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SERVICES

ANALYTICAL SUMMARY OF INFORMATION EXCHANGED AMONG CONTRACTING PARTIES

Note by the Secretariat

Revision

This revised analytical summary is based on the information contained in fourteen national examinations of the issues in the sector of services circulated through GATT pursuant to the Ministerial Decision of November 1982, as well as on information provided to date by relevant international organizations (see also, in this connection, document MDF/17.

As more information is made available on issues in the services sector, the secretariat will integrate it in up-dated versions of this analytical summary. Documentation provided by international organizations is available in the secretariat (Room 1062) for consultation by interested delegations.

In drawing up this summary, the secretariat has endeavoured to classify the information in a manner consistent with the presentations adopted in most national examinations, though the order in which the material is arranged does not necessarily correspond to the order followed in these examinations. Although careful attention has been paid to nuance, individual points made in national examinations may not always be reflected in the text. Delegations are invited to communicate to the secretariat any corrections that they may wish to introduce in up-dated versions of the summary.

References are given in the text to the national examinations and page numbers where the information provided or the views expressed on various aspects of the subject matter can be found. In some cases the page number shown is the first of a series dealing with a particular point. Since most of the national examinations circulated to date are called "studies" by their authors, the words "examination" and "study" will be used interchangeably in this paper.

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I. GENERAL CHARACTERISTICS OF SERVICES

1. DEFINITION AND COVERAGE

1. Services can be defined residually as all economic activities other than agricultural or industrial production. They can de defined de facto, by listing a series of activities considered to fall into this category. They can also be defined in terms of their distinctive characteristics as products, their mode of production and their mode of sale. Most national examinations point to the difficulty of defining services, due in part to the extremely wide range of activities in that sector. Some refer to general characteristics, namely that they are intangible and cannot be stored, re-used or transported (CAN-10; DNK-1; JPN-4; NLD-5; NOR-3). Other studies, whether or not referring explicitly to the traditional notion of "tertiary sector" (DNK-3; FIN-8; JPN-3; ITA-3), simply list the activities which they treat as services.

2. While there is a considerable amount of overlap between listings of services, classifications differ in some important respects, as shown in Table I.1.

3. A number of studies discuss functional categories of services, and there are differences in terminology as well as among the criteria used to distinguish between various types. Thus, services are described in terms of the providers of services, their marketability, their tradeability (CAN-21) or their relationship with goods. Descriptives which appear to have the same meaning, such as "non-market-related" (DNK-6), "non-market" (BEL-3; EEC-16), "non-profit" (NLD-5), "government" or "public" (JPN-4) services or "services rendered by Public Administrations" (ITA-3) do not necessarily cover identical sub-sets of activities. One study (NOR-6) speaks of services as "sheltered industries", a notion which may cover both private and public sector services. Another study (CAN-80) makes reference to a scheme which relates services to the different types of purposes which they serve in the goods-production process, e.g. services related to buildings, to land, to people, etc. A number of examinations draw attention to the fact that the definition and statistical coverage of services may also be influenced by their being embodied in goods (CAN-10, 12; DNK-3; FIN-27; DEU-4; JPN-4; NLD-4; NOR-3; SWE-6; USA-180).

4. Another way to categorize services is according to the types of international transactions to which they give rise. This will be discussed in Section II.1 below.

5. A particular categorization is that of services complementary to, substituting for, or unrelated to trade in goods which is found in three studies (CAN-11; DNK-1; NLD-4;). Closely connected with this is the distinction between intermediate and final services (DEU-4, 10; JPN-4; SWE-6) stressed by four other studies.

6. The diversity of approaches to the definition of services in the national examinations is to some extent a matter of emphasis on specific aspects of services. Differences of classification result in differences of statistical treatment of particular services activities. This is particularly so (JPN-4) in respect of service industries where goods and services, or certain services and other services, are intricately mixed. On the other hand, different classifications, e.g. as between public and private services, may reflect given policy choices, for example (CHE-16; USA-73) different social requirements and/or economic systems in different countries.

TABLE I.1 MAIN CLASSES OF ACTIVITIES COVERED IN NATIONAL EXAMINATIONS OF SERVICES

	BEL	CAN	DNK	EEC	FIN	DEU	ITA	JPN	NLD	NOR	SWE	CHE	GBR	USA
1. Banking	X	X[1]	X	X	X	X	X	X	X	X	X	X	X	X
- Investment dealers	X	X		X[3]				X[2]					X[3]	
2. Insurance[4]	X	X	X	X	X	X	X	X	X	X	X	X	X	X
- Reinsurance		X	X		X	X	X	X		X		X	X	X
- Brokers													X	
3. Transport	X	X	X	X	X	X	X	X	X	X	X	X	X	X
- Maritime (shipping)	X	X	X	X	X	X	X	X	X	X	X	X	X	X
- Air (freight, passenger and related ground services)	X	X	X	X		X	X	X	X		X	X	X	X
- Other[5]	X	X	X	X	X	X			X	X	X	X	X	
- Auxiliary services[6]		X	X	X							X	X	X	
4. Telecommunications[7]		X	X	X[9]		X		X	X	X	X	X	X	X
- Films, broadcasting[8]		X		X				X			X		X	X
5. Computer services[10]		X	X		X	X	X	X	X	X	X	X	X	X

TABLE I.1 (cont'd)

	BEL	CAN	DNK	EEC	FIN	DEU	ITA	JPN	NLD	NOR	SWE	CHE	GBR	USA
6. Consulting and other business services (comprehensive)		X	X	X	X	X					X		X	X
- Construction/engineering	X	X[11]	X	X[11]	X	X	X	X	X[15]	X[16]	X[17]	X	X	X
- Accounting		X	X	X[14]							X		X	X
- Advertising		X[12]						X			X		X	X
- Management		X	X					X			X		X	
- Other[13]	X	X	X	X				X			X[17]		X	X
7. Tourism[18]		X	X	X	X	X	X	X	X	X	X		X	X
- Hotel/motel/other accommodation		X	X	X	X	X				X			X	X
- Travel agencies		X	X	X	X					X	X		X	X
- Food/catering		X	X	X	X	X				X			X	X
- Other[19]		X			X									X
8. Distribution services		X		X					X				X	
- Wholesale/retail		X		X					X		X			
- Brokers, merchanters		X		X					X				X	
- Franchising		X	X	X									X	X
- Other[20]									X				X	
9. Health services		X		X[21]		X[21]			X[21]	X[22]	X		X	X[23]
10. Education services (including research)		X		X					X	X[22]	X		X	

TABLE I.1 (cont'd)

	BEL	CAN	DNK	EEC	FIN	DEU	ITA	JPN	NLD	NOR	SWE	CHE	GBR	USA
11. Other services not elsewhere specified (n.e.s)														
- Cultural services		X[24]		X[25]		X			X		X[25]			
- Oilfield services		X											X	
- Fisheries services		X												
- Personal services and other miscellaneous services[26]		X	X		X					X				
- Licence fees and royalties			X			X		X			X[27]		X	
Memorandum items														
12. Government services, n.e.s[28]														
13. Industrial, property and labour income														
14. Goods-producing industries[29]														

NOTES TO TABLE I.1

General note:

Designations of activities whose coverage appears to be the same differ among national examinations. The designations in the left-hand column of the table either are those most frequently used or reflect common usage. Differences in designation, coverage or breakdown are described in the footnotes.

Footnotes:

1. Classified under "Financial institutions" together with investment dealers and insurance.

2. Designated as "Securities services".

3. Classified under "Stock exchanges" by the European Community and under "Stock exchange-jobbers and stockbrokers" by the United Kingdom. The United Kingdom also has an item called "building societies".

4. Insurance services are broken down into different segments in various national examinations, as follows: Belgium ("transport", life, third-party liability automobile, personal third-party liability); Canada (life, property and casualty, marine); Denmark (transport, other classes of which indemnity, life/pensions, health, burial clubs, etc.); European Community (transport and non-merchandise); Finland (life, non-life); Federal Republic of Germany (life, transport of which marine cargo, hull, ship liability, aircraft, other commercial insurance of which health and accident, credit and guarantee and legal expenses); Italy (life, health, indemnity); Japan (life, non-life of which automobile, earthquake); Netherlands (life/pension, casualty); Norway (life, non-life of which shipping, oil activities, aviation); Sweden (life, non-life of which liability); Switzerland (life, accident, indemnity, third-party, fire, transport, comprehensive automobile insurance); United Kingdom (life, general business); United States (life, long-life, accident, health, high-risk, mortgage guarantee and also "international" i.e. transport, including marine and aviation, goods, large risks).

5. Activities separately identified are as follows: Belgium (road, railway, river transport); Canada (water, rail, truck, bus, pipeline, port services, multimodal operations and parcel delivery and carrier services); Denmark (overland, i.e. railway, bus and haulage); European Community (inland transport, of which road haulage and road passenger services); Finland ("Travel services" cover all forms of passenger transport into and out of Finland); Federal Republic of Germany (port services, inland waterways, rail); Netherlands (inland shipping, rail, road haulage domestic and border-crossing); Norway (inland transport, haulage, bus, rail); Sweden (land, i.e. rail, road and pipe-line); Switzerland (rail, haulage); United Kingdom (road haulage).

6. Belgium (freight commissioner, freight agent, forwarding commissioner); Canada ("Traffic" or freight forwarding services) (see also footnote 20); Denmark (including travel agencies); Sweden (agency and storage activities); Switzerland (freight forwarding) (see also footnote 20); United Kingdom (shipbrokers).

7. The following associated services are included: Canada (telecommunications consulting services); Denmark (postal services, radio and television); United Kingdom (postal services); United States (radio and television services).

8. Canada (included under "cultural services"); Japan (films only); Sweden (films only); United Kingdom (films and television); United States (motion pictures and related services, covering all image entertainment, i.e. including television and video).

9. "Communication services" are identified as a separate service branch, but no details are given.

10. Activities separately identified are: Canada (information storage and retrieval, data bases, software development, data processing, value-added services); Denmark (electronic data processing (EDP) and other data processing services); Finland (data processing software and industrial automation software, general programmes and systems, data processing); Federal Republic of Germany (data banks, information, storage, data processing, software, value-added networks services (vans)); Italy (data processing, data entry, facilities management, professional software services, operation and system packages, supply of turn-key systems, training); Japan (software, data processing, information service); Netherlands (data processing, software, automation projects); Norway (data processing, software, consulting services, data storage, telematics); Switzerland (data processing, software); United Kingdom (computing, software, value-added networks services (vans), project programming, bureau services, consultancy, education and training); United States (data processing, information services, telematics).

11. In Canada, excludes construction work; the European Community has a separate statistical item for "building and construction".

12. Included in "cultural services".

13. The following services are separately identified: Belgium (architects); Canada ("professional services" such as lawyers, oilfield services); Denmark (lawyers, property administration and estate agents, architects, leasing); European Community (lawyers, other professions, real estate, renting of movable goods without accompanying personnel); Japan (lawyers, leasing (listed separately)); Sweden (office services, machine leasing); United Kingdom (architects, process engineers, surveyors, legal services); United States (health care, legal services, temporary help services are listed as "professional services").

14. European Community: "audit".

15. The following activities are separately identified: construction work on land; dredging and port construction; consultancies, architects and technical designers.

16. This sector is called "engineering and consulting services and contractors services". Offshore oil and gas production, hydro-power development and local schools and health clinics are singled out as fields of activity.

17. This sector is called "professional services".

18. This item is also referred to as "travel" or "travel and tourism".

19. For passenger transport, see item 3. Other items mentioned are as follows: Canada (car hire, transportation, reservation systems); United States (personal grooming services).

20. Netherlands (unspecified); United Kingdom (commodity trading, freight forwarding, air courier services). [Note. Freight forwarding, here classified under "Transport, auxiliary services", is treated as such by Canada, but is treated as a separate sector by Switzerland.]

21. Including veterinary services.

22. Classified under consulting services (see note 16 above).

23. Classified under "Professional services" (see note 13 above).

24. Broadcasting, film, sound recording and advertising (see note 12 above).

25. Includes recreational services.

26. Includes repair, cleaning, photography, hairdressing. "services of renting of immovable goods", house rental, publishing, etc.

27. Included as a sub-item in various classes of services.

28. Designation, coverage and treatment of this item differ in the various national examinations.

29. Sweden estimates that about 12 per cent of invisible exports from the private sector in 1981 were accounted for by services provided by the goods-producing sector, mainly as interest on loans, dividends and construction and technical consultant services.

