

**COMMUNICATION TO THE WORLD TRADE ORGANIZATION  
ON THE SUITABILITY OF APPLYING TO THE LEGAL PROFESSION  
THE WTO DISCIPLINES FOR THE ACCOUNTANCY SECTOR**

Adopted at the IBA Council Meeting, San Francisco, September 2003

WHEREAS, the phenomenon known as globalization has resulted in a dramatic increase in the movement of people, capital, goods and services across national borders; and

WHEREAS, central to the future development of the legal profession is the fact that international trade in legal services is now subject to the General Agreement on Trade in Services (“GATS”) and such development must be consistent with the basic concepts underlying GATS, which include transparency in regulation, non-discriminatory treatment of regulated parties, and the requirement that regulation should be no more burdensome than necessary to protect the public interest; and

WHEREAS, Article VI:4 of the GATS states that “With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Council for Trade in Services shall, through appropriate bodies it may establish, develop any necessary disciplines. Such disciplines shall aim to ensure that such requirements are, *inter alia*:

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
- (b) not more burdensome than necessary to ensure the quality of the service;
- (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service;” and

WHEREAS, pursuant to Article VI:4 of the GATS, WTO Member States have developed “Disciplines on Domestic Regulation in the Accountancy Sector” [document S/L/64, 17 December 1998]; and

WHEREAS, the WTO Working Party on Domestic Regulation currently is considering whether and how to develop “disciplines” for other service sectors, including legal services; and

WHEREAS, the WTO Member States agreed to solicit the opinion of the IBA concerning the suitability of applying to the legal profession the “Disciplines on Domestic Regulation in the Accountancy Sector (S/L/64)”;

WHEREAS, the WTO Secretariat sent the IBA a letter in December 2002, in which it sought input by February 2003 on three questions:

“ - Are there any elements of the disciplines which you consider are not appropriate for your profession? If so, please set out which and why you consider they are inappropriate. Please also suggest what changes would make them appropriate;

- Are there any points or areas which you consider are missing from the disciplines and which you feel should be included? If so, please indicate clearly what these are and why they should be included;

- Are there any elements of the disciplines which you feel need to be improved? If so, please set them out and why;” and

WHEREAS, the IBA believes that it is desirable and in the public interest for its member organizations to participate in the developments at the WTO by responding to this letter directed to the IBA; and

WHEREAS, the IBA recognizes and acknowledges that in connection with such review and consideration, the legal profession in each of its member jurisdictions may take into account its own characteristics, influenced, *inter alia*, by its system of laws, historical factors and level of economic development; and

WHEREAS, the IBA affirms that, while the legal profession performs a unique and valuable service in each of their societies, lawyers from all over the world share common core values of the profession which must be given due respect when we negotiate the trade in legal services among the WTO member States; and

WHEREAS, IBA Member Bars were invited to participate in the GATS Forum in Brussels, Belgium on May 30, 2003; and

WHEREAS, the IBA WTO Working Group circulated drafts of its papers before the GATS Forum and received comments, which were extensively discussed at the GATS Forum; and

WHEREAS, the papers that were circulated built heavily on the prior resolutions adopted by the IBA Council, which noted that notwithstanding the differences among legal professions, certain essential principles are common to all legal professions; and

WHEREAS, Exhibits A and B represent the results of the May 30, 2003, GATS Forum and the votes taken at that time;

NOW, THEREFORE, BE IT RESOLVED, that the IBA Council hereby approves Exhibits A (Suggested Changes to the WTO Disciplines for the Accountancy Sector) and B (Explanatory Memorandum to Accompany the “Suggested Changes to the WTO Disciplines for the Accountancy Sector”) and authorizes transmission of these documents to the WTO and its Member organizations for their consideration.