Recent Trends in U.S. Services Trade

2009 Annual Report

July 2009
Publication No. 4084

Investigation No. 332-345
United States International Trade Commission

U.S. International Trade Commission

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ABSTRACT

Recent Trends in U.S. Services Trade, 2009 Annual Report focuses principally on professional services (advertising, education, healthcare, and legal services), which provide critical inputs to various goods and service industries, as well as specialized services directly to individual consumers. The largest professional service firms in terms of revenue are located in developed countries and offer their services across the globe through both cross-border trade and affiliate transactions. The markets of many developing countries are growing rapidly and offer larger professional service firms significant merger, acquisition, and investment opportunities. U.S. services overall, and professional services in particular, grew faster in 2007 in terms of contribution to gross domestic product, employment, and cross-border exports than the average annual rate of the preceding five-year period. Services supplied to foreign consumers by foreign-based affiliates of U.S. firms, including those in professional services, also experienced recent strong growth.

PREFACE

This report is the 13th in a series of annual reports on recent trends in U.S. services trade that the U.S. International Trade Commission (the Commission or USITC) has published under investigation no. 332-345. The Commission also publishes an annual companion report under this investigation number on U.S. merchandise trade, titled *Shifts in U.S. Merchandise Trade*. These annual reports are the product of an investigation instituted by the Commission in 1993 under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)).[1] A significant amount of the information contained in this recurring report reflects basic research that requires the Commission's staff to maintain a proficient level of trade and industry expertise. The knowledge, industry contacts, and analytic skills developed in the compilation of this report are vital to enabling the Commission to provide expert analysis of multiple service industries on a timely basis. The Commission has found such expertise to be essential in its statutory investigations and in apprising its varied customer base of global industry trends, regional developments, and competitiveness issues.

In recent years, the Commission has published several reports on the services sector in addition to the *Recent Trends* series. These reports include *Property and Casualty Insurance Services: Competitive Conditions in Foreign Markets* (USITC Publication 4068, March 2009), *Renewable Energy Services: An Examination of U.S. and Foreign Markets* (USITC Publication 3805, October 2005), *Logistic Services: An Overview of the Global Market and Potential Effects of Removing Trade Impediments* (USITC Publication 3770, May 2005), *Air and Noise Pollution Abatement Services: An Examination of U.S. and Foreign Markets* (USITC Publication 3761, April 2005), and *Remediation and Nature and Landscape Protection Services: An Examination of U.S. and Foreign Markets* (USITC Publication 3727, October 2004).

[1] On August 27, 1993, on its own motion and pursuant to section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the USITC instituted investigation no. 332-345, *Annual Reports on U.S. Trade Shifts in Selected Industries*. On December 20, 1994, the Commission on its own motion expanded the scope of this report to include more detailed coverage of service industries. Under the expanded scope, the Commission publishes two annual reports, *Shifts in U.S. Merchandise Trade* and *Recent Trends in U.S. Services Trade*. Services trade is presented in a separate report in order to provide more comprehensive and timely coverage of the sector's performance. The current report format was developed by the USITC in response to Congressional interest in establishing a systematic means of examining and reporting on the significance of major trade developments, by product, and with leading U.S. trading partners, in the services, agriculture, and manufacturing sectors.

ABBREVIATIONS AND ACRONYMS

BEA	Bureau of Economic Analysis
COPD	Chronic Obstructive Pulmonary Disease
CPC	Central Product Classification
CRM	Customer Relationship Management
FDI	Foreign Direct Investment
FLC	Foreign Legal Consultant
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
HMO	Health Management Organization
ICC	International Chamber of Commerce
IMF	International Monetary Fund
IPO	Initial Public Offering
IT	Information Technology
M&A	Merger and Acquisition
NAICS	North American Industry Classification System
OECD	Organization for Economic Cooperation and Development
OPT	Optional Practical Training
SEZ	Special Economic Zone
TPA	Trade Promotion Agreement
USDOC	U.S. Department of Commerce
USITC	U.S. International Trade Commission
USTR	Office of the United States Trade Representative
WTO	World Trade Organization

CONTENTS

CONTENTS–*Continued*

CONTENTS–*Continued*

Page

Boxes—*Continued*

Tables

Figures

CONTENTS–*Continued*

Page

Figures—*Continued*

EXECUTIVE SUMMARY

The United States remains the world's largest services market and also the world's leading exporter and importer of services. Moreover, the United States continues to maintain the largest services trade surplus of any country in the world. Professional service industries, the focus of this year's report,[1] were major contributors to the growing services trade surplus, as evidenced by increasing exports of U.S. advertising, education, healthcare, and legal services. Professional services have a substantial end-user market,[2] and play an integral role in the production of goods and the provision of other services by ensuring, among other things, effective and efficient market transactions through a highly educated and/or highly trained workforce.

Key Findings

Professional Services in the U.S. Economy

The contribution of U.S. professional service industries to gross domestic product (GDP) was large, reaching $1.7 trillion, or 17 percent of the U.S. private-sector GDP in 2007.[3] Professional service workers also make up a large and growing share of the U.S. private-sector workforce and tend to earn higher wages than workers in other sectors. Employment in professional service industries stood at about 25 million full-time equivalent workers in 2007 following an average annual growth of 3 percent from 2002 through 2007. U.S. professional service workers earned an average wage of $53,416 in 2007, higher than the average annual wage earned by workers in the U.S. private sector as a whole ($48,035) and comparable to the average wage earned by U.S. manufacturing workers ($54,482). However, average labor productivity—or output per employee—in U.S. professional service industries stood at only $54,361 in 2007, as compared with $93,118 per employee in the overall private sector. The coexistence of high wages and low labor productivity may be due to limited technology-driven efficiency gains in industries such as education and healthcare, where a relatively high level of human interaction is needed. Due to an inability to automate certain activities, professional service providers' productivity growth has lagged behind the rest of the private sector, in particular, manufacturers of durable goods. However, in recent years, the development and use of productivity improving technologies in the advertising, education, healthcare, and legal service industries has been increasing.

Demand and Supply Factors in Selected Professional Service Industries

Factors that have affected professional service firms worldwide include economic growth, government regulation, and technological developments. The demand and supply factors that have most affected global advertising, education, healthcare, and legal services in recent

[1] Beginning with last year's report, analysis of selected infrastructure and distribution services alternates on a biennial basis with analysis of selected business and professional services.

[2] As opposed to entities that purchase products or services in order to distribute or resell them to other consumers (e.g., wholesalers or intellectual property rights licensers), end users purchase and use the product or service directly (e.g., university students or hospital patients).

[3] Unless otherwise noted, all values cited in this report are in nominal terms.

years are summarized in table ES.1. Economic growth in many emerging markets has driven global demand for advertising and legal services, as more local businesses seek to enter and compete in new markets. Moreover, government policies that provide tax incentives and liberalize visa regimes have promoted foreign direct investment in local education and healthcare systems. Such regulatory measures have also led to higher foreign student enrollment in universities and greater medical tourism. Lastly, technological advances have allowed advertising and healthcare service providers to reach more consumers at lower cost through, among other things, the use of the Internet and digital video and telecommunications equipment.

TABLE ES.1 Demand and supply factors in selected professional service industries

Industry	Demand factors	Supply factors
Advertising services	• Economic growth in developing markets (i.e., China and India) • Emergence of demand for the "full-service" advertising agency model • Proliferation of "multichannel marketing" or interactive marketing services	• Rapid growth of Internet advertising and digital media • Increased competition from hi-tech boutique agencies and media companies • Regulatory changes in foreign markets and other market access barriers
Education services	• Perceived prestige of universities in certain countries • Rise of globalization and interaction among individuals from other cultures • Insufficient higher education systems in home markets • Economic growth and increased personal income • Government initiatives that spur partnerships, promote favorable financing, and regulate student visa regimes	• Government policies that support education infrastructure development and program/system upgrades
Healthcare services	• Demographic shifts such as aging populations and increased incidence of chronic diseases • Government initiatives that promote local healthcare sectors internationally and influence visa regimes	• Government policies that facilitate development of the healthcare sector through infrastructure investment incentives • Development of diagnostic and clinical technologies
Legal services	• Economic growth and globalization • Firm-level characteristics such as reputation, foreign language capabilities, and practice specialization	• Labor-cost-saving technologies and outsourcing • Regulations regarding commercial presence and the education and licensing of foreign legal professionals

Source: Compiled by Commission staff.

Liberalization of Barriers to Professional Services Trade

U.S. professional service providers face a wide variety of trade barriers, but the most common include those that deny recognition of foreign qualifications and competence, impose local presence and nationality requirements, and restrict establishment and/or investment abroad. The World Trade Organization's General Agreement on Trade in Services (GATS) addresses these barriers only to a limited extent. Recently implemented U.S. bilateral and regional free trade agreements, such as the Dominican Republic-Central America-United States Free Trade Agreement, address these barriers more comprehensively, as do the pending free trade agreements with Korea, Colombia, and Panama.

U.S. Trade in All Services

U.S. Trade in Services

The overall U.S. cross-border trade surplus in services grew in 2007 to $138.9 billion, the highest level recorded to date. In that year, total U.S. exports of cross-border services reached $480.0 billion. The United Kingdom accounted for the largest single-country share of total U.S. services exports in 2007, followed by Canada and Japan, respectively. In 2007, U.S. imports of cross-border services totaled $341.1 billion. The United Kingdom (13 percent), Japan, Canada, and Germany (7 percent each) accounted for the largest single-country shares of U.S. services imports in 2007. The EU as a whole accounted for almost 40 percent of total U.S. exports and imports of cross-border services.

U.S. parent firms' sales of services through their affiliates established abroad increased significantly in 2006, the latest year for which full year data were available. Foreign affiliate sales of services increased by 11 percent to $806.3 billion in 2006. In comparison, domestic purchases of services from foreign parent firms' affiliates established in the United States grew by 17 percent to $615.9 billion in 2006, nearly twice the average annual growth rate from 2002 through 2005 (9 percent).

U.S. Trade in Professional Services

In 2007, the U.S. cross-border trade surplus in professional services reached $30.6 billion, with U.S. exports of professional services totaling $90.6 billion. The United Kingdom accounted for the largest single-country share of U.S. professional services exports in 2007, followed by Canada, Japan, Ireland, and Germany, respectively. U.S. imports of professional services reached $60.0 billion in 2007. In that year, the United Kingdom was the largest foreign source of U.S. imports of professional services, with Canada, India, Germany, and Japan following.

Sales of professional services by foreign affiliates of U.S. firms totaled $117.5 billion in 2006, far exceeding purchases of professional services from U.S. affiliates of foreign firms (about $55.3 billion). Professional services comprised a significant share of total U.S. affiliate services transactions, accounting for 15 percent of services sold by U.S.-owned foreign affiliates and about 9 percent of services purchased from foreign-owned U.S. affiliates in 2006.

Recent ITC Roundtable Discussion

The Commission hosted its second annual services roundtable on December 4, 2008. The roundtable drew participation from services sector experts within industry, government, and academia, including researchers from the World Bank, the Peterson Institute for International Economics, and the American Enterprise Institute. The discussion focused on the financial crisis of 2008, the prospects for liberalization under GATS, and other liberalization efforts.

Some roundtable participants expressed concern that the financial crisis will adversely impact the progress of trade liberalization, both in the financial services sector and in the larger services arena, and that there is an increased urgency for continued education on the developmental benefits of trade liberalization. Some participants expressed the view that substantial work remains with regard to the liberalization of services markets under GATS and that a new approach is needed if the United States and its trade partners are to advance services negotiations in that forum. Some participants also noted the importance of multilateral avenues for services liberalization outside of the formal framework of GATS negotiations and concurred that, for countries to move forward with liberalization efforts, they must have a clear understanding of the benefits to their domestic economies of an open investment regime.

CHAPTER 1
Introduction

Scope

This annual report examines U.S. services trade, both in the aggregate and in selected industries, identifies important U.S. trading partners, and briefly analyzes global competitive conditions in selected service industries. This year's report focuses primarily on professional services, specifically advertising, education, healthcare, and legal services.

Data and Organization

The Commission draws much of the services trade data used throughout this report from the U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA).[1] In many cases, such data are supplemented with information drawn from multiple other sources, including individual service firms, trade associations, industry and academic journals and reports, electronic media, international organizations, and other government agencies.

The balance of this chapter examines cross-border trade from 2002 through 2007 and affiliate sales from 2001 through 2006,[2] compares trade during the most recent year to previous trends, and describes the nature and extent of cross-border trade and affiliate transactions. Chapter 2 discusses recent trends affecting multiple professional service industries and examines the contribution of these industries in terms of economic output, employment, labor productivity, and trade. Chapters 3 through 6 provide analysis of the advertising, education, healthcare, and legal service industries. These chapters provide an overview of global competitiveness, examine recent trends in cross-border trade and/or affiliate transactions, and summarize activity regarding the liberalization of trade impediments. Lastly, chapter 7 summarizes a services trade roundtable discussion hosted by the U.S. International Trade Commission in December 2008.

The U.S. Services Sector

Service industries are a significant and steady contributor to overall U.S. production and employment. In 2007, the U.S. services sector accounted for 79 percent (or $8.1 trillion) of total U.S. gross domestic product (GDP) and 79 percent (or 87 million) of U.S. full-time equivalent employees. In that year, services sector workers earned an average salary of $46,978, which is comparable to the average U.S. salary of $48,035. Recent growth in the U.S. services sector has kept pace with growth in the U.S. economy, as average annual increases in services sector GDP, employment, and wages were within 1 percent of the

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[1] The BEA's data are compiled from surveys of services directed to specific service industries or types of investment. For more information about the BEA's methods, see USDOC, BEA, *Survey of Current Business*, October 2008, 17.

[2] Data on affiliate transactions lag those on cross-border services trade by one year. Analyses of cross-border trade data compare performance in 2007 to trends from 2002 through 2006. Similarly, analyses of affiliate sales compare performance in 2006, the most recent year for which affiliate sales data are available, to trends from 2001 through 2005.

growth rates registered for the United States as a whole from 2002 through 2007. A more detailed discussion of production and labor trends in U.S. professional service industries, which are the focus of this report, is provided in chapter 2.[3]

Global Services Trade

The United States is competitive in the global services market. As the world's top exporter of services, the United States accounted for $456.4 billion, or 14 percent, of global cross-border commercial services exports in 2007 (figure 1.1).[4] Other top single-country exporter markets included the United Kingdom (8 percent) and Germany (6 percent). Although most of the world's top 10 services exporters in 2007 were developed countries, China and India ranked as the world's seventh- and ninth-largest services exporters, respectively. Overall, the top 10 exporting countries accounted for 53 percent of such exports in 2007.[5]

The United States also was the world's largest services importer in 2007, with $335.9 billion, or 11 percent of global commercial services imports. In that same year, Germany and the United Kingdom respectively accounted for 8 percent and 6 percent of such imports, while the top 10 importing countries together accounted for 51 percent of global commercial services imports. China, which was the fifth-largest importer of commercial services in 2007, was the only developing country to rank among the top 10 global importers.

Among the world's top 10 exporters and importers of commercial services, the United States recorded the largest services trade surplus ($120.5 billion) in 2007, followed by the United Kingdom ($78.9 billion). Germany and Japan recorded the largest services trade deficits, with imports exceeding exports by $44.7 billion and $21.6 billion, respectively.[6]

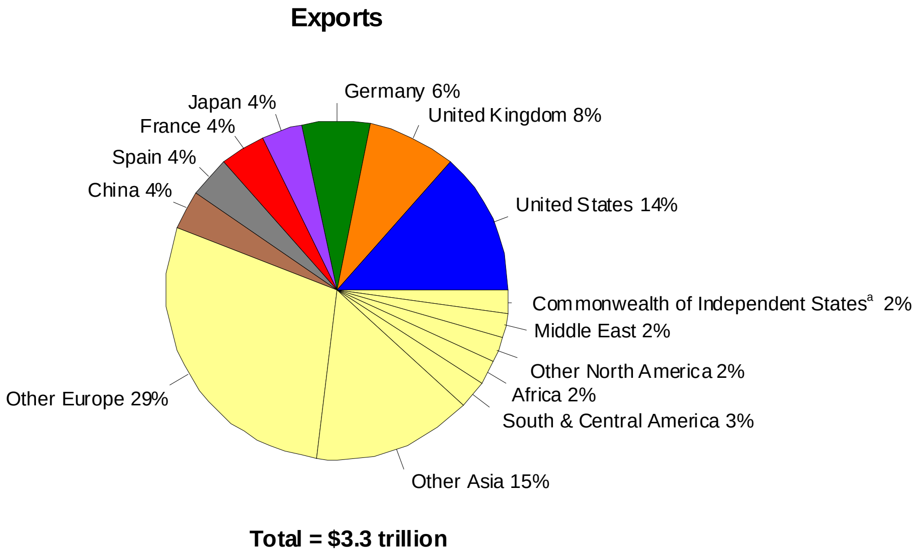
[3] USDOC, BEA, "Real Value Added by Industry," December 15, 2008 (accessed February 24, 2009); USDOC, BEA, "Full-Time Equivalent Employees by Industry," December 15, 2008 (accessed February 24, 2009); and USDOC, BEA, "Table 6.6D: Wage and Salary Accruals," August 6, 2008 (accessed February 24, 2009).

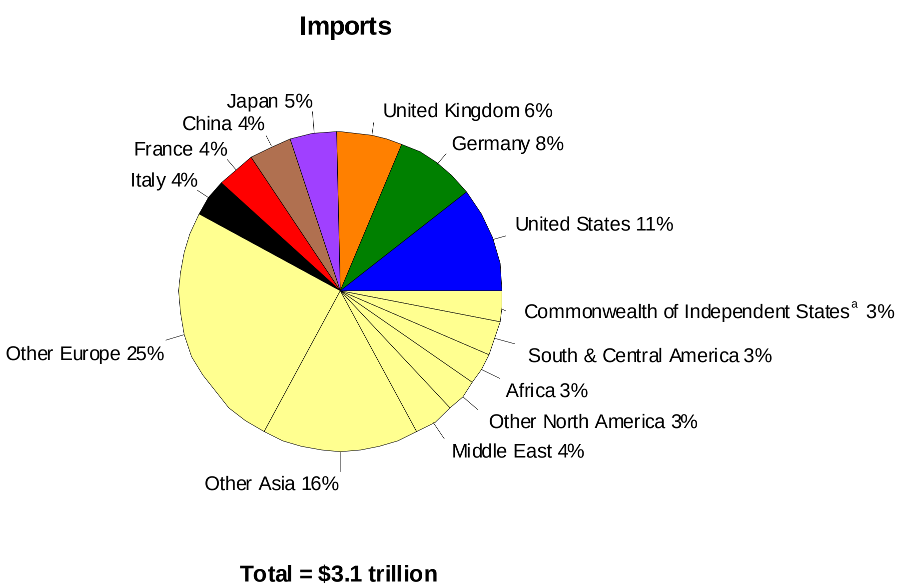
[4] USDOC, BEA representative, telephone interview by Commission staff, February 25, 2009. The term "commercial services," like the term "private services," refers to services offered by the private, rather than the public, sector. The discrepancy between BEA trade data and WTO trade data, the latter of which is sourced from the International Monetary Fund (IMF), stems from different classification systems. For example, BEA considers the repair of goods a service, whereas the IMF considers the activity a good.

[5] WTO, *International Trade Statistics 2008*, table III.1, 2008, 123.

[6] Ibid.

FIGURE 1.1 Global cross-border exports and imports of services, by country or region, 2007





Source: WTO, *International Trade Statistics 2008,* tables A8 and A9, 2008, 189–94.

Notes: Excludes public-sector transactions. Data may not equal 100 percent due to rounding. Geographic regions are shaded yellow.

[a]Includes Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldova, Russia, Tajikistan, and Ukraine.

U.S. Trade in Services

The USDOC, BEA publishes data on both cross-border and affiliate trade in services, which together comprise a substantial portion of the services provided through all four modes of supply specified in the General Agreement on Trade in Services (GATS) (box 1.1). "Cross-border transactions" occur when suppliers in one country sell services to consumers in another country, with people, information, or money crossing national boundaries in the process. Such transactions appear explicitly as imports and exports in the balance of payments. Firms also provide services to foreign consumers through affiliates established in host countries, with the income generated by "affiliate transactions" appearing as direct investment income in the balance of payments. The channel of delivery used by service providers depends primarily on the nature of the service. For example, many services provided to businesses, such as advertising services, are supplied most effectively by affiliates located close to the consumer. Conversely, trade in education services predominantly takes the form of cross-border transactions involving students studying abroad. Affiliate transactions are the principal means of providing services to overseas customers, accounting for 66 percent of overall U.S. services trade volume in 2006 (box 1.2).

BOX 1.1 Services Trade and the General Agreement on Trade in Services

Cross-border trade and affiliate transactions reported by the Bureau of Economic Analysis (BEA) do not correspond exactly to the channels of service delivery reflected in the General Agreement on Trade in Services (GATS) of the WTO.[a] GATS identifies four modes of supply through which services are traded between WTO members: cross-border supply (mode 1), which is not synonymous with BEA's data for cross-border trade, in which a service is supplied by an individual or firm in one country to an individual or firm in another (i.e., the service crosses national borders); consumption abroad (mode 2), in which an individual from one country travels to another country and consumes a service in that country; commercial presence (mode 3), in which a firm based in one country establishes an affiliate, branch, or subsidiary in another country and supplies services from that locally established affiliate, branch, or subsidiary; and the temporary presence of natural persons (mode 4), in which an individual service supplier from one country travels to another country on a short-term basis to supply a service there, for example, as a consultant, contract employee, or intracompany transferee at a branch or subsidiary established by that individual's firm in another country.[b] The BEA notes that mode 1 and 2 transactions and some mode 4 transactions generally are included in its data on cross-border trade, while mode 3 transactions are included, with some exceptions, in affiliate transactions.

[a]USDOC, BEA, *Survey of Current Business*, tables 1 and 2, October 2008, 38–41.

[b]For more information on modes of supply under GATS, see WTO, "Chapter 1: Basic Purpose and Concepts," undated (accessed April 7, 2009).

BOX 1.2 The Rise of Affiliate Transactions

Since 1986, when the U.S. Department of Commerce began collecting statistics on U.S. services trade, the relative importance of cross-border trade and affiliate transactions has shifted significantly.[a] In the 10-year period from 1986 through 1995, U.S. cross-border exports of services consistently exceeded sales by majority-owned foreign affiliates of U.S. firms by average annual margins of approximately 18 percent. Since 1996, however, sales by U.S. firms' foreign affiliates exceeded cross-border services exports. In 2006, sales by U.S. firms' affiliates abroad ($806.3 billion) exceeded U.S. cross-border exports of services ($415.3 billion) by approximately 94 percent. Similarly, U.S. purchases of services from foreign-owned affiliates have exceeded cross-border services imports since 1989. In 2006, sales to U.S. citizens by the U.S. affiliates of foreign companies ($615.9 billion) exceeded cross-border services imports ($313.9 billion) by 96 percent.[b] The growing predominance of affiliate transactions largely reflects the global spread of service firms, facilitated by the liberalization of investment and services trade regimes, which first occurred in developed countries and more recently in a growing number of low- and middle-income countries.

[a]USDOC, BEA, *Survey of Current Business*, October 2006, 20–21.
[b]USDOC, BEA, *Survey of Current Business*, October 2008, 18.

Cross-border Trade

In recent years, expansion in major U.S. trading partners' economies have contributed to accelerated U.S. services exports.[7] According to BEA data on trade in private-sector services,[8] U.S. cross-border services exports increased by 16 percent in 2007, faster than the average annual growth rate of 10 percent recorded during the five-year period beginning in 2002. U.S. exports of private-sector services totaled $480.0 billion in 2007, while U.S. imports totaled $341.1 billion, resulting in a $138.9 billion trade surplus (figure 1.2).[9] Export growth in 2007 was dispersed broadly across service industries, led by increases in advertising services (27 percent), audiovisual services (24 percent), financial services and computer and information services (23 percent each), and legal services (21 percent). U.S. imports of services grew by 9 percent in 2007, slower than the 11 percent average annual rate from 2002 through 2006. Industrial engineering posted the highest growth rate (45 percent). Other industries that registered large increases in U.S. imports were financial services (33 percent), audiovisual services (32 percent), and legal services (28 percent). Travel services accounted for the largest share of U.S. services trade in 2007, representing 20 percent of U.S. exports and 22 percent of U.S. imports (figure 1.3).[10]

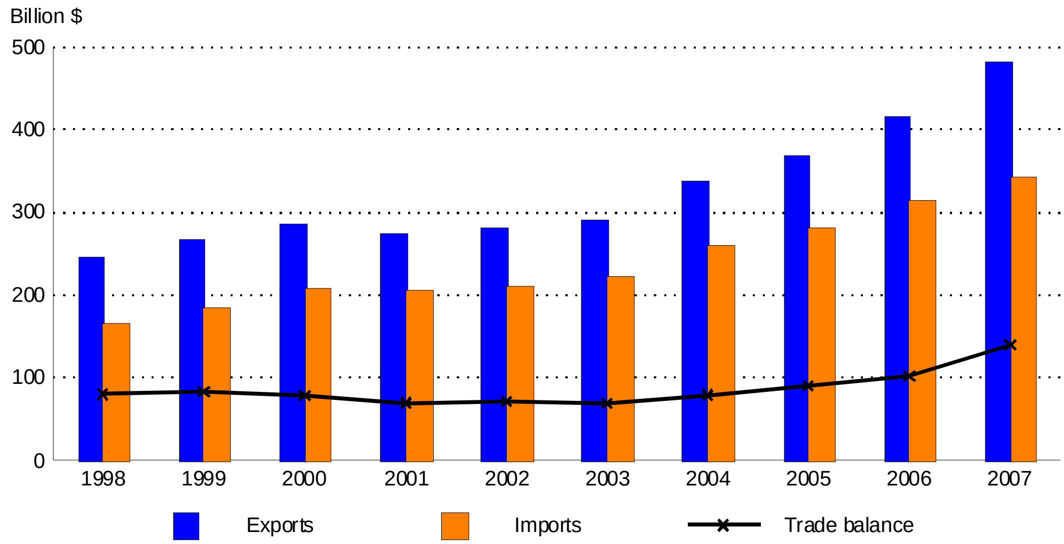
[7] The main source for this section is the USDOC, BEA, *Survey of Current Business*, various years.

[8] Cross-border services trade, as reported in the current account, includes both private- and public-sector transactions. The latter principally reflect operations of the U.S. military and embassies abroad. However, because public-sector transactions are not considered to reflect U.S. service industries' competitiveness and may introduce anomalies resulting from events such as international peace-keeping missions, this report will focus solely on private-sector transactions, except where noted.

[9] USDOC, BEA, *Survey of Current Business*, June 1992, 68–70. Values are reported before deductions for expenses and taxes, as gross values are most directly comparable across countries, industries, and firms.

[10] USDOC, BEA, *Survey of Current Business*, tables 3.1–7.2, October 2008, 42–57.

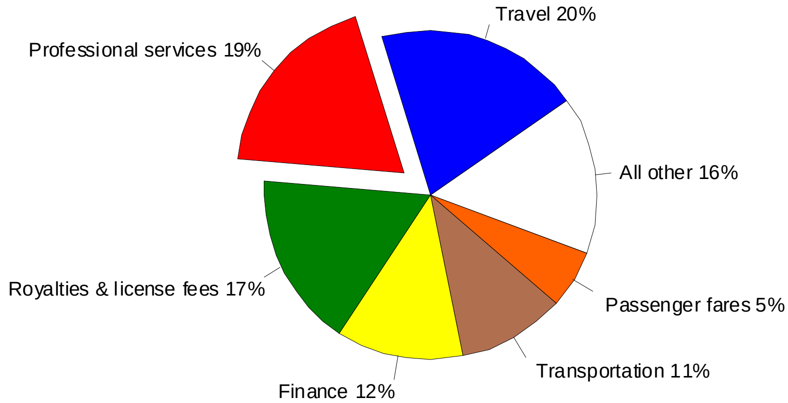
FIGURE 1.2 U.S. cross-border trade in private-sector services: Exports, imports, and trade balance, 1998–2007



Source: USDOC, BEA, *Survey of Current Business*, table 2, October 2008, 40–41.

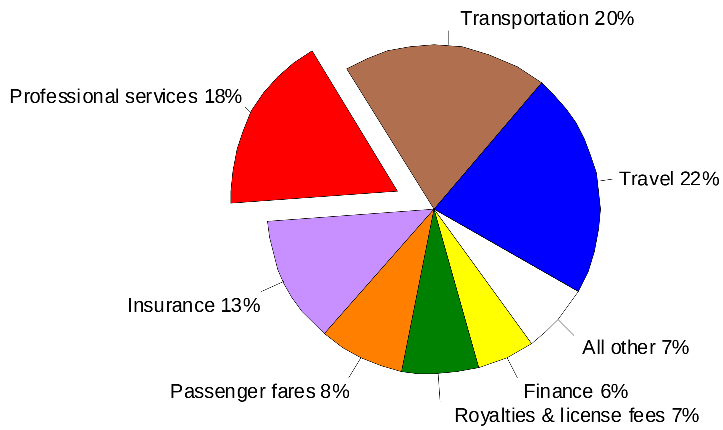
FIGURE 1.3 U.S. cross-border exports and imports of services, by industry, 2007[a]

Exports



Total = $480.0 billion

Imports



Total = $341.1 billion

Source: USDOC, BEA, *Survey of Current Business*, table 1, October 2008, 38–39.

Note: Trade data exclude public-sector transactions.

[a]Data may not equal 100 percent due to rounding.

As in most previous years, the majority of U.S. service industries registered cross-border trade surpluses in 2007. Royalties and license fees ($57.6 billion) netted the largest surplus in 2007, followed by financial services ($39.3 billion), travel services ($20.6 billion), audiovisual services ($13.6 billion), and education services ($11.2 billion). As in previous years, service industries that netted cross-border trade deficits in 2007 included insurance services ($32.5 billion), transportation services ($15.5 billion), and passenger fares ($2.9 billion). The deficit in insurance services principally reflects U.S. primary insurers' payments to European reinsurers in return for assuming a portion of large risks. The deficit in transportation services (i.e., freight transport and port fees) largely reflects the U.S. deficit in manufactured goods trade and the method the BEA uses to measure freight transportation trade. For example, Chinese shipments of manufactured goods to the United States vastly exceed U.S. shipments of goods to China, and payments to Chinese or other foreign shippers are recorded as U.S. imports of transportation services.

A small number of developed countries account for a substantial share of U.S. cross-border services trade. As in 2006, the United Kingdom accounted for the largest single-country share of total U.S. cross-border services exports in 2007, with 13 percent. Canada (9 percent) switched places with Japan (8 percent) as the second-largest single-country market for U.S. services exports in 2007. The United Kingdom (13 percent) and Japan, Canada, and Germany (7 percent each) had the next-largest single-country shares of U.S. services imports in 2007. The EU as a whole accounted for 37 percent of U.S. exports and 39 percent of U.S. imports in 2007.[11]

In 2007, the United States maintained large bilateral services trade surpluses with Canada ($18.3 billion), the United Kingdom ($17.7 billion), Japan ($15.8 billion), and Mexico ($8.2 billion), and netted a large regional trade surplus with the EU ($46.1 billion). The United States also posted a large services trade surplus with China, totaling $5.4 billion in 2007. In that same year, the United States registered its largest bilateral services trade deficit with Bermuda ($9.5 billion), which largely reflected payments for insurance and reinsurance services to U.S. and foreign firms that have set up operations in Bermuda.[12]

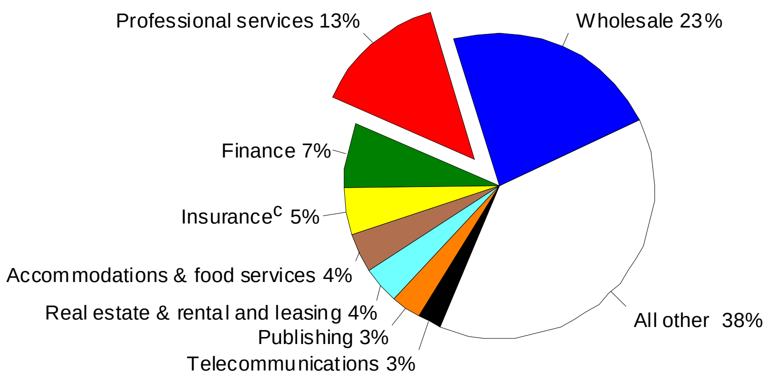
Affiliate Transactions

In 2006, sales of services by foreign affiliates of U.S. firms increased by 11 percent to $806.3 billion, slower than the 15 percent average annual growth rate registered from 2001 through 2005.[13] Sales by foreign affiliates in the wholesale industry accounted for approximately 23 percent of total foreign affiliate sales, the largest single-industry share (figure 1.4). The largest host-country markets for sales by U.S.-owned foreign affiliates were the United Kingdom (19 percent), Canada (11 percent), Japan (7 percent), and Germany (6 percent). As a whole, the EU accounted for 50 percent of total foreign affiliate sales in 2006.[14]

[11] USDOC, BEA, *Survey of Current Business*, table 2, October 2008, 40–41.
[12] Ibid. The vast majority of these payments are recorded as unaffiliated transactions, as they are undertaken on behalf of third-party policyholders.
[13] The main source for this section is the USDOC, BEA, *Survey of Current Business*, various years.
[14] USDOC, BEA, *Survey of Current Business*, table 8, October 2008, 58.

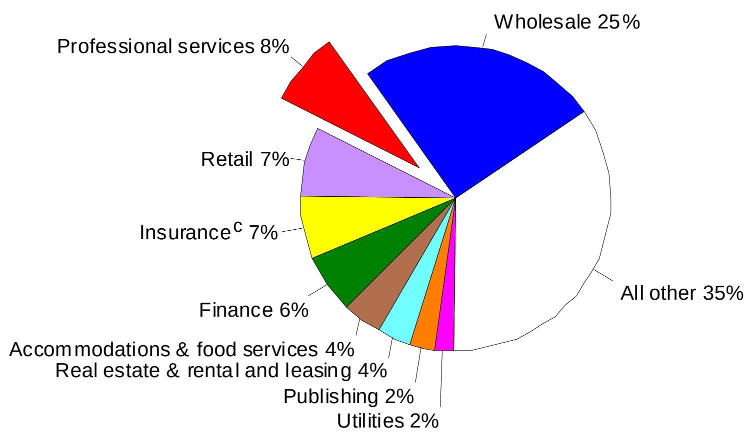
FIGURE 1.4 Services transactions by affiliates, by industry, 2006[a]

Sales by foreign affiliates of U.S. firms[b]



Total = $806.3 billion

Purchases from U.S. affiliates of foreign firms[d]



Total = $615.9 billion

Source: USDOC, BEA, *Survey of Current Business*, table 9.2 and table 10.2, October 2008, 60, 62.