2. SERVICES IN THE WORLD ECONOMY

7. A few national examinations provide general information on the place of services in the world economy, showing data for major trading countries CAN-14; ITA-1; JPN-6,22; NOR-2; USA-17,112). Some of this data is presented in Table I.2.

8. One study presents an analysis of available data and trends. According to this, world service exports increased at an annual compound rate of nearly 19 per cent from 1970 to 1980, i.e. slightly less than merchandise exports (20 per cent) but much more than world production (14 per cent). The twenty-five countries with the highest services exports accounted for 87 per cent of world exports in 1980. In that same year, for the world as a whole, services exports were about 3.7 per cent of GDP. Among the twenty-five largest exporters, several countries have exports to GDP ratios close to or above 10 per cent. Although the industrial countries as a group accounted for an estimated 78 per cent of services exports in 1980, the growth of developing country exports in each of the IMF's service categories outpaced that of industrial country exports in 1974-1980. For most countries, more workers were employed in services than in either agriculture or industry (USA-17, 112).

9. New sophisticated services are changing the way all industries do business and are contributing to the transformation of the world economy. For example, a growing number of manufactured imports require continued service input to keep them in operation; this input in many cases is not available in the importing markets. As a result, the sale of services in conjunction with goods has increased significantly. However, as economies become more information based, the demand for traded services that are completely independent of goods is increasing. Economic activity is becoming more dependent on the international exchange of information and services (USA-19).

10. The study further suggests that the basic economic principles and theories that elucidate the evolution of the goods-producing sector of the economy may provide a starting point for better understanding of the services economy. Thus, the structural adjustment which nations have been experiencing in goods industries in response to changes in international competitiveness might also occur in the service sectors and to some extent between goods and service sectors. In a similar manner the generally applied principle that trade based on comparative advantage promotes economic efficiency and benefits all trading partners, would seem to suggest that barriers that impede trade in services and seek to protect domestic industries are for the most part counterproductive. The availability of the best services at competitive prices will also be crucial for countries that seek to improve their competetiveness in goods production (USA-22).In addition, the study presents an analysis of the changes which are under way in four major service areas: transportation, banking, insurance, and telecommunications (USA-20).

11. Another study notes that it is commonly accepted that during the post-war period expanding international trade in goods has been an important motor of world economic growth. By analogy, it is worth wondering whether efforts to stimulate services trade might not play a similar rôle in the years to come (EEC-3).

TABLE I.2 WORLD DATA ON SERVICES

A. World comparisons

	Average annual compound growth rate 1970-80 (per cent)	Value in 1980 (U.S. $ billion)
Services exports	18.7	350
Merchandise exports	20.4	1650
Foreign investment income	22.4	225
Gross domestic product	14.2	9389

(USA-114)

B. Development of trade in goods and services in the world (billion US dollars)

	1976	1977	1978	1979	1980	1981	1982
Goods, credits	903	1029	1187	1512	1845	1833	1687
Goods, debits	881	1013	1173	1495	1819	1811	1698
Services, credits	186	216	262	318	380	384	375
Services, debits	205	233	261	345	414	428	417

(JPN-33)

TABLE I.2 (cont'd)

C. The 25 largest services exporters in 1980: international comparisons

Country	Value of Services Exports	Value of Foreign Investment Income	Value of Merchandise Exports	Services Balance	Services Exports to GDP Ratio (%)	Services Exports to Merchandise Exports Ratio (%)
United States	34.9	70.2	224.3	6.0	1.4	15.6
United Kingdom	34.2	17.1	110.9	9.8	6.5	30.9
France	33.0	18.4	107.6	5.5	5.1	30.7
Germany	31.9	8.5	185.5	-17.9	3.9	17.2
Italy	22.4	5.3	76.8	6.2	5.7	29.2
Japan	18.9	7.2	126.8	-13.4	1.8	14.9
Netherlands	17.7	10.0	67.5	0.2	10.5	26.2
Belgium	14.5	17.6	55.2	0.5	12.1	26.3
Spain	11.7	0.2	20.5	6.3	5.6	56.9
Austria	10.8	2.5	17.2	5.1	14.0	62.6
Switzerland	8.4	NA	29.3	1.9	8.3	28.9
Sweden	7.5	0.8	30.7	0.5	6.0	24.3
Mexico	7.4	1.0	16.2	0.2	4.0	45.8
Norway	7.3	0.5	18.7	0.3	12.7	39.2
Canada	7.0	2.9	67.6	-2.5	2.7	10.3
Singapore	5.9	NA	18.2	3.1	54.1	32.7
Korea	4.5	0.3	17.2	0.6	7.7	26.1
Yugoslavia	4.5	0.2	9.0	-0.7	7.1	49.9
Greece	4.0	*	4.1	2.6	9.9	97.2
Saudi Arabia	3.7	NA	100.7	-8.0	3.2	3.7
Australia	3.5	0.7	21.7	-2.5	2.5	16.2
Israel	3.2	0.7	5.8	0.4	15.9	55.8
South Africa	3.0	0.4	25.5	-1.7	3.8	11.8
Finland	2.8	0.2	14.1	*	5.6	19.6
Egypt	2.3	0.3	3.9	0.1	9.8	60.2

* Less than $50 million

Converted from SDRs and nominal values in national currencies at current exchange rates to U.S dollar; world is defined as IMF member countries reporting data for both 1970 and 1980.

Services exports exclude official transactions and investment earnings. Foreign investment earnings include private direct investment income and portfolio income, but exclude foreign official income.

Sources: *Balance of Payments Statistics, International Financial Statistics*, various issues, International Monetary Fund.

(USA-116)

3. SERVICES IN NATIONAL ECONOMIES

12. The main elements of information found in the examinations submitted to date are presented in Table I.3. A number of studies give more detailed breakdowns of data concerning shares of particular activities in GNP or employment, or geographical distribution of trade. Due to the low comparability of this information, it is not reproduced in the present summary.

13. Services account from one half to two-thirds of total output in all the reporting countries and in the European Economic Community (information concerning Switzerland was submitted orally).[1] The same proportions generally hold with regard to employment, though in several instances the share in total employment is higher than the share in GNP. Information on the distribution between private sector and public sector services is only available for six countries and the European Economic Community. With the exception of Japan, public sector services are seen to hold an important place, from 14 per cent of GNP in Norway to 25 per cent in Sweden.

14. The share of services in total trade in goods and services varies greatly among the reporting countries: from 15 to 29 per cent for exports and from 13 to 33 per cent for imports.

15. Data available on an approximately comparable basis show marked differences of distribution of services exports and imports. Transport accounts for a large share of receipts and expenditures in most markets, except for exports of Italy and imports of the Netherlands. Tourism is generally next in importance, though it accounts for only a small proportion of imports of Italy and of exports of Norway. Banking and insurance are important for two countries (Italy and Sweden). The share of consulting and other business services, though not small in any reporting country, is highest in exports of the Federal Republic of Germany and of the European Economic Community, and in imports of the Netherlands. Distribution services are particularly prominent in exports of the Netherlands. The item "Other services" covers a mixture of activities which varies from country to country. The disparities in the shares of total exports or imports of services accounted for by this item serve to underline the marked differences of distribution already noted.

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[1] National studies do not always indicate clearly whether the shares in GNP/GDP are calculated in real terms or at current prices. However, most indications appear to be at current prices.

TABLE I.3 BASIC STATISTICS ON SERVICES

		BEL[3]	CAN[1]	DNK[2]	EEC[1]	FIN[3]	DEU[2]	ITA[2]	JPN[1]	NLD[3]	NOR[3]	SWE[2]	CHE	GBR[2]	USA[4]
I.	Share of services in GNP/GDP (percentages)														
1.	Private sector services*	50	..	42	43	35	..	..	53	45	36	37	..	40	..
2.	Public sector services	16	..	24	15	17	..	..	3	12	14	25	..	16	..
3.	Total services	66	63	66	58	52	55	53	56	57[6]	50	62	50	56	66
II.	Share of services in total employment (percentage)														
1.	Private sector services	30	..	35	38	..	..	..	55	53	40	33	..	42	..
2.	Public sector services	27	..	32	20	..	..	..	1	15	23	32	..	20	..
3.	Total services	57	64	67	58	53	53	58	56	68[6]	63	65	..	62	72
III.	Share of services in total trade in goods and services (percentages)														
1.	In total exports	30	15	23	27	17	21	..[5]	..	19	28	29	..	20	..
2.	In total imports	29	28	18	26	13	27	..[5]	..	..	33	26	..	20	..

For footnotes: see end of table (page 19)

TABLE I.3 (cont'd)

	BEL[3]	CAN[1]	DNK[2]	EEC[1]	FIN[3]	DEU[2]	ITA[2]	JPN[4]	NLD[3]	NOR[3]	SWE[2]	CHE	GBR[2]	USA[4]
IV. Distribution of exports and imports of services by sectors (percentages)[7]														
A. Exports														
1. Banking	..	..	0.1	2.0	..	..	28.0	..	3.8)	..	18.0	..	4.0	..
2. Insurance	5.0	..	0.7	3.4	..	6.1	..	..	)	0.4	14.0	..	3.5[9]	..
3. Transport	41.5	..	60.4	31.2	41.0	31.4	18.5	61.5	42.5)	57.0	43.0	..	33.0	..
4. Telecommunications	..	..	..	..	..	..	..	..	)	..	..	..	1.9[10]	..
5. Computer services	..	..	..	..	..	..	..	..	..	..	..	..	0.3	..
6. Consulting and other business services	..	..	2.0	11.2	..	14.0	..	..	8.9	..	8.0	..	7.0	..
7. Tourism	17.6	..	25.8	15.9	19.0	20.8	31.6	4.6	..	9.0	..	..	18.0	..
8. Distribution services	19.8	..	..	..	..	..	..	..	42.0	..	6.0	..	..	..
9. Health services	..	..	..	..	..	..	..	..	..	..	..	..	..	..
10. Education services	..	..	..	..	..	..	..	..	..	..	..	..	2.5[11]	..
11. Other services (balancing item)	16.1	..	11.0	36.3[8]	40.0	27.7	21.9	33.9	2.8	33.6	12.0	..	29.0	..
TOTAL: all services	100.0	..	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	..	100.0	..

For footnotes: see end of tables (page 19)

TABLE I.3 (cont'd)

		BEL[3]	CAN[1]	DNK[2]	EEC[1]	FIN[3]	DEU[2]	ITA[2]	JPN[4]	NLD[3]	NOR[3]	SWE[2]	CHE	GBR[2]	USA[4]
B.	Imports														
1.	Banking	..	..	0.2	2.1	..	..	40.0	..	..	..	28.0	..	..	..
2.	Insurance	5.0	..	1.0	2.7	..	5.0	..	..	..	2.0	15.0	..	..	..
3.	Transport	36.2	..	47.4	30.3	24.0	21.1	23.7	45.4	14.6[2]	39.0	27.0	..	43.0	..
4.	Telecommunications	..	..	..	..	..	..	..	..	..	..	..	..	2.7[12]	..
5.	Computer services	..	..	..	..	..	..	..	..	..	..	..	..	..	..
6.	Consulting and other business services	..	..	..	4.1	..	8.0	..	..	38.0[2]	..	6.0	..	..	..
7.	Tourism	21.4	..	30.6	20.6	34.0	36.0	7.0	13.2	35.0[2]	23.0	..	..	27.0	..
8.	Distribution services	19.2	..	..	..	..	..	..	..	..	..	5.0	..	..	..
9.	Health services	..	..	..	..	..	..	..	..	..	..	..	..	..	..
10.	Education services	..	..	..	..	..	..	..	..	..	..	..	..	..	..
11.	Other services (balancing item)	18.2	..	20.8	40.2[7]	42.0	29.9	29.3	41.4	2.4[2]	36.0	20.0	..	27.0	..
	TOTAL: all services	100.0	..	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	..	100.0	..

FOOTNOTES TO TABLE I.3

*Certain studies use different concepts, see paragraph 3 of this document.

[1]1981.

[2]1982.

[3]1983. In the case of Belgium, figures refer to BLEU, and freight insurance is included under "transport".

[4]1984.

[5]25 per cent of the sum of exports and imports.

[6]Share of value-added and employment in businesses or "commercial" services. "Public" means " total non-profit" services in this instance (NLD-15,16).

[7]Sectors defined as in Table I.1. However, national data may not exactly correspond to this classification.

