPC* |

| GATT Secretariat's Services Sectoral Classification List | United Nations' Provisional Central Product Classification System (CPC) |
|---|---|
| 3. CONSTRUCTION AND RELATED ENGINEERING SERVICES | |
| A. General construction work for buildings | Group 512: Construction work for buildings<br>*Subclass 5121*: Construction work for one- and two-dwelling buildings<br>*Subclass 5122*: Construction work for multi-dwelling buildings<br>*Subclass 5124*: Construction work for commercial buildings<br>*Subclass 5127*: Construction work for educational buildings<br>*Subclass 5128*: Construction work for health buildings |
| B. General construction work for civil engineering | Group 513: Construction work for civil engineering<br>Class 5131: Construction work for highways (except elevated highways), streets, roads, railways, and airfield runways<br>Class 5135: Construction work for local pipelines and cables, ancillary works |
| C. Installation and assembly work | Group 514: Assembly and erection of prefabricated constructions<br>Group 516: Installation work<br>*Subclass 5161*: Heating, ventilation, and air conditioning work<br>*Subclass 5162*: Water plumbing and drain laying work<br>*Subclass 5163*: Gas fitting construction work<br>*Subclass 5164*: Electrical work |
| D. Building completion/finishing work | Group 517: Building completion and finishing work |
| E. Other | Group 511: Pre-erection work at construction site<br>Group 515: Special trade construction work<br>Group 518: Renting services related to equipment for construction or demolition of building or civil engineering work, with operator |
| 4. DISTRIBUTION SERVICES | |
| A. Commission agents' services | Group 621: Commission agents' services |
| B. Wholesale trade services | *Subclass 61111*: Wholesale trade services of motor vehicles<br>Group 622: Wholesale trade services<br>Class 6222: Wholesale trade services of food, beverages, and tobacco |
| C. Retailing services | Class 6111: Sales of motor vehicles<br>*Subclass 61112*: Retail sales of motor vehicles<br>Class 6113: Sales of parts and accessories of motor vehicles<br>Class 6121: Sales of motorcycles and snowmobiles and related parts and accessories<br>Group 613: Retail sales of motor fuel<br>Group 631: Food retailing services<br>Group 632: Non-food retailing services<br>Class 6329: Other specialized retail sales of non-food products<br>Group 633: Repair services of personal and household goods |
| D. Franchising | Class 8929: Other non-financial intangible assets |

**Concordance of industry classification--*continued***

| GATT Secretariat's Services Sectoral Classification List | United Nations' Provisional Central Product Classification System (CPC) |
|---|---|
| 5. EDUCATIONAL SERVICES | |
| A. Primary education services | Group 921: Primary education services<br>*Subclass 9211*: Preschool education services<br>*Subclass 9219*: Other primary education services |
| B. Secondary education services | Group 922: Secondary education services<br>*Subclass 9221*: General secondary education services<br>*Subclass 9222*: Higher secondary education services<br>*Subclass 9223*: Technical and vocational secondary education services |
| C. Higher education services | Group 923: Higher education services<br>*Subclass 9231*: Post-secondary technical and vocational educational services<br>*Subclass 9239*: Other higher education services |
| D. Adult education services | Group 924: Adult education services, not elsewhere classified |
| E. Other education services | Group 929: Other education services |
| 8. HEALTH RELATED AND SOCIAL SERVICES, *excludes those subsectors listed in section 1A(h-j), under Business Professional Services. (see page G-2)* | |
| A. Hospital services | Class 9311: Hospital services |
| B. Other human health services, *excludes CPC "93191: Deliveries and related services, nursing services, physiotherapeutic and para-medical services*." | *Subclass 93123*: Dental services<br>Class 9319: Other human health services<br>*Subclass 93193*: Residential health facilities services other than hospital services<br>*Subclass 93199*: Other human health services, not elsewhere classified |
| D. Other | *No corresponding CPC* |
| 9. TOURISM AND TRAVEL RELATED SERVICES | |
| A. Hotels and restaurants, *includes catering services* | Group 641: Hotel and other lodging services<br>Class 6411: Hotel lodging services<br>Class 6412: Motel lodging services<br>*Subclass 64192*: Holiday center and holiday home services<br>*Subclass 64193*: Letting services of furnished accommodations<br>*Subclass 64194*: Youth hostel and mountain shelter services<br>*Subclass 64195*: Camping and caravanning site services<br>Group 642: Food serving services<br>Class 6421: Meal serving services with full restaurant service<br>Class 6422: Meal serving services in self-service facilities<br>Class 6423: Caterer services, providing meals to outside<br>Group 643: Beverage serving services for consumption on the premises<br>Class 6431: Beverage serving services without entertainment<br>Class 6432: Beverage serving services with entertainment |
| B. Travel agencies and tour operators services | Class 7471: Travel agency and tour operator services |
| C. Tourist guides services | Class 7472: Tourist guide services |
| D. Other | *No corresponding CPC* |