Note: Trade data exclude public-sector transactions.

[a]Data may not equal 100 percent due to rounding.
[b]Services supplied by majority-owned foreign affiliates of U.S. parent firms.
[c]Includes insurance carriers, agencies, brokerages, and other insurance-related activities.
[d]Services supplied by majority-owned U.S. affiliates of foreign parent firms.

In 2006, purchases of services from U.S. affiliates of foreign firms increased by 17 percent to $615.9 billion, nearly twice the 9 percent average annual growth rate recorded from 2001 through 2005. As with affiliate sales, services purchased from U.S. wholesale affiliates accounted for the largest share (25 percent) of total U.S. affiliate purchases in 2006. In that year, U.S. affiliates of UK-parent firms accounted for 16 percent of purchases of services from foreign-owned U.S. affiliates. Other single-country markets that accounted for significant shares of U.S. affiliate purchases of services included Japan (14 percent), Germany (13 percent), France (10 percent), and Canada (9 percent). Collectively, 55 percent of U.S. affiliate purchases were of services from affiliates of EU-parent firms.[15]

[15] Ibid.

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CHAPTER 2
Professional Services Overview

Professional service industries are characterized by high labor intensity and a heavy reliance on well-educated and/or highly trained employees.[1] Doctors, lawyers, engineers, accountants, educators, and other professional service suppliers commonly hold advanced degrees and may earn high salaries, raising the value of labor inputs in these industries. The provision of professional services is typically subject to close government regulation and/or self-regulation through industry associations. Regulations often require professional service practitioners to obtain a license or approval to provide the subject services. Regulations affecting foreign participation, price competition, business relationships, and advertising in professional service industries are also common.[2] Such regulations protect consumers by controlling service quality and ensuring the competence and ethical behavior of service providers, but have the potential to limit competition and transparency in these industries.[3]

The professional services sector provides critical inputs to all sectors of the economy, including other services. For example, law firms provide support for commercial transactions and buyer/seller relationships, while accounting firms provide critical services related to company management and regulatory compliance.[4] Engineers and architects design modern office buildings and develop production processes for manufacturers and firms in other service industries.[5] Engineering firms also contribute to the construction of infrastructure such as roads and provide advisory, assessment, and management services.[6]

In recent years, several cross-cutting factors have had a substantial impact on firms in multiple professional service industries. Demand for professional services is substantially affected by the overall economic growth rate and, thus, has been affected by the current economic downturn. This sensitivity exists because purchases by commercial clients and other entities in downstream markets—which are key consumers of professional services—vary according to their level of economic activity. However, some industries, such as accounting and legal services, have seen increased demand for specific services related to the bankruptcies, insolvencies, and litigation resulting from the recent financial crisis. Firms in certain professional service industries have benefitted from recent regulatory changes. For example, the Sarbanes-Oxley Act and the establishment of international accounting standards contributed to rapid growth in the accounting industry from 2004 through 2006, while the increasing complexity of legislation in U.S. and foreign markets has contributed to growth in the legal service industry. Further, technological developments have increased the efficiency of professional service firms and their ability to provide

[1] Nguyen-Hong, "Restrictions of Trade in Professional Services," August 2000, 3.
[2] OECD, "Competition in Professional Services," February 2002, 61.
[3] Ibid., 60.
[4] Nguyen-Hong, "Restrictions of Trade in Professional Services," August 2000, 3.
[5] Ibid.
[6] IBISWorld, "Engineering Services," December 24, 2008, 25–26.

certain services, such as Internet advertising, distance learning,[7] and telemedicine. To the extent that technological advances enable the provision of services such as these, or generate efficiency gains or cost reductions in such provision, such advances can have a positive effect on the economy as a whole.[8]

Outsourcing[9] also has had a positive impact on output in U.S. professional service industries,[10] contributing to growth in the share of overall GDP accounted for by the services sector.[11] Specifically, demand for outsourced services has had a positive effect on accounting firms, which have benefitted from increased government outsourcing, and engineering firms, which have benefitted from a growing propensity to outsource certain services to niche engineering companies.[12] However, growth in domestic outsourcing has slowed in recent years, possibly due to increased subcontracting with foreign service firms or an overall decrease in outsourcing activities.[13] Further, there is concern that problems in the banking sector and the overall decline in economic activity associated with the current financial crisis may lead to a decrease in outsourcing, particularly as the financial sector accounts for a significant share of outsourcing revenue. However, some industry sources suggest that the crisis could result in increased demand for outsourced services as firms look to cut costs, and as demand for less expensive legal services rises due to the increase in lawsuits related to subprime mortgages.[14]

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[7] Distance learning or distance education (synonymous) is a formal education process in which the student and instructor are not in the same location. Such education may or may not be synchronous; it may involve the use of video, audio, computer technologies, or correspondence. For more information, see Parsad and Lewis, *Distance Education at Degree-Granting Postsecondary Institutions: 2006–07*, December 2008.

[8] IBISWorld, "Law Firms," September 22, 2008, 33; IBISWorld, "Accounting, Tax, Bookkeeping & Payroll Services," November 17, 2008, 31–32; IBISWorld, "Advertising Agencies," October 8, 2008, 36; and IBISWorld, "Engineering Services," December 24, 2008, 42.

[9] BusinessDictionary.com, "Outsourcing," undated (accessed June 10, 2009). Outsourcing occurs when one firm contracts another firm to perform non-core tasks, such as when an accounting firm procures legal services from an outside law firm. By externalizing those tasks that it does not perform competitively, a company frees up resources that can be redirected towards its areas of expertise which may, in turn, decrease average production costs. Outsourcing can occur among firms in the same country market, as well as between firms based in different country markets.

[10] Yuskavage, Strassner, and Medeiros, "Outsourcing and Imported Services," April 28–29, 2006, 1.

[11] McKenzie,"The Emergence of the Service Economy," October 27, 1987; Tregenna, "Quantifying the Outsourcing of Jobs from Manufacturing to Services," August 2008, S222–23. A certain amount of services sector growth attributed to outsourcing is likely a product of the reclassification of outsourced activities. Specifically, as manufacturing firms cease to perform administrative, transport, and other services tasks and begin to source these services from firms that specialize in these activities, output that had been classified as a product of the manufacturing sector is reclassified as a services product. However, recent analysis suggests that the impact of such reclassification on the observed growth of the services sector is likely small.

[12] IBISWorld, "Law Firms," September 22, 2008, 33; IBISWorld,"Accounting, Tax, Bookkeeping & Payroll Services," November 17, 2008, 31–32; IBISWorld,"Advertising Agencies," October 8, 2008, 36; and IBISWorld,"Engineering Services," December 24, 2008, 42.

[13] Yuskavage, Strassner, and Medeiros, "Outsourcing and Imported Services," April 28–29, 2006, 1.

[14] Sheth, "With Times Tight, Even Lawyers Get Outsourced," November 26, 2008; *Economist*, "In a Pinch: How the Financial Crisis Will Affect the Outsourcing Industry," October 9, 2008.

Gross Domestic Product, Employment, Salaries, and Labor Productivity

Professional service industries make up a large and rapidly growing segment of the U.S. private sector.[15] In 2007, professional service industries recorded real GDP of $1.7 trillion, or 17 percent of total U.S. private-sector GDP (figure 2.1).[16] In recent years, U.S. professional service industries' contribution to GDP has grown more rapidly than the private sector as a whole. From 2002 through 2006, U.S. professional service industries' GDP contribution increased at an average annual rate of 5 percent, faster than the 3 percent growth rate registered in total U.S. private-sector GDP during that period. While growth in U.S. private-sector GDP slowed to 2 percent in 2007, U.S. professional service industries' contribution to GDP continued to grow by 5 percent.[17] Among the services discussed in chapters 3–6 of this report, healthcare services accounted for the largest share of professional services GDP, with 39 percent in 2007 (figure 2.2).

Professional service workers account for a growing share of the U.S. private-sector workforce and tend to earn higher wages than workers in other sectors. From 2002 through 2007, employment in professional service industries increased at an average annual rate of 2.56 percent, faster than the average annual growth in overall service sector employment (1.57 percent) and total private-sector employment (1.14 percent) during the same period (table 2.1). By 2007, professional services industries employed about 25 million full-time equivalent workers, representing 22 percent of private-sector workers.[18] Healthcare services accounted for the largest share of U.S. professional services employment, with 48 percent in 2007 (figure 2.3). U.S. professional service workers earned an average wage of $53,416 in 2007, with average wages in discrete professional service industries ranging from $37,144 for education service employees to $93,081 for computer systems design and related service employees. In that year, the average annual wage in professional services exceeded the average annual wage earned by workers in the U.S. private sector as a whole ($48,035) and was comparable to the average wage earned by U.S. manufacturing workers ($54,482). Recent growth in U.S. professional service wages has not diverged significantly from wage growth in the larger economy, having increased at a slightly slower rate than that of the overall private sector from 2002 through 2006, and at a slightly faster rate in 2007.[19]

[15] Professional services include legal services; computer systems design and related services; education services; healthcare services; miscellaneous professional, scientific, and technical services; and social services.

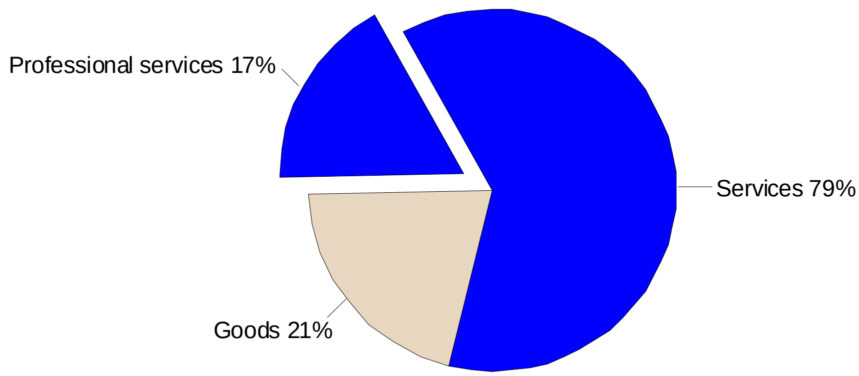
[16] Real values are based on year 2000 dollars. Real values were used in order to accommodate labor productivity analysis later in the chapter.

[17] USDOC, BEA, "Real Value Added by Industry," December 15, 2008 (accessed February 24, 2009).

[18] USDOC, BEA, "Full-Time Equivalent Employees by Industry," December 15, 2008 (accessed February 24, 2009).

[19] USDOC, BEA, "Table 6.6D: Wage and Salary Accruals," August 6, 2008 (accessed February 24, 2009).

FIGURE 2.1 U.S. private-sector contribution to gross domestic product, by industry, 2007



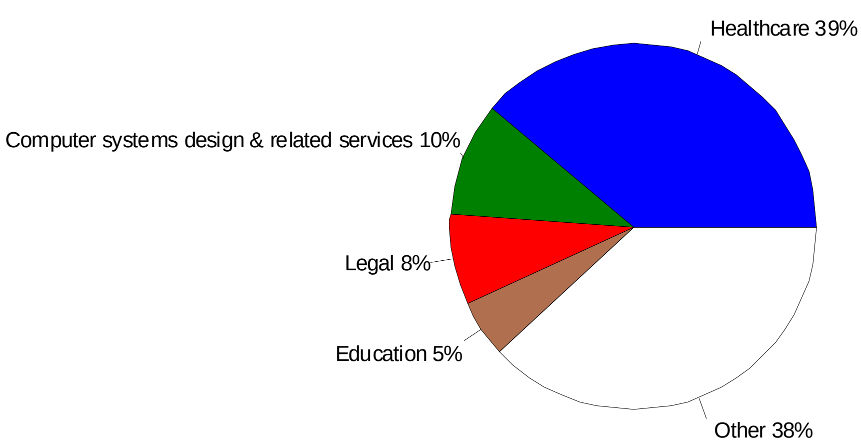
Total = $10.3 trillion[a]

Source: USDOC, BEA, "Real Value Added by Industry," interactive tables, December 15, 2008 (accessed February 24, 2009).

Note: Data may not equal 100 percent due to rounding.

[a]Real values are based on year 2000 dollars.

FIGURE 2.2 Professional services contribution to gross domestic product, 2007



Total = $1.7 trillion[a]

Source: USDOC, BEA, "Real Value Added by Industry," interactive tables, December 15, 2008 (accessed February 24, 2009).

Note: Data may not equal 100 percent due to rounding.

[a]Real values are based on year 2000 dollars.

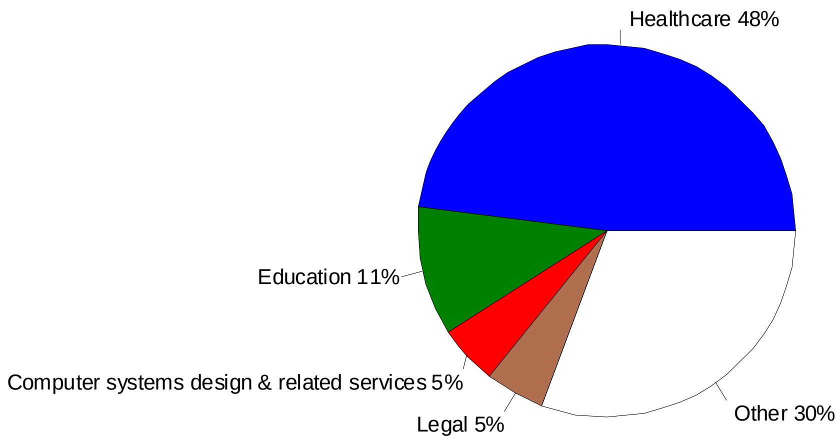
TABLE 2.1 Full-time equivalent employees, wage and salary accruals, and labor productivity, by goods and service industries, 2002–07

	2002	2003	2004	2005	2006	2007	Average annual growth rate, 2002–07 (%)
Full-time equivalent employees (FTEs, thousands)							
Private sector	104,025	103,396	104,518	106,880	108,976	110,077	1.14
Goods	23,657	22,913	22,939	23,200	23,457	23,182	-0.40
Manufacturing	15,056	14,306	14,117	14,041	13,977	13,692	-1.88
Durable manufacturing	9,374	8,856	8,809	8,870	8,880	8,703	-1.47
Nondurable manufacturing	5,681	5,451	5,309	5,172	5,097	4,989	-2.56
Services	80,368	80,483	81,579	83,680	85,539	86,895	1.57
Professional services	21,735	22,039	22,509	23,227	24,023	24,659	2.56
Wage and salary accruals ($ per FTE)							
Private sector	39,610	40,901	42,505	43,996	45,992	48,035	3.93
Goods	42,725	44,118	45,609	47,378	49,800	51,997	4.01
Manufacturing	44,864	46,753	48,659	50,140	52,315	54,482	3.96
Durable manufacturing	47,047	49,046	51,096	52,383	54,953	57,083	3.94
Nondurable manufacturing	41,264	43,028	44,615	46,293	47,719	49,945	3.89
Services	38,693	39,985	41,632	43,059	44,949	46,978	3.96
Professional services	44,301	45,586	47,375	49,012	51,071	53,416	3.81
Labor productivity ($ per FTE)							
Private sector	84,759	87,536	90,000	91,130	92,162	93,118	1.90
Goods	85,218	88,433	91,944	91,435	92,921	93,271	1.82
Manufacturing	91,950	97,868	104,718	106,189	112,563	118,215	5.15
Durable manufacturing	88,297	95,912	102,032	106,933	115,507	123,475	6.94
Nondurable manufacturing	97,817	101,119	109,324	106,613	110,447	113,349	2.99
Services	84,624	87,254	89,442	91,047	91,963	93,126	1.93
Professional services	48,581	49,848	51,882	52,232	52,799	54,361	2.27

Sources: USDOC, BEA, “Full-Time Equivalent Employees by Industry,” and “Real Value Added by Industry,” interactive tables, December 15, 2008 (accessed March 26, 2009); USDOC, BEA, “Table 6.6D: Wage and Salary Accruals Per Full-Time Equivalent Employee by Industry,” August 6, 2008 (accessed March 26, 2009).

Note: Real values are based on year 2000 dollars.

FIGURE 2.3 Professional services employment, by industry, 2007



Total = 25 million workers

Source: USDOC, BEA, "Full-Time Equivalent Employees by Industry," interactive tables, December 15, 2008 (accessed February 24, 2009).

Note: Data may not equal 100 percent due to rounding.

Despite the recent growth in U.S. professional services' labor productivity, productivity in this sector is substantially lower than that of the larger U.S. economy. Average labor productivity (or output per employee) in U.S. professional service industries grew at an average annual rate of 2 percent from 2002 through 2006 and increased by nearly 3 percent in 2007.[20] This growth matched the average annual increase in labor productivity across all U.S. private-sector industries from 2002 through 2006 (2 percent) and exceeded the average growth in the private sector in 2007 (1 percent). However, the average labor productivity level in U.S. professional service industries stood at only $54,361 per employee in 2007, as compared with $93,118 per employee in the overall private sector (see table 2.1). The relatively low level of professional services productivity is, in part, a product of particularly low labor productivity levels in the healthcare and education industries, which respectively stood at $22,653 and $33,063 per employee in 2007. Low labor productivity in these industries is a product of the relatively high level of human interaction required in the provision of such services, which likely contributes to the relatively high and rapidly growing costs of education and healthcare.[21]

[20] USDOC, BEA, "Full-Time Equivalent Employees by Industry," December 15, 2008 (accessed February 24, 2009); USDOC, BEA, "Real Value Added by Industry," December 15, 2008 (accessed February 24, 2009). Labor productivity, calculated by Commission staff, is GDP by industry divided by full-time equivalent employees.

[21] Baumol and Bowen, *Performing Arts: The Economic Dilemma*, 1966; Baumol, "Health Care, Education and the Cost Disease," 1993, 19–21. According to Baumol's "cost disease" model, which was first put forward in the 1960s, productivity growth in certain service industries remains relatively low due to an inability to automate certain activities (such as medical examinations) or because labor content is perceived to have an impact on the quality of the service provided (such as with student-teacher ratios in schools). As market forces tend to equalize wages across industries, low productivity will cause prices to rise faster in these industries than in the economy as a whole and consequently grow as a share of the economy.

Recent technological developments have led to some efficiency gains in the healthcare and education industries by streamlining administrative activities and enabling the provision of certain services over the Internet (see chapters 4 and 5). However, the continuing effect of labor intensity on healthcare costs, for example, is supported by recent academic literature[22] and industry overviews.[23]

U.S. Trade in Professional Services

U.S. suppliers of professional services represent a significant share of total U.S. services trade and are particularly competitive in the world market. U.S. trade in professional services accounted for 19 percent of total U.S. cross-border exports and 18 percent of U.S. cross-border imports in 2007.[24] Additionally, U.S. trade in professional services yielded a substantial cross-border trade surplus in that year, with U.S. exports of such services ($90.6 billion) far exceeding U.S. imports of professional services ($60.0 billion). Management and consulting services account for the largest share of U.S. professional services trade (figure 2.4), accounting for 27 percent of U.S. professional services exports and 34 percent of U.S. professional services imports. The United Kingdom (12 percent) accounted for the largest single-country share of U.S. professional services exports in 2007, followed by Canada and Japan (7 percent each), and Ireland and Germany (5 percent each). The United Kingdom was also the largest importer of U.S. professional services, accounting for 17 percent of such services in 2007. Canada (12 percent), India (9 percent), Germany (8 percent), and Japan (5 percent) were the next-largest importers of U.S. professional services in that year.[25]

The United States is also competitive in the provision of professional services through foreign affiliates. Sales of professional services by foreign affiliates of U.S. firms totaled $108.1 billion in 2006, far surpassing purchases of professional services from U.S. affiliates of foreign firms, which totaled at least $48.2 billion.[26] Professional services represented a significant share of total U.S. affiliate services transactions, accounting for 13 percent of services sold by U.S.-owned foreign affiliates and about 8 percent of services purchased from foreign-owned U.S. affiliates in 2006. In that year, computer systems design and related services accounted for the largest share of sales of professional services by foreign

[22] See Hartwig,"What Drives Health Care Expenditure?" May 2008.

[23] See Mandel and Weber, "What's Really Propping Up the Economy," September 25, 2006 and Newbell, "Baumol's Disease," January 14, 2008.

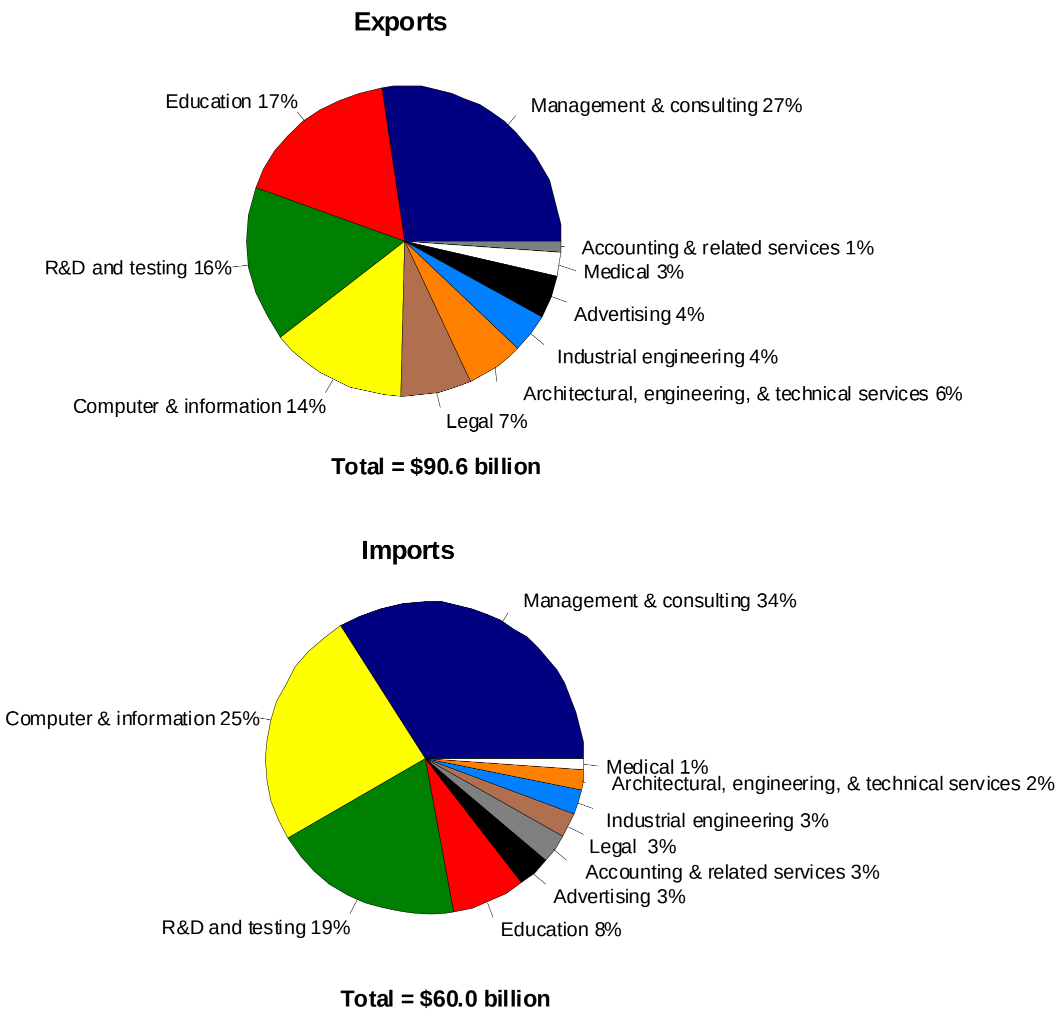
[24] USDOC, BEA, *Survey of Current Business*, table 1, October 2008, 38–39. For the purposes of the cross-border trade discussion, data on professional services include education; computer and information services; management and consulting services; research, development, and testing services; accounting, auditing, and bookkeeping services; advertising services; architectural, engineering, and related services; legal services; and medical services.

[25] Due to the nature of BEA's country-specific trade data for particular industries, this calculation includes export/import data from non-professional services such as mining services; sports and performing arts; trade-related services; and training services. Such services, however, likely represent a very small share of this trade data.

[26] Affiliate transactions data include architectural, engineering, and related services; computer systems design and related services; management, scientific, and technical consulting services; legal services; accounting, tax preparation, bookkeeping, and payroll services; specialized design services; scientific research and development services; advertising and related services; and other professional, scientific, and technical services. For 2006, affiliate sales data on accounting, tax preparation, bookkeeping, and payroll services, as well as specialized design services, were not disclosed. Similarly, affiliate purchases data on legal services and other professional, scientific, and technical services were not disclosed in 2006.

affiliates of U.S. firms (48 percent) (figure 2.5), while advertising accounted for the largest share of purchases of professional services from foreign-owned U.S. affiliates (43 percent).

FIGURE 2.4 Professional services: U.S. cross-border exports and imports, by industry, 2007[a]



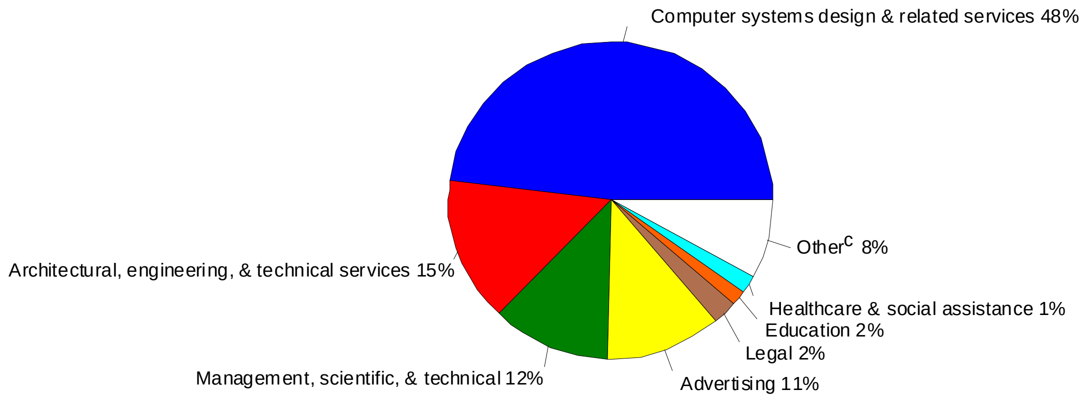
Source: USDOC, BEA, *Survey of Current Business*, table 1, October 2008, 38–39.

Note: Trade data exclude public-sector transactions.

[a]Data may not equal 100 percent due to rounding.

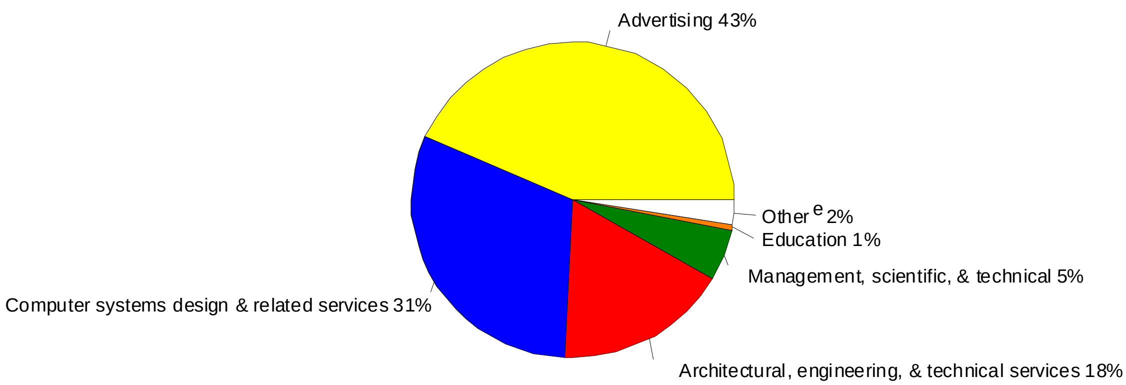
FIGURE 2.5 Professional services: Transactions by affiliates, by industry, 2007[a]

Sales by foreign affiliates of U.S. firms[b]



Total = $108.1 billion

Purchases from U.S. affiliates of foreign firms[d]



Total = $48.2 billion

Source: USDOC, BEA, *Survey of Current Business*, table 9.2 and 10.2, October 2008, 60, 62.

Note: Trade data exclude public-sector transactions.

[a]Data may not equal 100 percent due to rounding.
[b]Services supplied by majority-owned foreign affiliates of U.S. parent firms.
[c]Includes scientific research and development services ($3.4 billion) and other professional, scientific, and technical services ($5.2 billion). Accounting, bookkeeping, payroll services, and specialized design services data were suppressed to avoid disclosure of data of individual companies.
[d]Services supplied by majority-owned U.S. affiliates of foreign parent firms.
[e]Includes accounting, bookkeeping, and payroll services ($38 million); specialized design services ($57 million); and scientific research and development services ($984 million). Legal and healthcare & social assistance data were suppressed to avoid disclosure of data of individual companies.

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Yuskavage, Robert E., Erich H. Strassner, and Gabriel W. Medeiros. “Outsourcing and Imported Services in BEA’s Industry Accounts.” Paper prepared for National Bureau of Economic Research Conference on Research in Income and Wealth, Bethesda, MD, April 28–29, 2006.

CHAPTER 3
Advertising Services

Summary

Advertising services include the preparation of advertisements[1] and their placement in various media.[2] The advertising industry consists of three actors: advertisers, which produce branded products or services; the media, through which such products and services are advertised; and advertising firms.[3] Although the global advertising industry is dominated by a handful of large, multinational advertising conglomerates headquartered in the United States, Europe, and Japan, competition among subsidiary and independent advertising agencies remains intense.[4] The four largest advertising conglomerates accounted for approximately two-thirds of the industry's global advertising revenue in 2006.[5] Two of the most influential industry drivers in recent years have been rapid GDP growth in China and India and the proliferation of interactive/digital media across the globe. Also, increased international merger and acquisition (M&A) activity in recent years has made the industry more competitive, as more advertising and nonadvertising firms have been able to provide a wider range of services across larger geographic areas.[6]

Affiliate transactions are the predominant mode of trade in advertising services. Firms with a local presence cultivate knowledge critical to the successful creation and administration of advertising services, including an understanding of the local media environment and a familiarity with consumer tastes, language, and culture.[7] Consequently, foreign-based affiliates tend to develop a competitive advantage over agencies attempting to export advertising services from home offices.

In 2006, sales by U.S.-owned advertising affiliates abroad totaled approximately $12.3 billion, compared with $3.2 billion earned through U.S. cross-border exports of advertising services. In recent years, purchases from U.S. advertising affiliates of foreign

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[1] An advertisement is a paid announcement, delivered through a public medium, that promotes a particular product, service, or idea.

[2] Traditional media comprise printed matter, such as newspapers and magazines; broadcast media, including television and radio; cable and satellite television; direct mail; outdoor advertising (e.g., billboards); the Yellow Pages; and the Internet.

[3] Advertising firms refer to advertising holding companies, their subsidiary agencies, and independent advertising agencies. An advertising conglomerate consists of a holding company and its subsidiary agencies. The terms "conglomerate" and "holding company" are used interchangeably in this discussion.

[4] Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 7–8, 18. Since most advertisers prefer not to be represented by an agency that handles products or services from competing advertisers, advertising conglomerates allow their subsidiary agencies to remain independent and compete with each other, even though they are owned by the same parent company.

[5] ZenithOptimedia representative, e-mail message to Commission staff, March 3, 2009. Advertising revenue data are not directly comparable to national advertising expenditure data. Expenditure figures may include agency commissions or production costs, which do not generate revenue for media owners. Also, some advertising expenditures are reported as gross rather than net figures (i.e., not taking into account negotiated discounts which can be substantial), so the revenue figure can end up much smaller than the reported expenditure.

[6] Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 7–8, 18.

[7] Local presence is also sometimes required under restrictive regulations.

firms, which reached $21.0 billion in 2006, surpassed sales by foreign affiliates of U.S. firms, resulting in an affiliate transactions trade deficit in the United States. By contrast, U.S. cross-border exports in advertising services exceeded imports by $2.1 billion in 2007, almost double the surplus in 2006.[8]

Although a large number of WTO members have made specific commitments on advertising services, foreign suppliers continue to face barriers to market access and national treatment that tend to inhibit industry sales and investment. Specific trade barriers include restrictions on the importation and broadcast of foreign-produced television commercials, equity limitations on foreign ownership of advertising firms, and requirements that host-country nationals hold managerial positions in foreign-owned advertising firms.[9] Nonetheless, the U.S. government has experienced success in reducing or removing barriers to trade in advertising services in the context of bilateral free trade agreements and trade promotion agreements.

Competitive Conditions in the Global Advertising Services Market

The global advertising market is large and highly concentrated in a small number of developed countries.[10] In 2006, global expenditure on advertising totaled about $451.0 billion, with the United States (39 percent), Japan (9 percent), Germany (5 percent), and the United Kingdom (5 percent) together accounting for more than one-half of total industry sales (table 3.1).[11] Other countries that accounted for a significant share of global expenditure included France, China, and Italy, each with about 3 percent of total advertising spending. China, the only non-OECD country that ranked among the top 10 advertising markets in 2006, increased its spending on advertising by 17 percent in that year, following an average annual growth rate of about 18 percent from 2001 through 2005.[12] According to a market research firm, China's spending on advertising services is expected to grow by 62 percent ($9.2 billion) from 2007 through 2010, which would make it the second-largest contributor to global advertising spending behind the United States. Advertising spending in the United States is expected to increase by $14.8 billion over this period.[13]

[8] USDOC, BEA, *Survey of Current Business*, tables 7.1, 7.2, 9.1, 9.2, 10.1, and 10.2, October 2008, 54–57, 59–62.
[9] WTO, CTS–SS, "Communication from the United States," July 10, 2001; industry representative, e-mail message to Commission staff, February 24, 2009.
[10] This section primarily focuses on the activities of the largest global advertising firms and markets by revenue and spending. Additionally, because there were reporting gaps for the year 2007, the most recent year of data analysis is 2006 in most cases.
[11] ZenithOptimedia representative, e-mail message to Commission staff, October 16, 2008.
[12] Calculated by Commission staff based on data from a ZenithOptimedia representative, e-mail message to Commission staff, October 16, 2008.
[13] ZenithOptimedia, "Advertising Boom in Developing Ad Markets," March 31, 2008. China is second to Russia (92 percent) in terms of expected rate of global advertising expenditure growth during the 2007–10 period.