[8]Including labour income.

[9]Comprising 1.4 per cent net underwriting earnings and 2.1 per cent insurance brokers.

[10]Figures relate only to British Telecom and the Post Office. Films and broadcasting is a further 0.9 per cent.

[11]Of which fees are 1.3 per cent.

[12]Figures relate to British Telecom and the Post Office. Films and broadcasting is a further 0.6 per cent.

16. A number of examinations provide information on trends in various indicators relating to domestic production or international transactions in services. Basic data and time periods are not comparable, but the juxtaposition of some of the information may provide general insights into the evolution of the rôle of services in the economies concerned (Table I.4). Thus it is seen that in most of the reporting countries the share of services in national product has increased over the last decade or so, but there are two notable exceptions (Federal Republic of Germany and Norway). With regard to exports and imports, no general pattern is observable, and some of the rapid changes recorded are not explained. In one country (Norway), the rapid fall of the share of services in total exports is mainly due to a considerable expansion of exports of oil and gas; in absolute terms services increased from NOK 17 billion to NOK 52 billion in the reference period.

17. The pattern of current payments on services account (expressed in national currencies except for Japan) also varies greatly among the reporting countries. Only five countries show clear signs of improvement in their services balance (Denmark, Finland, Netherlands, United Kingdom and United States), others recording either a fall in surplus, an increase in the deficit, or a swing from surplus to deficit.

TABLE I.4 TRENDS IN THE SERVICES SECTOR

	BEL[13]	CAN[1]	DNK[2]	EEC[3]	FIN[4]	DEU[5]	ITA[6]	JPN[7]	NLD[8]	NOR[9]	SWE[10]	CHE	GBR[11]	USA[12]
1. Services as a percentage of GNP/GDP														
at current prices: base year	65.1	48.3	61.0	52.1	48.0	65.0	42.5	51.1	53.8	53.1	52.0	..	53.0	..
: end year	65.6	62.5	66.0	57.6	52.0	55.0	52.7	58.2	56.7	50.0	62.0	..	56.0	66
2. Services as a percentage of total														
exports : base year	26.0	16.1	27.0	27.2	18.2	..	..	13.0	19.2	48.0	..	..	31.0	15.7
: end year	30.0	12.2	23.0	26.9	17.1	21.3	..	11.0	19.2	28.0	29.0	..	20.0	15.3
3. Services as a percentage of total														
imports : base year	23.0	22.2	18.0	25.1	9.4	..	..	25.1	..	22.0	..	..	26.0	12.0
: end year	29.0	16.0	18.0	26.2	12.9	26.8	..	20.4	..	33.0	26.0	..	20.0	11.3
4. Balance of payments on services														
accounts : base year	48.2	-0.8	4.0	3.1	1.6	-12.5	..	-4.6	4.7	9.3	2.1	..	0.5	1.8
: end year	41.1	-3.1	6.4	1.3	3.7	-39.7	..	-14.1	6.1	1.4	-10.2	..	5.4	6.5

..not available

[1] Base years-end years: item 1: 1950, 1979; items 2 and 3: 1970-1981. Item 4: 1971, 1983; billion Canadian dollars.
[2] Base years-end years: item 1-4: 1972. Item 4: billion Danish kroner.
[3] Base years-end years: item 1: 1973, 1981 (EC-9); items 2 and 3: 1979, 1981 (EC-10). Item 4: 1979, 1982 (EC-10): billion ECU.
[4] Base years-end years: item 1: 1970, 1983; items 2 to 4: 1975, 1983. Item 4: billion Finnish marks.
[5] Base years-end years: item 1: 1970, 1982; item 4: 1970, 1983; billion Deutschmarks.
[6] Base years-end years: item 1: 1972, 1982 (1972 figures estimated): billion lire.
[7] Base years-end years: item 1: 1970, 1980; Items 2 and 3: 1979, 1984; item 4: 1973, 1983; billion US dollars.
[8] Base years- end years: item 1 and 2: 1977, 1983; item 4: 1978, 1982; billion Dutch guilders. Note that in items 1 and 2 percentage refers to share of production and exports of businesses only (see footnote 6, Table I.3).
[9] Base-years-end years: item 1: 1978, 1983; items 2 and 3: 1970, 1983; item 4: billion Norwegian kroner.
[10] Base years-end years: item 1: 1970, 1982; items 2 and 3: 1982; item 4: 1973, 1982; billion Swedish kroner.
[11] Base years-end years: item 1 to 3: 1972, 1982; item 4: 1972, 1982, billion pounds sterling (estimates based on detailed sectoral data presented in the national examination of the United Kingdom).
[12] Base years-end years: item 1: 1980; items 2 to 4: 1977, 1982. Item 4: billion US dollars.
[13] Base-years-end years: item 1: 1978, 1983; items 2 to 4: 1977, 1983; Item 4: billion Belgian francs.

II. CONCEPTUAL FRAMEWORK

1. BASIC ECONOMIC CONCEPTS RELATING TO PRODUCTION AND TRADE IN SERVICES

18. One of the essential features of services is that in many instances, though by no means all, services must be consumed where produced, because they are intangible and neither storable nor transportable (CAN-10, DNK-1, NLD-5, NOR-3, USA-73). This often presupposes that specially trained manpower is given an opportunity to participate in the production of a service in the importing country (NOR-3) and may be one reason why service-producing sectors of the economy tend to be oriented towards the home market (JPN-5, NLD-iii, SWE-24) or "sheltered" (NOR-6). The need to provide services in the place of consumption impinges on the concept of "trade in services" for which, as one study points out (NLD-ii), a clear definition is not yet available. However, all the national examinations discuss international transactions in services in terms of movements of services across borders and of the provision of services by affiliates of firms established in foreign markets. One of the major areas of uncertainty and lack of knowledge relates to multinational enterprises where much more intensive analysis will be required (CAN-13). In one case (DNK-3), it is pointed out that the establishment of foreign service enterprises cannot, to the same extent as for trade in commodities, be regarded as merely an alternative to trade. Thus there may exist "intermediate forms" of linkage of trade and investment through "indirect establishment" in the foreign market.

19. One national examination discusses in detail various ways in which international trade in services may take place, such as (1) cross-border transactions, including, but not limited to, the transmission of voice, video, data or other information and the transportation of goods and passengers, from one country to another, (2) contractual arrangements transmitting rights to use intellectual property, technology or other services, (3) travel of individual consumers to another country, (4) travel of individual producers to another country, and (5) sales of services through branches or other affiliates. In the first four categories, services can be considered as cross-border transactions. The fifth category differs from the other in that the final output of the foreign affiliate may include, not only foreign office or affiliate content, but home office or parent company content as well. In this case, the parent or home office content represents the cross-border or export portion of the services performed. For example, the major portion of the risk in insurance policies may be borne by the home office. Management and other business support services also may be performed in the home office for the affiliate. This transaction category may present the most difficulty for obtaining appropriate data (USA-179).

20. Of relevance to the concept of "traded" or "tradeable" services is the manner and the measure in which services are related to goods in production and trade. Two studies (CAN-11, DNK-1) describe these relationships in some detail, and a number of other studies make at least passing remarks on the subject (FIN-8, 28; DEU-3, 10; JPN-4; ITA-12; NLD-4; NOR-3; SWE-6, 21; CHE-15) to the effect, for example, that the difficulty in evaluating the rôle of services in the national economy arises partly because the distinction between goods-producing and service-producing industries is ambiguous (SWE-6). The categories of relationships between services and goods presented in these two studies appear to be similar in description and coverage, though different terminologies are used. They are respectively:

(a) services embodied in goods; or, elements of trade in services that are an integral part of trade in commodities; (b) services complementary to trade in goods; or, services traded independently of but essential for carrying out commodity trade; (c) services that substitute for trade in goods; or, trade in services which is an alternative to commodity trade; (d) services that are traded without a relationship with goods; or, trade in services which is entirely independent of commodity trade. Another study gives concrete examples of ways to distinguish trade in services from investment in services when dealing with different aspects of the same activity (USA-74).

21. Reference is made in some studies to underlying factors affecting the degree to which services give rise to international transactions (DEU-4; CHE-16; JPN-5). These factors are described in different ways, i.e. the structure, traditions and economic fundamentals of the countries concerned; the large human element in services; their regional character; regulation exercised on services by governments because of the necessities from the standpoint of services' great public or social character, and also, with reference to obstacles to international transactions, underlying economic and political motivations of which such obstacles are the expression. One study (USA-73) makes reference to the regulatory philosophy of some governments giving rise to government-owned or controlled monopolies, because the services they supply are perceived as vital to national sovereignty, well-being and security. Factors such as these are understood to influence the actual content of trade in services, if not the theoretical concepts relating to such trade.

22. Finally, the considerations outlined in this section influence the distribution of service activities and/or of service-related balance-of-payments flows among categories (SWE-6,16). This is particularly true of investment, property and labour income, of patent fees and royalties, and of government transactions (see Section I.1 above), which are sometimes included among traded services and sometimes not.

2. BASIC CONCEPTS RELATING TO THE CONDUCT OF INTERNATIONAL TRANSACTIONS IN SERVICES

23. Services industries face many types of regulations in foreign markets, which can be classified in many different ways (see Section III.3 below). When viewed as restrictions to the freedom of international transactions in services, they can be grouped in broad conceptual categories corresponding to the various forms which such transactions take.

24. The main conceptual categories found in national examinations are: restrictions to market access, to establishment, to investment, to local operations of established enterprises, and to movements of labour. Most studies apply these concepts without defining them explicitly, but certain differences of meaning can be perceived from the context in which they are discussed.

25. Market access is described in two ways by countries using this terminology: (i) as the possibility to transact services across borders; (ii) as the possibility to sell services abroad, which may involve in some cases the possibility for companies to establish themselves in foreign markets (DEU-22; USA-75).

26. The first concept of market access, or restrictions to market access, is referred to differently in some studies, i.e. "freedom to provide services" (EEC-88), or restrictions to "trade in the proper sense" (DNK-64), to "trade across the borders" (SWE-16), and also "trade-related obstacles" (DEU-25). The second concept is only made explicit in two studies (DEU-22; USA-75), one of which also uses the word "access" in connection with "investment-related barriers" (DEU-27).

27. Establishment is a concept which is either limited to the setting-up of branches, subsidiaries or affiliates abroad, or which encompasses other forms of direct investment, i.e. the acquisition in whole or in part of foreign companies (EEC-88, DNK-3, 65; NLD-26; SWE-16).

28. A number of national examinations treat establishment as one particular aspect of the more general concept of investment (DEU-27; FIN-28; GBR-16; USA-75).

29. In one study, while the two concepts are discussed under the same general heading, attention is drawn to the different treatment, in the country's legislation, of acquisition of control of a domestic business by foreign investors on the one hand, and of establishment of new unrelated business by foreign investors or by foreign investors who have an existing business, on the other (CAN-70).

30. Operations by foreign-owned or controlled firms in the local market are discussed in most studies in conjunction with establishment or investment (CAN-72; EEC-88; DEU-27; FIN-27, 28; SWE-16). Restrictions to operations are sometimes viewed in relation to the principle of national treatment (CAN-72; DNK-66; USA-76). In one study, national treatment is deemed to cover the right of establishment in certain situations (USA-76, 108).

31. In connection with local operations, reference is made in some studies to the impact of restrictive business practices on the possibility of firms to operate in foreign markets (EEC-90; SWE-60; USA-108).

32. One study treats restrictions to local operations ("operating constraints") as a separate category of restrictions (NLD-26). In another study, the expression "barriers to business activity" also relates to a separate concept, although in this case the range of restrictions covered may be wider (DEU-29).

33. Restrictions to the movement of labour are treated as constraints on local operations of foreign-owned or controlled enterprises in the two studies that deal with such constraints separately (DEU-29; NLD-26). Two other national examinations address "immigration" as a separate issue, the handling of which affects international transactions in services both on a "trade" and on an "establishment" basis (CAN-76; USA-77). In several examinations, restrictions to the movement of labour are cited among the problems faced by services industries in foreign markets (see Section III).