**Concordance of industry classification--*continued***

| GATT Secretariat's Services Sectoral Classification List | United Nations' Provisional Central Product Classification System (CPC) |
|---|---|
| 11. TRANSPORT SERVICES | |
| E. Rail transport | |
| a) Passenger transportation | Class 7111: Rail passenger transportation |
| b) Freight transportation | Class 7112: Rail freight transportation |
| F. Road transport | |
| a) Passenger transportation | *Subclass 71211*: Urban and suburban regular transportation<br>*Subclass 71213*: Inter-urban regular transportation<br>Class 7122: Other non-scheduled passenger transportation<br>*Subclass 71221*: Taxi services<br>*Subclass 71222*: Rental services of passenger cars with operator<br>*Subclass 71223*: Rental services of buses and coaches with operator |
| b) Freight transportation | Class 7123: Freight transportation<br>*Subclass 71231*: Transportation of frozen or refrigerated goods<br>*Subclass 71232*: Transportation of bulk liquids or gases<br>*Subclass 71233*: Transportation of containerized freight<br>*Subclass 71234*: Transportation of furniture |
| c) Rental of commercial vehicles with operator | Class 7124: Rental services of commercial freight vehicles with operator<br>Class 7213: Rental services of seagoing vessels with operator |
| G. Pipeline transport | Class 7139: Transportation of other goods |
| b) Transportation of other goods (excluding fuel) | |
| H. Services auxiliary to all modes of transport | Class 7411: Container handling services<br>Class 7419: Other cargo handling services |
| a) Cargo handling services | |
| b) Storage and warehouse services | Group 742: Storage and warehousing services |
| c) Freight transport agency services | Group 748: Freight transport agency services |
| d) Other | Group 749: Other supporting and auxiliary transport services |
| I. Other transport services | *No corresponding CPC* |

Source: GATT Secretariat's *Services Sectoral Classification List* (MTN/GNS/W/120).

# APPENDIX E

# CROSS-INDUSTRY COMMITMENTS

**Cross-Industry commitments[1]**

| | Mode of Supply[2] | | | |
|---|---|---|---|---|
| **Trading Partner** | **Category** | **Cross-Border Supply** | **Commercial Presence** | **Presence of Natural Persons** |
| **Egypt** | All sectors | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** None<br>**National Treatment:**<br>• Authorization is required for the acquisition of land and/or real estate property. Applications are considered based on an evaluation of the applicable projects, and in accordance with the national policy objectives.<br>S Acquisition of land and/or real estate property in free zone areas is unbound. | **Market Access:**<br>• The number of foreign personnel necessary to the supply of services in any entity, regardless of the number of branches, may not exceed 10 percent of the total number of employees, unless otherwise specified in a sectoral entry of this schedule.<br>**National Treatment:** None |
| **Ghana** | All sectors | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Foreign-owned enterprises, including joint-venture enterprises with Ghanaians, must satisfy minimum capital outlay and foreign equity requirements as follows: a wholly foreign-owned company must have a minimum equity capital outlay of US$ 200,000. A joint-venture company must have a minimum foreign equity capital of at least US$ 10,000 in cash or kind. An agency establishment must have authority to negotiate and conclude contracts on behalf of foreign parent companies.<br>**National Treatment:** None | **Market Access:**<br>• Automatic entry and work permit is granted to up to 4 expatriate senior executives and specialized skill personnel. Approval is required for any additional expatriate workers. Enterprises must provide training in higher skills for Ghanaians to enable them to assume specialized roles.<br>**National Treatment:** None |
| **Kenya** | All sectors | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• Requires foreign service providers to incorporate or establish the business locally.<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound except for measures concerning the entry and temporary stay of natural persons employed in management and expert jobs for the implementation of foreign investment.<br>**National Treatment:** Unbound |
| **Malawi** | All sectors | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:**<br>• With permission from the Reserve Bank of Malawi, a foreign-controlled company may obtain loans or overdrafts of up to one-third of the value of its paid-in capital. | **Market Access:**<br>• Unbound except for measures concerning the entry and temporary stay of natural persons employed in management and expert jobs for the implementation of foreign investment. The employment of such persons shall be agreed upon by the contracting parties and approved by the Ministry of Home Affairs.<br>**National Treatment:**<br>• Unbound except for measures concerning the categories of persons referred to under *Market Access*. |