TABLE 3.1 Advertising services: Top 10 countries, by expenditure and share of global expenditure, 2006

Rank	Country	Total expenditure (million $)	Share of global expenditure (%)
1	United States	174,838	39
2	Japan	40,746	9
3	Germany	24,684	5
4	United Kingdom	23,917	5
5	France	13,622	3
6	China	13,327	3
7	Italy	11,877	3
8	Spain	9,817	2
9	Korea	9,279	2
10	Australia	8,891	2
Total global expenditure of the top 10		330,998	73

Source: ZenithOptimedia representative, e-mail message to Commission staff, October 16, 2008.

The global advertising industry is highly competitive due to factors such as low barriers to entry (virtually any creative talent can start an independent agency with little capital), low switching costs (clients can change agencies with relative ease), and high diversity of competitors (ranging from in-house advertising and marketing departments to large media companies).[14] The industry has been primarily controlled by a small number of large multinational conglomerates that offer both traditional and nontraditional advertising services. Omnicom Group (U.S.) is the world's largest advertising agency holding company, with global revenue of almost $11.4 billion in 2006 (table 3.2). Other top global holding companies in that year included WPP Group (UK) with $10.8 billion in revenue, Interpublic Group of Companies (U.S.) with $6.2 billion, Publicis Groupe (France) with $5.9 billion, and Dentsu (Japan) with $3.0 billion.[15] Below the holding company level, the industry includes many boutique agencies that specialize in niche service areas such as consulting, media planning and buying, direct marketing, and public relations or in specific fields such as healthcare or sports and entertainment marketing. Many of these agencies operate under the umbrella of a larger holding company.[16] The world's top advertising agencies (at a disaggregated subcompany level) by revenue in 2006 were Dentsu (Dentsu), BBDO Worldwide (Omnicom), McCann Erickson Worldwide (Interpublic), JWT (WPP), and DDB Worldwide Communications (Omnicom) (table 3.3).[17]

[14] Datamonitor, "Industry Profile: Global Advertising," October 2007, 14–15.

[15] *Advertising Age*, Ad Age Data Center, "The World's Top 50 Agency Companies," undated (accessed December 3, 2008); *Advertising Age*, "Annual 2008," December 31, 2007, 51. Omnicom, WPP, Interpublic, and Publicis are agency holding companies, while Dentsu is a large advertising agency.

[16] Silk and Berndt, "Scale and Scope Economies," October 28, 2003, 7–9.

[17] *Advertising Age*, "Annual 2008," December 31, 2007, 51. Parent company identified in parentheses.

TABLE 3.2 Advertising services: Top 10 advertising agency companies, by global revenue, 2006

Rank	Company	Headquarters	Revenue (million $)
1	Omnicom Group	New York	11,377
2	WPP Group	London	10,820
3	Interpublic Group of Companies	New York	6,191
4	Publicis Groupe	Paris	5,872
5	Dentsu	Tokyo	2,951
6	Havas	Suresnes, France	1,840
7	Aegis Group	London	1,826
8	Hakuhodo DY Holdings	Tokyo	1,337
9	Asatsu-DK	Tokyo	430
10	MDC Partners	Toronto/New York	412

Source: *Advertising Age*, Ad Age Data Center, "The World's Top 50 Agency Companies," undated (accessed December 3, 2008).

TABLE 3.3 Advertising services: Top 10 advertising agencies (subcompany level), by net revenue, 2006

Rank	Company	Parent	Net revenue[a] (million $)
1	Dentsu	Dentsu	2,185
2	BBDO Worldwide	Omnicom	1,540
3	McCann Erickson Worldwide	Interpublic	1,479
4	JWT	WPP	1,287
5	DDB Worldwide Communications	Omnicom	1,264
6	Publicis Worldwide	Publicis	1,178
7	TBWA Worldwide	Omnicom	1,135
8	Leo Burnett Worldwide	Publicis	909
9	Y&R (Young & Rubicam)	WPP	820
10	Hakuhodo	Hakuhodo DY Holdings	780

Source: *Advertising Age*, "Annual 2008," December 31, 2007, 51.

[a]Excludes operations beyond traditional advertising, such as direct marketing, sales promotion, and digital and media buying/planning.

Demand and Supply Factors

Generally and across countries, demand is most directly influenced by consumer sentiment, company profitability, and general economic conditions as measured by real GDP. Presidential elections, timely sporting events such as the Olympics and World Cup, political crises, and terrorist attacks can also significantly affect demand for advertising services. Factors that have had the greatest influence on demand for advertising services during the most recent five-year period for which data are available (2002–06) include economic growth in China and India, the emergence of the full-service advertising model, and the proliferation of multichannel marketing services.[18]

[18] IBISWorld, "Global Advertising," June 10, 2008, 15–16; Silk and Berndt, "Scale and Scope Economies," October 28, 2003, 9–10.

By allowing advertisers to reach larger audiences at lower cost, the emergence of new media forms and choices has intensified competition within the advertising industry. Thus, factors that have significantly affected the provision of advertising services in recent years include the rapid growth of Internet advertising, increased competition from hi-tech boutique advertising agencies and media companies, and changes to the regulatory environment in various media markets. In countries such as China and India, international advertising service suppliers face the additional challenge of reaching large rural populations with limited media exposure.[19] Consolidation continues to be a major trend affecting the supply of advertising services. Advertising firms have primarily undertaken M&As to expand their presence in emerging markets, increase their service offerings, and keep pace with the rapid development of new digital technologies.[20]

Economic Growth in Developing Markets Sustains Advertising Firms and Advertisers

In response to sluggish economic growth in their home markets,[21] advertising firms and advertisers[22] in the United States, Europe,[23] and Japan have increasingly turned to overseas markets in an effort to sustain profitability.[24] U.S. and foreign advertising firms are following their largest clients abroad,[25] strengthening existing subsidiaries, and acquiring agencies with a strong knowledge of local customs and tastes in developing markets.[26] In 2006, WPP generated $500 million in revenue in the greater China region (China, Hong Kong, and Taiwan), and employed 7,300 workers, making it one of the most dominant international advertising firms in the Chinese market (box 3.1).[27] Another notable M&A was

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[19] Datamonitor, "Industry Profile: Global Advertising," October 2007, 13–15.

[20] Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 9; Datamonitor, "Industry Profile: Global Advertising," October 2007, 13–15.

[21] Silk and Berndt, "Scale and Scope Economies," October 28, 2003, 10. During recessions or periods of slow growth, when profits of consumer products manufacturers or service providers are being squeezed, advertising is often one of the first expenses cut in order to maintain acceptable profit levels.

[22] Standard & Poor's, *Global Industry Surveys: Advertising; Europe*, April 2007, 11. For example, advertiser and international retailer Carrefour (France) added 200 stores in China in 2006, to reach a total of 590. Carrefour employs Publicis's agencies in Asia and South America. For a more in-depth examination of Carrefour's and Walmart's recent retail activities in China, see USITC, *Recent Trends in U.S. Services Trade*, 2008, 7-8.

[23] Ibid., 8. Europe's large public sector, which tends to spend less on advertising than private companies, has also limited industry growth.

[24] ZenithOptimedia, "Western Ad Markets Continue to Slow," June 30, 2008; IBISWorld, "Global Advertising," June 10, 2008, 43; CIA, "China," undated (accessed December 2, 2008); CIA, "European Union," undated (accessed December 2, 2008); CIA, "India," undated (accessed December 2, 2008); CIA, "Japan," undated (accessed December 2, 2008); and CIA, "United States," undated (accessed December 2, 2008). Real GDP growth in 2006 was 3 percent for the United States, 2.8 percent for the EU, and 2.4 percent for Japan. China and India's real GDP growth in 2006 reached about 11 percent and 9 percent, respectively.

[25] *Livemint.com*, "Fast-growing China, India Making Asia-Pacific a Dominant Global Force," May 25, 2008; *Advertising Age*, Ad Age Data Center, *2007 Agency Profiles Yearbook*, April 30, 2007, 6–18. Omnicom's top client in 2006 was DaimlerChrysler, WPP's was Ford Motor Co., Interpublic's was General Motors, and Publicis's was Proctor & Gamble Co.

[26] *Advertising Age*, Ad Age Data Center, *2007 Agency Profiles Yearbook*, April 30, 2007, 10; Standard & Poor's, *Global Industry Surveys: Advertising; Asia*, May 2007, 10. To illustrate, in March 2006, WPP's JWT unit acquired Always Promotion Network, a major provider of road shows, in-store sampling, promotional activities, and door-to-door surveys in China. Although the firm was given the option to replace Always Promotion Network's senior staff, JWT reportedly retained the company's founder and other key employees in an effort to maintain the company's institutional knowledge.

[27] *Advertising Age*, Ad Age Data Center, *2007 Agency Profiles Yearbook*, April 30, 2007, 10; Balfour and Kiley, "China Unchains Ad Agencies," April 25, 2005; and Kapur, "The Jewel in WPP's Crown," November 2005, 6. WPP also has about a 50 percent market share in India. Some of WPP's largest clients in the country include IBM, Ford, and Coca-Cola.

BOX 3.1 The Chinese Advertising Services Market Experiences Further Growth

China's advertising market is one of the largest and most dynamic in the world. Local Chinese and multinational corporations have invested heavily in advertising their products to Chinese consumers across many product categories, ranging from mass consumer to luxury goods. Although annual growth in advertising spending has slowed as the Chinese advertising market has matured, spending growth has averaged approximately 17–18 percent per year since 2001. In 2008, advertising spending is forecast to have grown about 21 percent, reflecting additional spending for advertising related to the Beijing Olympics. China is expected to overtake Japan as the second-largest global advertising market by 2015.[a]

Advertising Expenditure

The main consumer product categories underpinning China's advertising market tend to make it less susceptible to economic downturns than advertising markets in other countries. More than 50 percent of total Chinese advertising spending is generated from just three categories—pharmaceuticals, toiletries, and retail—the first two of which together account for 37 percent of total advertising spending. Overall, China's advertising spending on mass-consumer, daily-use products as a percentage of total ad spending is much higher than that of most other countries. Top spending categories in other major global advertising markets include automotive, telecommunications, financial services, and entertainment, all of which are more sensitive to economic cycles than China's top three categories. Although Chinese ad spending for luxury product categories—such as personal accessories, leisure, clothing, and automotive—has grown the most dynamically in recent years, these higher-end categories still account for a relatively small percentage of total advertising spending.[b]

Advertising Agencies

The Chinese advertising services market is highly fragmented, with an estimated 90,000 advertising agencies operating in the country. These local agencies tend to be geographically scattered, are small in scale, and provide only the most basic services. Consequently, large advertisers in China are more likely to obtain services from foreign companies with greater industry experience and technical expertise.[c] Multinational advertising and media groups have doubled their presence in China since the market was completely liberalized in early 2006.[d] By May 2006, the top five global advertising conglomerates had established 38 branches via joint-venture partnerships with local agencies. Specifically, WPP maintained 19 partnerships; Interpublic, 6; Omnicom and Publicis, 5 each; and Dentsu, 3.[e]

Beijing Dentsu Advertising Co., the leading foreign advertising agency by revenue, is a joint-venture enterprise between Dentsu Group of Japan, China International Advertising Corporation, and Dacheng Advertising Company (China). Among foreign agencies, Beijing Dentsu annually ranked first in revenue in China during the 2003–06 period. In 2006, the agency's revenue totaled about $89 million, which accounted for 0.4 percent of total advertising revenue in China. In addition to its main office in Beijing, Beijing Dentsu maintains branches in Shanghai, Guangzhou, Qingdao, Shenzhen, Wuhan, Chengdu, and Shenyang. Other major joint-venture agencies include Saatchi & Saatchi China, Leo Burnett Shanghai Advertising Co., JWT China, and Ogilvy & Mather China.[f]

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[a]Abplanalp, "China Media Market Growth Drivers," January–February 2009, 21.

[b]Ibid., 21–22.

[c]Standard & Poor's, *Global Industry Surveys: Advertising; Asia*, May 2007, 8; IBISWorld and ACMR, "Advertising Agencies in China," January 29, 2009, 21. Based on the China Economic Census (2004), foreign-registered capital accounted for about 4.4 percent of total registered capital for the Chinese advertising industry, which indicates a low level of globalization. However, the majority of the top 10 enterprises in China, based on advertising revenue, are joint-venture partnerships with large multinational advertising firms. Hence, globalization of the industry tends to be greater in the high-end market.

[d]Standard & Poor's, *Global Industry Surveys: Advertising; Asia*, May 2007, 1. In January 2006, in accordance with its WTO accession agreement, China lifted all restrictions on foreign ownership in advertising.

[e]Sinclair, "Globalization and the Advertising Industy in China," April 1, 2008, 82–83; IBISWorld and ACMR, "Advertising Agencies in China," January 29, 2009, 28.

[f]Standard & Poor's, *Global Industry Surveys: Advertising; Asia*, May 2007, 8; IBISWorld and ACMR, "Advertising Agencies in China," January 29, 2009, 24–27.

Omnicom's acquisition of Gotocustomer Services India in 2006. Based in New Delhi, Gotocustomer Services is a provider of field and retail marketing services to national and multinational clients across India. Some of its most prominent clients include Microsoft, Pepsi, Philips, and Intel.[28]

The Full-service Advertising Model Drives M&A Activity

A full-service advertising firm engages in the planning and administration of advertising campaigns, including setting advertising objectives, developing advertising strategies, developing and producing the advertising messages, developing and executing media plans, and coordinating related activities such as sales promotion and public relations.[29] The largest advertising firms have been actively acquiring smaller niche advertising, design, and marketing agencies in an effort to offer clients a wider range of services across geographic boundaries and various media.[30] Some of the most notable acquisitions in recent years include WPP's acquisitions of Young & Rubicam (U.S.) in 2000 for about $4.7 billion, Cordiant Communications (UK) in 2003 for about $445 million, and Grey Global Group (U.S.) in March 2005 for about $1.5 billion.[31] These acquisitions immediately bolstered WPP's global healthcare marketing, branding and identity, and direct marketing capabilities.[32]

Acquisitions of niche agencies also have enhanced advertising firms' ability to provide nontraditional advertising services, such as market research, interactive media marketing, and customer relationship management (CRM),[33] which have become some of the most important sources of revenue for advertising conglomerates.[34] For example, in 2006, leading advertising conglomerates WPP and Omnicom, respectively, derived more than 52 percent and 57 percent of their revenue from nontraditional advertising services.[35] For the overall advertising industry, nontraditional advertising business accounted for 54 percent of total revenue in 2006.[36]

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[28] *Advertising Age*, Ad Age Data Center, *2007 Agency Profiles Yearbook*, April 30, 2007, 7; IBISWorld, "Global Advertising," June 10, 2008, 29. Field marketing covers every form of direct marketing that takes place outside the home or office. Examples of field marking are handing out leaflets in the street, sampling and demonstrations in local markets, and outdoor promotional events.

[29] Silk and Berndt, "Scale and Scope Economies," October 28, 2003, 7–9; Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 26.

[30] Benady, "Global Clients Queue Up," November 30, 2004.

[31] Bureau van Dijk, Zephyr Mergers and Acquisitions Database; *Advertising Age*, Ad Age Data Center, *2007 Agency Profiles Yearbook*, April 30, 2007, 10.

[32] Standard & Poor's, *Global Industry Surveys: Advertising; Europe*, April 2007, 12; *BBC News*, "WPP Seals $4.7bn Advertising Takeover," May 12, 2000.

[33] Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 26; Omnicom, *Annual Report 2007,* April 2008, 19. CRM is a concept based on maximizing profitability by enhancing relations with customers. For example, CRM services include event marketing; brand design; and direct, field, and promotional marketing. In 2006, CRM accounted for 36 percent of Omnicom's total revenue, or about $4.1 billion. Omnicom is the industry's CRM leader.

[34] Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 9.

[35] Ibid., 10.

[36] Ibid.

The Proliferation of Digital Media Gives Rise to Multichannel Marketing Services

Demand for multichannel marketing, or integrated communications services, has grown in recent years due to the proliferation of digital media.[37] In multichannel marketing, agencies blend traditional and nontraditional advertising activities into a cohesive and comprehensive marketing campaign for clients. For example, when a client's Internet address is advertised in a magazine, this print advertisement generates traffic for the client's Web site, and if successful, should lead to either an online request for additional information or an online sale. The information request or sale would then generate more direct e-mail and traditional mail promotions.[38] Thus, by combining print and online advertising, clients are able to reach their target markets through several interactive channels. Additional advertising options are appearing in new products such as wired and wireless video games, iPods, smart phones and PDAs (personal digital assistants), and DVRs (digital video recorders) and iTV (interactive television).[39] Such technologies allow marketers to reach customers wherever they may be and permit them to purchase goods or services in any way they like.[40] In 2006, the top interactive agencies by global revenue were Avenue A/Razorfish (aQuantive), Sapient (Sapient Corp.), and Digitas (Publicis) (table 3.4).[41]

Online Advertising Provides Cost and Time Advantages

As with demand, the supply of advertising services has been significantly affected by the rapid development and proliferation of digital technologies, most notably online advertising.[42] When compared with most traditional media outlets, the Internet provides advertisers with competitive advantages in three important areas: speed, cost, and transparency to the client.[43] To illustrate, an average advertising campaign conducted by e-mail takes 7 to 10 days to complete and costs $5 to $7 per thousand e-mails sent. By comparison, a traditional mail campaign takes four to six weeks to complete at a cost of about $500 to $700 per thousand printed direct mailings.[44] The Internet also offers greater transparency and accountability as Web masters can track the number of "page views" or "clicks" on a given Web site, providing almost instant return-on-investment feedback to advertisers.[45]

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[37] Walters, "Advertising of 2007," December 19, 2007.

[38] Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 10.

[39] Ibid., 9.

[40] Gordon, "The Internet Isn't Necessarily the Newest Game in Town," October 2006; Shields, "Survey: Mobile Web Use on the Rise," September 4, 2008.

[41] *Advertising Age*, Ad Age Data Center, "Top Interactive Agencies," undated (accessed December 3, 2008). Although all of the top 10 interactive agencies are headquartered in the United States, each agency maintains affiliate offices or supports operations across the globe.

[42] Morgan Stanley, *Internet & Consumer Software*, October 13, 2006, 14; Evans, "The Economics of the Online Advertising Industry," May 13, 2008, 8–10.

[43] Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 3; Morgan Stanley, *Internet & Consumer Software*, October 13, 2006, 6–10.

[44] Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 3.

[45] Kiley, "Google's Search for the Advertising Edge," January 19, 2006.

TABLE 3.4 Advertising services: Top 10 interactive agencies, by global revenue, 2006

Rank	Company[a]	Parent	Revenue (million $)	% change, 2005–06
1	Avenue A/Razorfish	aQuantive	235	24
2	Sapient	Sapient Corp.	228	30
3	Digitas	Publicis	163	5
4	Wunderman	WPP	113	([b])
5	Rapp Collins Worldwide	Omnicom	107	12
6	OgilvyInteractive	WPP	103	13
7	Organic	Omnicom	102	42
8	AKQA	([c])	98	58
9	DraftFCB	Interpublic	94	4
10	IMC2	([c])	93	45

Source: *Advertising Age*, Ad Age Data Center, "Top Interactive Agencies," undated (accessed December 3, 2008).

[a]All of the top 10 interactive agencies are headquartered in the United States.
[b]Not available.
[c]Not applicable.

Although television remains the primary media outlet for the global advertising marketplace, the Internet has become the second-largest contributor to overall industry growth.[46] Globally, the Internet accounted for 21 percent of the increase in advertising spending in 2006, versus 52 percent for television. However, in developed markets such as the United States and western Europe, advertising on the Internet has become the industry's primary growth driver.[47] For example, in western Europe, 44 percent of the growth in advertising spending in 2006 was attributed to online advertising. In the developing markets of central and eastern Europe and South America, the Internet was much less of a factor, contributing about 4 percent and 3 percent, respectively, to the growth in regional advertising spending in 2006.[48] Future growth prospects in Internet advertising remain strong in Asia, which has an estimated 578 million Internet users and accounted for about 40 percent of global Internet use in 2008.[49] Even though Internet penetration in Asia is still relatively low, at about 15 percent or about one-half the average penetration rate for the rest of the world in 2008, Internet usage in the region increased by 406 percent from 2000 through 2008, compared with an increase of 258 percent in the rest of the world.[50]

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[46] ZenithOptimedia representative, e-mail message to Commission staff, October 16, 2008; IAB/PricewaterhouseCoopers, *IAB Internet Advertising Revenue Report*, May 2008, 5–13. Advertising on the Internet has been one of the fastest-growing direct marketing channels in recent years. Internet ad spending in the United States grew to more than $16.8 billion in 2006, an increase of about 34 percent from the previous year. In Europe, spending on Internet advertising reached $5.3 billion, an increase of 32 percent from 2005. In Asia's most developed advertising markets, Internet ad spending in 2006 reached $3.6 billion (an increase of 39 percent) in Japan, $782 million (an increase of 68 percent) in Australia, and $648 million (an increase of 17 percent) in Korea. By comparison, Internet ad spending in China and India reached $1.8 billion (a 17 percent increase) and $12 million (a 2 percent increase) in 2006, respectively.

[47] IBISWorld, "Global Advertising," June 10, 2008, 44.

[48] Ibid.

[49] Standard & Poor's, *Global Industry Surveys: Advertising; Asia*, May 2007, 14.

[50] Internet World Stats Web site. http://www.internetworldstats.com/ (accessed January 9, 2009).

Competition Intensifies from Boutique Agencies and Internet Search Engines

The largest advertising firms have expanded their technical expertise in online and other digital services primarily through M&A activities in response to increasing competition from smaller, highly specialized boutique agencies and Internet search engine companies such as Yahoo! and Google.[51] In recent years, the largest acquisition of this type was the $1.3-billion purchase of Digitas Inc. (U.S.) by Publicis in late 2006. Digitas, one of the industry's leading interactive and direct marketing agencies, includes American Express, General Motors, Home Depot, and Time Warner among its clients.[52] Since that time, Interpublic acquired the search engine marketing firm Reprise Media (U.S.) for an undisclosed amount in April 2007, and one month later, WPP acquired search optimization specialist 24/7 Real Media, Inc. (U.S.) for $649 million.[53]

Advertising Regulations Change in the United States and Europe

Regulatory issues have also had a significant impact on the industry in recent years. The most notable trends include the increased regulation of advertisements in connection with efforts to prevent childhood obesity in the United States and United Kingdom and the liberalization of audiovisual advertising rules across the EU.

As concerns about childhood obesity become more widespread in the United States and the United Kingdom, government agencies have been taking a more active role in the regulation of "junk" food advertisements to children.[54] Although several advertisers, such as Unilever, Kellogg, and Kraft Foods, Inc., have introduced self-imposed bans on direct food and beverage marketing to children under 10 or 11 years of age, on January 1, 2007, a strict ban on television junk food advertising went into effect in the United Kingdom, and industry sources indicate a similar ban will likely follow in the next few years in the United States.[55] Under the UK ban, junk food advertisers are prohibited from advertising not only during children's programming times, but also on youth-oriented channels such as MTV, VH1, and Disney and during broadcasts of popular prime-time shows.[56] According to industry sources, television advertising expenditure may decline in the short-term due to the new regulations, but spending on advertising should ultimately rise as advertisers introduce and build brand and customer awareness for healthier products.[57]

Similar to those in the United States, advertising agencies and media companies in Europe are subject to oversight by self-regulatory bodies that promote guidance on issues such as truth in advertising and maintain content and decency standards.[58] Although many European countries share many regulatory policies on advertising in general, rules regarding television advertising within each country differ substantially, with France, Germany, and the United

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[51] Gumpert, "Google or Yahoo for Advertising?" November 6, 2006.

[52] *Advertising Age*, Ad Age Data Center, *2007 Agency Profiles Yearbook*, April 30, 2007, 17.

[53] Bureau van Dijk, Zephyr Mergers and Acquisitions Database; Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 12; and Shields, "Interpublic to Acquire Reprise," April 11, 2007.

[54] Standard & Poor's, *Industry Surveys: Advertising*, August 9, 2007, 5.

[55] Standard & Poor's, *Global Industry Surveys: Advertising; Europe*, April 2007, 6; industry official, telephone interview by Commission staff, October 5, 2008.

[56] Standard & Poor's, *Global Industry Surveys: Advertising; Europe*, April 2007, 2–3. The Office of Communications, the UK media and telecommunications regulator, determines whether food is "junk," based on salt, sugar, and fat content levels it deems acceptable.

[57] Industry official, telephone interview by Commission staff, October 5, 2008.

[58] Datamonitor, "Industry Profile: Global Advertising," October 2007, 14–15.

Kingdom considered to be among the most restrictive advertising markets in the EU.[59] In an effort to resolve these broadcasting discrepancies, the European Parliament in 2007 revised the 1989 Television Without Frontiers directive. The revised directive, now called Audiovisual Without Frontiers, eases limits on how often advertisements can be aired on television, and how long they can last.[60] Notably, in the same year the new EU-wide directive was put into force, France eliminated a 40-year ban on television advertising by large retailers, the original intent of which was to protect small shopkeepers and newspaper advertising revenue.[61] The elimination of the ban is estimated to have raised television advertising spending in France by as much as $280 million in 2007.[62]

Remote Populations Challenge Advertising Agencies

In expanding into emerging markets such as China and India, foreign advertising agencies are challenged to craft their messages to match local customs and tastes and effectively transmit these messages to widely dispersed populations.[63] Large segments of the Chinese and Indian populations still live outside of large cities and have little exposure to major advertising media.[64] Agencies have had to adopt innovative marketing strategies to reach these largely untouched consumers. For example, in June 2004, WPP's Ogilvy & Mather China subsidiary acquired a 51 percent stake in the provincial advertising agency Fujian Effort, providing it with access to locations beyond the country's major cities. More notably, Ogilvy & Mather also signed a deal that allowed it to use the 70-million-member Communist Youth League as a market research source.[65] Ogilvy & Mather also used a similar marketing strategy in India, where it launched "Ogilvy Outreach," an effort by which it subcontracted with 16,000 people across the country to take advertising campaigns to rural consumers using local theater, music, and other forms of entertainment and culture.[66]

Trade Trends

Cross-border Trade

The U.S. cross-border trade surplus in advertising services (box 3.2) reached $2.1 billion in 2007, an increase of approximately 56 percent from $1.3 billion in 2006 (figure 3.1). In 2007, U.S. exports of advertising services grew by 27 percent to approximately $4.0 billion, and imports grew by 7 percent to approximately $2.0 billion in 2007.[67] The sharp increase

[59] Standard & Poor's, *Global Industry Surveys*: *Advertising; Europe*, April 2007, 1.

[60] Ibid., 1–2; European Commission, Information Society, "New 'Audiovisual without Frontiers' Directive," March 9, 2007. The update of the Television Without Frontiers directive removes the three-hours-per-day limit on advertising and simplifies the rules regulating the insertion of product placement advertisements in television programs. Moreover, the directive supports the use of new forms of advertising such as split screen, virtual advertising, mini-spots, and interactive advertising.

[61] Standard & Poor's, *Global Industry Surveys*: *Advertising; Europe*, April 2007, 2.

[62] Pfanner, "French Retailers Rush to Advertise," January 7, 2007.

[63] Lo, "Advertising of 2007 (China)," December 19, 2007.

[64] Balfour and Kiley, "China Unchains Ad Agencies," April 25, 2005; Datamonitor, "Industry Profile: Global Advertising," October 2007, 13–15.

[65] Standard & Poor's, *Global Industry Surveys*: *Advertising; Asia*, May 2007, 10.

[66] Ibid.

[67] USDOC, BEA, *Survey of Current Business*, tables 7.1 and 7.2, October 2008, 54–57.

BOX 3.2 An Explanation of BEA Data on Cross-border Trade and Affiliate Transactions in Advertising Services

The advertising industry comprises establishments primarily engaged in creating advertising campaigns and placing such advertising in periodicals, newspapers, radio, television, Web pages, or other media. These establishments provide a full range of services through in-house capabilities or subcontracting, including advice, creative services, account management, production of advertising material, media planning, and buying (i.e., placing advertising).[a]

BEA data on cross-border trade in advertising services reflect "advertising revenue," which comprises billings from the preparation of advertising and the placement of such advertising in media. Advertising preparation encompasses the development of advertising plans and the production of creative work, whereas advertising placement involves the negotiation and purchase of space or time in advertising media.[b]

Data on affiliate trade in advertising services capture transactions by foreign affiliates of U.S. advertising companies and U.S. affiliates of foreign advertising firms. Foreign affiliates provide advertising services to foreign consumers in markets outside the United States, and U.S. affiliates provide advertising services to U.S. consumers in the U.S. market. Data are collected through surveys and are categorized based on the industry classification of the affiliate, not the type of service provided.[d]

Due to recent changes in the reporting and collection method used by the BEA, affiliated cross-border trade data for several professional services, including advertising, are available for the first time beginning in 2006.[e] Such data reflect cross-border transactions between entities within the same company group and could include, for example, a parent firm's sale of intellectual property to one of its affiliates located in another country. Due to the significance of affiliated cross-border trade to the industry, cross-border trade analyses by Commission staff for advertising services examine the years for which affiliated data are available (2006 and 2007) and include both affiliated and unaffiliated data.

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[a]USDOC, Bureau of the Census, "Advertising and Related Services," October 2004, B-1. This definition is based on the 2002 NAICS classification for advertising and related services (5418), and is consistent with that used by the BEA. There was no change from the 2002 NAICS classification in the 2007 NAICS update.

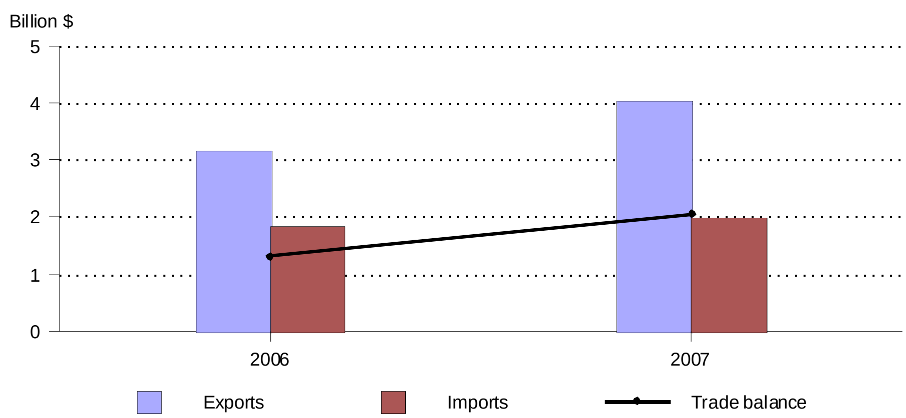
[b]BEA representative, e-mail message to Commission staff, February 24, 2009. Traditional media comprise printed matter, such as newspapers and magazines; broadcast media, including television and radio; cable and satellite television; direct mail; outdoor advertising (e.g., billboards); the Yellow Pages; and the Internet.

[c]Ibid.

[d]Ibid., October 22, 2008.

[e]Ibid., September 11, 2008.

FIGURE 3.1 Advertising services: U.S. cross-border trade, 2006–07[a]



Source: USDOC, BEA, *Survey of Current Business*, tables 7.1 and 7.2, October 2008, 54–57.

[a]BEA changed its data reporting and collection method in 2006. See discussion in box 3.2.

in U.S. exports of advertising services in 2007 is most likely due to the competitiveness of U.S. digital/interactive advertising agencies and the boom in Internet advertising spending in recent years.[68]

In 2007, the top five markets for U.S. cross-border exports of advertising services were Japan, accounting for 15 percent of total U.S. advertising exports; the United Kingdom, accounting for 14 percent; Canada, 4 percent; and France and Mexico, 2 percent each (figure 3.2). In that same year, U.S. imports of advertising services were highest from the United Kingdom and Japan, accounting for 18 percent and 15 percent of total U.S. advertising services imports, respectively. These sources were followed by Germany and France, each accounting for 9 percent, and Canada, accounting for 6 percent of total U.S. advertising services imports.[69]

Country-specific data indicate that the increase in the U.S. advertising services trade surplus in 2007 was largely due to shifts in U.S. trade with Japan. In 2007, U.S. exports to, and imports from, Japan increased by 323 percent and 65 percent, respectively, resulting in a $318-million bilateral surplus (figure 3.3), reversing the $36-million trade deficit in 2006. In addition to online advertising growth, the jump in U.S. advertising exports to Japan reflects increasing business activity within the emerging economies of Asia, as more U.S. and European agencies have formed strategic and capital partnerships with Japanese agencies in an effort to better access the region's growing markets.[70] In early 2009, Omnicom's (U.S.) integrated communications firm Ketchum announced that it had signed a strategic partnership agreement with Hakuhodo, one of Japan's largest advertising and marketing firms. This collaboration allows both agencies to offer their clients public relations services in regions where they were previously underrepresented.[71]

Affiliate Transactions

In 2006, sales by foreign advertising affiliates of U.S. firms reached $12.3 billion (figure 3.4), an increase of over 20 percent from the previous year and far above the 3 percent average annual growth rate exhibited from 2002 through 2005.[72] In 2006, the leading host country for such affiliates was the United Kingdom, which accounted for 25 percent of total sales of services by U.S.-owned foreign advertising affiliates, followed by France (12 percent), Germany (9 percent), the Netherlands (5 percent), and Canada (4 percent) (figure 3.5). The large jump in foreign affiliate sales of advertising services in 2006 likely stems from the additional advertising revenue generated by the Winter Olympics and the World Cup soccer tournament, both of which took place in Europe.[73]

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[68] Standard & Poor's, *Global Industry Surveys*: *Advertising; Europe*, April 2007, 3. Spending on Internet advertising grew by 35 percent in 2006 to $2.9 billion in the United Kingdom.

[69] USDOC, BEA, *Survey of Current Business*, tables 7.1 and 7.2, October 2008, 54–57.