3. STATISTICAL PROBLEMS AND METHODOLOGIES

34. It is generally recognized that services trade data are inadequate. Almost all examinations refer to this problem in similar terms. Statistical data are conceptually imprecise, highly aggregated and misleading in international comparisons (CAN-12). The compilation of data is fraught with difficulties and insufficiencies (DEU-3, SWE-2). The use and assessment of statistical material is subject to considerable uncertainty as the material itself is based largely on estimates (DNK-5) and because an unclear definition of the service concept has entailed that some of the service transactions are residually determined (NOR-3). Despite efforts made to harmonize or to estimate data, considerable reservations are expressed concerning the quality of the information provided. Too detailed analysis based on the data provided could be misleading (EEC-24). The services accounts gives a very incomplete picture of actual transactions in services (FIN-7). The study based on statistics only enables one to grasp an outline of trends (JPN-21). There exists a lack of statistical material and a relatively large margin of error for quantitative data (NLD-3). The emergence of new services is not easy to identify (FIN-8). The balance-of-payments estimates are compiled from a large number of different sources and the degree of accuracy contained varies considerably between them. For that reason statistics for different sectors should not be regarded as directly comparable (GBR-5). The paucity of comprehensive, disaggregated, internationally comparable data on services trade complicates efforts to examine the specific effects of such trade and to place issues in proper perspective for resolving existing and emerging problems in services trade (USA-15, 112, 176).

35. The inadequacies of services data have been recognized for some time. In order to improve the estimates, some countries have prepared a more detailed statistical survey of foreign trade in services, with geographical breakdown, in connection with a regional pilot project on balance-of-payments statistics (DNK-5, EEC-24). One country has carried out annual surveys since 1977 in the form of questionnaires to non-financial companies representing all industries. The companies are asked about their international receipts and payments excluding merchandise trade (SWE-2). One country commissioned two studies by private consulting groups to determine what improvements were needed. These two studies helped to lay the groundwork for further efforts to develop more comprehensive and detailed data (USA-176). Steps have already been implemented to improve existing data. These involve the benchmark survey of direct investment, the survey of foreign contract operations and the in-flight survey of travel and tourism (USA-184). Difficulties in developing the appropriate data on international trade in services stem largely from the diversity of the various service activities and the manner in which transactions occur (USA-178). (See Section II.1 above.)

36. Among the problems which are faced with data collection are the coverage of transactions, the method of collection, the classification of certain services activities, the kinds of data needed for analysis, and confidentiality requirements.

37. Full coverage of international trade in services requires data collection for all types of transactions. One of the major areas of

uncertainty and lack of knowledge relates to multinational enterprises where much more intensive analysis will be required (CAN-13).Concerning foreign affiliates, it will be necessary to secure information on the value of services performed by the home office for the affiliate. The detail available will vary according to individual company practices and the manner in which records are kept. Some companies might charge different accounts as for example "auditing", "management services", "fees and royalties" or "advertising". Other companies may simply charge an account called "business support services" (USA-180). In addition, statistics do not cover transactions such as the exchange of know-how that takes place on an exchange basis between firms without monetary payment. Many international services transactions are arranged between offices of individual companies, and the payments do not necessarily pass through the banking system (FIN-8). In instances where an overseas bank branch transfers home its income, such income is counted under investment income in invisible trade balance and therefore cannot be a matter of trade in services (JPN-21). One country collects data on sales of services by foreign affiliates no more frequently than at five-year intervals. These data are available only with a considerable lag and it is considered that an annual sample survey would be needed to provide more current information (USA-183).

38. Concerning the method of collection, it is clear that the vast majority of service transactions is not accompanied by documents which are collected for statistical purposes by government offices at border points. Complete and consistent reporting of transactions will depend upon the manner in which records are kept by respondents as well as clear and uniform understanding of the types of transactions to be included (USA-181). In some cases, enterprises only report net value, instead of the gross values required for balance-of-payments purposes (DEU-4). To avoid under-reporting, it will be necessary to review sampling procedures for specific sectors. The same will be needed for service transactions of goods manufacturers whose products require specialized services for effective operation such as maintenance, management, training (USA-181).

39. Concerning classification, the delineation of boundaries between individual sectors is complicated by the overlaping nature of some services activities. Goods and services sold or provided jointly in a package also present problems of classification. The sale of sophisticated machinery frequently includes the cost of providing temporary engineering assistance and maintenance to assure that the equipment is operating properly and the cost of training workers to operate the machinery. Classification requires practical decisions to be made based on intended use of the information (USA-182). In another instance, the distinction is not made between the net receipts deriving from construction and from engineering. Therefore the export and import of commodities and services related to construction and engineering are treated as one category (DNK-5).

40. With respect to what additional information is needed, decisions have to be made on the basis of the analytical requirements of each industry where the standard measures are judged insufficient. Sales or, for some industries, total revenues and purchases may well be the standard items used in valuing international service transactions for all industries. However, for most industries, other types of data will be needed for analytical

purposes. For example, for the construction industry, the value of contract awards may be needed in addition to gross or net revenues received when various stages of construction jobs are completed (USA-182).

41. Concerning confidentiality requirements, situations exist where only a few firms are active in a country or where an industry consists of a small number of firms, or is dominated by a few large ones. In such instances, data may have to be suppressed in order to avoid disclosure of individual company information; the practice mentioned by one country is to withhold publication of detailed country or industry data. This creates an unavoidable gap in the published data, although the suppressed data are included in the totals and subtotals (USA-183).

42. International comparability of data on trade in services is difficult, partly because of the vast amount of economic activity covered by balance-of-payments data and the complex nature of modern business transactions. Countries seek to follow the guidelines and definition of the Balance-of-Payments Manual drawn up by the International Monetary Fund. However, the data published by the IMF do not show separately the value of trade in individual service industries. Overall debits and credits do not balance on a worldwide basis and discrepancies often occur in matching a particular country's debits against another country's credits in the same individual account. Some of the imbalances are due to timing discrepancies, i.e. the lag between payment and receipt. Others stem from problems in determining the nationality or residence of companies, e.g. in shipping. Additional comparability problems arise from differences among countries in definitions, coverage of statistical systems, and methods of classifying and recording transactions (USA-185). In one group of countries, statistics of balance-of-payments asymmetries are being carried out (EEC-24).

43. One country notes that the statistical description does not permit a comparison of surveys of national accounts statistics and balance-of-payments statistics since the former are based on breakdowns by industries and the latter on records of payments relating to invisible transactions which cover not only trade in services and thus cannot be used for precise identification of the service industries engaged in foreign trade (DNK-5).

44. In conclusion, no country or international organization compiles data in a manner that fully and accurately measures services trade activities and disaggregates the data to reflect the activities in individual service sectors (USA-185). National and international efforts to coordinate the development of methods for collecting and formating data will be helpful in providing countries with an expanded information base for analytical purpose (USA-15). If countries undertake to improve the formula of statistics preparations, it will be necessary that the new formula be an internationally uniform and standard one (JPN-21) and that countries with an interest in services data exchange information and ideas to achieve greater degree of international comparability (USA-186).

45. In the meantime, one country will work to arrive at a comprehensive approach to obtaining data on services transactions. Of all the numerous refinements described, perhaps the most crucial are: (1) determining by sector how trade in services should be measured, (2) developing the necessary

intelligence and strategy for surveying the appropriate universe or samples of services transactions; and (3) refining the survey questions so as to generate the information needed to separate the home office content from the overseas affiliate content in the value of services performed. This country notes that services data will never be established with the same degree of precision as for goods, and that the discussions and resolution of most of the important conceptual trade issues in services can proceed on the basis of the current statistical data available (USA-186).

III. NATIONAL AND INTERNATIONAL REGULATIONS GOVERNING INDIVIDUAL SERVICES SECTORS

46. This section deals with the major elements found in the national examinations with respect to existing national and international regulations governing services activities. Table III.1 shows services sector for which information is available, using the sectoral classification of Table I.1.

1. NATIONAL REGULATIONS

1.1 Regulations of a general character

47. Among regulations of a general character applying to the services sector are currency control and foreign exchange legislation, legislation regarding State authorization for the purchase or lease of real property, legislation governing the right of establishment of foreign companies, regulations concerning certain professions, legislation defining the conditions on which foreigners may enter, leave, reside and be employed, as well as legislation relating to business competition, the protection of intellectual property, the protection of national security, planning, employment or the intent to defraud. Within the various services sectors, special rules are also applicable which directly influence services transactions across the board. These may be different types of tax rules, public procurement policy, quality specifications and quantitative regulations (BEL-23, DNK-42, GBR-15, NOR-13, SWE-52, USA-15, 23, 73).

48. One country, which favours a long-standing tradition of self-regulation by the appropriate professional body or trade association, has kept the regulatory framework to the minimum (GBR-15).

49. In the past ten years, a number of services sectors have undergone startling technological advances resulting in a major restructuring of their marketplace (USA-20). In general, technology developments, internationalization of the transactions, increased interdependency of the economies and trends towards deregulation all influence services activities (CAN-17, JPN-2, 9).

1.2 Regulations on a sector-by-sector basis

1.2.1 Banking

50. Banking laws and regulations are aimed at ensuring an adequate functioning of the monetary and credit policy needed by national economies as well as the security in transactions made by individuals and corporations. (CAN-45, DNK-48, DEU-45, EEC-103, FIN-9, ITA-7, JPN-50, NLD-67, NOR-15, SWE-64, CHE-4, GBR-21, USA-40). Specific legislative and regulatory provisions govern monetary and credit conditions through a vast array of measures. In relation to solvency and liquidity, general and specific requirements are set out for continuing prudential supervisions. Banks are subject to different types of reserve requirements, bond investment obligations or regulations on lending. (BEL-30; EEC-105, DEU-46, NOR-18, NLD-69, GBR-21, USA-40). Moreover, public policy may provide for specific banking sytems.

TABLE III.1 SERVICES SECTORS ON WHICH INFORMATION ABOUT REGULATIONS IS AVAILABLE

	INT[1]	BEL	CAN	DNK	EEC	FIN	DEU	ITA	JPN	NLD	NOR	SWE	CHE	GBR	USA
1. Banking	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
- Investment dealers		X			X				X					X	
2. Insurance	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
- Reinsurance			X		X	X								X	X
- Brokers											X			X	
3. Transport	X	X	X	X	X	X	X		X	X	X	X	X	X	X
- Maritime (shipping)	X	X	X	X		X	X		X	X	X	X		X	X
- Air (freight, passenger and ground services)	X	X	X	X					X	X		X		X	X
- Other	X	X	X	X	X					X	X	X	X		
- Auxiliary services	X														
4. Telecommunications	X		X	X			X		X	X	X	X	X	X	X
- Films, broadcasting	X		X						X			X		X	X
5. Computer services	X		X			X	X	X	X		X	X	X	X	X

[1] International, excluding bilateral or regional.

TABLE III.1 (contd)

	INT[1]	BEL	CAN	DNK	EEC	FIN	DEU	ITA	JPN	NLD	NOR	SWE	CHE	GBR	USA
6. Consulting and other business services (comprehensive)		X	X				X		X	X	X	X	X	X	X
- Construction/engineering		X	X				X		X	X	X	X	X	X	
- Accounting														X	X
- Advertising			X						X			X		X	X
- Management															
- Other					X							X		X	X
7. Tourism			X					X			X	X		X	
- Hotel/motel/other accommodation											X				
- Travel agencies				X		X					X	X			X
- Food/catering															
- Other															
8. Distribution services															
- Wholesale/retail															
- Brokers, merchanters															
- Franchising															
- Other													X		
9. Health services					X							X		X	X
10. Education services (including research)															

[1] International, excluding bilateral or regional.

TABLE III.1 (contd)

	INT[1]	BEL	CAN	DNK	EEC	FIN	DEU	ITA	JPN	NLD	NOR	SWE	CHE	GBR	USA
11. Other services not elsewhere specified (n.e.s)															
- Cultural services															
- Oilfield services															
- Fisheries services															
- Personal services and other miscellaneous services															
- Licence fees and royalties															
Memorandum items															
12. Government services, n.e.s															
13. Industrial, property and labour income															
14. Goods-producing industries															

[1] International, excluding bilateral or regional.

51. In one country, banking is an area of federal jurisdiction. The Bank Act permits the establishment of two types of banks. The first type of banks are those that were chartered when the Act came into force and are all domestically owned, i.e. at least 75 per cent of the voting shares are held by residents. No single shareholder owns more than 10 per cent of the shares in the bank. The second type of banks are those whose shares are closely held in that one or more shareholder owns more than 10 per cent of the shares. These banks include foreign banking subsidiaries, which by definition are closely held banks owned by non-residents (CAN-48).