### Cross-Industry commitments[1]

| | Mode of Supply[2] | | | |
|---|---|---|---|---|
| **Trading Partner** | **Category** | **Cross-Border Supply** | **Commercial Presence** | **Presence of Natural Persons** |
| **Mauritius** | All sectors | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• To be governed by the provisions of:<br>- Companies Act (1984)<br>- Non-Citizens Property Restrictions Act (1975)<br>- Non-Citizens Employment Restriction Act (1970)<br>- Income Tax Act (1974)<br>- Act No. 41 of Banking Act (1988)<br>- Exchange Control Act<br>**National Treatment:**<br>• To be governed by the provisions of:<br>- Companies Act (1984)<br>- Non-Citizens Property Restrictions Act (1975)<br>- Non-Citizens Employment Restriction Act (1970)<br>- Income Tax Act (1974)<br>- Act No. 41 of Banking Act (1988)<br>- Exchange Control Act | **Market Access:**<br>• Unbound except for measures affecting the entry and temporary stay of highly qualified natural persons; although the presence of such persons will be governed *inter alia* by:<br>S Passport Act (1969)<br>S Immigration Act (1973)<br>**National Treatment:**<br>• Unbound except for measures concerning the categories of natural persons referred to under *Market Access*; although the presence of such persons will be governed *inter alia* by:<br>S Income Tax Act<br>S Non-Citizens Employment Restrictions Act (1970) |
| **Morocco** | Investment | **Market Access:**<br>• None, except for certain operations in financial services requiring authorization under the exchange regulations.<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Natural persons having resident status may transfer up to 50 percent of their savings from income such as wages, salaries and other remuneration, fees, profits from professional activities, and pensions.<br>**National Treatment:** None |
| **Nigeria** | Investment and Real Estate | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• Foreign enterprises with investment in Nigeria have the same rights and responsibilities as domestic enterprises, and are allowed to transfer their profits abroad in accordance with existing regulations.<br>• Foreign service providers must incorporate or establish their business locally in accordance with the relevant provisions of Nigerian laws and, where applicable, regulations applicable to land and building acquisition, lease, rental, etc. This requirement operates on a nondiscriminatory basis.<br>**National Treatment:** None | **Market Access:** Unbound<br>**National Treatment:** Unbound |