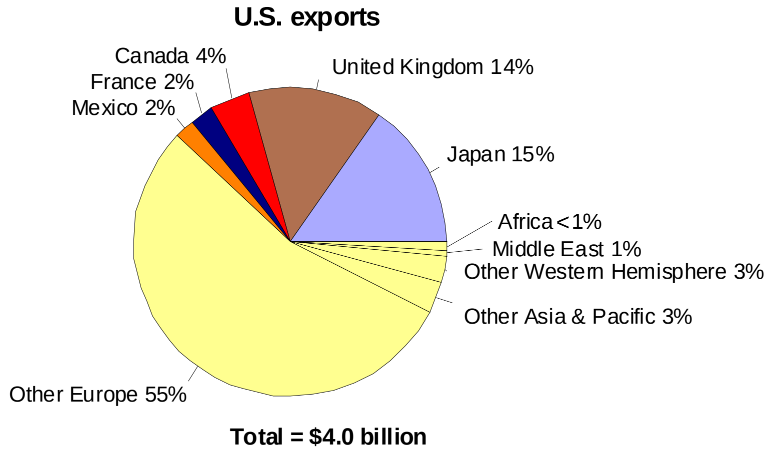
[70] Standard & Poor's, *Global Industry Surveys*: *Advertising; Asia*, May 2007, 1; CIA, "Japan," undated (accessed December 2, 2008). Specifically, the Japanese agencies, Dentsu, Hakuhodo DY Holdings, Asatsu-DK, and Tokyu Agency International, control the largest share of the Asian advertising market. Moreover, after a decade of intermittent recessions, the Japanese economy began to show consistent positive growth; real GDP in Japan grew by about 2 percent in 2006 and 2007.

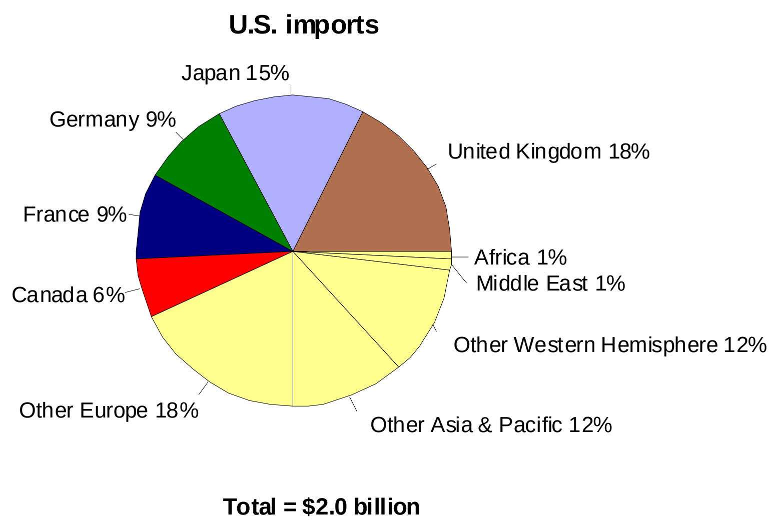
[71] Bush, "Ketchum and Hakuhodo Hook Up," February 10, 2009.

[72] USDOC, BEA, *U.S. International Services*, table 10, 1999–2005. Total sales of services by foreign advertising affiliates of U.S. firms were not reported in 2001, to avoid disclosure of data on individual firms.

[73] *Brand Republic*, "World Cup to Generate Over £570m in Advertising Revenue," April 10, 2006. The World Cup alone was expected to generate about $1.0 billion in advertising revenue.

FIGURE 3.2 Advertising services: U.S. exports and imports, by country or region, 2007

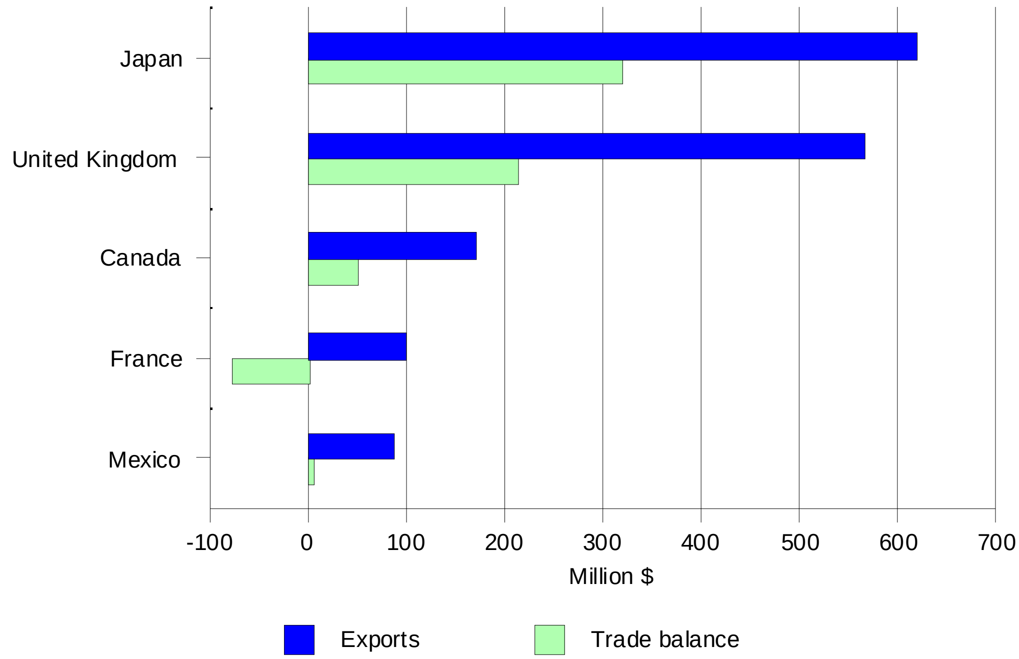




Source: USDOC, BEA, *Survey of Current Business*, table 7.2, October 2008, 56–57.

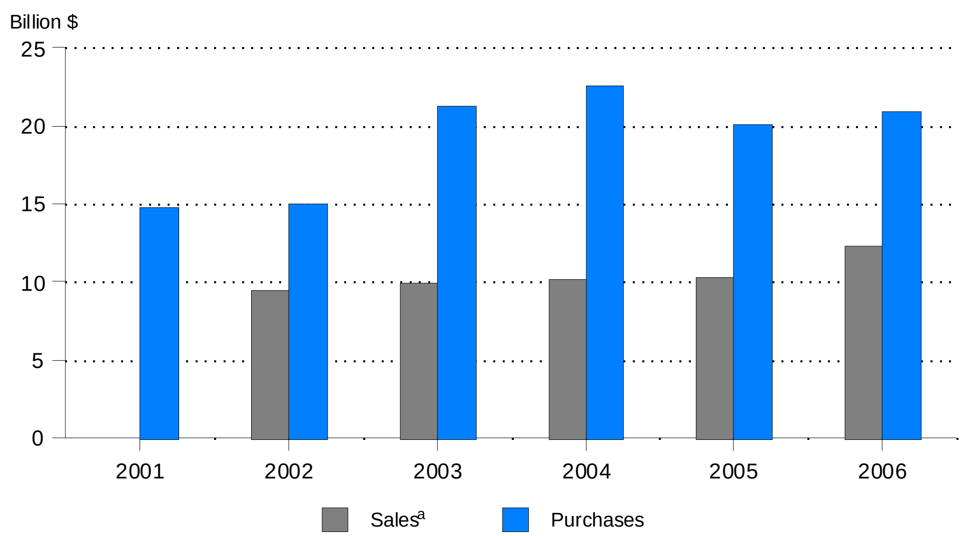
Notes: Data may not equal 100 percent due to rounding. Geographic regions are shaded yellow.

FIGURE 3.3 Advertising services: U.S. cross-border exports and trade balance, by major trading partner, 2007



Source: USDOC, BEA, *Survey of Current Business*, table 7.2, October 2008, 56–57.

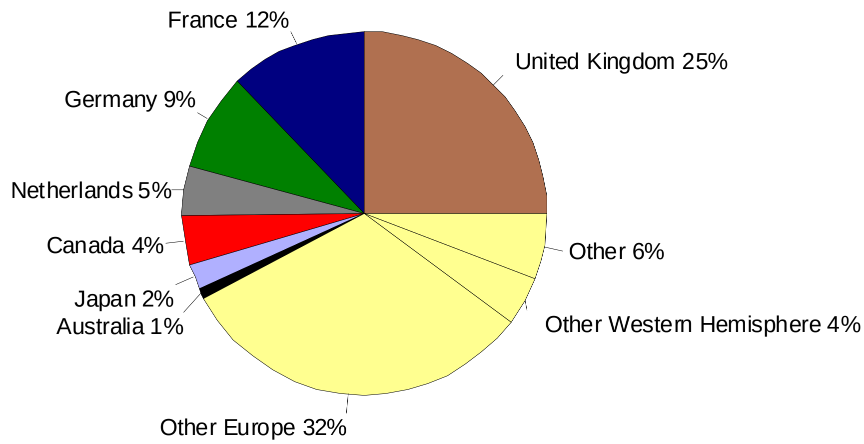
FIGURE 3.4 Advertising services: Sales by foreign affiliates of U.S. firms and domestic purchases from U.S. affiliates of foreign firms, 2001–06



Source: USDOC, BEA, *U.S. International Services*, table 10, 1999–2005 (accessed January 27, 2009).

[a]Data were suppressed in 2001 to avoid disclosure of individual company data.

FIGURE 3.5 Advertising services: Sales by foreign affiliates of U.S. firms, by country or region, 2006



Total = $12.3 billion

Source: USDOC, BEA, *Survey of Current Business*, table 9.2, October 2008, 60.

Notes: Data may not equal 100 percent due to rounding. Geographic regions are shaded yellow.

In recent years, U.S. advertising service providers have acquired an increasing number of European agencies. For example, in 2006, Omnicom (U.S.) acquired a majority stake in 180 Amsterdam, a Dutch advertising agency with over 100 employees and operations in more than 25 countries. Clients of 180 Amsterdam include Amstel, Motorola, Omega Watches, and Sony.[74] In that same year, Omnicom acquired BBL-HFM, a full-service agency based in The Hague, the Netherlands; Flamingo International, a market research company with offices in London, San Francisco, and Singapore; and Weapon 7, a digital interactive television consulting agency with operations in the United Kingdom and mainland Europe.[75] Overall, Omnicom and Interpublic, the two largest U.S. advertising conglomerates, conduct approximately 30 percent and 25 percent of their annual business, respectively, in Europe.[76]

Domestic purchases from U.S. advertising affiliates of foreign firms increased by about 4 percent in 2006 to reach approximately $21.0 billion. This increase is slower than the 8 percent average annual rate of increase registered from 2001 through 2005. In every year since 2001, purchases from U.S. affiliates of foreign advertising firms have outpaced sales through foreign affiliates of U.S. advertising firms because foreign advertising firms,

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[74] *Advertising Age*, Ad Age Data Center, *2007 Agency Profiles Yearbook*, April 30, 2007, 7; Bureau van Dijk, Zephyr Mergers and Acquisitions Database.

[75] Ibid.

[76] Standard & Poor's, *Global Industry Surveys: Advertising; Europe*, April 2007, 13.

particularly European firms, have a strong presence in the United States, the world's largest advertising market.[77] Notably, of the $21.0 billion in purchases in 2006, 99 percent were attributed to U.S. affiliates of European advertising firms (the same percentage as in 2005).[78] Among the largest European advertising conglomerates, Publicis (France) derived 43 percent of its 2005 revenue from the United States; Havas (France), 40 percent; WPP (UK), 39 percent; and Aegis (UK), 28 percent.[79]

Acquisitions of U.S. agencies by European advertising conglomerates have also grown in recent years, because U.S. multinational agencies offer potential acquirers extensive Asian alliances and established business portfolios.[80] For example, in 2002, Publicis (France) acquired Chicago-based Bcom3 for $3.0 billion in stock. At the time, Bcom3 was the seventh-largest advertising firm in the world, with clients across the Americas and Asia, including Procter & Gamble, Coca-Cola, General Motors, and Philip Morris.[81] Also, two of the industry's largest M&As in recent years, WPP's (UK) acquisition of Grey Global Group (U.S.) for $1.5 billion in 2005 and Publicis's acquisition of Digitas (U.S.) for $1.3 billion in 2006, expanded the European presence in the U.S. market.[82]

Liberalization of Trade Impediments

Efforts to liberalize trade in advertising services have principally occurred within the context of multilateral WTO negotiations. The governments of 51 countries, including the members of the EU, made General Agreement on Trade in Services (GATS) commitments in advertising services, most of which apply to the entire advertising sector. However, since 2001, only the U.S. government has submitted a negotiating proposal on advertising services as part of the Doha Round. Its submission listed a number of existing impediments to trade in advertising services and called on all WTO members to make and/or improve their GATS commitments on such services to permit full market access and national treatment.[83]

By contrast, the United States has experienced success in reducing or removing barriers to trade in advertising services in the context of bilateral FTAs and trade promotion agreements (TPAs) negotiated with partner countries including Bahrain, Chile, Colombia, Korea, Morocco, Oman, Panama, Peru, and Singapore.[84] Overall, such FTA/TPA agreements exceed

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[77] ZenithOptimedia representative, e-mail message to Commission staff, October 16, 2008.

[78] USDOC, BEA, *Survey of Current Business*, tables 10.1 and 10.2, October 2008, 61–62. In 2005, 99 percent of domestic purchases were from U.S. advertising affiliates of European firms.

[79] Standard & Poor's, *Global Industry Surveys: Advertising; Europe*, April 2007, 13; Standard & Poor's, *Industry Surveys: Media; Europe*, December 2008, 6.

[80] Standard & Poor's, *Global Industry Surveys: Advertising; Europe*, April 2007, 12.

[81] *Promo Magazine*, "Publicis, Bcom3 Combine in $3 Billion Deal," March 12, 2002. Through the acquisition of Bcom3, Publicis also made an alliance with Dentsu (Japan), which owned a 21-percent private stake in Bcom3. After the merger, Dentsu retained a 15-percent ownership share in the combined company and allowed Publicis access to Dentsu's extensive Asian network.

[82] Bureau van Dijk, Zephyr Mergers and Acquisitions Database.

[83] WTO, CTS–SS, "Communication from the United States," July 10, 2001; WTO, "Principles of the Trading System," undated (accessed April 2, 2009). The national treatment obligation under article XVII of GATS is to accord to the services and service suppliers of any other member treatment no less favorable than is accorded to domestic services and service suppliers.

[84] The trade agreements with Colombia, Korea, and Panama have yet to go into effect.

country commitments made in the WTO and dismantle services and investment barriers, such as measures that require U.S. firms to hire nationals rather than U.S. professionals.[85]

Impediments to trade in the sector have been decreasing over time, but a major remaining issue is the diverse range of regulations regarding the content and placement of marketing and advertising, including controls designed to protect health, uphold decency, and protect privacy.[86] For example, although the advertising of prescription drugs to the general public is allowed in the United States, such advertising is not permitted in most of Asia and Australia.[87] Moreover, as listed in the U.S. government's WTO submission, other impediments encountered by foreign providers of advertising services worldwide include restrictions on importing and broadcasting foreign-produced television commercials, local content requirements for electronically transmitted advertising, local processing requirements, residency requirements for employees of advertising agencies, foreign equity ownership limitations on advertising firms, requirements to hire host-country nationals as managers in foreign-owned advertising firms, and requirements that certain advertising be carried only by local cable or satellite programs.[88]

In a policy statement, the International Chamber of Commerce (ICC)[89] noted that all restrictions on the distribution and placement of advertising services should be lifted. The ICC contended that in an increasingly competitive environment, with a tendency toward shorter product life spans, new products and services must be introduced without delay to local markets so that businesses can meet consumer expectations or preferences and have the opportunity to achieve their sales targets in a relatively short time period. Barriers preventing businesses from using cross-border transactions are reportedly detrimental to economies; such restrictions increase the costs of the new products and services, and these costs are passed on to customers. In addition, the ICC stated that such cost increases are particularly detrimental for small- and medium-sized enterprises, agencies, and advertisers.[90]

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[85] Office of the USTR, "Bilateral Trade Agreements," undated (accessed March 25, 2009). Unlike WTO negotiations, U.S. FTA and TPA agreements are negotiated under a negative list approach. Under this approach, all services sectors are liberalized except for those explicitly stated in the agreement. In most agreements, there have been very few to no limitations placed on the provision of advertising services by U.S. firms.

[86] Nielson and Taglioni, "Services Trade Liberalisation," February 6, 2004, 32.

[87] Standard & Poor's, *Global Industry Surveys: Advertising; Asia*, May 2007, 18. New Zealand allows for the advertising and marketing of prescription drugs.

[88] WTO, CTS–SS, "Communication from the United States," July 10, 2001; WTO, CTS, "Communication from the United States," December 9, 1998; WTO, CTS, "Advertising Services," July 9, 1998; and International Chamber of Commerce representative, e-mail message to Commission staff, February 24, 2009.

[89] The ICC, headquartered in Paris, is an umbrella organization that advocates on behalf of various business interests worldwide. The ICC represents thousands of associations and member companies in around 130 countries. The ICC's activities range from arbitration and dispute resolution to advocating to governments and intergovernmental organizations the benefits of open trade and the market economy system.

[90] International Chamber of Commerce representative, e-mail message to Commission staff, February 24, 2009.

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CHAPTER 4
Education Services

Summary

Approximately 3 million students worldwide studied at higher education institutions outside of their home countries (hereafter referred to as foreign students) in 2006,[1] the latest year for which data are available.[2] The largest numbers of foreign students originated in Asia, especially India, China, and Korea, as capacity or quality constraints in home-country university systems prompted qualified students with sufficient financial means to pursue degrees abroad. The competition to recruit foreign students has intensified in recent years. Although, historically, the United States is the top destination of students who choose to study abroad (and who contributed $15.5 billion to the U.S. economy in 2008), the proportion of foreign students attending U.S. institutions relative to universities elsewhere outside their home country is diminishing.

In recent years, economic growth, increased personal income, the perceived advantages of degrees and research fellowships from prestigious universities abroad and demand-inducing government policies have all propelled demand for education services. Demand drivers have also included the proliferation of collaborative programs and degrees between universities in different countries, as well as the spread of universities establishing branch campuses abroad. To enhance supply, certain governments have increased funding for university infrastructure improvements and permitted public universities to exercise more authority over their financial affairs to better compete in providing higher education services.

Cross-border trade is the primary means of providing education services to foreign students. Such trade consists of expenditures for tuition and living expenses of students abroad. Cross-border trade in education services does not include students' online cross-border learning expenditures, which are recorded elsewhere in the balance of payments account. U.S. exports, which represent expenditures by foreign students at U.S. universities, increased by 7 percent in 2007, the fastest rate since before the terrorist attacks on September 11, 2001. U.S. imports, which represent expenditures by U.S. students at foreign universities, increased by 1 percent in 2007, slower than in the period from 2002 through 2006, due to the trend toward shorter duration, and therefore less expensive, study abroad by U.S. students.

Few governments have made commitments on education services under GATS, or have liberalized such services since its inception, because the exercise of government authority over public education is outside the scope of GATS. A few governments, however, have expressed willingness to undertake new commitments on private education services under certain conditions and remove certain discriminatory provisions in their legal and regulatory

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[1] This chapter presents information pertaining to higher education, which is the component of education services for which cross-border trade data are reported. Information on other components of education services, such as primary and secondary education services, may be found in publications of the U.S. Department of Education, National Center for Education Statistics, for the United States, and of the United Nations Educational, Scientific and Cultural Organization (UNESCO), OECD, the World Bank, and national government sources, among others, for other countries.

[2] UNESCO, Institute for Statistics, *Global Education Digest 2008*, 2008, 116, 118.

systems. Requirements related to ownership of higher education institutions and the recognition of qualifications of personnel, and the imposition of economic-needs tests, continue to restrict education service suppliers from abroad in certain countries; such restrictions even exist between the United States and its FTA partners.

Competitive Conditions in the Global Education Services Market

U.S. colleges and universities (hereafter, universities) continued to enroll the most foreign students in the world in 2006 (figure 4.1), as they have for many decades. Nevertheless, foreign students in the United States as a percentage of the world total of foreign students decreased from about 23 percent in 2004 to 21 percent in 2006,[3] continuing a downward trend since 2001 (the first year that UNESCO reported the proportion of foreign students in U.S. universities relative to those of other countries). With the second-largest number of foreign students, UK universities enrolled 12 percent of total foreign students in each year from 2004 through 2006. Universities in Germany, France, and Australia enrolled the third-, fourth-, and fifth-largest numbers of foreign students, respectively, in recent years.

The Asia-Pacific region (hereafter, Asia) is the principal geographic origin of foreign students at U.S. and Australian universities.[4] In 2006, about three-fifths of foreign students at U.S. universities and three-fourths at Australian universities were from Asia, mainly East Asia (figure 4.2). At UK universities, by comparison, foreign students from Asia only slightly outnumbered those from North America and western Europe combined.

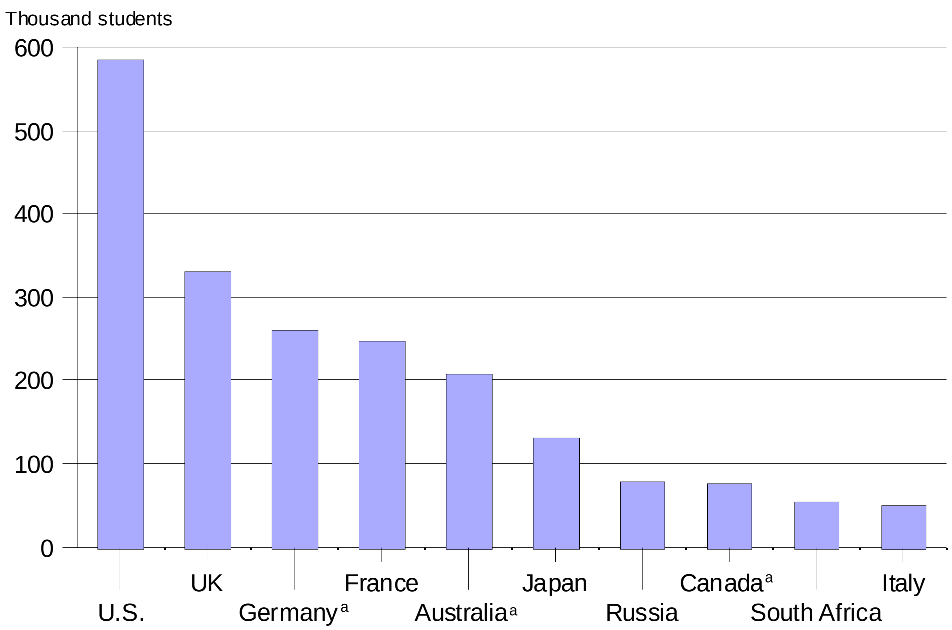
Demand and Supply Factors

Factors stimulating demand for study abroad include the perceived prestige of universities in certain developed countries; the increasing desire for interaction with persons from other cultures in global learning environments; the insufficiency of higher education supply in many countries; economic growth and increasing personal income in many countries; and demand-inducing government policies, such as programs to assist students with education financing and liberalize student visa requirements. Factors that influence supply include government support for the development of education infrastructure and improvements in the quality of education.

[3] Data on foreign students were not yet available for inclusion in UNESCO's report cited above. Thus, share of world calculations are estimates.

[4] UNESCO, Institute for Statistics, *Global Education Digest 2008*, 2008, 116, 118.

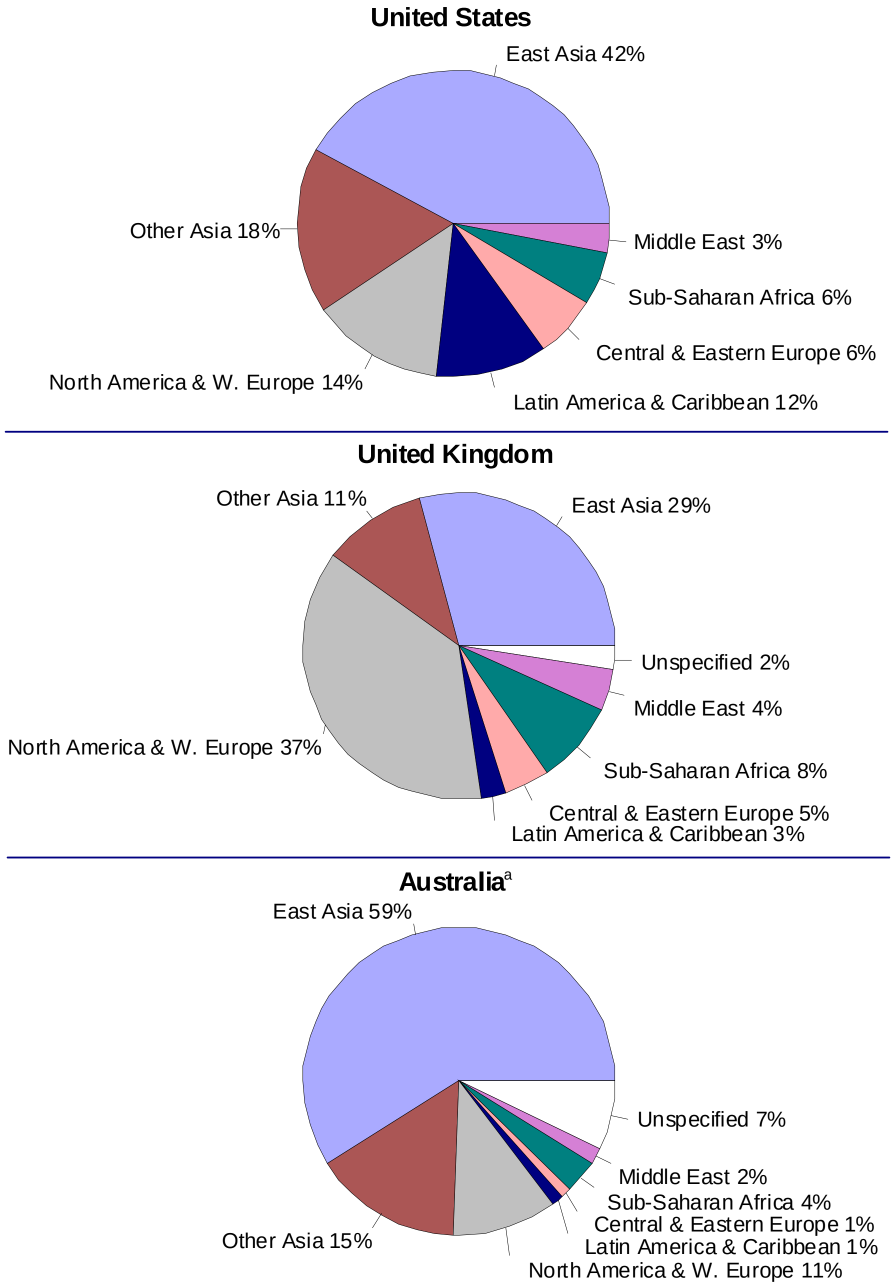
FIGURE 4.1 Education services: Top 10 countries enrolling foreign students, 2006



Source: UNESCO, Institute for Statistics, *Global Education Digest 2008*, table 9, 2008, 116, 118.

[a]Data are for 2005, the latest year available.

FIGURE 4.2 Education services: Top English-speaking countries enrolling foreign students, by home region of student, 2006



Source: UNESCO, Institute for Statistics, *Global Education Digest 2008,* table 9, 2008, 116–19.

Notes: Data may not equal 100 percent due to rounding. The United States total includes unspecified data that account for less than 1 percent.

[a]Data are for 2005, the latest year available.

Foreign Students Demand Quality in Education, Employment Opportunities

Each year, the number of students seeking higher education abroad increases, with many students motivated by perceptions that prestigious foreign universities and programs provide essential foundational learning and subsequent employment opportunities. Further, students seek opportunities to interact with people from other cultures and acquire collaborative skills deemed necessary in an increasingly global society. Many foreign students, especially from Asia, are motivated by the lack of educational institution capacity, or by quality constraints or insufficient employment opportunities, in their home countries.

In recent years, India, China, Korea, and Japan were the four principal home countries of foreign students at U.S. universities, and were also important sources of foreign students in other countries.[5] The United States was the leading destination for foreign students from these four Asian countries, although the proportions of students attending U.S. universities varied by home country. The United States was by far the chief destination for foreign students from Japan (67 percent), Korea (60 percent), and India (57 percent) in 2006.[6]

Students from China and India enrolled at U.S. universities chiefly at the graduate level in recent years, due to extensive capacity and program constraints, particularly for graduate degrees, at universities in their home countries. Few prestigious higher education institutions exist, and even fewer specialize in conducting research in either country, which leads many students from both countries to enroll in institutions abroad for advanced degrees. In India, more than 130,000 students each year take examinations for only 2,000 to 3,000 admissions into the country's institutes of technology. China has the world's highest enrollment of university students but also has high unemployment among new college graduates. To relieve the situation, the Chinese government encourages thousands of Chinese students who earned graduate-level degrees solely at universities abroad not to return to China except for a brief period during which to transfer knowledge acquired abroad. Overall, at least three-fourths of graduate-level university students from China and India who study abroad do not return to their home country.[7]

In comparison, students from Korea and Japan enrolled in U.S. universities mostly as undergraduates.[8] In recent years, fewer students from Japan studied abroad, including in the United States, as more students among the decreasing Japanese population of 18- to 24-year-olds were able to enroll in Japanese universities.

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[5] UNESCO, Institute for Statistics, *Global Education Digest 2008*, 2008, 116, 118. Data for 2004 and 2006 show that the number of students studying abroad from these four Asian countries grew at the fastest rate among Chinese students (22 percent), followed by those from India (13 percent) and Korea (6 percent). Study abroad by Japanese students fluctuated, by initially rising, then falling, by 8 percent.

[6] Ibid.; U.S. government official, e-mail message to Commission staff, February 18, 2009. However, only a slightly higher percentage of students from China studied in the United States than in Japan. (Data reported for China by UNESCO include estimates for students from mainland China, as well as for Taiwan.) In 2006, the leading destinations of choice for study abroad, other than universities in the United States, by students from the major Asian countries were (1) Australian universities for students from India, (2) Japanese universities for students from China and Korea, and (3) UK universities for students from Japan.

[7] King, Douglass, and Feller, eds., "The Crisis of the Publics," November 2007, 15–17.

[8] IIE, Project Atlas Database.

The United States is widely recognized as having an extensive, preeminent, and diverse higher education system. However, the competition for foreign students has intensified from universities in other English-speaking countries, from new regional centers for science and technology, and from many individual country governments that are providing financial capital to upgrade national systems of higher education or support their leading universities.

Foreign Student Numbers Increase at U.S. Universities

From at least the mid-1990s until the terrorist attacks on the United States that occurred early in the 2001–02 academic year, the number of foreign students in U.S. universities gradually increased (figure 4.3). The number of students per year declined erratically between 2003 and 2006, but by 2007, the overall number of foreign students at U.S. universities returned to about the same level as in 2002, about 583,000.[9] Recently, the U.S. government is better accommodating foreign students by expediting student visa application processing, creating a new visa category for foreign student interns, and expanding the network of EducationUSA advisory centers in designated foreign countries to assist prospective students.[10] Another U.S. government program, the Community College Initiative Program, begun in 2007, awards scholarships to students from certain designated countries for one-year vocational certificates at U.S. community colleges. The program is unique because the students selected are not socioeconomically advantaged, and the fields of study offered under the program are intended to address labor shortages or promote economic growth in the students' home countries.[11]

Through tuition, education fees, and living expenses,[12] foreign students contributed $15.5 billion to the overall U.S. economy in 2008. The economies of California, New York, Texas, and Massachusetts benefitted the most; each received over $1.0 billion and together accounted for 42 percent of the national total. In 2008, funds received from foreign students increased by 7 percent for the second consecutive year, following three years of slower growth after the terrorist attacks in 2001.[13] In 2008, living expenses accounted for 52 percent of the funds received from foreign students, although the remainder (tuition and fees) increased at a much faster rate than living expenses between 2002 and 2008.

[9] Bachelor's program participation by foreign students in the United States was the most adversely affected, decreasing each year between 2003 and 2007, and was still 8 percent below its 2002 level in 2008. Conversely, in recent years, the number of foreign students in nondegree programs at U.S. universities increased faster than those in any degree program.

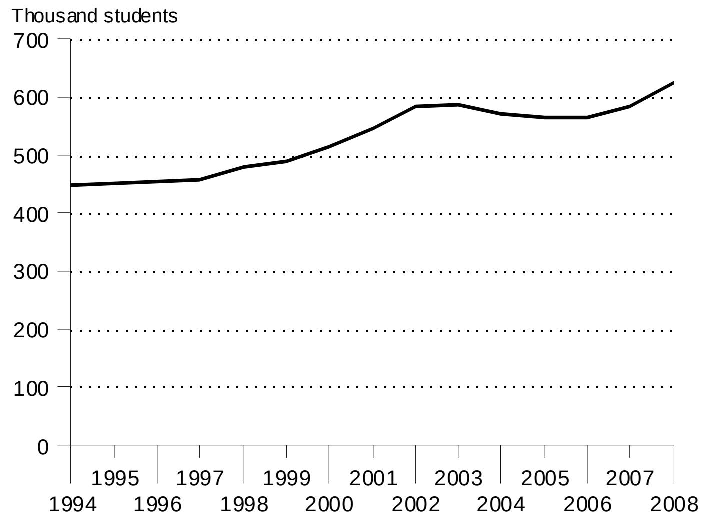
[10] Further, in 2008, the Department of Homeland Security extended from 12 months to 29 months the authorization period wherein certain foreign students may apply for temporary U.S. employment for optional practical training (OPT) directly related to the students' major area of study. The extension period is for students majoring in science, technology, engineering, and mathematics. As previously, students in other areas of study may apply for OPT for a period of 12 months. Even several years before the extension was announced, universities reported substantial increases in foreign students' participation in OPT, which industry sources state may be partly attributable to better measurement of OPT programs and students.

[11] U.S. Department of State, "Community College Initiative," undated (accessed June 10, 2009); Fischer, "State Department Program Pairs Foreign Students," January 16, 2009, A22.

[12] These data are net of support that students may have received from U.S. sources.

[13] Foreign students contributed $12.0 billion to the U.S. economy in 2002.

FIGURE 4.3 Education services: Foreign students in U.S. universities, 1994–2008



Sources: Bhandari and Chou, eds., *Open Doors 2008*, 2008 (accessed January 29, 2009); Koh Chin and Bhandari, eds., *Open Doors 2006*, 2006 (accessed January 29, 2009); Koh Chin, ed., *Open Doors 2004*, 2004, 3; and Koh Chin, ed., *Open Doors 2003,* 2003, 3.