52. Another country applies a dual banking system in which commercial banks have the option of being either federally or state chartered organizations. The regulatory agencies that oversee banking activities include: (1) the Office of the Comptroller of the Currency, which is the primary supervisor of the international branches and subsidiaries of national banks, (2) the Federal Reserve which is the primary regulator of the international activities of state chartered banks that are members of the Federal Reserve System, and (3) the Federal Deposit Insurance Corporation and state banking agencies which jointly supervise and regulate state-chartered non-Federal Reserve members which are federally insured. A state chartered bank, not a member of the Federal Reserve System and not federally insured, would be supervised solely by state banking agencies. Most, but not all states of that country, require membership of the Federal Deposit Insurance Corporation (USA-40).

53. In a regional economic grouping, three directives regulate credit institutions with respect to (1) the abolition of restrictions on freedom of establishment and freedom to provide services concerning self-employed activities of banks and other financial institutions, (2) the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions, and (3) the supervision of credit institutions on a consolidated basis (EEC-103).

54. In an international context, regulatory provisions govern the entry, establishment, and operations of foreign banks. In the field of foreign bank entry, the licensing rules or similar authorizations introduce distinctions between representative offices, branches and agencies, and subsidiaries of foreign banks. Operations of foreign banks may face a number of specific limitations, e.g. their total share of the domestic market may not exceed 16 per cent (CAN-48 revised by MDF/10, para. 4), foreigners or a foreign bank may normally not own more than 20 per cent of the share capital of a domestic company (FIN-21), acquisition of more than 5 per cent of the shares of a financial company that engages in activities that are closely related to banking requires prior approval from the Federal Reserve (USA-44).

55. With respect to establishment, a number of countries apply the principle of reciprocity, to which may attach particular operating conditions of foreign banks in the domestic market. A review of the reciprocity requirements used by countries when considering bank acquisitions indicates that jurisdictions implement reciprocity-based policies in a variety of ways. Authorizations are sometimes granted on a "needs" basis (DEU-47, EEC-106). The following are examples of provisions governing the establishment of foreign banks. One study specifies that foreign bank subsidiaries are

required to have a licence to commence and continue in operation, and the licence has to be reviewed periodically. The licence can be made subject to such terms and conditions as the Minister of Finance may deem appropriate at that time (CAN-48). In another country foreign banks can offer services direct from abroad or through agencies. They are free to establish subsidiaries or branches locally. Subsidiary banks are allowed to establish and operate locally on equal terms with domestic banks (DNK-50). Member countries of a regional grouping may, through agreements with third countries, agree to apply provisions which, on the basis of the principle of reciprocity, grant branches of a credit institution having its head office outside the regional grouping identical treatment throughout the territory of the regional grouping (EEC-108). The policy in one country is based on the principle of equality of treatment. Foreign-owned banks have the same rights and obligations as domestic banks (FIN-10). In another country, foreign banks are treated in the same manner as local banks in terms of the scope of business, with the exception that for licence of operations they are subject to examination on the basis of reciprocity. For the purpose of supervision, each branch the foreign banks intend to establish shall be licensed by the Minister of Finance and each branch granted the licence shall be regarded as a "bank" under the Banking Law (JPN-55). One study notes that the setting up of foreign banks requires prior authorization, which is subject to reciprocity conditions, to the presentation of a letter of guarantee by the parent bank and to the provision of minimum capital (ITA-9). Foreign banks, i.e banks under foreign control and branches of foreign banks strictly speaking, may establish in one country if they meet the required conditions and if the countries in which the foreign nationals in charge of the bank are domiciled or have their headquarters guarantee reciprocal treatment (CHE-5). Another national examination indicates that, although there are no Federal reciprocity provisions, some states require that a bank chartered in the state be able to establish some form of banking office in a foreign bank's home country in order for the foreign bank to operate a branch in that state (USA-43).

56. One study points to operating requirements which have to be met by foreign banks in order to be licensed to operate locally. Beyond these, there are no statutory or administrative restrictions to the setting up of foreign banks or their representatives (NLD-67). In one country, banking regulations are applicable to branches of foreign banks. These regulations lay down provisions in regard to establishment (for example, foreign banks having one or more business offices in this country are required to keep a separate balance-sheet of their operations in this country. Local activities of branches of foreign banks are not subject to any restriction. Provisions are laid down in regard to own capital of foreign banks having branches in this country. The banking legislation does not contain any particular provisions regarding the nationality and qualifications of staff. There are certain provisions regarding the activities of representative offices. Apart from these regulations, there are no stipulations requiring a shareholder in a limited company to be a national of this country. Furthermore, the banking legislation does not contain any provisions in respect of the nationality of directors of foreign bank subsidiaries (BEL-35).

57. In one instance, national treatment is granted as a matter of policy and laws and regulations have been designed to balance the recognition that

foreign banks operate in a different environment abroad against the need to insure that domestic and foreign banks compete fairly in the domestic market (USA-41). In another instance, overseas institutions wishing to carry on a deposit-taking business locally through a branch require a deposit-taking authority in the same way as institutions incorporated locally; in such cases recognition or a licence, as appropriate, will be granted to the institution as a whole. In considering an application for recognition or a licence from an overseas institution, the Central Bank may regard itself as satisfied that the criteria relating to management and financial soundness are fulfilled if it is satisfied as to the supervision exercised by the parent overseas authorities and if those authorities inform the Central Bank that they are satisfied with the management and the overall financial soundness of the institution (GBR-21). In one country, a decision made recently will permit the establishment of foreign banks which will only be allowed to engage in banking activities through wholly- or partially-owned subsidiaries (NOR-21). On 25 January 1985, concessions have been granted to enable seven foreign banks to establish locally, on a reciprocity basis (NOR-MDF/10, para 56). In another country, banking regulations were reviewed and proposals were put forward concerning the establishment of foreign banks. The decision to liberalize the banking sector was based on the fact that, as this country was one of the last countries in Europe to let in foreign banks, local banks faced problems with reciprocity requirements in other countries. No ceiling was yet determined with respect to establishing foreign banks, which would be let into this country gradually (SWE-64, revised by MDF/10, para. 35).

58. Specific regulations govern the establishment and operation of investment dealers, securities companies, stock exchanges and building societies (BEL-31, EEC-110, JPN-61, GBR-23).

1.2.2 Insurance

59. The main characteristic of national regulations on insurance mentioned in the national examinations is that such legislation is enacted by governments to protect policy-holders from the insolvency of insurance companies. Limitations on foreign insurance become part of a general policy of consumer protection (BEL-35, CAN-51, DNK-53, EEC-100, FIN-10,21, DEU-40, ITA-14, JPN-57, NLD-70, NOR-25, SWE-68, CHE-6, GBR-29, USA-46).

60. Common features of regulations on insurance referred to in national examinations include the following:

(1) A system of licensing companies to transact insurance business, applicants having to satisfy the supervisory authority as to their solvency, their competence and their financial and business integrity. In addition to supervision, the insurance industry may be subject to abusive practices control by cartel authorities;

(2) Minimum solvency requirements, including the frequent valuation of assets and liabilities on a predetermined basis. Insurers with headquarters in foreign countries may have to meet stricter requirements as to solvency margin and minimum guarantee fund;

(3) The regular preparation, publication, and form of accounts;

(4) Regulations relating to the conduct of the business, such as the company's reinsurance arrangements, policy coverage and conditions, premium rating and so on;

(5) Control of the investment of insurance funds, including regulations relating to eligible types of assets, portfolio composition, and the deposit of securities; and

(6) Regulations governing companies that fail to meet any of the prescribed standards of solvency or behaviour.

61. Regulations vary from country to country as to the establishment and operating requirements affecting foreign insurance firms.

62. In one country, supervision of the insurance industry is shared by the federal and provincial governments although in practice it is largely undertaken by the federal government. The Foreign Investment Review Act affects foreign participation in the local market. Any foreigner who does not already have a related business locally and who wishes to establish an insurance business must obtain clearance from the Foreign Investment Review Agency. Subsequently federal insurance legislation permits foreigners to establish new local insurance companies subject to requirements that apply to nationals with some exceptions (CAN-51). Marine insurance is exempted from federal insurance legislation but provincial governments exercise some authority as well as certain general responsibilities for all corporations.

63. In another country, insurance is regulated by the states. However, some Federal Statutes do have an effect on the operations of insurance companies, e.g. the provision of specific insurance products and the institutional investment rôle of insurance companies. State statutes distinguish among insurance companies based on the jurisdiction in which they were formed. Three categories are recognized: (1) a domestic concern, as one which is incorporated or initially licensed in that state; (2) a foreign concern, as one which is incorporated or initially licensed in another state of the country; (3) an alien concern, as one which is incorporated or initially licensed in a foreign country. In most cases, the treatment of domestic, foreign and alien concerns is the same or similar. However, regulations provide separate treatment for (1) authorized direct insurers, (2) surplus lines insurers that write insurance on high or unusual risks that cannot be insured through the authorized insurers in the state and (3) reinsurers that assume part of the risk of a primary insurer. There is variation in specific regulations among the states with respect to acquisition, merger, control, establishment of local subsidiaries of foreign firms and the supervision of established concerns (USA-46).

64. In one country, foreign insurance companies are allowed to establish companies or branch offices locally. The provisions relating to supervisions apply equally to locally-owned and foreign-owned companies. Nationals are free to take out insurance with foreign companies which have not established locally on their own initiative (DNK-53).

65. In a regional grouping, general common rules exist with respect to insurance undertakings whose head office is situated in one of these countries. These rules relate to coordination concerning (1) direct

insurance other than life insurance, (2) life insurance, (3) co-insurance and (4) reinsurance and retrocession. Their purpose is to guarantee freedom of establishment or to facilitate freedom to provide services, or to abolish all restrictions on freedom of establishment and freedom to provide services. Liberalization rules also apply to the subsidiaries of undertakings stemming from undertakings located in third countries, which have been constituted under the law of one of these countries. With regard to the business of undertakings located outside the regional grouping, some of these countries apply rules which differ from those laid down in respect of undertakings whose head office (subsidiary) is situated within one of the countries concerned. Such treatment may not be more favourable than that accorded to local undertakings (EEC-100).

66. For one country a licence is needed to carry out direct insurance business. The law limiting foreigners' right to purchase shares in a local company does not apply to insurance companies. The insurance legislation is under revision and the regulations concerning foreigners' right to purchase shares in local insurance companies will be amended (FIN-10, 21). In another country, the law governing foreign insurers adopts generally many of the provisions of the Insurance Business Law with the result that a foreign insurer engaging locally in insurance business by establishing for example a branch, operates on an equal footing with local insurers. When a foreign insurer engages in business as an incorporated company, it will be regulated under the Insurance Business Law (JPN-59).

67. In another country, foreign insurance companies are subject to supervision only if they intend to do business on the local market through authorized agents or intermediaries. The so-called home-foreign insurance is free. Companies have no legal claim to receiving authorization for their businesses, unless such a legal claim has been established under bilateral or multilateral agreements. Regulations applicable to local companies apply generally to foreign companies. Regional directives contain minimum requirements which may be raised in individual cases if the interests of policy-holders so require (DEU-42).

68. One examination underlines that freedom of establishment has been implemented for a long time in the country concerned where more than a fourth of the insurance companies are representative offices and branches of foreign companies dealing with both insurance against damages and life insurance. In the field of direct insurance, freedom to provide services from abroad is not granted except in a very limited number of cases. The possibility of resorting to foreign insurance companies, not established in the country concerned, is permitted only to cover risks for which the respective domestic insurance markets are unable to provide the required guarantee (ITA-14).

69. One country proposes to introduce a number of changes to its existing insurance regulations. Concerning the financial security requirements, the initial deposit arrangement which only affects foreign companies should be discontinued. The concession requirement applying to both foreign and local companies should be maintained. Authorities should still have the right to turn down an application in particular if "the establishment is not considered compatible with general interests" (NOR-25). Another country proposes that the only reason for rejecting an application for a licence should be in the case when the business in question could be deemed to create

an unsound development of the insurance business in general. Different treatment between foreign and local insurers exists concerning the rules relating to the nature of assets and the methods of taxation. However, these regulations do not favour local insurers in comparison with foreign insurers (SWE-68).

70. A specific condition sometimes imposed on foreign firms is the obligation to maintain a headquarters office locally for all of their local business (CHE-7). Some countries require that foreign firms appoint a general agent or resident general representative with comprehensive powers and set up a branch in the country concerned (DEU-42, DNK-53, GBR-30).