## Cross-Industry commitments[1]

| | Mode of Supply[2] | | | |
|---|---|---|---|---|
| **Trading Partner** | **Category** | **Cross-Border Supply** | **Commercial Presence** | **Presence of Natural Persons** |
| **Nigeria (*continued*)** | Entry and Temporary Stay of Natural Persons | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except for measures concerning entry and temporary stay of personnel employed in senior management and expert jobs for the implementation of foreign investment. Their employment shall be agreed upon by the service providers and approved by the IDCC.<br>**National Treatment:**<br>• Unbound, except for measures concerning the categories of natural persons referred to under *Market Access*. |
| **Senegal** | All sectors | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound |
| **South Africa** | All sectors | **Market Access:**<br>• Unbound unless otherwise indicated.<br>**National Treatment:**<br>• Unbound unless otherwise indicated. | **Market Access:**<br>• Unbound unless otherwise indicated.<br>**National Treatment:**<br>• Local borrowing by South African registered companies with a non-resident shareholding of 25 percent or more is limited. | **Market Access:**<br>• Unbound, except for the temporary presence for a period of up to 3 years, unless otherwise specified, without requiring compliance with an economic needs test, of the following categories of natural persons providing services:<br>S **Services Salespersons** - natural persons not based in South Africa and acquiring no remuneration from a source located within South Africa, who are negotiating for the sale of services, without engaging in making direct sales to the general public or supplying services. Temporary presence is limited to 90 days.<br>S **Intra-corporate Transferees** - natural persons of the following categories who have been employed by a juridical person that provides services within South Africa through a branch, subsidiary, or affiliate established in South Africa and who have been in the prior employ of the juridical person outside South Africa for a period of not less than 1 year immediately preceding the date of application for admission:<br>S **Executives** - natural persons who primarily direct the management of the organization or establish goals and policies for the organization or a major component or function of the organization.<br>S **Managers** - natural persons who primarily direct the organization, or a department or subdivision of the organization, or supervise and control the work of other employees.<br>S **Specialists** - natural persons within an organization who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge.<br>S **Professionals** - natural persons who are engaged, as part of a services contract negotiated by a juridical person of another Member, in the activity at a professional level. |

**Cross-Industry commitments**[1]

| | Mode of Supply[2] | | | |
|---|---|---|---|---|
| **Trading Partner** | **Category** | **Cross-Border Supply** | **Commercial Presence** | **Presence of Natural Persons** |
| **South Africa (*continued*)** | All sectors (*continued*) | | | - **Personnel Engaged in Establishment** - natural persons who have been employed by a juridical person for longer than 1 year immediately preceding the date of application for admission, and who occupy a managerial or executive position and are entering South Africa for the purpose of establishing a commercial presence on behalf of the juridical person.<br>**National Treatment:**<br>• Unbound, except for measures concerning the categories of natural persons under *Market Access*. |
| **Tunisia** | Investment | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Foreign investment in services other than financial services is not limited.<br>**National Treatment:**<br>• With respect to services activities that are not wholly export-oriented, the Investment Commission approves any participation exceeding 50 percent of the equity of the company. | **Market Access:** None<br>**National Treatment:** None |
| | Real Estate | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• None, except for agricultural land, which cannot be the object of appropriation by foreigners. Nevertheless, foreigners may opt to use agricultural land within the long-term leasing system for up to 40 years renewable.<br>**National Treatment:**<br>• The acquisition by foreign investors of land or other real estate for the purpose of developing industrial/tourist projects and other services is subject to administrative authorization. The project must conform with the use (tourism, agriculture, industry) reserved for the land in the national development plan. | **Market Access:**<br>• None, except for agricultural land, which cannot be the object of appropriation by foreigners. Nevertheless, foreigners may opt to use agricultural land within the long-term leasing system for up to 40 years renewable.<br>**National Treatment:**<br>• The acquisition by foreign investors of land or other real estate for the purpose of developing industrial/tourist projects and other services is subject to administrative authorization. The project must conform with the use (tourism, agriculture, industry) reserved for the land in the national development plan. |
| | Entry and Temporary Stay of Natural Persons | **Market Access:** None<br>**National Treatment:** None | **Market Access:** None<br>**National Treatment:** None | **Market Access:**<br>• Unbound, except in the following cases: enterprises that are wholly export-oriented may recruit 4 managerial and supervisory staff of foreign nationality, pursuant to the relevant Tunisian legislation.<br>**National Treatment:**<br>• Any foreign natural person engaged in a salaried activity of any kind must have a contract of employment endorsed by the competent authorities. |
| **Tunisia (*continued*)** | Exchange controls | **Market Access:**<br>• There are no restrictions on most transfers relating to foreign payments. Non-resident enterprises are free to conduct any capital transaction with or in a foreign country.<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:** Unbound |