The principal source of funds used by most foreign students in the United States to pay tuition, fees, and living expenses has historically been personal or family financial resources. Sixty-two percent of foreign students in the United States relied primarily on such funds in 2008. Nevertheless, a gradually increasing percentage of foreign students during the past three decades (rising from 9 percent in 1980 to 25 percent in 2008) stated that their principal funding source was their U.S. university.[14]

Some foreign governments finance study abroad for their countries' qualified students. For example, the Saudi Arabian government began a scholarship program in 2005 that resulted in nearly 7,900 Saudi students attending U.S. universities in 2007, rising to about 9,900 in 2008, compared with about 3,000 before institution of the scholarship.[15]

Foreign Governments Recruit Foreign Students

Other national governments have instituted policies and regulations to facilitate recruitment of foreign students into their countries' universities. For example, in a 1999 initiative, the UK government aimed to recruit an additional 50,000 foreign students by 2004, and reached its goal by 2003.[16] In part, this early success was a result of research that identified the principal factors that foreign students consider when choosing where to study abroad. Further, the program developed a unified Education UK marketing campaign for the purpose of recruiting students from 85 selected countries. A second UK initiative seeks an additional

[14] Koh Chin, ed., *Open Doors 2004*, 2004, 6; IIE, "International Students on U.S. Campuses," November 17, 2008.

[15] Redden, "Supporting Saudi Students," August 16, 2007; IIE, "International Students on U.S. Campuses," November 17, 2008.

[16] Leggett, "The UK: International Recruiting Powerhouse," September/October 2008, 1.

100,000 foreign students by 2011, some of whom would be identified through partnerships and other forms of collaboration between UK and foreign universities.[17] New regulations permit foreign graduates of UK universities to work in the country for two years following graduation, which extends the previous authorization by one year.[18]

In another example, the Australian government implemented new regulations in 2008, including simplification of student visa application procedures for students from India, Indonesia, and Thailand (three of the leading countries from which foreign students come to Australia), and permission for foreign students in Australia to work part-time (up to 20 hours per week) without also having to apply to the government for permission to work, as previously required. These new regulations are expected to enhance recruitment of foreign students.[19] Other recent changes to government regulations in Australia and Canada allow issuance of longer temporary work permits to foreign students following graduation and ease the process whereby foreign students may qualify for permanent residency status.[20]

Domestic Students Engaging in Shorter, More Diverse Study Abroad

The number of students at U.S. universities who studied abroad as part of their degree program is less than half the number of foreign students at U.S. universities. Nevertheless, the number of study abroad students from the United States increased from fewer than 100,000 in 1997 and 160,000 in 2002 to 242,000 in 2007 (latest available data).[21] The number of students from the United States who studied abroad increased by 8 percent in 2007, similar to the average annual growth rate from 2002 through 2006. Universities in Europe were the dominant destination, accounting for 57 percent of study abroad participants from U.S. universities in 2007. Nevertheless, study abroad at non-European universities, especially in Asia but also in the Middle East, Latin America, and Africa, increased at higher rates than the overall average for study abroad destinations in recent years. Growth in the number of U.S. university students studying abroad resulted, in part, from students' interest in experiencing life in a developing country; a proliferation of study programs, especially for short durations, in developing and developed countries; and increasing numbers of contractual arrangements between U.S. and foreign universities that include opportunities for student mobility between countries.[22]

In recent years, the duration of study abroad participation by U.S. university students has become shorter even as overall participation has increased. In 2007, 55 percent of students from the United States who engaged in study abroad chose short-duration programs of two to eight weeks in a foreign country, while 40 percent selected mid-length programs of one semester or one to two quarters abroad. Many study abroad students selected short-term programs available between semesters, during holiday periods, or sometimes integrated in the schedule of a particular course of study. Tight academic schedules for faculty and students, as well as students' expenses for study abroad on top of annual educational expense increases levied by students' home university, are among the factors driving growth in short-

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[17] Ibid.

[18] Ibid.; *International Educator*, "Britain Overhauls Restrictions on Foreign Students," September/October 2008, 4. Additional UK regulations, issued in July 2008, require foreign students to be fingerprinted, obtain a biometric identity card, and have their class attendance monitored. Excessive absences are reported by the university to a government authority in an effort to prevent abuse of student visa status.

[19] Dessoff, "International Enrollments Up Down Under," January/February 2009, 4.

[20] Lowe, "Canada: Changing Employment and Visa Regulations," June 2008.

[21] IIE, "U.S. Study Abroad Up 8 Percent," November 17, 2008.

[22] Ibid.

term study abroad relative to long-term study. In 2007, only 5 percent of U.S. university students who studied abroad spent a full year of study in another country, continuing the decades-long decline in participation in long-term study abroad.[23]

Collaboration Between Universities Accelerates, Adds Dimensions

Economic growth in many countries in recent years has created vast demand for university-level education. Government policymakers and education practitioners in many countries have sought to enhance student mobility, promote study abroad, and increase opportunities for nonmobile students to participate in top-quality university research and degree programs in their home country. As a result, collaboration between universities has accelerated and taken new forms in recent years. Certain Middle Eastern and Asian country governments have especially encouraged universities from other countries to establish programs and branch campuses in their territory, often granting a degree of local autonomy to a branch campus of a foreign university that meets predetermined criteria based on the stature of the parent institution, the program content, or both.[24] The establishment of branches abroad involves long-term development (often a decade or more in some countries), and usually requires extensive capital investment and accurate forecasts of financial viability and student demand. For example, after many years, branch campuses of three U.S. universities graduated their first group of students at Education City in Doha, Qatar, in 2008.[25] On occasion, branch campuses in foreign countries do not succeed. For example, in 2007, the Singapore branch campus of the University of New South Wales (Australia), the first established in the city-state by a foreign university, closed after only three months of operation due to insufficient student enrollment.[26]

Foreign-backed universities, alternatives to establishing branch campuses, may involve less risk and can occur more rapidly and involve a wider range of institutions. Recently, industry sources identified approximately 24 new foreign-backed universities, mostly but not exclusively in developing countries.[27] These institutions formed in countries such as Egypt, Indonesia, and Nigeria, where laws or regulations disallow establishment of branch campuses by foreign universities, as well as in countries such as Malaysia and the United Arab Emirates, where branch campuses of foreign universities are allowed. The founders of foreign-backed universities are governments, enterprises, or individuals in host countries responsible for organization, governance, and primary funding. At least one foreign "mentor" university develops curricula and quality assurance processes, and provides teacher training and other start-up assistance.[28] U.S. and European universities, representing a wide spectrum of institutional type and size, have been the most active mentor institutions to date.

[23] Ibid.

[24] Lane and Kinser, "The Private Nature of Cross-Border Higher Education," Fall 2008, 12.

[25] Qatar Foundation, "Academic Programs: Universities," undated (accessed February 26, 2009). First graduations occurred on the campuses of Carnegie Mellon, Texas A&M, and Cornell's medical school at Education City. Also in Doha in 2008, Northwestern University's journalism school admitted its first students, and Virginia Commonwealth University enrolled its first male art and design students 10 years after beginning to admit women. Georgetown University's School of Foreign Service has operated there since 2005.

[26] Government of Singapore, Economic Development Board, "University of New South Wales Signs Settlement Agreement," December 11, 2007.

[27] Lanzendorf, "Foreign-Backed Universities," Spring 2008, 4.

[28] Usually, mentors remain involved with the foreign-backed university by maintaining permanent seats on the university's board. In some cases, graduates are awarded degrees by both the mentor institution and the foreign-backed university.

Student mobility between universities in different countries is a hallmark of collaborative degrees.[29] In particular, the establishment of dual (sometimes called double) degree programs between universities has long been common in Europe. Further, European government and education policymakers regard collaborative degree programs as useful in advancing one of the goals of major higher education reform on the continent, which is to increase connectivity among European countries' university systems (box 4.1).[30] Moreover, collaborative degrees are one aspect of study abroad components that are increasingly incorporated into curricula in European university undergraduate degree programs under Bologna reforms. Cross-border collaborative degree programs have only recently begun to proliferate in other regions and countries, including the United States.[31] Education experts note that expansion of such programs is desirable, especially between universities on different continents and in view of certain recent trends in study abroad.[32] For example, collaborative degree programs could offset or reverse the decline, since 2002, in the number of students from the EU who study at U.S. universities. Such programs could also encourage more U.S. students to study longer than eight weeks at European universities, thereby more fully utilizing European institutions' existing instructional capacity. Presently, collaborative degree programs occur mostly at the undergraduate level at U.S. universities, whereas European institutions tend to provide such programs mostly at the graduate level.[33] However, the pattern could change rapidly at U.S. graduate schools, as a survey of such schools in 2008 found collaborative degrees had become much more widely known and highly regarded in only a few years. Moreover, nearly 40 percent of the 50 largest U.S. universities in terms of foreign graduate student enrollment responded that they planned to establish collaborative degree programs with a foreign university within two years.[34]

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[29] Kuder and Obst, *Joint and Double Degree Programs*, January 2009, 7. In collaborative degree programs, of which there are two types, a student studies in at least two universities. In joint degree programs, the participating universities award a single degree signed jointly by all institutions. In dual or double degree programs, which are more prevalent because they do not require as much conformity to a single legal form, each participating university awards its own separate degree certificate.

[30] The Bologna Declaration by European government education ministers in 1999 launched a major long-term process of higher education reform, which is summarized in box 4.1.

[31] The collaborative degree programs at U.S. universities appear to be with more widely dispersed partner universities abroad (including in China, Korea, and Mexico, as well as in several European countries), compared with such programs at European universities, which are mainly with other European and U.S. universities.

[32] Yopp, "Double and Joint Degrees in the U.S.," May 26, 2008.

[33] Ibid. However, industry experts stated that, beginning in 2006, U.S. graduate schools exhibited increased interest in dual degrees.

[34] Ibid.

BOX 4.1 The Bologna Process: University Education Reforms in Europe Elicit Widening Attention

In 1999, ministers of education in 29 European countries signed accords in Bologna, Italy, that, although not legally binding, set in motion a long-term process of major reforms in university education throughout Europe. The Bologna Process also appears to have stimulated higher-education reform efforts outside of Europe. To a varied extent, European governments have revised national laws and regulations in accordance with the Bologna agenda. Biennial meetings of education ministers and ongoing working groups have assessed progress toward Bologna goals, and strategies and initiatives have been adjusted in response to changed circumstances and to participation by 17 additional countries' education ministers since the Bologna Process began.

Principal Goals and Elements of the Bologna Process

The reform process is intended to enhance the ability of European students to attain progressively higher levels of education in any European country. The process encourages the development of uniform definitions of academic courses and degrees throughout Europe, making it easier for students to access education services and transfer credits between institutions in different European countries. Further, the recognition of students' degree credentials would expand across European borders through common understandings regarding the characteristics of particular national education systems and the acceptance of variations in university-specific programs and awards of students' achievement. The 46 governments participating in the Bologna Process[a] have pledged to adopt certain common education elements to facilitate creation of a European Higher Education Area conducive to student mobility across participant countries' borders. Elements principally include (1) a three-cycle, interrelated series of degrees (three-year bachelor's, two-year master's, and doctorate), although additional, country-specific awards of higher education attainment are permitted; (2) a transnational Framework for Qualifications and compatible national qualification frameworks that condition the award of each three-cycle degree upon students' attainment of particular learning outcomes; (3) a European Credit Transfer System that, for the first time in many European countries, provides for the accumulation, as well as transfer, of credits for courses that have explicitly defined subject boundaries, prerequisite requirements, and credit-hour values; and (4) the recognition of foreign university degrees in accordance with particular principles and instruments to aid in such recognition.[b]

Progress of Reforms in Europe and Interest Elsewhere

More than half of the students at European universities in 2008 were in countries where Bologna reforms have begun. In nearly all Bologna signatory countries, national legislation, regulations, or both have been changed to move universities toward the three-cycle degree structure.[c] Progress in adopting the three-year bachelor's degree has been rapid in many signatory countries. In about one-sixth of these countries, such changes predated the Bologna accords, and most bachelor-level programs at universities in these countries have been changed to the three-year degree. Lack of awareness of the new bachelor's degree format by many prospective employers accounts, in part, for the degrees' uneven acceptance in the workplace.[d] Conversion of master's programs to the new two-year format is in early stages of implementation. With regard to qualifications that students must achieve in order to earn a degree, European governments are in the process of establishing national frameworks to define how the transnational framework would be implemented in individual countries. Drafting compatible national frameworks has proven to be time consuming and elusive in many countries, and only seven participants completed national frameworks by 2007.

Attention to Bologna reforms extends beyond European government and university policymakers. For example, leaders in member countries of the Association of Southeast Asian Nations are considering the creation of a similar reform process in the region, and the region's association of education ministers first met in November 2008 to address the topic.[e] Further, East African education ministers recently initiated a pilot project to provide for the accumulation and transfer of credits in certain academic programs between universities in the region.[f]

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[a]Bologna Process, "Participating Countries and Organizations," undated (accessed April 15, 2009). In addition to the 27-member state governments of the European Union, Bologna Process participant governments are from Albania, Andorra, Armenia, Azerbaijan, Bosnia-Herzegovina, Croatia, Georgia, the Holy See, Iceland, Liechtenstein, Macedonia, Moldova, Montenegro, Norway, Russia, Serbia, Switzerland, Turkey, and Ukraine. The European Commission is also a member.

[b]Colucci, "The Bologna Process: Overview and Update," May 26, 2008; Crosier, Purser, and Smidt, *Trends V*, 2007.

[c]Crosier, Purser, and Smidt, *Trends V*, 2007, 16.

[d]Colucci, "The Bologna Process: Overview and Update," May 26, 2008.

[e]Changing Higher Education, "An Asian 'Bologna Process' Moves Forward," December 14, 2008.

[f]Limo, "Project to Open Up Universities in East Africa," undated (accessed March 6, 2009).

Motivations for instituting collaborative degree programs vary among countries. For example, the Chinese government allowed certain Chinese universities to enter into mainly undergraduate degree programs with U.S. universities in various fields to better ensure that U.S. student visas would be granted and that Chinese students would more likely return to China to complete the degree.[35]

Trade Trends

Cross-border Trade

In 2007, U.S. cross-border exports of education services (box 4.2) increased by 7 percent to $15.7 billion, faster than the average annual growth rate of 4 percent recorded from 2002 through 2006 (figure 4.4). U.S. imports of education services increased by 1 percent in 2007, a much smaller increase than the 14 percent average annual growth rate reported from 2002 through 2006. The decline in U.S. import growth was attributable to the increasing prevalence of shorter-duration study abroad, due in part to the depreciation of the dollar against foreign currencies. As a result of these trends, the U.S. trade surplus in education services in 2007 widened by 10 percent, to $11.2 billion, exceeding the 1 percent average annual increase from 2002 through 2006.

In 2007, the principal U.S. export markets for education services were the same as in 2002: India, China, Korea, Japan, and Canada (figure 4.5). The only change in the relative position of these five export markets over time is that the rank orders of Korea and Japan have reversed since 2002. Further, the share of U.S. exports of education services accounted for by the top three export markets (India, China, and Korea) increased significantly, from 26 percent in 2002 to 36 percent in 2007. By region, Asia accounted for the largest share of U.S. exports in 2007 (59 percent) (figure 4.6), followed by the EU (10 percent, with an additional 5 percent of receipts from other European countries).

As with exports, the five leading U.S. import sources for education services were the same in both 2002 and 2007 (United Kingdom, Italy, Spain, Mexico, and France), although the rank orders of Italy and Spain were reversed in 2002. By region, countries of the EU accounted for 57 percent of U.S. imports in 2007 (with an additional 3 percent from other European countries), followed by Asia (14 percent).

Liberalization of Trade Impediments

Services supplied in the exercise of government authority, such as public education services provided by governments without charge to citizens, are expressly excluded from the scope

[35] American Association of State Colleges and Universities, "Programs," undated (accessed June 11, 2009); George Mason University, "Degree Options," undated (accessed June 11, 2009); and Inside Higher Ed, "A Bookend Approach to Attracting Chinese Students," August 12, 2008. Since 2001, the China Center for International Educational Exchange (part of China's Ministry of Education) and the American Association of State Colleges and Universities have developed a program where students from about 70 Chinese universities may apply to complete the equivalent of their sophomore and junior years of undergraduate instruction at a participating U.S. university. In order to complete the program and receive their degrees, students must return to China. More than 1,000 Chinese students have participated in the program since its inception.

BOX 4.2 An Explanation of BEA Data on Cross-border Trade in Education Services and on Transactions by Education Affiliates

Education services include the provision of instruction and training in widely varied subjects. Specialized establishments for performing such services include schools, colleges, universities, and training centers. The establishments include those publicly owned and operated, as well as those that are privately owned and operated either on a profit-making or not-for-profit basis. The education services sector also includes establishments that predominantly provide examination preparation and tutoring services, and education support services, such as educational consultancy, educational guidance counseling, educational testing and testing evaluation, and student exchange programs.[a]

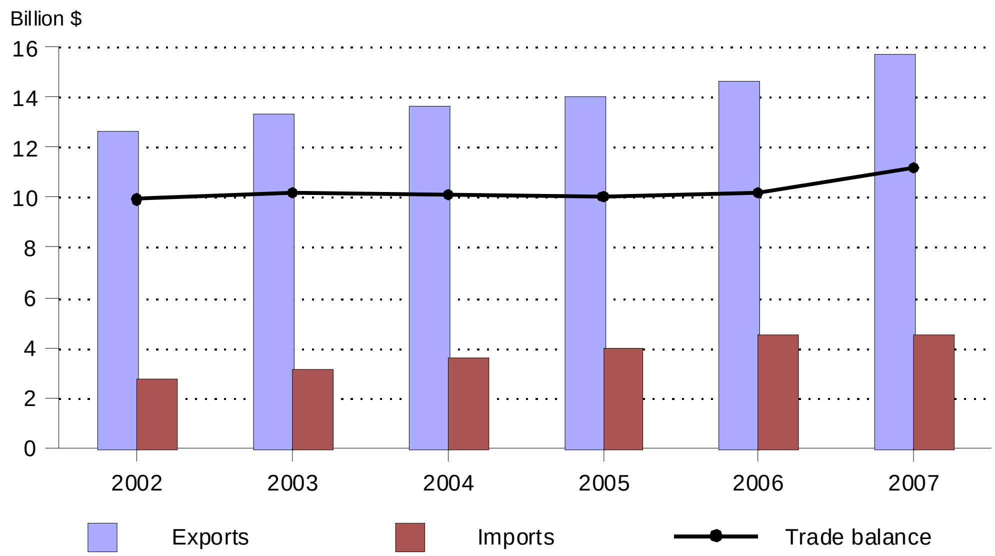
U.S. cross-border exports of education services reflect estimated tuition (including fees) and living expenses of foreign residents (which exclude U.S. citizens, immigrants, or refugees) enrolled in U.S. colleges and universities, while cross-border imports of education services represent the same expenses for U.S. residents studying abroad. Data on U.S. imports of education services are estimated by the BEA based on two pathways in which U.S. permanent residents study in a foreign country. In the first, U.S. residents must receive academic credit for study abroad from accredited U.S. colleges and universities whether or not the U.S. residents also receive academic credit from the foreign institution. The tuition and living expenses of students whose academic credits for study abroad do not transfer to U.S. institutions (with three country exceptions, as explained below), or who study abroad on an informal basis, are not included. The second pathway—from 2002 onward—supplements U.S. import data on education services by also including estimated tuition and living expenses for U.S. permanent residents who enroll in a degree program at a university in Australia, Canada, or the United Kingdom and reside temporarily in these countries in order to pursue their education. Because only formal study for credit toward a degree is included in estimates of tuition and living expenses that comprise U.S. imports of education services, the full extent of study abroad by U.S. students is understated in the trade data and, accordingly, the U.S. trade surplus in education services is overstated. Neither U.S. exports nor U.S. imports of education services includes estimates for online instruction across borders, as such trade is included in "Other business, professional, and technical services" in the balance of payments account.

Education affiliate transactions data are limited, especially concerning transactions by education affiliates located in the United States but owned by a foreign firm. Because transaction data from education affiliates are from a much wider range of education providers than solely the higher education segment, which is the focus of this chapter, education affiliate transaction data are not presented herein.

Sources: BEA officials, e-mail messages to Commission staff, February 9–10, 2009; Koh Chin, ed., *Open Doors 2004*, 2004, 92.

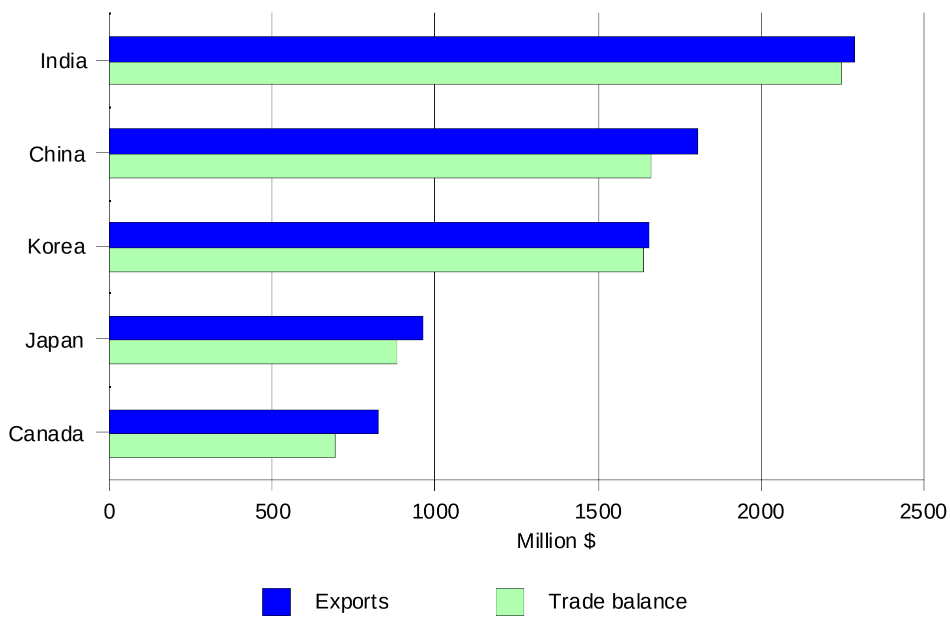
[a]As defined by USDOC, Bureau of the Census, *North American Industry Classification System 2007*, NAICS definition, sector 61, "Educational Services."

FIGURE 4.4 Education services: U.S. cross-border trade, 2002–07



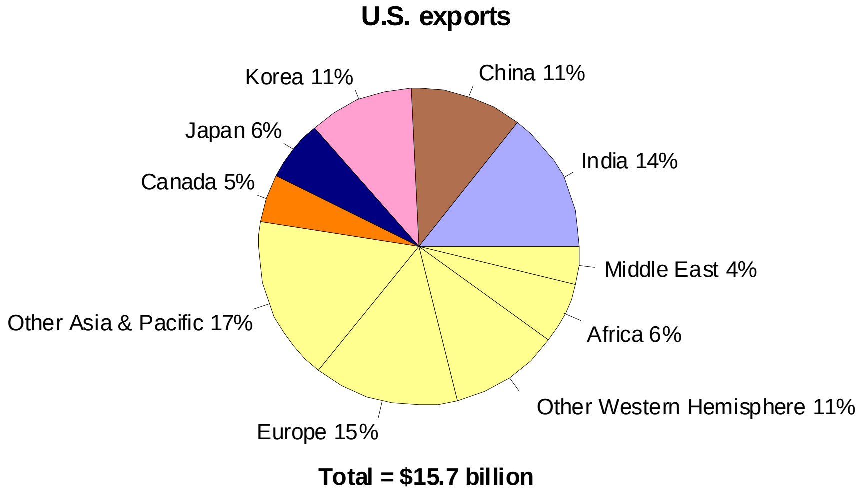
Source: USDOC, BEA, *Survey of Current Business*, table 1, October 2008, 38–39.

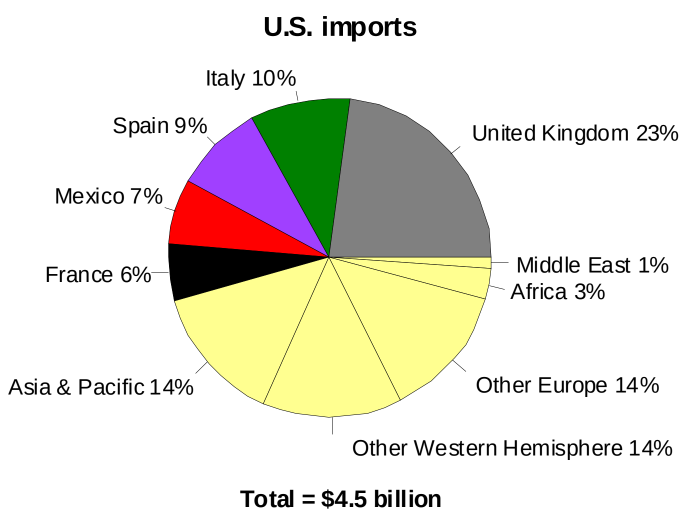
FIGURE 4.5 Education services: U.S. cross-border exports and trade balance, by major trading partner, 2007



Source: USDOC, BEA, *Survey of Current Business*, table 5.2, October 2008, 50–51.

FIGURE 4.6 Education services: U.S. education services exports and imports, by country or region, 2007





Source: USDOC, BEA, *Survey of Current Business*, table 5.2, October 2008, 50–51.

Notes: Data may not equal 100 percent due to rounding. Geographic regions are shaded yellow.

of GATS.[36] Aside from this exception, education services are subject to basic general disciplines of GATS. However, only about 30 percent of governments made a specific commitment to any portion of the education services sector under GATS,[37] and few countries have liberalized such services since the inception of the agreement.[38] A recent WTO report summarized the extent to which WTO member governments, in general, were prepared to undertake further steps to liberalize services commitments. The report stated that a few unnamed governments were prepared to make new commitments on private education services and remove certain existing provisions that discriminate against foreign providers. Several governments signaled their intention to seek additional commitments with regard to private education services, especially to secure market access and national treatment liberalization that certain WTO members have enacted independently of GATS.[39]

Several governments proposed that further WTO negotiations on education services seek to clarify and more precisely define several education services subsectors, including "adult education services" and "other education services." Further, members proposed that negotiations should take into account changes in the delivery of certain education services and the emergence of new education providers that are outside the traditional education system, while continuing to uphold governments' responsibility to maintain and improve service quality and to establish education policy objectives and related regulatory measures.[40]

Generally, education service providers have derived the most benefit from those measures in trade promotion agreements between the United States and selected trading partners that benefit the services sector as a whole. U.S. services sector representatives stated that the bilateral agreement with Australia opens opportunities for U.S. services in all segments of the education services industry except primary education, and allows for negotiations outside the FTA in topics such as testing services.[41] U.S. services representatives expressed concern, however, with provisions of the Dominican Republic-Central America-United States Free Trade Agreement with regard to education services. They perceived that U.S. trading partners in Central America retained requirements related to majority ownership and the recognition of qualifications of personnel that favor domestic providers, and noted the absence of provisions to facilitate the temporary entry of expert, professional, and managerial personnel. With regard to requirements retained by the Dominican Republic, U.S. services representatives stated concern over the presence of economic-needs tests imposed by the Ministry of Higher Education, Science and Technology, residency requirements, and the absence of provisions for temporary entry of education professionals.[42] With regard to the FTA with Chile, U.S. services representatives expressed concern that Chile reserved the right to impose future measures on the education sector and requires preapproval for the temporary mobility of professors.[43]

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[36] VanDuzer, "Navigating Between the Poles," 2005, 183.

[37] Ibid., 187.

[38] WTO, CTS–SS, "Communication from New Zealand," June 26, 2001.

[39] WTO, "Services Signalling Conference," July 30, 2008, 3.

[40] WTO, CTS–SS, "Communication from the United States," December 18, 2000; WTO, CTS–SS, "Communication from New Zealand," June 26, 2001; WTO, CTS–SS, "Communication from Australia," October 1, 2001; and WTO, CTS–SS, "Communication from Japan," March 15, 2002.

[41] ISAC 13, "The U.S.-Australia Free Trade Agreement," March 12, 2004.

[42] ISAC 13, "The U.S.-Central America Free Trade Agreement," March 17, 2004; ISAC 13, "The U.S.-Dominican Republic Free Trade Agreement," April 22, 2004.

[43] ISAC 13, "The U.S.-Chile Free Trade Agreement," February 28, 2003.

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———. "The U.S.-Dominican Republic Free Trade Agreement," April 22, 2004. http://www.ustr.gov/assets/Trade_Agreements/Regional/CAFTA/DR_Reports/asset_upload_file418_3346.pdf.

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CHAPTER 5
Healthcare Services

Summary

Healthcare service suppliers play an integral role in maintaining the health and well-being of global populations. Healthcare institutions participate in complex networks involving public and private entities that work together to finance and provide services as part of national healthcare systems. Developed countries continued to account for the majority of expenditures on healthcare services in 2005, the most recent year for which global data are available. The United States has the largest healthcare market in the world. Together, the United States, Japan, and Germany account for almost 60 percent of the global market.[1] Demand for healthcare services in both developed and developing countries has increased steadily, exceeding the capacity and budgets of many countries' public healthcare systems. In recent years, a number of factors have affected the delivery and composition of demand for healthcare services. Demographic shifts and the development of new healthcare technologies have shaped the types of services required and created new methods of providing healthcare services, both domestically and internationally.

Healthcare services are traded through both cross-border trade and affiliate transactions. Cross-border trade primarily consists of patients from developing countries seeking advanced care in developed healthcare markets. In 2007, the United States maintained a surplus in cross-border healthcare services trade, as foreign patients sought the expertise of U.S. providers.[2] Affiliate transactions involving healthcare services have increased in recent years, as growing global demand has led healthcare institutions to expand their international presence through M&A activity. Although limited attention has been paid to healthcare services in multilateral trade negotiations, some liberalization of healthcare services trade has occurred through bilateral agreements, and industry groups are discussing ways to address trade impediments that affect the increasingly global healthcare service industry.

Competitive Conditions in the Global Healthcare Services Market

Global expenditures on healthcare services increased by approximately 8 percent in 2005, to about $4.4 trillion, consistent with the average annual growth rate of 9 percent from 2000 through 2004.[3] Expenditures on healthcare services have generally been greatest in

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[1] Calculated by Commission staff using data from World Bank, WDI Database (accessed October 7, 2008); WHO, WHOSIS Database (accessed October 7, 2008).

[2] USDOC, BEA, *Survey of Current Business*, table 1, October 2008, 38–39.

[3] Calculated by Commission staff using data from WHO, WHOSIS Database (accessed October 7, 2008). Limited global data exist for the healthcare industry. Healthcare data from 2000 through 2005 are the most recent data available. Global healthcare expenditure is calculated as the sum of national expenditures on healthcare services. Total national expenditure on health is defined as the sum of general government health expenditures (or public health expenditures) and private health expenditures.

developed nations, particularly members of the OECD. The United States accounted for the largest share of global healthcare expenditures in 2005 (43 percent), spending a total of $1.9 trillion on healthcare services.[4] Other countries that accounted for significant shares of global healthcare spending in 2005 included Japan (9 percent), Germany (7 percent), and France (6 percent) (table 5.1).

TABLE 5.1 Healthcare services: Top 10 markets, ranked by total healthcare expenditures, 2005

Rank	Country	Total healthcare expenditure (billion $)	Percentage of global expenditure
1	United States	1,884.5	43
2	Japan	373.0	9
3	Germany	298.2	7
4	France	239.3	6
5	United Kingdom	183.0	4
6	Italy	157.5	4
7	Canada	110.9	3
8	China	105.5	2
9	Spain	92.3	2
10	Brazil	69.7	2

Source: Calculated by Commission staff using data from World Bank, WDI Database (accessed October 6, 2008); and WHO, WHOSIS Database (accessed October 6, 2008).

Although China and Brazil were the only developing countries among the top 10 healthcare markets in 2005 (as measured by expenditures), markets in developing countries are growing rapidly. For example, China's expenditures on healthcare services grew at an average annual rate of 13 percent from 2000 through 2004, reaching approximately $105.5 billion in 2005, an increase of 16 percent over the previous year.[5] Moreover, comparatively low levels of per capita healthcare expenditures in developing countries present possibilities for sustained future growth. For example, as of 2005, annual per capita spending on healthcare in China was $81, as compared with $6,347 in the United States and $740 for the world, on average.[6]

The global healthcare industry remains largely divided along national lines due to the active role many governments take in the provision of healthcare services, particularly through differing national regulations and reimbursement policies.[7] Governments frequently provide, regulate, and finance healthcare services, adopting these responsibilities because of public health concerns and political pressures.[8] Public healthcare systems are frequently intended

[4] Ibid.

[5] Calculated by Commission staff using data from WHO, WHOSIS Database (accessed October 6, 2008); World Bank, WDI Database (accessed October 7, 2008).

[6] Calculated by Commission staff using data from WHO, WHOSIS Database (accessed October 6, 2008); World Bank, WDI Database (accessed October 6, 2008). Average per capita expenditure on health of $740 is calculated from the 191 reporting economies in the WHO database in 2005.

[7] Drouin, Hediger, and Henke, "Health Care Costs," September 2008, 1.

[8] Ibid., 4–5; Crone,"Flat Medicine?" 2008, 119; and Mortensen, "International Trade in Health Services," November 2008, 5. Public healthcare is outside the scope of GATS under art. XIV, which stipulates exceptions for services related to human life or health. Timely and affordable access to healthcare is frequently considered a constitutional right and healthcare a public good, particularly in developing countries with low per capita incomes and health risks such as AIDS.

to ensure that all citizens have access to medical care. In the United States, public financing accounted for over 50 percent of hospital care expenditures and 45 percent of total healthcare expenditures in 2005.[9] Parallel to, or in the absence of, publicly financed healthcare are smaller, privately financed healthcare markets.[10] In many countries, particularly developing economies, expenditures on private healthcare services account for the majority of national healthcare expenditures (table 5.2). Because entry into government-subsidized reimbursement networks is often difficult for foreign firms, foreign providers often seek to participate in the private segment of the healthcare services industry.

TABLE 5.2 Healthcare services: Top 10 markets, ranked by private expenditures on healthcare, 2005

Rank	Country	Private expenditure on health (billion $)	Percentage of total national expenditure
1	United States	1,034.6	55
2	Germany	68.9	23
3	China	64.5	61
4	Japan	64.5	17
5	France	48.1	20
6	Brazil	39.0	56
7	Italy	36.9	23
8	Canada	33.1	30
9	India	32.8	81
10	Mexico	26.8	55

Source: Calculated by Commission staff using data from World Bank, WDI Database (accessed October 6, 2008); and WHO, WHOSIS Database (accessed October 6, 2008).