71. Two examinations refer to the issue of reciprocity. Most states in one country have reciprocity provisions which, in addition to the regular admission requirements, subject foreign and alien insurers to any additional taxes, licences or other fees, mandatory deposits, penalties, or other material obligations, prohibitions, or restrictions that their home jurisdictions impose on the insurer from the jurisdiction whose authorization is sought (USA-49). Another country maintains a reservation to the OECD Code of Liberalization of Current Invisible Operations, although its law prescribes reciprocity. Enforcement of the principle of reciprocity is however liberal (DNK-53).

72. Concerning life insurance, federal legislation of one country prevents foreigners from acquiring control of a local life insurance company that is already controlled by nationals, although they are not prevented from acquiring any local incorporated property and casualty insurance company, or a local incorporated life insurance company that is currently controlled by non-residents (CAN-52).

73. In another country, life insurance can be written by foreign insurers for local residents, provided such companies have licensed offices in the country. This restriction of the freedom of trade in services is justified by the specific characteristics of life insurance and the big financial interest the insured have in their life insurance for many years, as in the case of pension insurance (NLD-70). Sometimes, nationals are not allowed to take out life insurance abroad for foreign exchange reasons (DNK-53), or certain restrictions in this field are administered by the Central Bank (SWE-71). In one country, an insurance company is prohibited from either engaging in other business or carrying on both life and non-life insurance business concurrently (JPN-59).

74. Concerning reinsurance, all states in one country permit insurers to reinsure with any assuming insurer, local or foreign; however financial statement recognition of the reinsurance is generally based upon whether the reinsurer is licensed or not in a state of the country (USA-50). In one country, all types of insurance business transacted by a foreign company is subject to supervision, the main exception being pure reinsurance (FIN-22). In another country, no deposit is required from a foreign company limiting its business to reinsurance (GBR-30). One country does not prohibit reinsurance with companies not registered locally. However, legislation on this issue may be introduced shortly in view of the recent failure of a local company due to problems with foreign reinsurers not registered locally (CAN-52).

75. In one country, insurance business by an association of underwriters as well as by insurance brokers is governed by special rules (GBR-30). In another country, it is proposed that brokers should only be able to negotiate contracts with companies having a concession locally. It is also proposed that insurance for shipping, oil activities and aviation be exempted (NOR-25).

1.2.3 Transport

1.2.3.1 Maritime Transport

76. Traditional regulatory activities in maritime transport involve carrier agreements in the field of rate-fixing, pooling or space charter as well as tariff systems, licensing and certification (BEL-26, CAN-55, DEU-70, NOR-30, USA-66). Some specific regulations deal with coastal trade or cabotage and require that goods transported by water or by land and water between points in a given country move by vessels built, flagged or registered in the country concerned, documented under its laws and owned by citizens of that country (CAN-55, FIN-22, NOR-30, SWE-71, USA-70). In a few countries, new regulatory activities extend the cabotage laws to offshore exploration or exploitation of natural resources, in particular offshore oil-related activities (CAN-55, NOR-30, USA-70). National security concerns and the promotion of the national merchant marine industry serve as the primary rationale for the application of these regulations. Administrative approval may be required for investment or transfer of national vessels and ship construction facilities. Foreign investment in national maritime transport may be restrained by the ineligibility of foreigners for government subsidies or by limitations imposed on the methods of financing ship construction (NOR-30, SWE-71, USA-70).

77. In some countries the primary objective of shipping policy is to ensure a liberal international shipping policy, with some exceptions, under which all ships have access to cargoes in free and fair competition and regardless of the trade flows involved, and shippers are free to make use of the shipowning companies of their choice. In these countries, foreign ship-owning companies are free to establish and are granted national treatment (DNK-46, JPN-43, GBR-32). One country, which has until recently pursued shipping policies with a minimum governmental interference, has now adopted rules for a balanced market regulation in light of the increasing intervention by various governments (NLD-54).

1.2.3.2 Air Transport

78. Air transport services include the carriage of passengers and freight. All such services depend on airlines obtaining the necessary permission from the aeronautical authorities of the countries concerned to take on board or discharge passengers or cargo and to overfly their airspace on route.

79. With respect to scheduled and non-scheduled flights, national regulations in air transport aim at offering a diversified product of high safety quality and monitoring pricing practices to ensure fair prices for customers while securing a sound economic operation for the airlines (DNK-59, SWE-74).

80. Generally, foreign air transport companies are granted liberal treatment insofar as possible, on a basis of reciprocity, on matters such as rate

schedules and landing rights. Air transport policy gives rise to two conflicting views. Most countries consider it desirable and necessary through national law, bilateral agreements and multilateral cooperation to regulate air traffic, including the number of concessions, "freedom" rights, flight schedules and prices (BEL-28, CAN-56, DNK-57, NLD-64, JPN-45, SWE-73, GBR-24). One country aims at comprehensive liberalization, inter alia through pricing policy based on free competition (USA-58).

1.2.3.3 Other transport

81. This sector, which covers freight motor carriers and the traffic services industry with passing references to railways, encompasses a great number of heterogenous services with no clear distinctions between them and sometimes considerable overlap. These services are largely unregulated, except for administrative reviews, licensing and authorisations concerning the necessary professional qualifications or the financial capabilities of operating a business. Rates are sometimes regulated and sometimes set in the marketplace. In one case, a regulation prohibits regional discrimination in transport rates and conditions based on nationality. In a number of countries, public authorities grant concessions to railway companies. As a result, approval may be required with respect to fares and tariffs, operating schedules and conditions of employment of railway personnel (BEL-24, 30, CAN-59, DNK-61, EEC-95, NLD-60, NOR-50, SWE-75, CHE-12).

1.2.4 Telecommunications

82. In most countries, government authorities have monopoly on installation and operation of telecommunication facilities although they are empowered by law to grant concessions to private companies within specific telecommunication services such as radio, telephone, postal services, television, cable systems for distribution of sound and picture programmes, satellite communications, and transmission of data (DNK-62, DEU-50, NLD-74, NOR-40, CHE-9). The administration may also allow outside users, on certain conditions, to connect their own equipment to the public telecommunication network or to the administration's equipment. Foreign suppliers may be subject to the same rules for connection of equipment as domestic suppliers (SWE-77).

83. Some national examinations point out that one central administration makes it possible to guarantee similar packages of telecommunication facilities and services for a whole country (NLD-75, NOR-44). It is argued that international cooperation in the interest of communication flows and standardization is facilitated if there is only one national administrator for each country. Further, the point is made that future technological facilities operating through an integrated network can be set up only under a single infrastructure (NLD-75).

84. In two countries, the privatization of some public telecommunication services and the introduction of the principle of competition are being discussed or implemented (JPN-38, GBR-33). In two other countries, telecommunication services are provided by private companies in a framework of national and local regulations related to the installation and operation of all carriers (CAN-37, USA-32, 187).

85. In the field of films, one country does not apply any specific regulations, and importation of foreign films is free (JPN-72). In another country, broadcasting, film, sound recording and cable television are regulated at both national and local levels (CAN-61). Every film produced or imported in one given country is submitted to a national board of film censors which issues permits for public exhibitions of films. A tax is levied on films inspected by the board (SWE-86). In another country, broadcasting authorities are independent in matters of programme content but they have obligations as to programme standards and origin. Regulations provide that all cinemas and film renters or distributors be licensed and all films for public exhibitions be registered. Fees are charged to cover administrative costs for these registrations and licensing provisions (GBR-28). In one country, moving image entertainment is regulated by copyright registration and deposit provisions, compulsory licensing system for cable retransmission of broadcast signals, procedures for authorizing the delivery of broadcast programming via domestic satellite to foreign commercial users. In addition, a voluntary film rating system may limit the distribution of the film by major distributors (USA-54).

1.2.5 Computer services

86. A rapidly growing economic sector of considerable importance in terms of both industrial policy and technology policy is emerging with the combined use of telecommunications and informatics/computer services, or "telematics" (NOR-53, USA-193). The services concerned are commercially operated data bank and computer services, including the production of software as well as services that supplement, where they exist, public telecommunication services provided by the national telecommunication administrations. Some of these value added network services, or vans, are subject to new regulations while some others are liberalized (DEU,32- 64, JPN-38, NOR-43, GBR-33).

87. For example in one country, there is a requirement, applied to all banks, that data on banks' operations may not be sent outside the country for processing. Copies of the data may however be sent outside the country, e.g. to foreign bank head offices (CAN-48). In the same country, the law prohibits banks from offering computer services other than those related to banking (CAN-41).

88. In some other countries, no law regulates specifically electronic data processing (FIN-23, JPN-67, CHE-10). However, various provisions affecting the telecommunication sector may to some extent influence transactions in the computer services sector (USA-38). In addition, the transmission of personal data across the border may be subject to privacy protection law (NOR-59, SWE-80). One country points out that it was not able to subscribe to the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (ITA-12). Other countries are preparing laws on the protection of information (CHE-10, GBR-25).

1.2.6 Consulting and other business services

89. There exists a wide variety of regulations in this broad services sector, especially in construction/engineering, ranging from physical planning prescriptions to minute technical details. Most of these rules lay down requirements as to construction and structures, thus relating indirectly to firms carrying out such works. Moreover there are licensing requirements

for construction firms, setting norms for commercial and technical skills and creditworthiness for the many kinds of business in this sector. In some countries, the regulations relating directly to construction and installation firms are not discriminatory against foreign companies. Quality certificates do not discriminate but may put foreign firms at a disadvantage because different standards apply in their home countries (NLD-76, SWE-76).

90. Other requirements may relate to immigration, customs and professional licensing regulations established on a national or local basis (CAN-30, NOR-56, CHE-8). In one country, builders are not legally required to hold any qualification although their work is subject to specific requirements (GBR-26). In some other countries, trade in engineering, architecture and consulting services is not subject to direct regulations (DNK-57, FIN-23, NOR-57). In one country, consulting is not subject to any restriction while the rendering of specific business services such as those of an architect or an engineer have to comply with certain standards and professional codes (DEU-68). In another country, consulting engineers and design offices are organized in professional organizations which have no standing in law. Contracts for services are, in principle, awarded on a private-treaty basis. Competence and capability are the criteria of selection. The cost criterion is not normally a decisive factor (BEL-39). In another country, construction business requires a total of twenty-eight categories of permissions with respect to civil engineering and building work (JPN-75).

91. Concerning advertising, no specific law exists in one country governing the advertising business except for one prohibiting misleading representation (JPN-71). In another country, advertising is prohibited on radio and television and regulations restrict remaining advertising activity. All advertisements and printed advertising material are subject to tax (SWE-88). In another country, advertising agents are able to operate without any specific legal restrictions although the content of advertisements is subject to statutory and self-regulatory controls (GBR-21). Advertising in the media is affected by local government regulations in one country (CAN-62). Another country imposes that all advertising for rated motion pictures be submitted to the Advertising Code Administration for approval prior to release of the film to the public. This includes, but is not limited to, print ads, radio and television spots, pressbooks, and theatrical trailers (USA-56).

92. Concerning accounting, one country does not regulate its use and any individual may set up as an "accountant" offering book-keeping services or personal income tax advice. However, certain specific accountancy functions are regulated by statute and reserved for specific groups of accountancy practitioners qualified to act as auditors. Individual authorizations are available to accountants possessing foreign qualifications. The right is reserved to refuse recognition to qualifications emanating from countries which do not offer reciprocal recognition to the holders of qualifications from that country (GBR-20). In another country, the requirements for obtaining a licence of certified public accountant are based upon domestic accounting education, practical experience and a passing score on a uniform national examination (USA-31).

1.2.7 Tourism

93. In a number of countries, certain general regulations in the field of currency and transportation may have a regulatory effect on foreign tourists' access to the countries concerned, but relatively few of them affect directly

tourism (CAN-64, ITA-22, NOR-47, SWE-85, GBR-33). The main rule may be a visa requirement, but for citizens from a number of countries a valid passport is often sufficient for entering. Other measures relate to taxation and may consist of a "departure tax" or "holiday tax" levied on charter passengers leaving for abroad (NOR-47, SWE-86).

94. One country is now liberalizing the right of foreigners to engage in travel agency or hotel activities, whereas purchases or investments in other tourist activities by foreigners are subject to licensing requirements (NOR-47). In two countries, all travel agencies are required to register with a guarantee fund and to deposit a guarantee contribution to the fund for every initiated tour (DNK-55, SWE-86). One country requires a permit to run travel agencies and supervises their operations with special attention to their financial status (FIN-23). In another country, local regulations impose registration of all travel agents. In addition, the regulations require payment of a fee, evidence of financial security and some other information concerning the ownership of the company (USA-64).

