

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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**Group of Negotiations on Services**

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**COMMUNICATION FROM THE UNITED STATES**

**Revised MFN Exemption List of the United States**

The following communication is circulated at the request of the United States to the members of the Group of Negotiations on Services.

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The United States delegation submits the attached draft list of exemptions to Most-Favoured-Nation (MFN) treatment pursuant to Article II and the Annex on Article II Exemptions of the provisional General Agreement on Trade in Services (GATS). The United States reserves the right to revise its MFN exemption list prior to the final outcome of the negotiations on the GATS text and initial commitments. In making this submission, the United States delegation notes that the exemption for basic telecommunications services may be modified or withdrawn if agreement is reached to proceed with basic telecommunications negotiations in the post-Uruguay Round period.

The United States notes that there continues to be uncertainty about the extent to which MFN exemptions need to be taken for certain measures, including social security and social security agreements, and is prepared to join in efforts to clarify these uncertainties. It has not included such measures in this list, but will not extend the benefits contained in social security agreements on an MFN basis.

The United States reserves the right to revise this list of MFN exemptions in light of any clarifications of the GATS with regard to the measures discussed above and in light of the revised MFN exemptions lists received from other participants.

<u>SECTOR</u>	<u>DESCRIPTION</u>	<u>COUNTRIES TO WHICH MEASURE APPLIES</u>	<u>INTENDED DURATION</u>	<u>CONDITIONS CREATING THE NEED FOR THE EXEMPTION</u>
Movement of persons	<p>Government issuance of treaty trader or treaty non-immigrant visas that extend a special visa category governing movement of certain personnel categories is limited to treaty partners who are engaged</p> <ul style="list-style-type: none"> <li>● solely to carry on substantial trade, including trade in services or trade in technology, principally between the U.S. and the foreign state of which a natural person is a national, or</li> <li>● solely to develop and direct the operations of an enterprise in which a natural person has invested or is actively in the process of investing a substantial amount of capital.</li> </ul>	<p>Countries with whom the United States has a Friendship, Commerce and Navigation Treaty (FCN), a Bilateral Investment Treaty (BIT), or certain countries as described in Section 204 of the Immigration Act of 1990.</p>	Indefinite	Reciprocity

SECTOR	DESCRIPTION	COUNTRIES TO WHICH MEASURE APPLIES	INTENDED DURATION	CONDITIONS CREATING THE NEED FOR THE EXEMPTION
All Sectors: Taxation Measures	<p>Differential treatment under direct tax measures at the federal, state or local level. Direct taxes include all taxes on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts or substantially similar taxes, taxes on amount of wages or salaries paid by enterprises, social security taxes, and taxes on capital appreciation. Such provisions at the federal level are:</p> <ul style="list-style-type: none"> <li>● measures under the U.S. Internal Revenue Code (IRC) permitting the residents of countries contiguous to the United States to receive more favorable treatment and permitting U.S. residents to receive more favorable treatment as to their contiguous country operations;</li> <li>● benefits available under the U.S. IRC with respect to Caribbean Basin Initiative (CBI) beneficiary countries;</li> <li>● reciprocal reduction of taxation of shipping and aircraft;</li> <li>● denial of unilateral reduction of double taxation or denial of deferral of U.S. tax on income earned through controlled foreign corporations, because the United States has either severed or does not conduct diplomatic relations, because the United States does not recognize the government of the country, because the country provides support for acts of international terrorism, because the country participates in or cooperates with an international boycott, or for similar foreign policy reasons;</li> </ul>	All	Indefinite	<p>Volume of movements across U.S. borders between Canada and the United States and between Mexico and the United States; efficient administration of tax system.</p> <p>Facilitation of economic development in certain underdeveloped countries.</p> <p>Prevention of double taxation and proper tax administration.</p> <p>Foreign policy considerations.</p>

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	<ul style="list-style-type: none"> <li>• measures permitting less favorable taxation for citizens or corporations of a foreign country based on discriminatory or extraterritorial taxes or on more burdensome taxation (IRC §§ 890, 891);</li> <li>• denial of deduction for expense of an advertisement carried by a foreign broadcast undertaking and directed primarily to a U.S. market. Applies where the foreign broadcast undertaking is located in a country that denies a similar deduction for an advertisement placed with a U.S. broadcast undertaking.</li> </ul>		To foster efficient international taxation policies.	To encourage the allowance of advertising expenses internationally.
All Sectors: Land Use	Non-US citizens in Wyoming may not acquire or inherit land unless the country of which they are a citizen extends a reciprocal right to US citizens.	All	Indefinite	Lack of reciprocity
All Sectors	Issuance of securities by Canadian small businesses is subject to less burdensome standards than issuance of securities by firms from other countries.	Canada	Indefinite	Maintenance of established preference
Basic Telecommunications Services	Under Title 47 of the U.S. Code, including the Communications Act of 1934, as amended, legislation or regulations of the various states, and trade legislation of the United States, federal and state authorities may impose differential treatment on non-U.S. residents offering such services into or within the United States arising from <ul style="list-style-type: none"> <li>• unilateral governmental actions;</li> <li>• bilateral agreement between the U.S. and another Party;</li> <li>• or any other bilateral or plurilateral agreement.</li> </ul>	All	Indefinite	Lack of reciprocity