Healthcare markets are also characterized by the existence of payers, or intermediaries. Within public, private, and partially privatized markets, it is almost always payers, rather than consumers, that pay healthcare providers for services.[11] Payers negotiate reimbursement rates with healthcare provider groups and direct patients into predetermined service networks. A patient’s choice of provider is often determined by participation in payer reimbursement networks rather than by cost or quality-of-care considerations. Through negotiated prices and the ability to direct patient flow, this system gives payers market power over providers’ revenue streams and tends to distort the demand for healthcare services by insulating consumers from services’ true cost.[12]

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[9] USDHHS, CDC, National Center for Health Statistics, *Health, United States, 2007*, table 125, November 2007, 397. When disaggregated by type of expenditure, hospital expenditures account for the largest portion of healthcare expenses.

[10] Private healthcare markets encompass providers and facilities financed by private health insurers or individual patients. Public and private healthcare markets, while referred to individually, often overlap significantly, as governments often reimburse private providers, and certain individuals, such as military veterans, may qualify for public healthcare services but also utilize private providers.

[11] National Institute of Health Policy, “Glossary of Health Policy Terms,” undated (accessed October 9, 2008). Payers are organizations, such as insurance companies, health management organizations, or governments, that pay or reimburse providers for healthcare services rendered to patients or health plan members.

[12] Mattoo and Rathindran, “Does Health Insurance Impede Trade in Health Care Services?” July 2005, 3; Chiu, “Health Insurance and the Welfare of Health Care Consumers,” 1997, 125. Patients generally pay a set contribution and a small deductible to receive healthcare services, which together are significantly less than the cost of services incurred.

Demand and Supply Factors

In recent years, demand and supply in the global healthcare industry has fluctuated. Factors that affected demand include demographic shifts and government policies that promote or facilitate the consumption of healthcare services. Supply factors include government policies that encourage sectoral development through investment or reimbursement incentives, and technological innovations that have allowed healthcare providers to treat patients across borders, expand available services, and increase efficiency in office operations.

Chronic Disease and Older Populations Drive Demand For Healthcare

Changing demographics have had a considerable impact on the demand for healthcare services. In many countries, healthcare systems face an increasing incidence of chronic diseases and aging populations.[13] The impact of chronic diseases is largest in high-income countries, where such diseases are the primary cause of death,[14] but the incidence of chronic disease is increasing around the globe.[15] Resource-intensive chronic diseases result in higher demand for healthcare services due to frequent hospitalizations and costly clinical care following incidents such as heart attacks or strokes.[16]

Tobacco use and obesity—underlying factors correlated with other expensive chronic conditions such as chronic obstructive pulmonary disease (COPD) and diabetes—are also increasing globally, suggesting that demand for related healthcare services will continue to grow.[17] COPD, a cardiovascular condition encompassing chronic bronchitis and emphysema, is projected to become the third-leading cause of death worldwide by 2030. Asia is likely to see the greatest rise in COPD-related healthcare due to the popularity of smoking and the high incidence of air pollution, another contributing factor.[18] In the United States, while antismoking campaigns have helped reduce the smoking rate and decreased the incidence of smoking-related COPD, health-related problems stemming from obesity continue to drive demand for healthcare.[19] The direct cost of obesity—not accounting for lost wages or earnings associated with early mortality—accounts for an estimated 6 percent of annual U.S. healthcare costs, or $92.6 billion, and is forecast to continue growing.[20] The incidence of obesity has grown worldwide, particularly in developing countries such as China and

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[13] WHO, "Chronic Diseases," undated (accessed October 13, 2008). Chronic diseases are defined as diseases of long duration and slow progression, primarily noncommunicable disorders that have little or no treatment options.

[14] WHO, "Top Ten Causes of Death," November 2008. In contrast, mortality in low-income countries is more often a result of infectious diseases, such as malaria.

[15] WHO, "Cardiovascular Diseases," February 2007; Mayo Clinic, "Cardiovascular Disease 101," undated (accessed December 15, 2008). Cardiovascular disease accounted for an estimated 17.5 million deaths in 2005, and was the world's leading cause of death.

[16] Merrill, Nagamine, and Elixhauser, "Hospital Stays Involving Chronic Pulmonary Disease," December 2007; American Heart Association, "International Cardiovascular Disease Statistics," 2008; and Steinmetz, Rasmussen and Nielsen, "Long-term Prognosis for Patients with COPD," 2006, 677.

[17] WHO, "Cardiovascular Diseases," February 2007.

[18] Business Monitor International, "Regional COPD Burden to Increase," September 2008, 1; WHO, "Chronic Obstructive Pulmonary Disease (COPD)," undated (accessed February 25, 2009). COPD is caused by smoking, air pollution, and occupational chemicals.

[19] USDHHS, NIH, Weight-Control Information Network, "Statistics Related to Overweight and Obesity," undated (accessed February 29, 2009).

[20] Allison, Zannolli, and Narayan, "The Direct Health Care Costs of Obesity in the United States," 1999, 1194; USDHHS, NIH, Weight-Control Information Network, "Statistics Related to Overweight and Obesity," undated (accessed February 29, 2009). Calculated in 2002 U.S. dollars.

Mexico, where diets increasingly incorporate meat and dairy products.[21] Because obese patients frequently develop associated diseases such as type 2 diabetes, osteoarthritis, and other chronic conditions, populations with high obesity rates require more healthcare services.[22]

Aging populations also contribute to increased demand for healthcare services. Although developed countries tend to have older populations than developing economies, the aging of populations is a global trend due to longer life spans.[23] Older populations are more susceptible to physical illness, such as arthritis or heart disease, resulting in higher demand for healthcare services.[24] In 2006, U.S. patients 65 years of age or older utilized ambulatory care services at an estimated annual rate of 740 visits per 100 persons (or over 7 visits per person), much higher than the average rate of 382 visits per 100 persons for the overall population (or approximately 4 visits per person).[25] Aging populations can also lead to increased demand for long-term care facilities and geriatric specialists.[26] It is projected that in the next 50 years, the aging of the U.S. population will account for approximately 20 percent of the expected increase in healthcare expenditures.[27]

Government Policies Induce Demand for Healthcare Services

Government initiatives influence demand for healthcare services. Governments have enacted policies promoting cross-border trade in healthcare services, particularly in Asian countries. For example, governments in Singapore and Thailand are collaborating with private healthcare industries to promote their health systems as medical tourism destinations for international patients.[28] In 2003, Singapore launched SingaporeMedicine, a multiagency government-industry partnership aimed at promoting Singapore as an international medical hub. The program increased international awareness of Singapore's healthcare industry and the number of foreign patients treated in Singapore increased at an average annual rate of 18 percent from 2002 through 2006, reaching 410,000 foreign patients.[29] These efforts by

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[21] Business Monitor International, "Obesity Prevalence Rising," September 2008, 5.

[22] Business Monitor International, "Eating Disorders to be Recognized as Diseases," October 2008, 7.

[23] University at Albany, School of Public Health, Center for Health Workforce Studies, "The Impact of the Aging Population," March 2006, 10; UN, Department of Economic and Social Affairs, *World Economic and Social Survey 2007*, 2007, 10; and World Bank, WDI Database (accessed October 14, 2008). In 2006, the percentages of the population age 65 or older in high-, middle-, and low-income countries were 15, 7, and 4 percent, respectively, up from 9, 4, and 3 percent in 1960. Additionally, the average life expectancy at birth increased during the same period, from 68, 45, and 42, in high-, middle-, and low-income countries, respectively, in 1960, to 79, 69, and 57 in 2006. For the purpose of this report, older populations are defined using the World Bank definition of adults 65 or older. This definition is based on the minimum age requirement across countries to collect pensions or benefits.

[24] Federal Interagency Forum on Aging-Related Statistics, *Older Americans 2008*, March 2008, 26–27; University at Albany, School of Public Health, Center for Health Workforce Studies, "The Impact of the Aging Population," March 2006, 11. Six of the seven most frequent causes of death among older Americans in 2004 were chronic diseases.

[25] Schappert and Rechtsteiner, "Ambulatory Medical Care Utilization Estimates for 2006," August 6, 2008, 12. Ambulatory care services are defined as services provided in physician offices, hospital outpatient departments, and hospital emergency departments. Estimates are calculated by gathering data from sample populations, which are then weighted to estimate national utilization rates.

[26] U.S. Department of State and USDHHS, NIH, National Institute on Aging, *Why Population Aging Matters,* March 2007, 17.

[27] Drouin, Hediger, and Henke, "Health Care Costs," September 2008, 8.

[28] Industry official, interview by Commission staff, Washington, DC, March 2007. Similar to many small countries, healthcare resources in Singapore are underutilized.

[29] SingaporeMedicine, "About Us," undated (accessed February 19, 2009); Yap Chin Haut, "Medical Tourism and Singapore," 2007, 025.

governments and providers are an increasingly common way for countries to develop their domestic healthcare industries.[30] Patients travel for healthcare because quality care or advanced medical technology may not be available, affordable, or timely in their home countries.[31] Additionally, in the case of discretionary procedures, patients may seek lower-cost care.[32] The procedures sought vary widely, from orthopedic and cardiovascular procedures performed in Asia, to cosmetic procedures in South America.[33]

Policies in areas outside the healthcare sector, such as visa or immigration policy, also may affect the demand for healthcare services. For example, the tightening of U.S. visa policy following September 11, 2001, resulted in a significant drop in demand for U.S. healthcare services among patients from the Middle East.[34] Minnesota's Mayo Clinic reported that, in 2002, total international patient volume fell 20 percent, and patients from the Middle East decreased by 50 percent.[35] In contrast, many other governments are relaxing visa policies or creating specific visa categories for medical travel in an effort to increase demand from international patients. In Korea, foreign patients and their families are now permitted to stay for a maximum of four years without a visa, and India has introduced a category of medical visa that permits the holder to stay in India for one year or the period of treatment, whichever is of shorter duration.[36]

Government Policies Encourage Investment in Healthcare

Governments may enact tax incentives or create special economic zones (SEZs) that are intended to attract foreign direct investment in the healthcare industry. Such policies are often an effort to modernize and expand the nation's medical infrastructure, particularly in developing economies.[37] For example, some Middle Eastern governments are interested in improving their healthcare systems to curtail their citizens' publicly financed medical travel to the United States or Europe.[38] In 2002, the United Arab Emirates established Dubai Healthcare City, an SEZ offering full tax exemption, full foreign ownership, and a completely open trade environment.[39] Intended to become a fully integrated international

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[30] Economist Intelligence Unit, "The Domestic Economy: Medical Tourism is Being Marketed," August 9, 2007; Economist Intelligence Unit, "India Policy: Govt to Loosen Purse Strings for Medical Tourism," March 2, 2009; and Economist Intelligence Unit, "Economic Performance: Jordan Leads Region on Medical Tourism," October 6, 2008. Similar programs have been enacted in Taiwan and India, and one is underway in Jordan. In the United States and Europe, initiatives to attract foreign patients are generally undertaken by individual healthcare facilities. Governments in these regions are not promoting their healthcare industries abroad because their countries have mature healthcare systems and foreign patients already seek out U.S. and European providers based on reputation.

[31] Ehrbeck, Guevara, and Mango, "Mapping the Market for Medical Travel," May 2008, 4.

[32] Ibid.

[33] Deloitte, Deloitte Center for Health Solutions, *Medical Tourism*, 2008, 6–7.

[34] Ehrbeck, Guevara, and Mango, "Mapping the Market for Medical Travel," May 2008, 8; Martin, "Challenges and Opportunities in the Care of International Patients," 2006, 189.

[35] Smith, "Mayo to Open Clinic in Middle East," July 18, 2003.

[36] India Ministry of Tourism Web site. http://www.incredibleindia.org (accessed January 28, 2009); Sang-Hun, "South Korea Seeks a Place," November 13, 2008.

[37] IMF, World Economic Outlook Database, April 2009 (accessed April 29,2009). Developing economies are defined based on categorization by the IMF.

[38] Industry official, telephone interview by Commission staff, February 2, 2009; Deloitte, Deloitte Center for Health Solutions, *Medical Tourism*, 2008, 19; Ehrbeck, Guevara, and Mango, "Mapping the Market for Medical Travel," May 2008, 8; and Smith, "Mayo to Open Clinic in Middle East," July 18, 2003.

[39] Dubai Healthcare City, "Benefits," undated (accessed February 25, 2009); Balooshi, *Dubai Healthcare City,* August 2007. Currently, the United Arab Emirates has left the healthcare services sector unbound in GATS negotiations, suggesting the same conditions do not necessarily apply in the greater United Arab Emirates economy.

health center for the region, the zone has attracted facilities such as a Mayo Clinic cardiovascular clinic, wellness treatment centers, and a postgraduate education and research center developed in collaboration with Partners Harvard Medical International, a subsidiary of Harvard Medical School.[40] Initiatives such as these may also address local and regional demand, and increase competition in the international market by providing attractive local alternatives to Western healthcare facilities.[41]

Technologies Reach New Populations and Increase Efficiency

New technologies have affected the supply of healthcare services by increasing efficiency, expanding delivery options for providers, and increasing competitiveness in the healthcare market. Notably, telemedicine technologies have expanded the existing healthcare market to previously out-of-reach populations,[42] enabling U.S. facilities to provide remote consultations and form partnerships with foreign hospitals (box 5.1). For example, the Center for Connected Health, a division of Partner's HealthCare,[43] provides clinical support to providers in Cambodia.[44] Telemedicine technology also allows the outsourcing of services such as transcription and radiology consultations.[45] In addition, the development of new technologies for diagnosis and treatment has expanded the number of healthcare services available.[46] One example is a monitoring system that uses telemedicine technologies to remotely measure glucose levels, blood pressure, and weight.[47] The ability of patients to monitor their conditions and update their doctors allows providers to offer new services related to the prevention and management of disease.[48]

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[40] Mayo Clinic, "United Arab Emirates (UAE): Middle East Representative Office," undated (accessed January 15, 2009); Dubai Healthcare City, "Benefits," undated (accessed January 15, 2009); and Partners Harvard Medical International, "Overview," undated (accessed January 15, 2009).

[41] Critics of medical travel suggest that the development of the healthcare industry in low-income countries results in quality healthcare only for foreign patients, as it is unaffordable for local residents. However, the Middle East faces demand for quality healthcare and a lack of infrastructure, so patients are currently traveling outside the region to receive necessary care.

[42] USDOC, Office of Technology Policy, *Innovation, Demand, and Investment in Telehealth*, February 2004, 24; Gates, "Telemedicine: Healthcare Goes Anywhere," 2007, 19. Telemedicine (also called telehealth or e-health) is an umbrella term generalizing the delivery of data, images, and sound, via IT delivery systems which enable medical providers to offer diagnoses, options for medical care, and other services from a distance. Telemedicine technologies encompass a wide range of equipment and applications including diagnostic equipment, digital imaging, robotics, simulation and training technology, as well as many others.

[43] Partners Healthcare Web site. http://www.partners.org/ (accessed March 2, 2009). Partners Healthcare is an integrated healthcare system founded by Brigham and Women's Hospital and Massachusetts General Hospital.

[44] Heinzelmann, Jacques, and Kvedar, "Telemedicine by E-mail in Remote Cambodia," 2005, 44.

[45] McLean and Richards, "Teleradiology," *Health Affairs* September/October 2006, 1379.

[46] Drouin, Hediger, and Henke, "Health Care Costs," September 2008, 4.

[47] *Economist*, "Telemedicine Comes Home," June 7, 2008, 30.

[48] Drouin, Hediger, and Henke, "Health Care Costs," September 2008, 6. New technologies may also influence demand, as patients become aware of new treatments and services. For example, preventative screening, such as mammograms or cholesterol tests, are now considered common practice.

BOX 5.1 U.S. Healthcare Providers Use Technology to Expand Market Reach

The widespread global adoption of information technology has expanded and enhanced the ability of U.S. healthcare providers to offer services internationally. The ability to provide services electronically to foreign patients and institutions provides additional revenue streams. Electronic healthcare services can reach patients from countries with limited medical infrastructure who are more likely to pay out-of-pocket for services; such services can also increase awareness of U.S. healthcare facilities.[a]

Remote Consultations

The United States has long held a reputation as the world leader in basic and specialty healthcare services, and international patients seeking U.S. services traditionally have had to travel to the United States. However, developments in telecommunications technology allow U.S. providers to offer remote consultations and second opinions over the Internet and telephone. For example, the Cleveland Clinic, a U.S. leader in heart care, offers a remote second opinion service that allows patients around the world to e-mail or fax their medical records to Cleveland Clinic physicians who review these records and make recommendations for treatment.[b] Information technology enables providers to serve patients who may not have the financial means to travel directly to the United States. Technology also improves the treatment provided to foreign patients who do travel to the United States for care. Prior to treatment, patients can participate in phone or video consultations with their local physician and the U.S. specialist.[c] These consultations facilitate continuity of care between the U.S. and foreign providers and can prevent delays resulting from complications discovered upon a patient's arrival at a U.S. facility.

Business Relationships

Recent technological advances have facilitated and enhanced U.S. providers' business relationships with foreign hospitals and clinics. These relationships can increase a U.S. provider's revenues while allowing the provider to leverage its knowledge and expertise and reinforce its international reputation.[e] In return, foreign institutions benefit from an association with a familiar "brand" and increased access to U.S. providers' expertise. Large, well-known U.S. specialty institutions have been active in pursuing business relationships with foreign institutions in an effort to expand their presence overseas. For example, Johns Hopkins International, the international branch of Johns Hopkins Medicine, currently manages hospitals in the United Arab Emirates, Panama, and Singapore; has affiliations with institutions in Turkey, Lebanon, Chile, and Japan; and has strategic partnerships with facilities in Portugal, Canada, Mexico, and Trinidad and Tobago.[f] Institutions associated with Johns Hopkins Medicine are able to contact Johns Hopkins specialists for remote second opinions or patient referrals, and participate in continuing medical education programs. International business relationships in the healthcare industry also may increase the number of foreign patients traveling to receive treatment in the United States. For example, the H. Lee Moffitt Cancer Center and Research Institute in Florida offers second opinions to physicians at a Brazilian hospital, and it is estimated that 10 percent of such consultations result in patients traveling to Florida for clinical trials or specialized care.[g]

[a] Herrick, "Medical Tourism," November 1, 2007.
[b] Cleveland Clinic, "International Second Opinions," undated (accessed April 6, 2009).
[c] Johns Hopkins International, "Remote Medical Second Opinion," undated (accessed April 6, 2009).
[d] Haugh, "International Business," July 2001, 21.
[e] Ibid., 22.
[f] Johns Hopkins International, "For Health Care Systems," undated (accessed April 6, 2009).
[g] Ladika, "International Care," June 2002, 26.

The impact of technology on the healthcare industry has not been limited to telemedicine; new technologies also increase efficiency in administration and the information management involved in providing medical care, making providers more competitive. Hospitals now use a wide range of technologies for billing and scheduling, managing records, and storing and viewing images. For example, the use of electronic health records can decrease the time spent searching for information, as well as the probability of treatment errors resulting from drug interactions or the failure to take action.[49] Moreover, the efficiencies gained from these technologies can increase an institution's profitability, as evidenced by an American

[49] Bernstein, McCreless, and Cote, "Five Constants of Information Technology Adoption," 2007, 17, 24; American Hospital Association, *Forward Momentum*, 2005, 2.

Hospital Association study that found that hospitals with comparatively high levels of technology use had higher average profit margins than those hospitals with the lowest levels of information technology use.[50]

Trade Trends

Cross-border Trade

In 2007, U.S. cross-border exports of healthcare services (box 5.2) reached $2.3 billion, while U.S. imports of such services totaled $660 million, resulting in a trade surplus of $1.7 billion (figure 5.1).[51] Both exports and imports of healthcare services grew in 2007, albeit at a slower rate than in previous years. U.S. exports grew by 7 percent in 2007, compared with a 10 percent average annual increase from 2002 through 2006. Slowing growth was largely due to a decrease in inbound tourism. U.S. imports grew by 13 percent in 2007, compared with an average annual increase of 18 percent from 2004 through 2006, due to the depreciation of the dollar against many foreign currencies.[52]

Exports of healthcare services primarily consist of providing healthcare services to international visitors who travel with the express purpose of obtaining treatment from U.S. medical institutions or who seek out care for unexpected illnesses during their visits. Growth in exports over the past few years was likely due to increased foreign demand for U.S. healthcare expertise, as well as relative price decreases due to the appreciation of foreign currencies against the U.S. dollar. However, in 2007, growth in estimated exports of healthcare services slowed due to the increased provision of services through foreign commercial establishments by U.S. medical institutions abroad, such as the Mayo Clinic's heart clinic in the United Arab Emirates,[53] and a decrease in the number of tourists to the United States.[54]

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[50] American Hospital Association, *Forward Momentum*, 2005, 7. Hospitals with high rates of technology use had average profit margins of 4.6 percent, compared with 2 percent for hospitals with the lowest rates of technology use.

[51] USDOC, BEA, *Survey of Current Business*, table 1, October 2008, 38–39.

[52] Ibid.; USDOC, BEA representative, e-mail message to Commission staff, January 28, 2009. Beginning in 2004, additional data on payments by U.S. residents who travel abroad specifically for medical care are incorporated into import statistics. Import volumes prior to the inclusion of these data are lower and not comparable. These data are not included in the analysis of the average annual growth rate presented in the text. Using all reported import volumes, the average annual growth rate from 2002 through 2006 was 40 percent.

[53] Ehrbeck, Guevara, and Mango, "Mapping the Market for Medical Travel," May 2008, 10; Mayo Clinic, "Mayo Clinic Heart Specialists in Dubai," undated (accessed February 2, 2009).

[54] USDHS, *Yearbook of Immigration Statistics*, table 25, 2008; USDOC, BEA, *Survey of Current Business*, July 1999, 68. Tourist volumes to the United States steadily decreased during the 2002–07 period. In large part, exports of healthcare services are estimated based on the total number of foreign visitors to the United States. Information on hospital inpatient stays by foreign visitors are gathered from the 16 states designated as serving the most foreign patients. These data provide an estimated ratio of healthcare provision to total foreign visitors, which is then multiplied by the number of foreign visitors to estimate the exports of inpatient services for the remaining 34 states and the District of Columbia. Data on outpatient services provided to foreign visitors are gathered from individual hospitals and a similar ratio is calculated to estimate the exports of outpatient services. Reported exports are the sum of inpatient and outpatient estimates, which are largely based on the assumption that medical care is only provided for unexpected illness.

BOX 5.2 An Explanation of BEA Data on Cross-border Trade and Affiliate Transactions in Healthcare Services

Healthcare services encompass a wide range of medical treatments provided to patients by healthcare professionals and medical institutions. For the purposes of this report, healthcare services are defined as those provided by hospitals; nursing and residential care facilities; offices of physicians, dentists, and other health practitioners; home healthcare services providers; outpatient care centers; medical and diagnostic laboratories; and other ambulatory healthcare services providers, such as ambulance transport and organ banks.[a]

BEA data on cross-border trade in medical services are estimates of patient expenditures on services purchased abroad, capturing both treatments intentionally purchased abroad and incidental care received due to unexpected illness or accident while traveling.[b] BEA estimates of U.S. exports encompass expenditures by foreign patients on medical services obtained from U.S. providers. Such statistics are calculated using estimates of foreign patient volumes and costs of care and include both inpatient and outpatient estimates. Data on U.S. exports do not include expenditures on ambulatory treatment or drugs received outside of a hospital setting.[c] BEA estimates of U.S. imports of medical services encompass payments by U.S. residents for medical services received abroad. Estimated imports are calculated based on the number of U.S. residents traveling abroad, an estimated share of U.S. travelers who require medical care while abroad, and the estimated average cost per treatment.[d] As a result of revisions implemented in 2005, import estimates now capture expenditures on voluntary procedures such as dentistry or cosmetic procedures received in Mexico and Canada. Data also are collected on the provision of services such as remote diagnostic services, remote monitoring of surgical procedures, and laboratory services.[e] However, these data are not identifiable as healthcare services, as they are included under the “other business, professional, and technical services” category.[f] As a result, cross-border trade in medical services is likely underestimated.

Data on affiliate transactions in healthcare services capture sales by foreign affiliates of U.S. healthcare companies and purchases from U.S. affiliates of foreign healthcare firms. Foreign affiliates (i.e., U.S. parent companies’ majority-owned, nonbank affiliates) provide healthcare services to foreign consumers in markets outside the United States, and U.S. affiliates (i.e., foreign parent companies’ majority-owned, nonbank affiliates) provide healthcare services to U.S. consumers in the U.S. market. Data are collected through surveys and are categorized based on the industry classification of the firm, not the type of service provided.[g] Affiliate transactions statistics include data on social assistance services, as it is not possible to disaggregate such transactions from other healthcare services transactions. Additionally, as a result of data suppression due to disclosure considerations, the ability to undertake country-specific analyses of affiliate transactions in healthcare services is limited.

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[a] USDOL, BLS, “Health Care,” 2008–09. This definition is based on the 2002 NAICS classification for healthcare services and is consistent with that used by the BEA. The 2007 NAICS classification for healthcare services remains unchanged; however, because analysis is conducted on 2006 data, the 2002 sector classification is used.

[b] USDOC, BEA representative, e-mail message to Commission staff, October 22, 2008. The BEA calculates estimates of U.S. imports and exports of medical services, rather than collecting data through surveys. As a result, cross-border statistics on medical services comprise only unaffiliated trade.

[c] USDOC, BEA, *Survey of Current Business*, July 1999, 68–69.

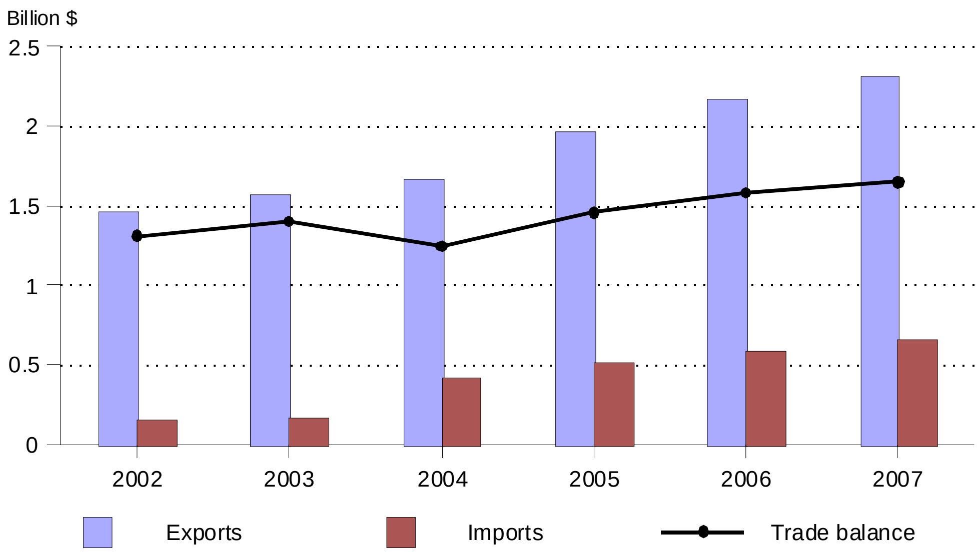
[d] USDOC, BEA, *Survey of Current Business*, July 2005, 67.

[e] USDOC, BEA representative, e-mail message to Commission staff, October 22, 2008; USDOC, BEA, “2008 Annual Survey,” January 2009, 3–4; USDOC, BEA, “Frequently Asked Questions on Surveys,” undated (accessed February 18, 2009). BEA data for these “other” services are collected with surveys and may be classified as either affiliated or unaffiliated trade. Foreign affiliates of U.S. firms whose total assets, sales or gross operating revenues excluding sales taxes, and net income (loss) after provision for foreign income taxes do not exceed $60 million are exempt from mandatory reporting of affiliate sales ($40 million for U.S. affiliates of foreign firms).

[f] USDOC, BEA representative, e-mail message to Commission staff, October 22, 2008.

[g] Ibid.

FIGURE 5.1 Medical services: U.S. cross-border trade,[a] 2002–07



Source: USDOC, BEA, *U.S. International Services*, table 1, 1992–2007 (accessed January 28, 2009).

[a]Cross-border trade consists of expenditures on medical services by patients in foreign countries and thus are transactions between unaffiliated parties.

The general growth trend in imports of healthcare services is a result of the rising number of uninsured U.S. citizens (reportedly due to rising healthcare costs) that seek lower-cost treatment overseas in a growing number of foreign destinations.[55] In 2007, growth in estimated imports of healthcare services likely slowed due to less favorable exchange rates, as well as the implementation of new passport requirements for air travelers to Canada and Mexico.[56]

There are limited data about the major U.S. healthcare services trading partners, although available information suggests that the largest markets for U.S. exports of healthcare

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[55] Ehrbeck, Guevara, and Mango, "Mapping the Market for Medical Travel," May 2008, 5; Deloitte, Deloitte Center for Health Solutions, *Medical Tourism*, 2008, 13. The estimated costs of knee surgery as a U.S. inpatient procedure, U.S. outpatient procedure, or a foreign procedure performed abroad (inclusive of travel costs) are $11,600, $4,700, and $1,400 (respectively). Thus, the cost of travel is generally not a consideration in the decision to travel for medical care, as it is small compared to the overall savings in medical costs. A McKinsey study of medical travel estimated that U.S. medical travelers accounted for 99 percent of those medical travelers who cited lower costs as the reason for seeking foreign treatment (medical travelers motivated by lower costs made up 9 percent of total medical travelers).

[56] Board of Governors of the Federal Reserve System, "Foreign Exchange Rates (Annual)," January 2, 2009; Ehrbeck, Guevara, and Mango, "Mapping the Market for Medical Travel," May 2008, 6; and U.S. Customs and Border Protection, Western Hemisphere Travel Initiative Web site. http://www.getyouhome.gov (accessed April 30, 2009). Beginning in 2005, estimated imports of healthcare services include expenditures on voluntary procedures received in Mexico and Canada. Border restrictions were tightened, effective January 23, 2008, under the Western Hemisphere Travel Initiative and a passport is now required for travel between the United States, Canada, Mexico, the Caribbean or Bermuda. For an in-depth discussion of Mexican immigrants in California seeking healthcare in Mexico, see Wallace, Mendez-Luck, and Castañeda, "Heading South," June 2009, 662–69.

services are Canada and the countries of Latin America and the Middle East.[57] The proximity of Canada and many Latin American countries to the United States likely facilitates medical travel from these regions.[58] U.S. exports to Canada are frequently motivated by long waiting periods for specialized procedures in the Canadian public healthcare system.[59] A similar lack of capacity contributes to the large number of Middle Eastern patients traveling to the United States for medical treatment. The Middle Eastern region is experiencing rapid population growth, resulting in demand for medical services that exceeds domestic capacity. Further, many Middle Eastern countries lack the necessary infrastructure or are too small to sustain specialty care practices.[60] In 2004, the United Arab Emirates, Saudi Arabia, and Kuwait were among the top 10 countries of origin for international patients evaluated at Johns Hopkins Medical Institutions.[61]

Affiliate Transactions

In 2006, sales by the foreign affiliates of U.S. healthcare and social assistance firms increased by 4 percent to reach $1.6 billion, faster than the 2 percent average annual growth rate recorded from 2002 through 2005 (figure 5.2).[62] In 2006, the leading host country for foreign affiliates was the United Kingdom, which accounted for 69 percent of such sales, followed by the other countries of Europe (16 percent) and the rest of the world (14 percent). The United Kingdom is the United States' largest market for foreign investment in healthcare services, likely due to its favorable investment climate and because, once affiliates are established there, the UK market serves as a gateway to the rest of the EU.[63] In 2006, reported sales by affiliates of U.S. firms in the United Kingdom increased by 2 percent to $1.1 billion, compared with the average annual growth of 14 percent from 2001 through 2005. It is likely that the strong growth in sales by affiliates of U.S. healthcare and social assistance firms in the UK market is attributable to the initiatives by the UK government to increase the private healthcare sector's provision of services such as long-term care of the elderly,[64] as well as increased investment in healthcare technology and biotechnology sectors, which ended in 2004.[65]

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[57] Deloitte, Deloitte Center for Health Solutions, *Medical Tourism*, 2008, 19; Ehrbeck, Guevara, and Mango, "Mapping the Market for Medical Travel," May 2008, 5. BEA does not report country-specific data on U.S. cross-border trading partners. For a discussion of Panama's medical tourism market, see USITC, *Caribbean Region*, 2008, 2-25.

[58] Ehrbeck, Guevara, and Mango, "Mapping the Market for Medical Travel," May 2008, 5.

[59] Deloitte, Deloitte Center for Health Solutions, *Medical Tourism*, 2008, 20.

[60] Industry official, telephone interview by Commission staff, February 2, 2009.

[61] Martin, "Challenges and Opportunities in the Care of International Patients," 2006, 189. The top 10 countries of origin for international patients, in descending order, were Bermuda, United Arab Emirates, Saudi Arabia, Korea, Turkey, Greece, Kuwait, United Kingdom, Peru, and Italy.

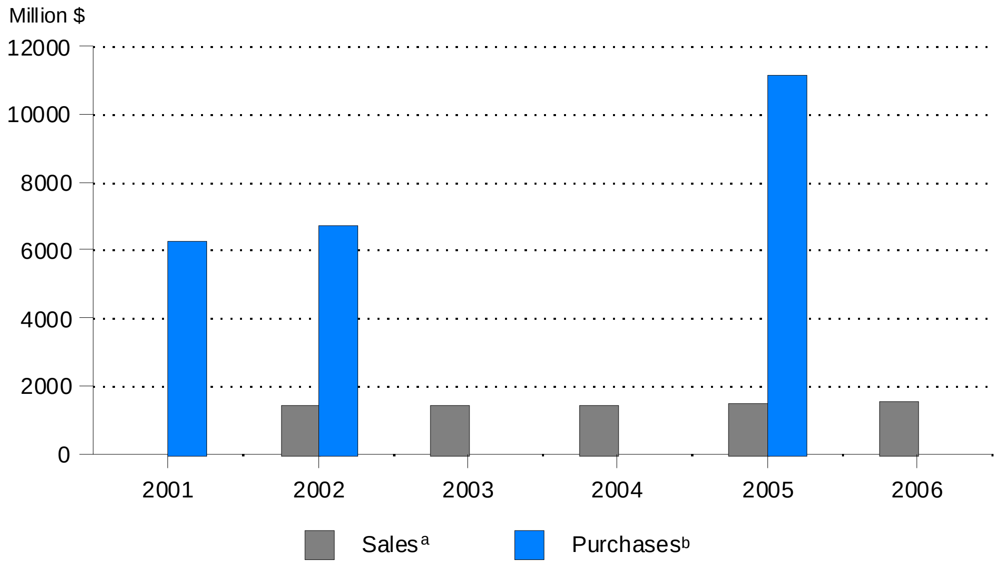
[62] Data for healthcare services and social assistance services are aggregated and not separately available. Total sales by foreign affiliates of U.S. firms were not reported in 2001 to avoid disclosure of firm-specific data, so analysis was conducted on the four previous years.