1.2.8 Distribution, health, education and other services not elsewhere specified

95. No detailed information is available in the national examinations as to the national regulations governing services sectors such as distribution, health and education. The same situation applies with respect to other miscellaneous services, e.g. cultural, oilfield, fisheries, personal, etc.

96. However, some examinations refer to minimum qualifications which individuals must obtain if they are to practise in specific services sectors such as law or medicine (EEC-112, 113, 114, SWE-57, GBR-27,32, USA-57, 64). One country states that it applies the common rules adopted in a group of countries in respect of legal and medical services (GBR-31). One country notes that it does not require a professional licence or operating permit except a permanent resident's permit, for the practice of forwarding trade (CHE-14). In another country, commodity trading and franchising are not subject to specific statutory regulations (GBR-25, 29).

2. INTERNATIONAL REGULATIONS

97. A few national examinations refer to the existing international regulations applicable or potentially applicable to services (DNK-43, 47, CAN-36, 41, 57, 64, 67, 74, FIN-28, NOR-34, 43, 52, EEC-94, USA-79).

98. In the field of bilateral agreements, one country indicates that its services are to some extent covered under Treaties of Friendship, Commerce and Navigation (FCN) which are designed to establish a framework for mutually beneficial economic relations between the two treaty parties. All the treaties exempt certain types of services activities including air transport, banking involving fiduciary or depository functions, communications, and shipping from national treatment provisions, where they exist. Some treaties provide that insurance and the practice of professionals such as law and accounting may be subject to special requirements (USA-79).

99. In late 1981, this country launched a new programme to negotiate Bilateral Investment Treaties (BIT) which are designed to provide certain guarantees and protections for foreign investors of each party. Generally these treaties apply to all industries equally, including service industries. However each treaty contains an annex in which each party may specify sectors in which there exist exceptions from national treatment. Current treaties include partial or complete national treatment exceptions in the areas of air transportation, ocean and coastal shipping, banking, insurance, custom house brokers, radio and television broadcasting, submarine cable services, and satellite communications (USA-80).

100. Certain services activities are covered by specific bilateral agreements among a number of countries. Air transport agreements cover landing rights, frequencies and fare structures. Bilateral maritime agreements deal with cargo sharing or access to "government impelled" cargoes. Certain aspects of telecommunications, data processing and information exchanges between countries are also regulated bilaterally (CAN-57, USA-81).

101. Several multilateral agreements have been concluded in specific services sectors. The 1944 Chicago Convention established the International Civil Aviation Organization (ICAO) and provided for the national treatment with respect to the use of facilities, charges for such facilities and use of airports. The Chicago Convention also provides certain rights for non-scheduled air services covering overland flight and landing and, subject to certain exceptions, for the taking on and discharging of passengers, cargo or mail. In addition, cooperation and coordination takes place under the auspices of the International Air Transport Association (IATA) concerning fares, rates and charges, and levels of commissions on sales (CAN-58, USA-84).

102. In the field of maritime transport, the International Maritime Organization (IMO) has developed a number of international conventions, in particular to improve safety at sea, control marine pollution and regulate legal liability arising from shipping incidents (USA-84).

103. The UNCTAD Convention on a Code of Conduct for Liner Conferences is one of the most comprehensive understandings affecting a single service sector. Provisions deal with relations between liner conferences and shippers. One country considers that the Code encourages the continuation of closed conferences, helps cartelize the transportation of trade and freezes freight rates for long periods (USA-85). A "compromise solution", the "Brussels Package", excludes the provisions of the Code which mandate cargo sharing, limit freight rate increases and govern conference decision-making procedures, from application to the trade between a number of countries (CAN-56, DNK-44, 47, EEC-94, NOR-34). The UNCTAD Convention of International Multimodal Transport may also affect "traffic" services (CAN-59, 61, USA-86).

104. Among the international organizations dealing with road and railway transport, the European Conference of Ministers of Transport (ECMT), the International Road Transport Union (IRU) and the International Railways Union (UIC) may be mentioned (NLD-63, NOR-52).

105. International banking supervisory matters are discussed at the Bank for International Settlements (BIS). Questions involving the stability of the international financial and monetary system have been taken up by the International Monetary Fund (IMF). In addition, the private commercial banks maintain among themselves a private, non-profit, cooperative society, the Society for Worldwide Interbank Financial Transfers (SWIFT), which operates international communication networks to serve the needs of the worldwide banking community. OECD and UNCTAD are studying international issues involving insurance and banking. UNCTAD is working to find ways to assist developing countries to establish or strengthen their national insurance markets, to promote regional cooperation among developing countries and to improve terms and conditions for those insurance and reinsurance services that need to be purchased internationally (USA-87).

106. In the field of knowledge services, the work of the World Intellectual Property Organization (WIPO) is mentioned in two studies, particularly in the area of protection of computer software and the development of better contractual arrangements protecting inventions of joint enterprises (CAN-41, USA-87).

107. Concerning communication and information services, the development of international coordination of standards, regulations and competition is also noted in two studies, where reference is made to international organizations such as the International Telecommunication Union (ITU), the International Standards Organization (ISO), Inmarsat, Eutelsat and Intelsat (NOR-43, USA-88). Work is also under way in several other fora on the handling of information flows over communication networks e.g. the Council of Europe (CE), the United Nations Center on Transnational Corporations (UNCTC) and the Intergovernmental Bureau for Informatics (IBI) (USA-88).

108. One national examination mentions that other services receive attention in various international bodies such as the World Bank, the World Tourism Organization (WTO), the United Nations Economic Commission for Europe (ECE) as well as in private or regional groupings and trade associations. These have not, however, articulated any international guidelines for specific service sectors or for services generally. Most of the existing agreements have dealt with technical and regulatory cooperation and coordination. Issues involving competition and trade have generally been less well covered (USA-89).

109. The work done by the Organization for Economic Cooperation and Development (OECD) is detailed at some length in one national examination (USA-89) and referred to very briefly in some other examinations (CAN-36, 64, 74, DNK-44, 47, FIN-ii). In 1981, the OECD Ministerial statement noted that activities on services should move forward expeditiously and that OECD members should examine ways and means to improve cooperation to remove obstacles to international trade in services. In addition, the Committee on International Investment and Multinational Enterprises was instructed to work with the Committee on Capital Movements and Invisible Transactions to review various OECD instruments to strengthen cooperation in areas where gaps might exist.

110. One study recalls that in the Code of Liberalization of Current Invisible Operations, OECD members have agreed to eliminate between one another restrictions on current invisible transactions and transfers. In principle, all trade in international services is covered by the Code and the Code is structured to require the liberalization of all invisibles transactions between OECD members. The practice, however, has been to permit members to liberalize progressively over time. Reservations, derogations and limitations on the scope of the liberalization measures have vitiated the impact of the Code (USA-89).

111. The Code of Liberalization of Capital Movements commits OECD members to progressively abolish restrictions on long-term capital flows among themselves. The Code focuses on capital flows, not specifically on services. It applies to direct investment and is about to be extended to include those aspects of the right of establishment most closely related to direct investment. This amendment is designed to increase transparency and eventual liberalization of investment measures and restrictions affecting the service industries (USA-92).

112. Another study refers to the OECD Declaration on International Investment and Multinational Enterprises, in which OECD Ministers recommend that multinational enterprises observe the OECD Guidelines for Multinational Enterprises and decide that countries should treat foreign-owned companies the same as locally-owned companies in like situations and should take account of other countries' interests when using incentives and disincentives to international direct investment. The OECD Arrangement on Guidelines for Officially Supported Export Credits regulates the use of export credits with a repayment term of two years or more. The definition of coverage focuses exclusively on medium and long term credits. In 1981, OECD countries decided that the Arrangement applies both to "pure" services as well as to services related to exports of goods (CAN-74).

3. PROBLEMS IDENTIFIED IN RELATION TO INTERNATIONAL TRANSACTIONS IN SERVICES

113. Out of the available national examinations, four do not deal with the restrictions faced abroad by their national services industries (EEC, JPN, SWE, CHE). Three examinations have listed analytical classifications of restrictions (DEU-22, GBR-16, NLD-26).

114. One examination classifies restrictions according to their effects into the following six categories which apply in varying degrees both to cross-frontier trade and to trading within markets (GBR-16):

(1) Restrictions on movement of finance, including:

(a) restrictions on investment via, inter alia, State monopoly of a given sector, restrictions to local enterprises, prohibitions on entry of foreign companies not already established, restrictions on proportions of foreign shareholding in local enterprises;

(b) operating or reporting requirements for banking and insurance services, which discriminate directly or indirectly against foreign suppliers of such services;

(c) restrictions on withdrawal of money from a market including withholding taxes, exchange control regulations and delays in earnings repatriation.

(2) Restrictions on movement of labour, including the reservation of particular types of work or the stipulation of minimum proportions in the employment of local nationals; the use of work permit or qualification requirements discriminating against foreigners; restrictions on earnings repatriation.

(3) Restrictions on information flows, involving discriminatory regulations of transborder data flows and, in telecommunications, restrictions on the use of private leased lines.

(4) Direct or indirect restrictions on customers, for example by excluding all foreign companies from a particular service sector, by requiring local procurement of services, by imposing artificial price increases, exchange control and currency regulations.

(5) Discrimination in public procurement, for example through price discrimination in favour of local contractors or the direction of business to a national shipping carrier.

(6) Other discrimination in favour of indigenous industries such as State aids and subsidies, fiscal discrimination and preferential facilities for local suppliers.

115. Another examination notes that while services are traded either through direct border-crossing movements or via direct investment, trade in service in a number of sectors, unlike trade in goods, seems to require often direct investment (NLD-26). Restrictions are broken down as follows:

(1) Market constraints, i.e. constraints on the accessibility of markets.

(2) Constraints relating to establishment, i.e. constraints on possibilities to be physically present in a given market, for example, through direct investment.

(3) Operating constraints, i.e. restrictive requirements as to the conduct of business by foreign companies, relating to company structure, personnel or services offered.

(4) Government intervention and financial support, i.e. local government measures seeking to enhance the competetiveness of local firms in foreign markets.

(5) Administrative constraints, i.e. constraints resulting from bureaucratic systems.

(6) Constraints on cross-border capital movements, i.e. mainly measures restricting currency movements.

116. The third examination categorizes the following restrictions (DEU-22):

(1) Measures equal in effect to denial of market access (quantitative and/or qualitative), e.g. ban on service imports and on the setting up of branches, nationalization of certain service industries, etc.

(2) Measures limiting foreign companies' capability to offer and sell their services, e.g. ban on marketing, adoption of quotas by the government or associations to limit sales or market shares, reservation of coastal shipping to national shipping companies, etc.

(3) Measures on business financing that are restrictive in effect, e.g. denial of foreign exchange for service imports, discriminatory foreign exchange controls and deliberate transfer delays, ceilings on foreign exchange payments to be made for the acquisition of foreign technology, etc.

(4) Measures taken by public authorities that may be discriminatory or discouraging to foreign enterprises, e.g. discriminatory legal treatment, poor transparency of administrative procedures, additional formalities to be complied with by foreign firms, etc.

(5) Measures to impede access to inputs on which companies abroad or their domestic subsidiaries are dependent, e.g. impediments to imports of major items of equipment on which service companies depend for their domestic operations, insufficient protection of copyrights and trade marks, administrative difficulties in the issuance of visas and residence permits, etc.

117. Out of nine national examinations which describe restrictions to international transactions in services, one of them categorizes the restrictions with respect to twelve services sectors (USA-188). The

remaining eight examinations touch upon a limited number of services sectors, with reference to geographical destination of the transactions in a few cases (CAN-31, DNK-64, DEU-22, FIN-14, 17, ITA-13,19, NLD-26, NOR-19, 26, 34, 42, GBR-16).

118. Some of the major restrictions described by the nine national examinations are listed here on a sector-by-sector basis. No systematic grouping of the restrictions emerges from the examinations and the categories set out below are only intended for ease of reference.

3.1 Banking (BEL-19, CAN-49, DNK-66, DEU-29, NLD-37, NOR-19, USA-216).

119. Restrictions in the field of banking may be seen to fall into three major categories: (1) restrictions related to establishment or investment (2) restrictions related to operating conditions of foreign banks, (3) restrictions related to competitive opportunities of foreign banks, and (4) restrictions related to non-banking objectives.