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Financial Services: Insurance	Certain non-U.S. insurance companies in Nebraska and Florida may be subject to higher taxes and fees if foreign countries impose such higher taxes or fees on insurance companies domiciled in these two states.	All	Indefinite	Lack of reciprocity
Financial Services: Insurance	Licenses in the states of Nebraska and New Jersey are granted on the basis of mandatory reciprocity requirements.	All	Indefinite	Lack of reciprocity
Financial Services: Insurance	Limitations on foreign reinsurance in the state of Maine are waived for U.S. domiciled and licensed firms and Lloyds of London.	United Kingdom	Indefinite	Lack of MFN treatment
Financial Services: Banking and Other Financial Services	The United States hereby waives the market access limitations in mode 1 and mode 3, paragraph 5 of the U.S. Schedule of Commitments, for the countries indicated under the adjacent column. For purposes of this exemption, a service supplier of a Member specified in the adjacent column does not include a juridical person of such a Member that is (1) ultimately owned or controlled by persons of a Member not specified in column 3 and (2) utilized to circumvent the purposes of this limitation.	(1) [Countries to be provided at a later time]; (2) any Member that, as of October 1, 1993, does not have both a commercial bank presence (other than a representative office) and a securities firm presence in the United States maintained by any of its service suppliers, until such time as both such commercial presences are established; and (3) any other country that after the entry into force of the Agreement, either through (a) modification of its schedule or (b) actual treatment (as assessed by the United States at the time of each application by a service supplier of that country), accords what the United States considers to be satisfactory nondiscriminatory access and treatment to U.S. suppliers.	Indefinite	Need to protect existing activities of U.S. service suppliers abroad and to ensure substantially full market access and national treatment in international financial markets.
Financial Services: Banking and Other Financial Services	A broker dealer registered under U.S. law that has its principal place of business in Canada may maintain its required reserves in a bank in Canada subject to the supervision of Canada.	Canada	Indefinite	Maintenance of established preference

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Financial Services: Banking and Other Financial Services	Permission to establish state-licensed branches or agencies, or to own commercial bank subsidiaries, is based on a reciprocity test in the following states: California, Connecticut, Florida, Georgia, Hawaii, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Oregon, Pennsylvania, Texas, Washington.	All	Indefinite	Need to protect existing activities of U.S. service suppliers abroad and to ensure substantially market access and national treatment in international financial markets.
Financial Services: Banking and Other Financial Services	Permission to provide trustee services for U.S. debt securities on a cross-border basis is subject to a reciprocity test.	All	Indefinite	Need to ensure U.S. financial service providers are permitted to provide trustee services in foreign markets.
Financial Services: Banking and Other Financial Services	Designation as a primary dealer in U.S. government debt securities is conditioned on reciprocity.	All	Indefinite	Need to ensure U.S. financial service providers are afforded national treatment in foreign government debt markets.
Transport Services: Maritime Transport Services	Right to investigate and take action against foreign carriers to address adverse or unfavorable conditions affecting U.S. shipping or U.S. carriers in U.S. oceanborne commerce and the cross trades between foreign ports.	All	Indefinite	To prevent and/or correct, <i>inter alia</i> : conditions that adversely affect U.S. carriers in U.S. oceanborne trade and that do not exist for foreign carriers of that country in the United States; conditions unfavorable to shipping in U.S. oceanborne commerce that arise out of or result from foreign laws, rules, or regulations or from competitive methods or practices employed by owners, operators, agents, or masters of vessels of a foreign country; and actions that impair the access of a U.S. documented vessel to the cross trades between foreign ports.
Transport Services: Maritime Transport Services	Right to negotiate and maintain bilateral and other international maritime agreements, understandings, and other formal or informal undertakings affecting ocean shipping.	Non-market-economy countries and countries in transition to a market economy.	Indefinite	To seek market access for U.S.-flag ocean carriers by offering appropriate reciprocal access to countries' national-flag carriers.
Transport Services: Maritime Transport Services	Right to waive U.S. cargo preferences to national-flag carriers of recipient countries.	All	Indefinite	To encourage economic development of recipient countries' national-flag fleets.
Transport Services: Maritime Transport Services	Preferential vessel tonnage taxes collected on entry to U.S. ports.	Selected North or South American countries.	Indefinite	To assess duties that are lower on vessels entering U.S. ports from any foreign port in North or (part of) South America.