[63] US&FCS and U.S. Department of State, *Doing Business in the United Kingdom*, March 29, 2007, 63.

[64] Russo, "United Kingdom," April 2006, 1; Bureau van Dijk, Orbis Database. The UK government has withdrawn from the direct provision of nursing care. Elderly patients now must purchase such services from the private sector, providing opportunities for U.S. healthcare firms such as Sunrise Senior Living, which operates 23 senior residences throughout the United Kingdom. Additionally, the UK government has shifted some hospital activity away from public hospitals and instead encouraged commercial provision of hospital services, which has likely increased affiliate sales for providers such as U.S.-based HCA International, which is among the top five private hospital groups in the United Kingdom.

[65] Slater, "Government Increases Funds for Health Technology Research," October 23, 2001. For the period from 2001 through 2004, the UK government invested $1.1 billion in life sciences, of which $378 million was specifically allocated for healthcare technology research.

FIGURE 5.2 Healthcare and social services: Sales by foreign affiliates of U.S. firms and domestic purchases from U.S. affiliates of foreign firms, 2001–06



Source: USDOC, BEA, *International Services*, table 10, 1999–2005 (accessed January 27, 2009).

[a]Data were suppressed in 2001 to avoid disclosure of individual company data.
[b]Data were suppressed in 2003, 2004, and 2006 to avoid disclosure of individual company data.

In 2005, the last year for which data are available, domestic purchases from U.S. affiliates of foreign healthcare and social assistance firms totaled $11.1 billion.[66] In that year, the majority of domestic purchases were from U.S. affiliates of healthcare and social assistance companies based in Europe (59 percent) and Canada (35 percent).[67] From 2001 through 2005, such purchases grew at an average annual rate of 15 percent.[68] Much of this growth was driven by purchases from affiliates of Canadian firms, which reached $3.9 billion in 2005, nearly a 200 percent increase from 2004.[69] Historically, most foreign investment in the U.S. healthcare sector has been in areas such as pharmaceuticals and medical devices, rather than in healthcare facilities, as foreign investors are often unfamiliar with the U.S. healthcare system.[70] However, the increase in purchases from affiliates of Canadian firms is likely a result of increased acquisitions of U.S. healthcare facilities.[71] For example, in 2004, Medical Facilities Corporation, a Canadian holding company that focuses on specialty hospital operations, acquired majority interests in three U.S. specialty surgery hospitals, increasing

[66] Domestic purchases from the U.S. affiliates of foreign healthcare and social assistance firms were not reported in 2006 to avoid disclosure of firm-specific data.

[67] Country-specific data beyond Canada were suppressed due to disclosure concerns. Data for individual European countries were suppressed due to disclosure concerns.

[68] Domestic purchases from U.S. affiliates were not reported in 2003 or 2004 due to disclosure concerns.

[69] USDOC, BEA representative, telephone interview by Commission staff, February 3, 2009. In 2006, data were only available for purchases from affiliates of Canadian firms. Purchases from affiliates of Canadian firms totaled $1.9 billion, which is consistent with volumes reported from 2001 through 2004. The average annual growth rate of purchases from Canadian firms from 2001 through 2004 was 10 percent, compared to an increase of 200 percent from 2004 through 2005.

[70] Galloro, "Putting Their Money Where the Money Is," September 8, 2008.

[71] When a Canadian healthcare firm acquires a majority interest in a U.S. firm, the U.S. firm becomes an affiliate of the Canadian healthcare firm. As such, the acquisition of U.S. healthcare facilities results in increased purchases from affiliates of Canadian firms.

its U.S. holdings to include majority stakes in four U.S. specialty surgery hospitals and two ambulatory surgery centers.[72]

Liberalization of Trade Impediments

Healthcare services have received little attention in the current round of WTO negotiations. No specific negotiating proposals were introduced during the current round,[73] possibly due, in part, to the extent of public provision of healthcare services[74] that effectively exempts a large portion of the industry from GATS. However, there have been some requests and offers by WTO members regarding market access in the healthcare services industry.[75] For example, India indicated that it has received requests for full market access in a number of areas, including a request to remove equity limitations on foreign investment in hospitals. Australia also announced that it has made a request to another member for increased access in the private hospital and care-for-the-aged services segments.[76] Additionally, at the Services Signalling Conference in July 2008, a few participants indicated a willingness to make further commitments and to seek commitments within several healthcare service subsectors.[77]

Countries frequently liberalize healthcare services regimes in practice but do not make corresponding GATS commitments, largely because governments are often reluctant to make formal commitments that may limit future policy options.[78] Instead, governments often permit foreign commercial presence or cross-border trade in healthcare services without making WTO commitments. Commitments that do get scheduled are frequently qualified by reservations permitting future restrictions in the sector based on the needs of public health policy.[79]

Health services liberalization has occurred through other avenues, such as bilateral trade agreements or liberalization of related sectors. For example, the United States-Australia Free Trade Agreement includes commitments to liberalize segments of the healthcare services industries in both countries that are not covered in their respective GATS commitments.[80] The FTA opens U.S. medical and dental services and services by midwives, nurses, physiotherapists, and paramedical personnel to Australian suppliers and opens Australian medical services to U.S. suppliers. Alternatively, countries may liberalize the health

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[72] Bureau van Dijk, Zephyr Mergers and Acquisitions Database; Medical Facilities Corporation, "Overview," undated (accessed February 24, 2009).

[73] VanDuzer, "Navigating Between the Poles," 2005, 189.

[74] Ibid., 167.

[75] It is not possible to gauge the amount of interest in healthcare services in the ongoing negotiations, as much of the information regarding current requests and offers of WTO members is confidential.

[76] VanDuzer, "Navigating Between the Poles," 2005, 191.

[77] WTO, TNC, "Services Signalling Conference," July 30, 2008.

[78] VanDuzer, "Navigating Between the Poles," 2005, 169. The inclusion of the principle of progressive liberalization in GATS is intended to achieve successively higher levels of trade liberalization with each round of negotiations. However, it also allows for penalties in the case of reversal of current commitments to liberalization. As a result, governments prefer to retain regulatory control over the healthcare sector.

[79] Arnold and Reeves, "International Trade and Health Policy," 2006, 316; Labonte, et al., "Privatization, Liberalization and GATS," 2004; and Roy, Marchetti, and Lim, "Services Liberalization in the New Generation of Preferential Trade Agreements," September 2006, 47.

[80] WTO, Committee on Regional Trade Agreements, "Free Trade Agreement Between the United States and Australia," June 4, 2007.

insurance sector as a means of facilitating market entry by foreign healthcare providers.[81] In general, the existence of private health insurance or some form of payer program is usually a precursor to foreign provision of healthcare, as this provides the necessary means of financing private healthcare services.[82]

Prior to the start of the Doha Round, the United States urged other WTO members to consider making cross-border commitments in healthcare services.[83] However, the major impediments to cross-border trade in healthcare services traditionally have been outside the scope of GATS. These barriers include the lack of portable health insurance, the challenge of providing and regulating telemedicine services, and a lack of recognition of foreign healthcare credentials. Although the issue of health insurance portability is slowly being addressed by some U.S. private health insurers—for example, through the addition of international hospitals to their provider networks—for publicly financed healthcare systems, insurance portability requires new legislation reforming healthcare reimbursement policies. Similarly, the primary impediment to the provision of cross-border services through telemedicine is a lack of necessary infrastructure in many developing countries.[84] Additional barriers, such as the challenge of enforcing quality standards and licensing regulations for telemedicine service providers located outside the country, are without precedent. Further, many services provided electronically, such as data gathering or hospital management functions, are classified as database or management consulting services and would not be captured under negotiations on healthcare and medical services.[85] The lack of recognition of foreign medical credentials and qualifications across countries could be helped by the creation of an international regulatory body that would harmonize licensing and qualification standards.[86] Some WTO members have made requests for commitments (beyond market access and national treatment) regarding the recognition of foreign qualifications, although a solution to this challenge is not likely in the near future due to the fragmented nature of the global industry.

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[81] Lethbridge, *Changing Healthcare Systems in Asia*, December 10, 2004, 6; Pasadilla, “Prospects of Services Trade Liberalization,” November 2003, 31; and Mattoo and Rathindran, “Does Health Insurance Impede Trade in Health Care Services?” July 2005, 5. The nonportability of medical insurance is frequently cited as a major barrier to cross-border trade in healthcare services via modes 1 and 2. (See box 1.1 for definitions.)

[82] Particularly in countries with universal healthcare, the development of an insurance sector provides citizens with the means to access private healthcare services, as the government generally does not finance private healthcare. Further, the introduction of private health insurance, followed by private healthcare providers, may reduce the government’s expense for healthcare.

[83] WTO, CTS, “Communication from the United States,” October 20, 1998.

[84] VanDuzer, “Navigating Between the Poles,” 2005, 176.

[85] WTO, CTS, “Health and Social Services,” September 18, 1998.

[86] Arnold and Reeves, “International Trade and Health Policy,” 2006, 317; VanDuzer, “Navigating Between the Poles,” 2005, 191. India has made requests to some members, and the United States has received multiple requests regarding recognition of medical and nursing credentials.

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CHAPTER 6
Legal Services

Summary

Worldwide legal services revenue increased from $363.6 billion in 2003 to $458.2 billion in 2007.[1] U.S. legal service firms are very competitive in the global market, accounting for 54 percent of global revenue in 2007 and 75 of the top 100 global firms ranked by revenue.[2] Moreover, the U.S. legal services market grew at a rate comparable to those in other developed-country markets from 2003 through 2007. Canadian, European, and U.S. law firms have expanded their overseas presence in recent years, in part due to increased demand for legal services resulting from globalization and economic growth in emerging markets.

Cross-border trade accounts for the majority of U.S. trade in legal services. U.S. cross-border exports and imports of legal services increased from 2002 through 2007, and the United States posted a continuous cross-border trade surplus in legal services during the period that grew at an average annual rate of 16 percent.[3] Sales of services by foreign legal service affiliates of U.S. law firms exhibited strong growth from 2002 through 2006, reflecting the increasing internationalization of U.S. law firms.[4] Purchases of services from U.S. legal service affiliates of foreign law firms grew more slowly and from a smaller base than sales by foreign affiliates from 2002 through 2006. Overall, sales by foreign affiliates of U.S. law firms exceeded purchases from U.S. affiliates of foreign law firms throughout the period.[5]

Although GATS commitments in legal services were made by 45 WTO member countries during the Uruguay Round, as well as by the majority of countries that acceded to the WTO after 1995, foreign legal service providers continue to face significant barriers in many markets. Due in large part to the internationalization of law firms and the general increase in cross-border economic activity, the ability to supply legal services through a commercial establishment (mode 3) and/or the temporary movement of legal professionals to overseas markets (mode 4) has become increasingly relevant and sought by law firms.[6]

[1] Datamonitor, "Industry Profile: Global Legal Services," June 2008, 9.
[2] Datamonitor, "Industry Profile: Legal Services in the United States," September 2008, 11; *American Lawyer*, "The Am Law Global 100 2007," October 2007.
[3] USDOC, BEA, *U.S. International Services*, table 7, 2001–05, 2006–07.
[4] Ibid., tables 9 and 10, 1999–2006.
[5] Ibid.
[6] Geloso Grosso, "Managing Request-Offer Negotiations Under the GATS," June 14, 2004, 4. See box 1.1 for mode definitions.

Competitive Conditions in the Global Legal Services Market

Based on available data, the global market for legal services was valued at $458.2 billion in 2007.[7] This valuation, however, reflects only the largest markets, which consist of 4 countries in the Americas, 7 Asia-Pacific countries, and 14 European countries.[8] Legal professionals in these markets numbered 2.4 million in 2007. The global legal services market grew by 5.5 percent in 2007, close to the average annual growth of 6 percent registered from 2003 through 2006 (table 6.1).[9] The number of professionals working in the industry grew by 2 percent in 2007, just under the 3 percent average annual growth rate from 2003 through 2006.

TABLE 6.1 Legal services: Global value and volume, 2003–07

Year	Market value (billion $)	Growth over previous year, market value (%)	Market volume[a] (thousands)	Growth over previous year, market volume (%)
2003	363.6	([b])	2,174	([b])
2004	384.3	6	2,222	2
2005	407.8	6	2,279	3
2006	434.3	7	2,347	3
2007	458.2	6	2,404	2

Source: Datamonitor, "Industry Profile: Global Legal Services," June 2008, 9–10.

[a]Market volume refers to the total number of legal professionals.
[b]Not available.

The global legal services market is concentrated in a small group of developed countries. In 2007, the four countries in the Americas accounted for 62 percent of the value of the global legal services market, with the U.S. share at 54 percent. By comparison, the European market share for the same year was 27 percent, and the share of the global market held by firms in the seven Asia-Pacific countries was 11 percent.[10] The concentration of the legal service industry is reflected in table 6.2, which reports the country of origin for the top 10 grossing firms in the world. The top 10 global law firms ranked by revenue for fiscal year 2006 were based either in the United States or the United Kingdom. Further, the top 100 global firms ranked by revenue included 75 U.S. firms and 17 British firms. The remaining firms ranked in the top 100 were based in Australia, Canada, France, Spain, and the Netherlands.[11]

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[7] Datamonitor, "Industry Profile: Global Legal Services," June 2008, 9. Data reported by Datamonitor calculate the market's value as "the total revenues received by law companies for service rendered" and include all applicable taxes; any currency conversions are calculated using constant 2007 annual average exchange rates.

[8] The Americas include Brazil, Canada, Mexico, and the United States. Asia-Pacific includes Australia, China, Japan, India, Singapore, Korea, and Taiwan. Europe includes Belgium, the Czech Republic, Denmark, France, Germany, Hungary, Italy, the Netherlands, Norway, Poland, Russia, Spain, Sweden, and the United Kingdom.

[9] The year 2002 is excluded because the data are not comparable.

[10] Datamonitor, "Industry Profile: Legal Services in the United States," September 2008, 11; Datamonitor, "Industry Profile: Global Legal Services," June 2008, 11.

[11] *American Lawyer*, "The Am Law Global 100 2007," October 2007. Four Australian firms were in the top 100, while Canada, France, Spain, and the Netherlands each had one firm.

TABLE 6.2 Legal services: Top 10 global law firms, by revenue, 2006[a]

Rank	Firm	Country	Gross revenue (billion $)
1	Clifford Chance	UK	2.2
2	Linklaters	UK	2.1
3	Skadden, Arps, Slate, Meagher & Flom	U.S.	1.9
4	Baker & McKenzie[b]	U.S.	1.8
5	Freshfields Bruckhaus Deringer	UK	1.8
6	Allen & Overy	UK	1.6
7	Latham & Watkins	U.S.	1.6
8	Jones Day	U.S.	1.3
9	Sidley Austin	U.S.	1.2
10	White & Case	U.S.	1.2

Source: American Lawyer, "The Am Law Global 100 2007," October 2007.

[a]Figures are reported in U.S. dollars using 2006 annual average currency conversion rates and refer to the most current fiscal year available for each firm.
[b]Data as of June 30, 2007.

The U.S. market, valued at $247.1 billion in 2007, grew by about 5 percent over the previous year.[12] Germany, the largest European legal services market in 2007 ($32.8 billion), also grew at a rate of about 5 percent. The United Kingdom was the second-largest market ($32.4 billion) in Europe and grew by 4 percent in 2007. France's market ($10.5 billion), ranked third within Europe, grew by 6 percent in 2007.[13]

The Asia-Pacific region, with the exception of Australia and Japan, largely consists of relatively smaller legal services markets. The Asia-Pacific legal services market grew by 6 percent in 2007 to a value of $50.9 billion.[14] Australia grew by 5 percent,[15] and Japan grew by approximately 4 percent.[16] According to one industry representative, Chinese and Japanese legal service providers have recently been expanding the number of lawyers per firm.[17] China, Japan, Korea, and Singapore currently have legal service firms located throughout the Asia-Pacific region,[18] and there are law firms from China and India practicing

[12] Datamonitor, "Industry Profile: Legal Services in the United States," September 2008, 9; IBISWorld, "Law Firms," June 23, 2008, 5. According to IBISWorld, legal service industry revenue in the United States grew by 6 percent in 2007 to $263.9 billion.

[13] Datamonitor, "Industry Profile: Legal Services in France," September 2008, 9; Datamonitor, "Industry Profile: Legal Services in Germany," October 2008, 9; Datamonitor, "Industry Profile: Legal Services in the United Kingdom," September 2008, 9; and Datamonitor, "Industry Profile: Legal Services in Europe," September 2008, 9. The European market as a whole, valued in 2007 at $124.7 billion, grew at a slightly higher rate than the United States market, averaging 6.6 percent from 2003 through 2006 and 6.7 percent in 2007.

[14] Datamonitor, "Industry Profile: Legal Services in Asia-Pacific," September 2008, 8.

[15] IBISWorld, "Legal Services," August 27, 2008, 4. Data used to calculate growth rates are reported in Australian dollars.

[16] Datamonitor, "Industry Profile: Legal Services in Japan," September 2008, 9.

[17] Ehrenhaft, "Economic Commercial Impact of Free Trade Agreements," July 31, 2008, 8.

[18] Hook, "Sectoral Study on the Impact of Domestic Regulation," February 15–16, 2007, 10.

in the United States.[19] Further, lawyers from some of these countries are gaining admittance into the bars in U.S. states such as New York and California.[20]

Demand and Supply Factors

In recent years, demand for legal services has been driven by commercial activity associated with economic development and growth, as well as globalization of business and expansion of trade and foreign investment. Several characteristics, including reputation, range of expertise, and specialization, affect demand for the legal services of particular firms. In terms of supply, the provision of legal services has been affected by high labor costs (which have been mitigated by firms' ability to outsource legal work or adopt technologies to promote efficiency) and regulations ranging from licensing requirements to advertising restrictions.

Economic Growth and Globalization Spur Industry Activity

Economic growth has increased demand for legal services. For example, 38 percent of legal services revenue in the United States originates from commercial activities, including initial public offerings (IPOs), M&As, and litigation.[21] Such transactions are frequent during periods of economic growth. From 2003 through 2007, the number of U.S. IPOs and value of M&As increased at average annual rates of 36 percent and 47 percent, respectively.[22] Strong economic growth in markets, such as Russia, has increased demand for legal services, especially in the area of capital markets practice due to the surge in corporate finance activity.[23] In China, the number of Chinese and foreign-funded representative law offices grew at an average annual rate of 5 percent from 2002 through 2006, indicative of China's growing legal service industry.[24] Further, emerging or fast-growing economies, such as those in Argentina, Brazil, India, Indonesia, Israel, Korea, Malaysia, the Philippines, and South Africa, have been identified as potentially significant legal services importers and/or exporters.[25]

Globalization of business has also driven demand for legal services and encouraged the establishment of foreign affiliates or partnerships with foreign law firms. Globalization requires firms to seek legal advice regarding business permits, company formation, tax burdens, and compliance with government regulations.[26] Hence, establishing an overseas

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[19] For more information, see Terry, "The Legal World is Flat," 2008, 540 and Hogarth, "Beijing By the Bay," May 11, 2005.

[20] Ehrenhaft, "Economic Commercial Impact of Free Trade Agreements," July 31, 2008, 8; National Conference of Bar Examiners, "2007 Statistics," May 2008, 10–11. As an illustration, of the 1,559 lawyers educated at foreign law schools who passed bar exams in the United States in 2007, more than 95 percent took their bar exam in either California or New York. The vast majority (1,385) of these foreign-educated lawyers took the New York bar exam.

[21] IBISWorld, "Law Firms," June 23, 2008, 7. IBISWorld categorizes litigation, as well as legal services related to IPOs, M&As, and other transactions, as commercial activities.

[22] Ibid., 36; IBISWorld, "Legal Services," August 27, 2008, 10. Particular reference was to 2004 and 2005. Similarly, in Australia, approximately 34 percent of total industry revenue stems from commercial, banking, and finance transactions, which during periods of high economic performance are higher due to M&As and IPOs; another 22 percent is driven by property conveyance and related work, which is also influenced by the strength of property markets and the general economic environment.

[23] Lloyd, "Firms Hungry for More Lawyers in Russia," January 7, 2008.

[24] For more information, see WTO, Trade Policy Review Body, "Trade Policy Review Report by the Secretariat: China," April 16, 2008, 182–83.

[25] Industry official, interview by Commission staff, Washington, DC, July 24, 2008; Hook, "Sectoral Study on the Impact of Domestic Regulation," February 15–16, 2007, 10.

[26] Industry official, interview by Commission staff, Washington, DC, November 5, 2008.

presence grants law firms greater proximity to growing markets, as well as the capacity to deliver services to clients that may have business operations in multiple countries.[27] For example, the U.S.-based firm Ropes & Gray stated that it was better able to support its clients' activities in Asia after entering the Hong Kong market.[28] Another U.S. firm, Greenberg Traurig, entered the Shanghai market in 2008 to support clients with operations throughout Asia.[29] In 2006, Canadian, European, and U.S. law firms expanded their international reach with the establishment of 50 new offices in 21 countries, following 57 openings in 2005, and 39 in 2004.[30] China was the most frequently chosen location for new offices.[31] Law firms have also formed foreign partnerships to enter new markets; a recent example is the 2007 alliance between U.S.-based McDermott Will & Emery and MWE China Law Offices.[32]

Firm-level Characteristics Drive Demand

There are also several characteristics that affect demand for the legal services of particular firms. Across all jurisdictions, potential clients consider factors such as reputation, foreign language capabilities, size, practice specialization, and price in their selection process. A 2002 global survey found expertise, quality, and reputation were the key factors in selecting outside counsel.[33] Foreign language capabilities figure prominently for firms involved with international transactions,[34] and the predominance of English in conducting global business confers a competitive advantage on firms from Australia, Canada, the United Kingdom, and the United States.[35] The importance of size or range of expertise, another way in which firms differentiate themselves, has driven consolidation and M&As of firms in part to expand in-house expertise, as well as domestic/international market reach.[36] For example, Nishimura & Asahi, which became Japan's largest law firm following a 2007 merger, stated that the merger has allowed it to provide "comprehensive" legal services to assist clients undertaking complex commercial transactions,[37] while a 2008 merger between two European firms, Bird & Bird and Fennica, enhanced the newly consolidated firm's geographic coverage in China and Europe.[38] Finally, firms can develop a specialization as a competitive strategy to offset size or reputation limitations.[39] A niche practice may be used to enter an increasingly profitable or promising area of work. For example, in Mumbai, India, Nishith Desai

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[27] IBISWorld, "Law Firms," June 23, 2008, 23.

[28] Triedman, "Ropes & Gray Jumps Into the China Fray," May 8, 2008; Lind, "Skadden Set for São Paulo Launch," March 19, 2008. There are several similar examples, such as the declaration by U.S.-based Skadden, Arps, Slate, Meagher & Flom that their new office in São Paulo, Brazil, will allow the firm to better serve their clients.

[29] Kay, "Greenberg the Latest U.S. Firm to Enter China," February 1, 2008; Silver, "Regulatory Mismatch in the International Market for Legal Services," May 2003, 22. Between 1985 and 2000, the 71 largest U.S. international firms tripled the number of their foreign offices. For evidence of increasing internationalization of firms, see Terry, et al., "Transnational Legal Practice," 2008, 833–35.

[30] Hildebrandt and Citigroup, *Client Advisory*, March 2007, 5.

[31] Ibid.

[32] For more information, see Beck, "McDermott Entering Into Alliance," January 30, 2007.

[33] Maddock, "How Clients Choose," April 2003, 8. Data are based on a 2002 corporate counsel survey examining how corporate law departments select outside counsel. Respondents were largely European and U.S. based, but also included corporate counsel in Canada, the Pacific Rim, and South Africa.

[34] Ibid.

[35] Industry official, interview by Commission staff, Washington, DC, July 24, 2008.

[36] Denton, "Legal Services Firm Branding," 2003, 28–32.

[37] Nishimura & Asahi, "Firm Overview," undated (accessed February 21, 2009).

[38] Lind, "Bird & Bird Agrees to Merger With Finland's Fennica," March 13, 2008.

[39] Desai, presentation from "A Globalization Case Study," November 21, 2008.

Associates differentiates itself as a legal research firm, which allows the firm to assist clients involved in public policy and legal reform work.[40]

Cost-saving Technologies and Outsourcing Are on the Rise

The supply of legal services has been influenced by costs.[41] Specifically, law firms have been seeking to curb labor costs, which typically represent their largest expense, by adopting technology to standardize legal services and outsourcing work to lower-cost jurisdictions.[42] For example, firms working in banking and finance use software that quickly generates complex documents, while other firms apply similar software to personal injury or property work. Firms also offer clients online access to documents associated with their case, allowing clients to monitor costs.[43] Other examples of the application of technology to reduce costs include using automated techniques to scan contracts and sharing information through the use of internal computer systems (intranet).[44] During discovery, a labor-intensive and costly endeavor, more firms are employing electronic means to collect and review legal materials,[45] such as services provided by Clearwell E-Discovery Platform.[46]

Though not yet widespread, the outsourcing of more routine work to increase productivity and decrease costs is on the rise. Although estimates vary, the legal service outsourcing industry in India has grown by about 60 percent annually from 2005 to 2008,[47] with revenue projected to increase from $640 million in 2010 to $4 billion by 2015.[48] Outsourcing can take many forms. For example, in 2006, Clifford Chance opened up Global Shared Service Centre in Gurgaon, India, where accounting and information technology (IT) support functions are performed.[49] There are also legal process outsourcing firms, such as the U.S.-based Pangea3 and UK-based NewGalexy, which have offices in India that perform services ranging from research to patent writing to contract drafting. These firms charge hourly rates that are 80–90 percent less than the U.S. rate.[50] India is the most common outsourcing location for U.S. law firms, due in large part to the two countries' common legal systems and the use of English in legal proceedings; however, there are instances of outsourcing to other countries. For example, the U.S. firm Baker & McKenzie has operations in the Philippines (for accounting and IT functions), which reportedly save the firm $10 million a year.[51]

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[40] Nishith Desai Associates, "Research Center," undated (accessed February 21, 2009).
[41] Williams and Nersessian, "Overview of the Professional Services Industry," 2007, 6–7.
[42] IBISWorld, "Law Firms," June 23, 2008, 20. For example, in the U.S. legal services market, 38 percent of industry revenue went toward labor costs in 2008.
[43] Susskind, "From Bespoke to Commodity," 2005, 6.
[44] Cane, "Use IT or Lose It," October 17, 2008.
[45] IBISWorld, "Law Firms," June 23, 2008, 21.
[46] Clearwell Systems, Inc., "Products," undated (accessed February 22, 2009); Page, "Using Technology to Cut Legal Costs," April 19, 2007.
[47] The reported growth rate includes only partial year 2008 information.
[48] Lakshmi, "U.S. Legal Work Booms in India," May 11, 2008; Greenwood, "Manhattan Work at Mumbai Prices," October 2007; and Neil, "1st Legal Outsourcing Summit," January 22, 2008.
[49] Clifford Chance, LLP, "How Can We Keep Getting Better?" September 2008, 13.
[50] Greenwood, "Manhattan Work at Mumbai Prices," October 2007; Rickman, "Obstacles to Outsourcing," April 25, 2008. For more information on offshoring legal services, see Daly and Silver, "Flattening the World of Legal Services?" May 2006.
[51] Lloyd, "Outsourcing and Offshoring Gain Traction in U.K. Legal Market," September 19, 2007.

Regulatory Environments are Restrictive

Regulations governing legal services have also restricted the supply and raised the cost of employing qualified lawyers in recent years. Particularly restrictive regulations pertain to the licensing required to practice law in a certain country or subnational jurisdiction. For example, quotas on the number of professionals allowed to pass bar exams in Korea act as barriers to entry.[52] In many countries—especially those with federal systems such as Australia, Canada, and the United States—state-based regulations require formal admittance in the relevant subterritory to be licensed to practice law there.[53] Some U.S. industry representatives believe that divergent state-level regulations impede the delivery of legal services by both domestic suppliers and foreign lawyers.[54] By contrast, an EU directive has reduced certain barriers to entering European legal markets.[55] Although the regulations apply only to EU nationals,[56] there is free movement within the EU and the arrangement accommodates differences in language and legal traditions.[57]

Limits on the size of firms, advertising, and foreign presence are also common and restrict the supply of legal services. For example, legal services regulations in India prohibit firms from having more than 20 partners, proscribe legal services advertisements, and permit only Indian citizens to provide legal services.[58] By comparison, the Chinese government allows entry by foreign law firms, but licenses must be reviewed and renewed yearly, and foreign firms cannot hire Chinese lawyers (they must resign and act as consultants). Further, prohibitions on practicing Chinese law require that legal advice of international firms be approved by Chinese law firms.[59]

Trade Trends

Cross-border Trade

In 2007, U.S. cross-border exports of legal services (box 6.1) increased by 21 percent to $6.4 billion, increasing more rapidly than the average annual rate of 14 percent from 2002

[52] Ginsburg, "Transforming Legal Education in Japan and Korea," Summer 2004, 437; Jung-a, "South Korea Cries Out for Legal Expertise, June 19, 2008.

[53] These regulations may apply to domestic and/or foreign legal service providers.

[54] Twenty-nine U.S. states have foreign legal consultant (FLC) rules that may deviate from the revised 2006 ABA Model Rule for FLCs, and six have adopted temporary practice rules. For more detail, including FLC rules by state, see American Bar Association, "Commission on Multijurisdictional Practice," undated (accessed February 21, 2009); American Bar Association, *Summary of State Action*, February 1, 2009; and Terry, "The GATS, Foreign Lawyers and Two Recent Developments," November 2002, 21–23.

[55] European Commission, "Lawyers," undated (accessed February 12, 2009). Increased market access is conditional on length of practice as outlined in Directive 98/5/EC.

[56] EU member states generate their own policies that apply to non-EU states.

[57] Industry official, interview by Commission staff, Washington, DC, July 24, 2008; Cone, "Legal Services and the Doha Round Dilemma," 2007, 256. By contrast, the North American Free Trade Agreement contains provisions for foreign legal consultants; however Canadian provinces and U.S. and Mexican states have authority over "whether a consultant may advise on the law of that jurisdiction."

[58] SenGupta, "India's Legal Market On the Cusp of Inevitable Change," June 23, 2005; industry official, interview by Commission staff, Washington, DC, November 5, 2008. See also Government of India, Department of Commerce, Trade Policy Division, "A Consultation Paper on Legal Services Under GATS," undated (accessed March 3, 2009).

[59] Industry official, interview by Commission staff, Washington, DC, November 5, 2008.

BOX 6.1 An Explanation of BEA Data on Cross-border Trade and Affiliate Transactions in Legal Services

Legal services include advisory and representation services in various fields of law and legal documentation and certification services.[a] Under certain circumstances, legal service providers may become members of foreign bars, allowing them to appear in foreign courts and provide advice on foreign law. However, most lawyers practicing outside of their home jurisdiction are not locally accredited, and therefore, serve in a limited capacity as foreign legal consultants. For example, when operating in foreign countries, U.S.-based foreign legal consultants are generally allowed to provide advice regarding U.S. law, international law, and third-country law, but are precluded from appearing in host-country courts or giving advice on host-country law.

BEA data on cross-border trade in legal services capture services provided when legal professionals travel abroad to provide services to clients, when clients travel abroad to engage the services of foreign attorneys, or when legal documents or advice are exchanged across national borders via the postal service, facsimile transmissions, the Internet, or other means.[b]

Data on affiliate transactions capture sales by foreign legal services affiliates of U.S. law firms and purchases from U.S. affiliates of foreign law firms. Foreign affiliates (i.e., U.S. parent companies' majority-owned, nonbank affiliates) provide services to foreign consumers in markets outside the United States, and U.S. affiliates (i.e., foreign parent companies' majority-owned, nonbank affiliates) provide services to U.S. consumers in the U.S. market. Data are collected through surveys and are categorized based on the industry classification of the affiliate, not the type of service provided.[c]

Due to recent changes in BEA's reporting and collection method, affiliated cross-border trade data for several professional services, including legal services, became available for the first time beginning in 2006.[d] Such data reflect cross-border transactions between entities within the same company group and could include, for example, a parent firm's sales of intellectual property to one of its affiliates located in another country. Consequently, cross-border trade data for the years 2006 and 2007, which include both affiliated and unaffiliated trade data, are not strictly comparable to data for previous years, which include unaffiliated trade only. However, affiliated cross-border trade accounts for a very small share of total cross-border trade, and thus the discrepancy across years (2002–07) is small.

[a]WTO, Committee on Specific Commitments, "Joint Statement on Legal Services," February 24, 2005; UN, Department of Economic and Social Affairs, Statistics Division, "Materials Submitted to the Technical Subgroup," October 18, 2004. This definition corresponds to United Nations CPC category 861; the NAICS legal services classification is 5411.

[b]BEA representative, e-mail messages to Commission staff, August 19 and 20, 2008, and February 10 and 26, 2009. Most recent statistics for cross-border trade in legal services are collected through the Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons, Survey BE-125, circulated by the BEA. Legal services within the survey are defined as transactions involving "legal advice or other legal services." Survey BE-125 can be found at http://www.bea.gov/surveys/pdf/be125.pdf.

[c]BEA representative, e-mail message to Commission staff, February 26, 2009. Statistics for majority-owned legal services affiliate transactions are collected through BEA's surveys of U.S. Direct Investment Abroad and Foreign Direct Investment in the United States. For more information, see USDOC, BEA, *Survey of Current Business*, October 2008. These surveys, respectively, can be found at http://www.bea.gov/surveys/diasurv.htm and http://www.bea.gov/surveys/fdiusurv.htm.