**Cross-Industry commitments**[1]

| Trading Partner | Category | Cross-Border Supply | Commercial Presence | Presence of Natural Persons |
|---|---|---|---|---|
| | Mode of Supply[2] | | | |
| **Zambia** | All sectors | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:** Unbound<br>**National Treatment:**<br>• With permission from the Bank of Zambia, a foreign-controlled company may obtain loans or overdrafts of up to one-third of the value of its paid up capital. | **Market Access:**<br>• Unbound except for measures concerning the entry and temporary stay of natural persons employed in management and expert jobs for the implementation of foreign investment. The employment of such persons shall be agreed upon by the contracting parties and approved by the Ministry of Home Affairs. Enterprises must also provide training in higher skills for Zambians to enable them to assume specialized roles.<br>**National Treatment:**<br>• Unbound, except for measures concerning the categories of persons referred to under *Market Access*. |
| **Zimbabwe** | All sectors | **Market Access:** Unbound<br>**National Treatment:** Unbound | **Market Access:**<br>• The following limitations apply to foreign investors who seek to acquire shares in companies listed on the Zimbabwe Stock Exchange:<br>S The purchase of shares is limited to 25 percent of the listed issued share capital; this limit is in addition to any existing foreign holding in a company.<br>S A single investor is limited to a maximum of 5 percent of the shares on offer; foreign investors bringing in hard currency may invest a maximum of 15 percent of their assets in primary issues of bonds and stocks.<br>**National Treatment:** Unbound | **Market Access:**<br>• Unbound, except for measures concerning the entry and temporary stay of executives and senior managerial personnel entering as intra-corporate transferees, and except for measures concerning the entry and temporary stay of specialists, subject to lack of availability in the local labor market.<br>**National Treatment:**<br>• None, with respect to categories of natural persons referred to under *Market Access*. |

[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 |
|---|---|---|---|---|---|
| **Egypt** | All services | Full national treatment is extended to foreign personnel of the countries indicated. | Greece, Iraq, Jordan, Libya, Qatar, Sudan, United Arab Emirates, Yemen, and possibly other countries. | This measure will be maintained as long as the agreements referred to previously remain in force or are extended. | To ensure opening of the markets in the noted countries, as other major trading partners do not accord Egyptian nationals satisfactory opportunities. |
| | Audiovisual services | Full national treatment is extended to audiovisual works originating only in countries indicated, with which Egypt is a party to bilateral or multilateral co-production agreements. | Algeria, Cyprus, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Sudan, Syria, Tunisia, United Arab Emirates, and possibly other countries. | This measure will be maintained as long as the agreements referred to previously remain in force or are extended. | To maintain the Arab culture and identity. |
| | Road transport services | The supply of road transport services by foreign suppliers into and across Egypt is limited to vehicles registered in the countries indicated, with which Egypt is a party in bilateral or multilateral agreements. | The Arab-League countries, and possibly other countries. | This measure will be maintained as long as the agreements referred to previously remain in force or are extended. | To promote intra-Arab trade and facilitate movement of Arab citizens into Egypt as stipulated in the Arab-League Agreement. |
| **Morocco** | International road transport | Measures contained in existing and future bilateral or multilateral agreements on the international road transportation of passengers and goods. | All countries | Indefinite | International road transport is a recent activity in Morocco. Bilateral agreements are aimed at protecting national enterprises by guaranteeing them market share and promoting bilateral cooperation among professionals. |
| **South Africa** | Road transportation services | Regional, bilateral, and plurilateral road transport agreements providing for the transport rights to carry goods and passengers to or from South Africa and between third countries concerned, to be reserved for the road transport operators of the contracting parties to existing and future agreements. Cabotage restricted to South African registered vehicles and operators. | Botswana, Lesotho, Swaziland, Malawi, Zimbabwe, and other Sub-Saharan African countries. | Indefinite | To enhance the development of an integrated road transport system to underpin the economic development of the region and to ensure the availability of an efficient distribution network for relief supplies in case of natural disasters. |

**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 |
|---|---|---|---|---|---|
| **Tunisia** | Audiovisual services | Bilateral (governmental) framework agreements on the co-production of films (existing or in the future). | All countries | Not specified | To promote cultural links between the countries concerned. |
| | Road transport services | The provision of services by foreign natural or legal persons from, to, and/or on Tunisian territory, as well as their commercial presence, are confined to nationals of countries with which Tunisia has concluded or may conclude an international agreement in this field, or under a partnership agreement. | All countries | Not specified | To promote the road transport sector by the implementation of a system of mutually advantageous cooperation. |

Source: World Trade Organization, General Agreement on Trade in Services (GATS), Final List of Article II (MFN) Exemptions, Apr. 1994.