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Transport Services: Maritime Transport Services	Restrictions on performance of longshore work when making U.S. port calls by crews of foreign vessels owned and flagged in countries that similarly restrict U.S. crews on U.S.-flag vessels from longshore work.	Countries that prohibit longshore work by crew members aboard U.S. vessels.	Indefinite	Reciprocal restrictions on countries that prohibit longshore work by crew members aboard U.S. vessels.
Transport Services: Air Transport Services	Existing and future bilateral and multilateral civil aviation agreements, understandings, and undertakings and informal comity and reciprocity aviation regimes to which the United States is a party; measures of the United States (for transparency purposes, including but not limited to the International Air Transportation Fair Competitive Practices Act of 1974, as amended; the Federal Aviation Act of 1958, as amended; the International Aviation Facilities Act, as amended; and Title 14, parts I-399, of the Code of Federal Regulations); and measures of U.S. states and territories and the District of Columbia, and of their agencies and subdivisions, which pertain to aircraft repair and maintenance services (other than repair or maintenance of an aircraft or part thereof during which it is withdrawn from service); selling and marketing of air transport services; and operation and regulation of computer reservation system (CRS) services.	All partners with which the United States has active aviation relations (approximately 100 countries) covered by bilateral or other air services agreements and comity and reciprocity regimes. Also concerned are the co-signatories of the Chicago Convention and various other international aviation agreements, undertakings, and understandings to which the United States is a party.	Indefinite	The common policy and practice of exchanging rights, settling disputes, and applying laws and other measures pertaining to the operation of civil aircraft and air transportation differentially, with respect to the activities referred to above, on the basis of mutual agreement and balanced exchanges of rights and responsibilities.
Transport Services: Road Transport	The U.S. government has discretion to limit the issuance of trucking licenses to persons from contiguous countries on the basis of reciprocity. The Bus Regulatory Reform Act of 1982 permits the President to remove or modify in whole or in part the moratorium on a finding that such removal or modification is in the national interest. Domestic and cross-border trucking operations are permitted within designated Interstate Commerce Commission commercial zones. The moratorium was lifted for Canada in October 1982.	Mexico, Canada	Indefinite	Need to have authority to impose a moratorium on the issuance of new licenses for domestic operations within and cross-border operations into the United States on the basis of reciprocity.

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Transport Services: Road Transport	The U.S. government has discretion to limit the issuance of bus licenses to persons from contiguous countries on the basis of reciprocity. The Bus Regulatory Reform Act of 1982 permits the President to remove or modify in whole or in part the moratorium on a finding that such removal or modification is in the national interest. Domestic and cross-border bus operations are permitted within designated Interstate Commerce Commission commercial zones. The moratorium was lifted for Canada in October 1982.	Mexico, Canada	Indefinite	Need to have authorization to impose a moratorium on the issuance of new licenses for domestic operations within and cross-border operations into the United States on the basis of reciprocity.
Transport Services: Pipeline Transport	Pursuant to the Mineral Lands Leasing Act of 1920, aliens and foreign corporations may not acquire rights-of-way for oil or gas pipelines, or pipelines carrying products refined from oil and gas, across on-shore federal lands, or acquire leases or interests in certain minerals on on-shore federal lands, such as coal or oil. Non-U.S. citizens may own a 100 percent interest in a domestic corporation that acquires a right-of-way for oil or gas pipelines across on-shore federal lands, or that acquires a lease to develop mineral resources on on-shore federal lands, unless the foreign investors' home country denies similar or like privileges for the mineral or access in question to U.S. citizens or corporations, as compared with the privileges it accords to its own citizens or corporations or to the citizens or corporations of other countries. Nationalization is not considered to be denial of similar or like privileges. Foreign citizens, or corporations controlled by them, are restricted from obtaining access to federal leases on Naval Petroleum Reserves if the laws, customs or regulations of their country deny the privilege of leasing public lands to U.S. citizens or corporations.	All	Indefinite	Lack of reciprocity

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Transport Services: Space Transportation	Existing or future quantitative restrictions and price disciplines in certain bilateral agreements on the launch of satellites in the international commercial space launch market.	Non-market-economy countries and countries in transition to a market economy.	The measure will be maintained until such time as space launch providers in non-market-economy countries and countries in transition to a market economy are able to operate on a market-oriented basis.	Space launch providers in non-market-economy countries and countries in transition to a market economy operating without meaningful cost information and with significant excess capacity developed under the non-market system would disrupt normal competition in the international commercial space launch market.