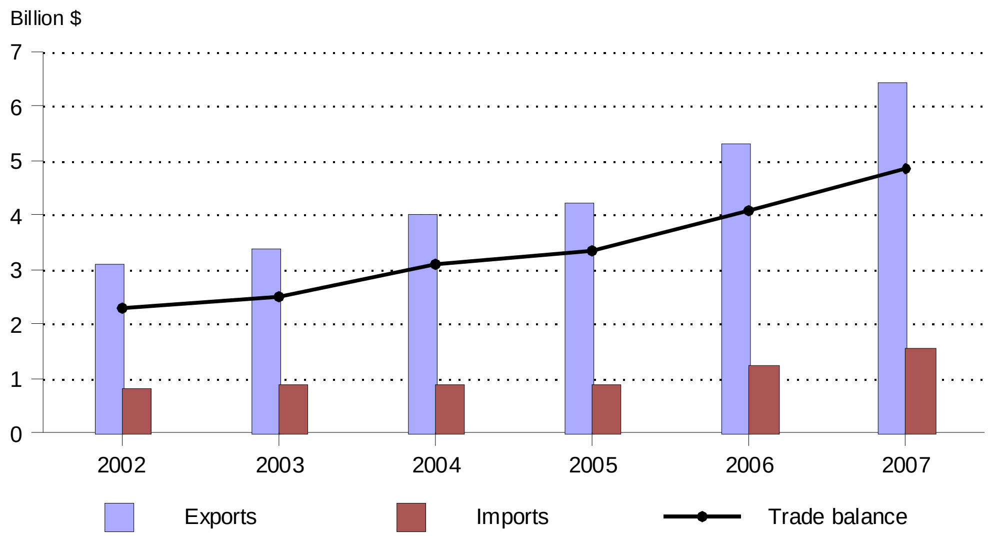
[d]BEA representative, e-mail message to Commission staff, September 11, 2008.

through 2006 (figure 6.1).[60] U.S. imports of such services increased by 28 percent to approximately $1.6 billion in 2007, compared with the 10 percent average annual growth rate from 2002 through 2006. Although imports grew more rapidly than exports in 2007, export volumes remain significantly larger than import volumes. This has resulted in a growing legal services trade surplus over the recent period, reaching $4.9 billion in 2007. Rapid expansion of cross-border legal services trade has been influenced by rising global demand for legal services associated with increased cross-border economic activity.[61] For

[60] USDOC, BEA, *U.S. International Services*, table 7, 2001–05, 2006–07.

[61] In 2005, U.S. cross-border exports of legal services increased 6 percent to $4.2 billion, the slowest year of growth in the 2002–07 period.

FIGURE 6.1 Legal services: U.S. cross-border trade, 2002–07[a]



Source: USDOC, BEA, *U.S. International Services,* table 7, 2001–05 and 2006–07 (accessed January 27, 2009).

[a]BEA changed its data reporting and collection method in 2006. See discussion in box 6.1.

example, cross-border M&A activity grew rapidly in recent years, with the number of deals completed from 2002 through 2007 growing by an average annual rate of 30 percent.[62]

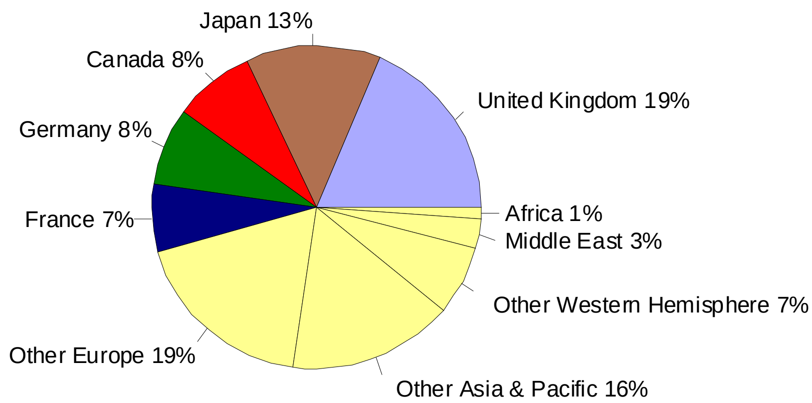
U.S. cross-border trade in legal services is concentrated among a small number of trading partners. In 2007, the top five U.S. export markets for legal services accounted for 54 percent of total U.S. exports of such services.[63] The United Kingdom and Japan were the two leading markets for U.S. legal services exports in 2007, accounting for 19 percent and 13 percent of such exports, respectively (figure 6.2 and figure 6.3). The other top export markets included Canada, Germany, and France. These same five countries were also the top U.S. export markets for legal services in 2002. U.S. exports to Japan declined by

[62] Bureau van Dijk, Zephyr Mergers and Acquisitions Database. Data compiled by Commission staff and refer to cross-border M&As in all countries.

[63] USDOC, BEA, *U.S. International Services*, table 7, 2001–05, 2006–07.

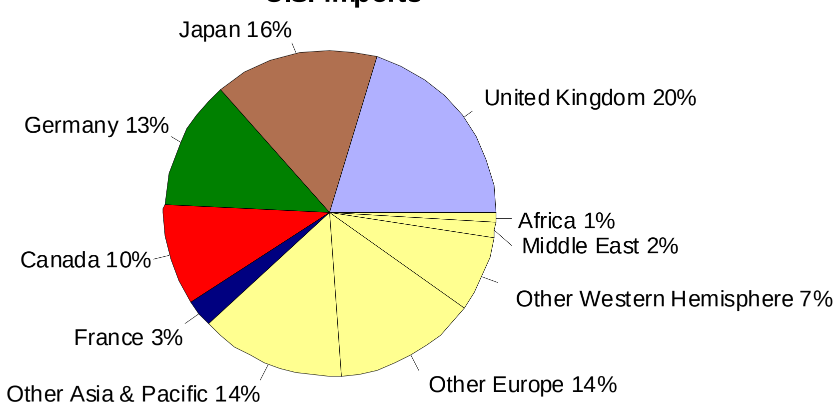
FIGURE 6.2 Legal services: U.S. legal services exports and imports, by country or region, 2007

U.S. exports



Total = $6.4 billion

U.S. imports

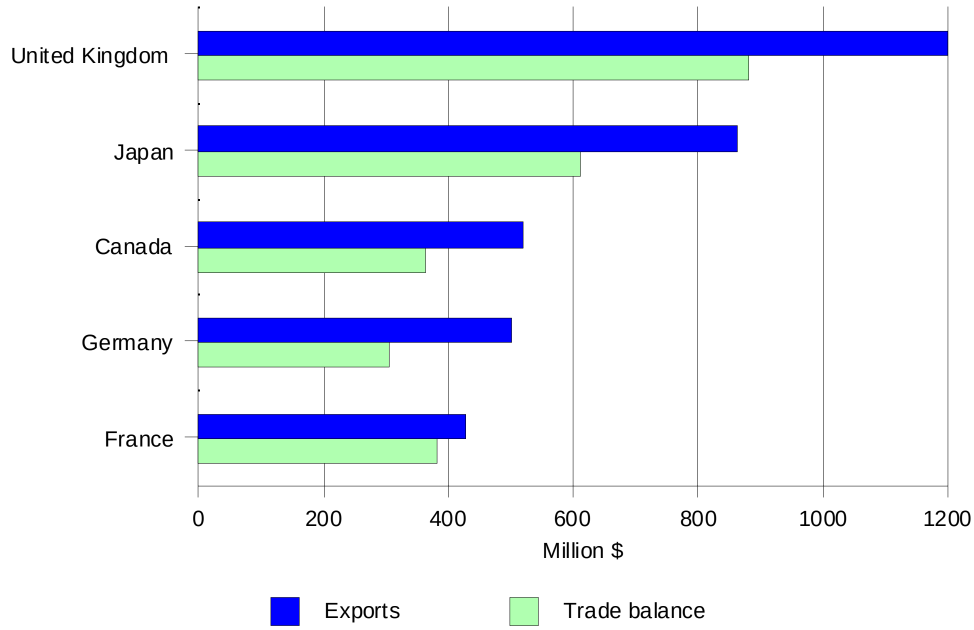


Total = $1.6 billion

Source: USDOC, BEA, *Survey of Current Business*, table 7.2, October 2008, 56–57.

Notes: Data may not equal 100 percent due to rounding. Geographic regions are shaded yellow.

FIGURE 6.3 Legal services: U.S. cross-border exports and trade balance, by major trading partner, 2007



Source: USDOC, BEA, *Survey of Current Business*, table 7.2, October 2008, 56–57.

5 percentage points in the period, largely due to reforms in both the Japanese legal profession and education system, which resulted in increased Japanese legal capability (box 6.2).[64] For example, the number of lawyers at four of the largest Japanese firms increased by an average of over 400 percent from 1998 through 2008.[65]

Notwithstanding Japan's decreased share of trade volume in legal services, the Asia-Pacific region is a growing export market for U.S. legal services. The share of total U.S. exports of legal services to the Asia-Pacific region increased by about 2 percentage points from 2002 through 2007, with China's share rising by 1 percentage point and Korea's share rising by almost 2 percentage points.[66]

As with exports, a small number of countries account for a large share of U.S. legal services imports. In 2007, the United Kingdom (20 percent), Japan (16 percent), Germany (13 percent), Canada (10 percent), and France (3 percent) were the top suppliers of U.S. cross-border imports of legal services. While the top suppliers of legal services imports have remained unchanged since 2002, their ranking has shifted. The United Kingdom's share has declined from 30 percent in 2002, while Japan's has doubled from 8 percent.[67] The

[64] USDOC, BEA, *Survey of Current Business*, October 2008, 21–22.
[65] Hara, "The Rapidly Changing Japanese Legal Profession," July 2008, 8.
[66] USDOC, BEA, *U.S. International Services*, table 7, 2001–05, 2006–07.
[67] Ibid.

BOX 6.2 The Japanese Legal Services Market Undergoes Significant Change

Reforms enacted during the past decade have had a significant impact on the legal services market in Japan, particularly on the supply of legal service providers, on the growth of corporate law practices, and in the size of law firms. For much of the post-World War II era, the supply of providers serving the Japanese legal services market was relatively small, as measured by the number of lawyers per capita, due to the imposition of low passage quotas on the annual bar examination, and the presence of market access barriers that made it difficult for foreign lawyers and law firms to practice in Japan. Further, until the early 1990s, the Japanese legal services market consisted of small practices, which focused mainly on litigation. During the mid-1990s, however, demand for legal services in Japan grew, particularly in corporate law as financial deregulation and changes in administrative law prompted Japanese businesses to seek more legal advice. Consequently, the Japanese government initiated reforms aimed at improving the quality of legal services training, doubling the number of licensed Japanese lawyers by 2018, and further liberalizing measures begun in the late 1980s that affected foreign legal service providers.[a]

Domestic Legal Services Reform in Japan

Notable among domestic reforms was the establishment of "American-style" law schools in Japan. In 2002, the Japanese parliament passed legislation permitting the creation of three-year graduate law schools, which became a prerequisite for a newly instituted bar examination.[b] In 2006, the first graduating class emerged from the new law schools. In addition, the quota on bar passage was gradually increased.[c] Various indicators suggest that these reforms, along with demand for complex legal services, have led to an increased supply of lawyers in Japan. To illustrate, the average growth rate in the number of legal professionals passing the bar was 45 percent from 1995 through 2006, as compared with 6 percent from 1950 through 1990.[d]

The increased supply of lawyers has facilitated the growth of larger Japanese corporate law firms. The number of lawyers at the top four Japanese firms increased from an average of 59 lawyers in 1998 to an average of 301 in 2008,[e] as a consequence of more mergers and the employment of additional lawyers. The reported reason for the mergers was to increase the breadth of practice by combining firms with different specializations and, more recently, to increase the quality of services and pace of delivery to clients by expanding the number of attorneys in existing practice areas. Coinciding with the trend toward larger law firms, the scope of legal services supplied by Japanese law firms has shifted from litigation to corporate law. This shifting is due to increased demand for domestic corporate legal advice. In 2007, an estimated 70 percent of corporate practice was in domestic (as opposed to international business) transactions, up from 20 percent 10 years previously.[f]

Liberalization Aids Foreign Lawyers and Law Firms

Beginning in 1987, individual foreign attorneys in Japan were allowed to advise only on home-country law, and foreign law firms operating in Japan were precluded from employing Japanese lawyers. After reforms in 1995, foreign lawyers were allowed to form joint ventures with Japanese lawyers, but were still precluded from advising on third-country or Japanese law. Further changes in 2005 permitted foreign law firms to employ Japanese lawyers or enter into full mergers with Japanese law firms and provide advice on Japanese law.[g] As a result of such liberalization over time, the number of registered foreign lawyers in Japan increased from 31 (1988) to 87 (1998) and 252 (2007).[h] There also has been growth in the presence of foreign law firms, which are particularly competitive in the provision of services related to international business transactions.[i] Some of the largest foreign firms, by number of total lawyers operating in Japan, include Baker & McKenzie (U.S.), Morrison & Foerster (U.S.), White & Case (U.S.), Linklaters (UK), and Bingham McCutchen (U.S.).[j]

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[a]Aronson, "The Brave New World of Lawyers in Japan," August 2007, 4–10.

[b]Ginsburg, "Transforming Legal Education in Japan and Korea," Summer 2004, 437–38; Hashimoto, "Legal Reform in Japan," February 28–March 3, 2007, 7. Only undergraduate legal training existed prior to the establishment of graduate law schools in Japan.

[c]Aronson, "The Brave New World of Lawyers in Japan," August 2007, 8.

[d]Hara, "The Rapidly Changing Japanese Legal Profession," July 2008, 6. The average was calculated using the number passing the Japanese bar every five years; the number increased from 738 in 1995, to 994 in 2000, and 1,558 in 2006.

[e]Ibid., 8.

[f]Aronson, "The Brave New World of Lawyers in Japan," August 2007, 9, 16, 22–26.

[g]Ibid., 9–10, 34; Kamiya, "Development of Foreign Law Firms in Japan," July 10, 2008, 2–3. From 1998, registered foreign lawyers were permitted, under specific conditions, to advise on third-country law.

[h]Kamiya, "Development of Foreign Law Firms in Japan," July 10, 2008, 5, 7. The number of registered foreign lawyers in Japan grew by an average annual rate of 12 percent from 1995 through 2004, which corresponded to earlier reforms, and at a rate of 3 percent from 2005 through 2007.

[i]Aronson, "The Brave New World of Lawyers in Japan," August 2007, 10.

[J]Kamiya, "Development of Foreign Law Firms in Japan," July 10, 2008, 6.

strengthening of Japan's industry, as discussed previously, may explain Japan's increasing share of U.S. imports.

Affiliate Transactions

Sales by foreign legal service affiliates of U.S. law firms (hereafter referred to as foreign affiliates) have exceeded purchases from U.S. legal service affiliates of foreign law firms (hereafter, U.S. affiliates) in recent years. In 2006, foreign affiliate sales increased by 11 percent to $2.7 billion. This increase was well below the average annual rate of 35 percent from 2002 through 2005, which was mostly driven by the 112 percent increase registered in 2004 (figure 6.4).[68] The high growth rate in 2004 was largely due to increased foreign affiliate sales in Germany, the United Kingdom, and other countries including, but not limited to, Australia and Japan, and the opening of new legal service affiliates in China and Germany by U.S. firms.[69] The expansion in Germany stemmed in part from increasing M&A activity and capital market practices associated with the European Central Bank in Frankfurt,[70] while the growth of China as a location for foreign law offices was partly due to the private equity market boom experienced in most of Asia.[71] In 2006, Europe accounted for 80 percent of sales by foreign affiliates, led by the United Kingdom (36 percent), France (14 percent), and Germany (14 percent) (figure 6.5).[72] These shares remained largely constant in recent years. Japan, with 6 percent, ranked as the largest non-European market for foreign affiliate sales.[73]

Mergers between European and U.S. law firms and the establishment of new offices in Asia reflect the increasing internationalization of U.S. law firms.[74] Direct investment abroad by U.S. law firms increased at an average annual rate of 18 percent from 2002 through 2005 and by 30 percent in 2006.[75] By 2007, nine major U.S. law firms maintained at least 25 percent of their lawyers in overseas offices.[76]

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[68] USDOC, BEA, *U.S. International Services*, tables 9 and 10, 1999–2006.

[69] Hildebrandt and Citigroup, *Client Advisory*, March 2005.

[70] Henssler and Terry, "Lawyers Without Frontiers," 2001, 308; Hildebrandt and Citigroup, *Client Advisory*, March 2007, 5. In general, the expansion of European and U.S. law firms throughout Europe is due to capital market and international arbitration work.

[71] Hildebrandt and Citigroup, *Client Advisory*, March 2007, 5.

[72] USDOC, BEA, *U.S. International Services*, table 9, 1999–2006.

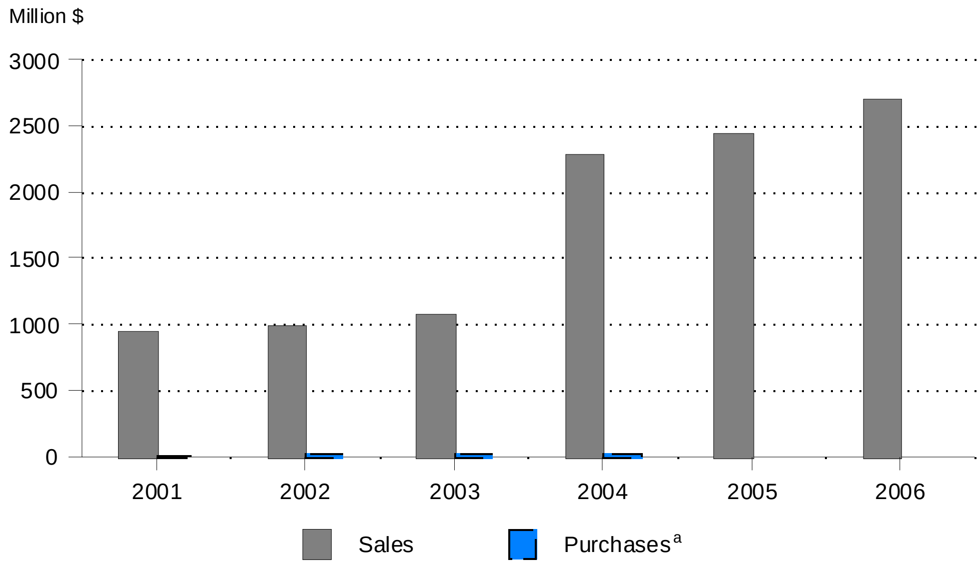
[73] Ibid.

[74] IBISWorld, "Law Firms," June 23, 2008, 23.

[75] USDOC, BEA, *Survey of Current Business*, table 17, September 2007, 75, 114. "Direct investment position on a historical-cost basis" defined as "the value of U.S. direct investors' equity in, and net outstanding loans to, their foreign affiliates."

[76] See Terry, et al., "Transnational Legal Practice," 2008, 833–35, based on *American Lawyer,* "The Am Law Global 100 2007."

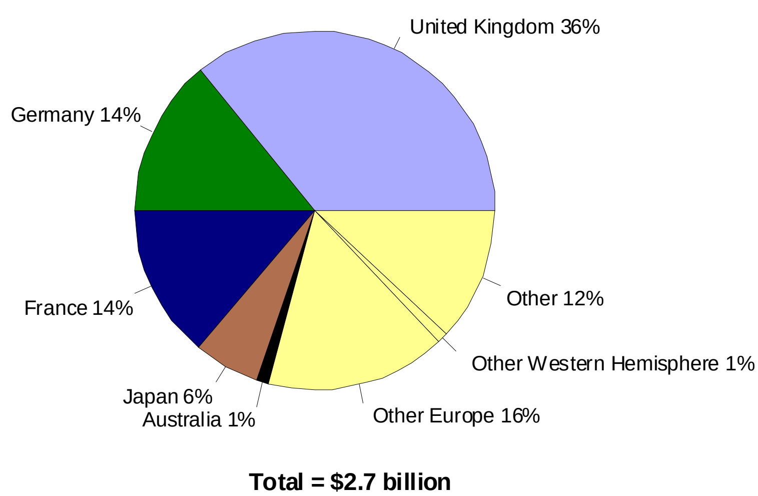
FIGURE 6.4 Legal services: Sales by foreign affiliates of U.S. firms and domestic purchases from U.S. affiliates of foreign firms, 2001–06



Source: USDOC, BEA, *U.S. International Services*, table 10, 1999–2005 (accessed January 27, 2009).

[a]Data in 2005 and 2006 were supressed to avoid disclosure of individual company data.

FIGURE 6.5 Legal services: Sales by foreign affiliates of U.S. firms, by country or region, 2006



Source: USDOC, BEA, *Survey of Current Business*, tables 9.2 and 10.2, October 2008, 60, 62.

Notes: Data may not equal 100 percent due to rounding. Geographic regions are shaded yellow.

Domestic purchases from U.S. affiliates grew more slowly and from a smaller base than foreign affiliate sales. In 2004, the latest year for which data are available, purchases from U.S. affiliates grew by 17 percent to $28 million, faster than the average annual increase of 10 percent from 2002 through 2004.[77] Country-specific data on purchases from U.S. affiliates of foreign law firms are not available in sufficient detail to determine which markets account for the greatest shares of such transactions, as data were suppressed to avoid the disclosure of individual firm data.[78]

Due in large part to the internationalization of law firms, along with growth of international trade and developments in business and trade law, the rights of association and commercial establishment (mode 3) and the presence of natural persons (mode 4) have become increasingly important to law firms.[79] Industry representatives indicated that restrictions on the ability to form partnerships with or employ local lawyers are of greatest concern, while another significant issue is the difficulty in obtaining visas for foreign legal consultants.[80]

Liberalization of Trade Impediments

U.S. FTAs with Australia, Chile, and Singapore have liberalized the legal services markets in signatory countries. These agreements include provisions for special temporary entry visas that facilitate mode 4 supply (i.e., presence of natural persons) of legal services, described previously.[81] In addition, pending FTAs with Colombia, Panama, and Korea all contain provisions pertaining to legal services.[82] For example, the Korea agreement includes provisions allowing foreign legal consultant (FLC) offices in Korea,[83] a significant departure from current regulations that permit only Korean-licensed lawyers to provide legal services.[84]

The Japanese legal services market has been liberalizing since 1980.[85] Most recently, a 2003 amendment to a law governing foreign lawyer/firm rights to practice in Japan was implemented in April 2005. The amendment allows a "foreign lawyer qualified under Japanese law to employ a . . . lawyer qualified under Japanese law" and permits their joint enterprise.[86] Consequently, the number of foreign registered lawyers in Japan grew by 8 percent in 2005 (see box 6.2).[87]

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[77] USDOC, BEA, *U.S. International Services*, table 10, 1999–2005.

[78] Ibid.

[79] Geloso Grosso, "Managing Request-Offer Negotiations Under the GATS," June 14, 2004, 4. See box 1.1 for mode definitions.

[80] Industry official, interview by Commission staff, Washington, DC, July 24, 2008.

[81] Ehrenhaft, "Economic Commercial Impact of Free Trade Agreements," July 31, 2008, 3.

[82] Terry, et al., "Transnational Legal Practice," 2008, 847–49. For a discussion of the inclusion of labor issues in recent trade agreements, see Baumert, et al., "International Cooperation on Trade and Labor Issues," 2008, 24–25.

[83] United States-Korea Free Trade Agreement, annex II: Non-Conforming Measures for Services and Investment, 44–45.

[84] For more information, see Office of the USTR, "Korea," 2008.

[85] Industry official, interview by Commission staff, Washington, DC, July 24, 2008.

[86] WTO, Trade Policy Review Body, "Trade Policy Review Report by the Secretariat: Japan," December 19, 2006, 82.

[87] Ibid.; Kamiya, "Development of Foreign Law Firms in Japan," July 10, 2008, 5. According to another source, the number of registered foreign lawyers increased from 186 in 2002, to 241 in 2006, and 252 in 2007.

Commitments in legal services were made by 45 WTO members in the Uruguay Round.[88] Of the 25 countries that have acceded to the WTO since 1995, all but two have made commitments in legal services.[89] However, among the initial commitments, market access restrictions on the type of legal entity remained widespread, as were national treatment restrictions on residency or language requirements.[90] In cases where full commitments were made, foreign legal service providers generally continued to face barriers due to qualification regulations.[91]

A revised U.S. services offer to the WTO in 2005 contained provisions for legal services where FLC rules were incorporated for an additional eight U.S. states.[92] There was a collective request on legal services to the WTO from Australia, Canada, the EU, Japan, New Zealand, Norway, and the United States in March 2006.[93] The request included mode 4 commitments and put forward proposals regarding foreign partnerships and employment rules.[94] There have also been two proposed (and currently pending) resolutions submitted by the International Bar Association WTO Working Group. The first is a "skills transfer resolution," which provides training or other support to countries that have not scheduled commitments in legal services, and the second relates to the right of association between foreign firms and workers.[95]

Proponents of liberalizing legal services claim that liberalization would promote investment by ensuring that property rights are protected.[96] In addition, liberalization may foster foreign FDI if outside investors can use their own legal advisors.[97] There may also be capacity-building advantages to legal services liberalization, as a transfer of skills to local lawyers may facilitate greater business transactions across domestic industries, and ultimately, may increase overall export capacity.[98] Principal concerns about liberalization include regulatory considerations, such as ensuring the competency of legal service providers and their accountability to clients.[99]

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[88] See Geloso Grosso, "Managing Request-Offer Negotiations Under the GATS," June 14, 2004, 36–38, for a consolidated listing of Uruguay Round commitments on legal services.

[89] Mongolia has not made commitments in legal services and Tonga's services schedules were not available at the time of this writing. For a list of WTO members and accession dates, see WTO, "WTO Members and Accession Candidates," July 23, 2008. For commitments in legal services, see WTO, Services Database.

[90] WTO, CTS, "Legal Services," July 6, 1998, 16–18. Few countries made mode 4 commitments.

[91] Ibid., 17.

[92] For more detail, see Terry, et al., "Transnational Legal Practice," 2008, 836–37; WTO, Trade Policy Review Body, "Trade Policy Review Report by the Secretariat: United States," May 5, 2008; and WTO, CTS-SS, "United States: Revised Services Offer," 2005. Rules for practicing before the U.S. Patent and Trademark Office are also altered.

[93] Mission of Australia, "Collective Request, Legal Services," February 28, 2006.

[94] See Terry, et al., "Transnational Legal Practice," 2008, 838, for more information on discussions related to applying trade disciplines similar to the accountancy sector to legal services and Australia's proposed disciplines and related developments. For background, see Terry, "Further Developments Regarding the GATS and Legal Services," August 2004, 34–39.

[95] Industry official, telephone interview by Commission staff, September 4, 2008. For more detail, see Terry, et al., "Transnational Legal Practice," 2008, 842–43.

[96] Industry official, interview by Commission staff, Washington, DC, July 24, 2008.

[97] Mission of Australia, "Collective Request, Legal Services," February 28, 2006, 2.

[98] Geloso Grosso, "Managing Request-Offer Negotiations Under the GATS," June 14, 2004, 5, 19–21.

[99] Ibid., 20–22.

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CHAPTER 7
Services Roundtable Summary

The Commission hosted its second annual services roundtable on December 4, 2008.[1] The roundtable drew participation from services sector experts within industry, government, and academia, including researchers from the World Bank, the Peterson Institute for International Economics, and the American Enterprise Institute. Although the roundtable was a free-form discussion, the topics discussed by participants fell broadly into three areas. The first part of the discussion focused on the financial crisis of 2008 and its impact on global markets and trade; the second, on the continued viability of, and future prospects for, services liberalization under GATS; and the third, on other avenues for opening services trade, including unilateral liberalization and sector-specific plurilateral agreements.

The Financial Crisis of 2008

Some roundtable participants expressed concern that the financial crisis will adversely impact the progress of trade liberalization, both in financial services, as well as in the services sector as a whole. The crisis may fuel the arguments of domestic and international opponents to trade liberalization and cause a scaling back of negotiations. However, such an outcome is not necessarily inevitable. For example, during the Asian financial crisis, countries, such as Korea, modernized their financial systems in response to the crisis, creating more effective domestic regulations and implementing new market liberalizations. Some participants asserted that the current financial crisis did not result from trade liberalization, but rather from a lack of strong, effective regulation in the financial sector.

Differing perspectives were offered on the potential interpretation and impact of the standstill statement included in the G-20 declaration.[2] Some participants expressed concern that, despite the true intent of the standstill, nations will use the provision to place new limitations on foreign financial products and services in response to the current financial crisis (e.g., the EU's consideration of a measure that would restrict the sale of certain financial instruments to those rated by a European credit agency). Other participants perceived the standstill statement as legally nonbinding. A compromise perspective was offered, suggesting that perhaps a new international financial architecture, or broader regulatory structure, is emerging to which nations may eventually agree in a nonbinding manner.

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[1] The following summary is based on a transcript of proceedings at the Commission's second annual services roundtable and reflects only the principal points made by roundtable participants. The views expressed in the summary should be considered to be those of roundtable participants and not of the Commission or the participants' respective organizations. Although the summary was reviewed by roundtable participants prior to publication, Commission staff did not undertake to confirm the accuracy of, or otherwise correct, the information summarized. For the full text of the roundtable discussion, see entries associated with investigation no. 332-345 (2009) at the Commission's Electronic Docket Information System (http://edis.usitc.gov). A list of roundtable participants is included at the end of the summary.

[2] The standstill statement refers to an agreement reached at a G-20 summit meeting, held in November 2008, in which countries pledged not to introduce any new tariff or nontariff measures on trade and investment.

In Latin America, the financial crisis is having a generally negative impact on the perceptions of trade liberalization and willingness to open markets. Some participants noted that Latin American countries feel that, by privatizing and opening markets to foreign competition in accordance with free market principles, they have suffered significant financial losses from the current crisis that was not of their doing. It will be incumbent upon the new U.S. administration to manage the trepidation of the Latin American countries. Some participants suggested that passage of the Colombia and Panama FTAs would go far in reassuring the U.S. commitment to continued trade talks.

Lastly, some participants noted that, the severity of the current financial crisis notwithstanding, there is an increased urgency for continued education on the developmental benefits of trade liberalization. In particular, countries must recognize that liberalization does not necessarily equate to deregulation, and that stronger, more effective regulation should go hand in hand with new trade commitments. Further, as the global financial system has rapidly evolved beyond the reach of most regulatory systems, developing countries may find themselves unprepared and/or unwilling to liberalize for fear that their economies would be vulnerable to collapse. Some participants suggested that more progress might be made on financial services liberalization if a serious technical assistance program, stressing the importance of good regulation, was enacted for developing countries.

Future Prospects for Services Liberalization under GATS

Some participants noted that substantial work remains with regard to the liberalization of services markets under GATS. U.S. objectives for services negotiations in the Doha Round have been to secure deeper mode 1 (cross-border trade) and mode 3 (commercial presence) commitments on core infrastructure services and to target emerging economies such as Brazil, China, and India. Core infrastructure services include distribution, financial, telecommunications, and computer and related services. Other participants noted, however, that despite the careful and strategic focus of recent services negotiations, few developing countries have been willing to make binding commitments. Some participants suggested that developing countries are hesitant to bind even current market conditions under GATS because they do not perceive any immediate or tangible benefit. Countries may mistakenly believe that binding GATS commitments could potentially conflict with domestic regulatory objectives.

Some participants suggested that a new approach is needed for the United States and its trade partners to advance services negotiations under GATS. One approach, particularly applicable to developing countries, would be to link binding commitments in services to concessions in other areas of trade negotiations, such as agriculture. Another tactic would be for developed countries to offer deeper commitments in services that are of special importance to developing economies, thereby providing incentive for developing countries to open their services markets in return. The EU, for example, has strengthened its offer on mode 4 (the temporary movement of natural persons) with a view to engaging developing countries in the current round of trade negotiations. Still another approach might be to permit countries to schedule broader, less-detailed commitments under GATS, providing greater flexibility in domestic governance.

Some participants commented that multilateral liberalization efforts under GATS are both outdated and ineffective. Although GATS may add credibility to the liberalization process, the agreement lacks flexibility, which is a desirable element for regulators. Coordination among countries' domestic regulatory agencies is required for countries to make new commitments under GATS or to follow through on existing commitments. However, such coordination is often difficult to achieve. Other roundtable participants presented an alternative point of view, stating that the efficacy of GATS hinges not on whether it interferes with countries' rights to pursue domestic regulation, but whether the regulations developed by countries ultimately discriminate against foreign service providers. Overall, participants agreed that the success of future trade negotiations will partly depend on the extent to which the negotiating framework, be it GATS or another forum, reflects current issues facing the global economy, including environmental, trade facilitation, and labor issues.

Unilateral and Plurilateral Liberalization Efforts

Finally, some participants noted that countries have pursued other avenues for services liberalization outside of the formal framework of GATS negotiations. For example, at the end of the Uruguay Round, plurilateral agreements were reached among like-minded countries on financial and telecommunication services. Some participants suggested that there might be interest among certain WTO members in a similar type of agreement for computer and related services. At the same time, other participants noted the importance of unilateral efforts toward services liberalization, commenting that while these efforts have had a positive effect on the business environment, they often are not reflected in the schedules of WTO members. In the end, participants concurred that countries must have a clear understanding of the benefits to their domestic economies of liberalization efforts, such as increased productivity, higher living standards, and job growth, to move forward with liberalization efforts.

List of external participants at the Commission's services roundtable held on December 4, 2008:

Name	Title/Affiliation
Evan Alexander	Minority Staff U.S. House of Representatives Committee on Ways and Means
Claude Barfield	Resident Scholar American Enterprise Institute
Christine Bliss	Assistant USTR for Services and Investment Office of the U.S. Trade Representative
Maria Borga	Economist U.S. Department of Commerce Bureau of Economic Analysis
John Goyer	VP, International Trade Negotiations and Investment Coalition of Service Industries
J. Bradford Jensen	Senior Fellow Peterson Institute for International Economics
Rick Johnston	VP, International Government Affairs Citigroup Inc.
David Long	Director, Office of Service Industries U.S. Department of Commerce International Trade Administration
Aaditya Mattoo	Lead Economist The World Bank Development Research Group
Anna Snow	Senior Trade Advisor Delegation of the European Union to the United States
Sherry M. Stephenson	Head, Institutional Relations Organization of American States Department of International Affairs
David Thomas	Trade Counsel U.S. House of Representatives Committee on Ways and Means
Gianni Zanini	Lead Economist The World Bank Institute