(1) Restrictions related to establishment or investment:

- complete prohibition of all forms of establishment by a foreign bank;
- prohibitions on the establishment of any type of banking operations by a foreign bank other than a representative office or a correspondent relationship with a local bank;
- restrictions on the takeover of local banks by foreigners;
- limitations on the level of foreign equity participation in local banks or limits on the permissible degree of foreign control of local banks;
- prohibitions on the establishment of branches (but not subsidiaries) of foreign banks, and;

(2) Restrictions related to operating conditions of foreign banks :

- higher reserve requirements;
- higher capital-asset ratios;
- higher taxation;
- more stringent or more restrictive enforcement of apparently non-discriminatory regulations, e.g. in the case of financing of medium-term credit (exports), the body responsible for refinancing is not open to foreign banks.

(3) Restrictions related to competitive opportunities of foreign banks:

- limits on government deposits;
- inability to participate in subsidized or guaranteed government export credit facilities;
- inability to use central bank rediscounting facilities;
- restrictions on the type of securities or other financial assets which can be acquired;

- limitations on the type of local or international banking services that foreign-owned banks are permitted to offer;
- restrictions on the ability of insurance companies to deposit funds in foreign banks;
- restrictions on local retail banking, e.g. restrictions on the ability to accept local demand deposits as well as offer small business or consumer loans.

(4) Restrictions related to non-banking objectives:

- foreign exchange controls;
- immigration controls;
- professional licensing requirements.

3.2 Insurance (BEL-19, CAN-52, DNK-66, DEU-27, NLD-39, NOR-26, USA-225).

120. Restrictions in the field of insurance may be grouped into three general categories as they relate to (1) establishment or investment, (2) transactions and financial operations and (3) competitive opportunities.

(1) Restrictions related to establishment or investment:

- arbitrary and discriminatory licensing procedures;
- discrimination against foreign branch operations;
- forced localization, e.g. national majority ownership requirements.

(2) Restrictions related to transactions and financial operations:

- government policies which discourage nationals from purchasing insurance from foreign entities;
- restrictions on remittances, e.g. denial of foreign exchange, delays in obtaining permission from local authorities to carry out related transfers;
- discriminatory deposit or capital requirements placed on foreign admitted insurers;
- discriminatory taxation of foreign admitted insurers.

(3) Restrictions related to competitive opportunities:

- discrimination in government procurement, e.g. requirement that the insurance procured by government departments, local authorities, State corporations, other government-related organizations and government contractors be placed only with local insurance companies owned by local citizens;
- exclusions of foreign admitted insurers from trade associations;
- restrictions on the employment of non-nationals.

121. Reinsurance and transportation insurance are facing some specific forms of restrictions.

(1) Reinsurance:

- compulsory internal cessions of reinsurance transactions, i.e. requirement that a fixed percentage of all reinsurance be ceded to private companies within the local market;
- obligation to offer reinsurance first to local companies before placing it abroad;
- requirement that all or part of reinsurance cessions made by companies be placed with designated national or regional reinsurance institutions;
- restrictions on the remittance of funds overseas;

(2) Transportation insurance:

- requirement that all imports and, in some cases, all exports be insured within the domestic market;
- financial incentives benefiting the local market.

3.3 Transport

122. Restrictions in the field of transport may be grouped in the following categories:

3.3.1 Maritime transport (BEL-20, CAN-55, DNK-65, FIN-12, NLD-29, NOR-34, USA-208, 302).

(1) Restrictions related to establishment or investment:

- restriction on the establishment of foreign controlled shipping companies in the form of capital requirements.

(2) Restrictions related to competitive opportunities:

- cargo sharing, with 40 per cent of cargo reserved for ships of the importing country, 40 per cent for ships of the exporting country and the remaining 20 per cent for other ships; sometimes, cargo sharing on a 50/50 per cent basis;
- 100 per cent cargo reservation when carriage of government goods is involved;
- flag discrimination;
- cabotage legislation reserving part or all of coasting trade and/or offshore activity for national flag ships;
- requirement that local companies handle the sales of foreign shipping companies;
- financial government support (subsidized loans, covering of losses) enabling companies to compete on a non-commercial basis;
- charge of different rates for national and foreign carriers;
- rebate of taxes and fees to the national carrier.

(3) Restrictions related to State trading companies:

- shipping services offered at prices well below those acceptable to traditional carriers;
- trade only on the basis of cif selling and fob purchasing of goods.

(4) Restrictions related to standards:

- unnecessarily strict or unreasonable standards to prevent the use of more efficient equipment by competing shipping companies;
- extensive documentation requirements for shipping companies;
- port entry procedures resulting in long waiting periods before loading or unloading.

3.3.2 Air Transport (BEL-20, CAN-58, NLD-35, USA-303).

(1) Restrictions related to competitive opportunities:

- preferential treatment granted by airport monopolies to national flag carrier;
- prohibition of facilities established by foreign carriers where a ground monopoly exists;
- costly duplication where monopolistic practices affect cargo or baggage handling and aircraft servicing;
- requirements or financial incentives for shippers and passengers to use the national flag airline;
- fines for importers which do not use the national airline whenever possible;
- the national airline is given the right of first refusal on charter flights;
- "point-to-point" agreements confining transport on routes between two given points to airlines of the contracting States;
- prohibition of foreign airlines from applying pro-rate fares;
- high landing fees and user charges to maintain not only the international airport facilities but also airport facilities used only by domestic airlines;
- excessive landing fees charged to international operators, but no fees collected from domestic operators;
- exemption of national flag air carriers from paying selected fees, such as parking and hangar charges, or "no objection" fees.

(2) Restrictions related to operating conditions:

- limitation or prohibition of access to national reservation systems to prevent foreign carriers from gaining access to the market;
- control of tour wholesalers by the national air carrier;
- direct control over/or ownership of freight forwarders by government-owned carrier;
- limitations or restrictions on airport terminal space, advertising and ground service personnel;
- currency restrictions, e.g. restrictions on capital transfers and profit repatriation

(3) Restrictions related to taxes or subsidies:

- use of discriminatory or selectively applied tax policies to favour national airlines;
- exemption of national lines from paying sales taxes for equipment and materials used at airports;

- taxation of national lines on net profit while taxing foreign lines on gross income;
- imposition of extremely low concessional income tax rate on national carrier;
- rebate of duties to the national carrier for equipment and material imported into the country for aircraft and airline operation;
- grant to air carriers of financial support from their national government, such as loan guarantees, low-interest loans, financial assistance for the purchase of equipment, operating subsidies to underwrite operating losses, and discriminatory pricing of fuel.

3.3.3 Other transport (BEL-19, CAN-60, DNK-67, NLD-31).

(1) Restrictions related to competitive opportunities:

- inadequate allocation of licence quotas under bilateral treaties governing road transport of goods;
- limitation of access to foreign transport markets;
- higher transport costs due to a lack of transit licences;
- difficulty to obtain return cargoes because of lack of permission to transport goods to third-countries;
- competition on a non-commercial basis: price undercutting, reservation of third-country transport to State enterprises;
- imposition of transport taxes on foreign vehicles at the border (increased costs and unnecessary delays);
- requirement of national ownership of domestic multimodal transport operators.

(2) Restrictions related to traffic rules:

- maximum weights and measures of trucks, trailers and semi-trailers, axle loads and heights for which maximum limits have been fixed (border checks, extra delays when lack of technical facilities);
- maximum speed limits applying to given roads and vehicles;
- control of bus drivers' driving hours and rest periods;
- traffic bans, e.g. public holidays, mandatory designated routes, banned routes to foreign carriers.

(3) Restrictions related to administrative and customs entry procedures:

- need for documents in addition to the normal ones required under multilateral regulations, e.g. triptych or carnet de passage for temporary imports of commercial vehicles;
- repeated checks of documents, trucks and cargoes;
- understaffing or inadequate infrastructure at check points;
- special checks to be carried out at locations different from the border (sometimes requiring carriers to make long detours);
- time-consuming veterinary inspection;
- veterinary or health certificates issued by one country not always accepted by other countries.

3.4 Telecommunications

123. Restrictions in the field of telecommunications may be grouped in the following categories:

3.4.1 Telecommunications and computer services (CAN-39, 41, DNK-67, 69, DEU-32, NOR-42, 59, NLD-50, USA-188).

(1) Restrictions related to international data flows:

- measures prohibiting the inflow or outflow of certain kinds of information;
- measures raising the cost of transmitting information across national borders (regulatory or tax policies);
- possible taxation by State monopolies for the use of private leased lines on a modified volume-sensitive basis instead of at a flat rate;
- legislation restricting the use of computer facilities located abroad, either for data processing or for information retrieval.

(2) Restrictions related to competitive opportunities:

- prohibition of a majority shareholding in foreign subsidiaries of computer services firms;
- preferential tariff policies to promote use of public networks;
- limitation by State monopolies of the number of foreign suppliers of information services as well as the scope of services, e.g. the restriction of the shared use and sale of private line capacity;
- possible limitation by State monopolies of the number of foreign providers of new telecommunication and information services not currently covered by existing State monopolies.

(3) Restrictions related to standards:

- discriminatory standards set up by governments for private telecommunication-related services that depend on public communication facilities, e.g. protocols cover the bit sequence of the introductory portion of digital messages; the choice of sequences required may greatly impair the efficiency of foreign, as compared to local, equipment;
- regulations affecting the use of privately-owned equipment for connection to the public telecommunication network, e.g. severe limitations as to the type, make or design of equipment "acceptable" for interfacing with the local communications system.

3.4.2 Films, broadcasting (CAN-62, USA-251).

(1) Restrictions related to imports:

- specific allocations for foreign films and arbitrary changes of quotas;

- conditional allocation of import licenses, e.g. in exchange for an agreement to purchase, co-produce or distribute local films;
- improper customs valuation;
- national film import monopolies.

(2) Restrictions related to screen-time quotas:

- requirement for theatre and television stations to devote a specific proportion of their screen time to the showing of local films;
- limitation of the amount of time allocated for imported pictures;
- possible withdrawal from exhibition of a successful film due to the quota administration on a trimestrial basis;
- administrative discretion in the selection of films to be exhibited under the quota system;
- requirement that foreign films be shown only on a double bill with a locally produced short film (tie-in arrangements);
- limited exhibition possibilities.

(3) Restrictions related to taxes or subsidies:

- various forms of government aids provided to local film companies;
- box office tax on films funneled directly into a local film fund;
- imposition of taxes on dubbed foreign films to discourage their importation, since dubbed films enjoy far greater popularity than foreign films with subtitles;
- film rental price controls;
- discriminatory admission (box office) and release taxes;
- unfavourable tax levies.

(4) Restrictions related to local work requirements:

- local work requirements applied to either the artistic or technical work associated with the production, distribution or exhibition of a foreign film;
- compulsory participation of a certain number or percentage of local actors or local technicians in the production of a film;
- local copying or dubbing requirements which necessitate the manufacture, dubbing or printing for theatrical use in local laboratories.

(5) Restrictions related to operating conditions:

- prohibition of foreign distributorship for feature films;
- public purchase of foreign filmed entertainment for television exhibition leading to price restrictions or token purchases by publicly regulated communications entities;
- restrictions on foreign remittances.

(6) Restrictions related to copyright protection:

- uncertainty surrounding copyright protection and sometimes copyright protection granted only to nationals;
- unauthorized duplication of material inadequately protected by copyright law.

3.5 Consulting and other business services

124. Restrictions in the field of consulting and other business services may be grouped in the following categories:

3.5.1 Consulting, construction/engineering (BEL-20, CAN-31, 39, DNK-67, DEU-34, FIN-14, ITA-13, NLD-41, NOR-56, USA-198).

(1) Restrictions related to taxes or subsidies:

- grant of subsidy programmes by governments to national or local firms exporting in third country markets, e.g. direct and indirect financial subsidies, tax subsidies, risk-sharing and subsidies in the form of government insurance or reinsurance of commercial and political risks for overseas contracts;
- discriminatory taxes on profits or on imports of goods and services of foreign firms.

(2) Restrictions related to operating conditions:

- prohibition against foreign-owned firms from bidding on government-sponsored projects locally and in third countries;
- discriminatory practices in national bidding procedures against foreign-owned firms, e.g. no publication of the rules and procedures in official publications, no standard components or guidelines for international bid specifications;
- discriminatory licensing and registration requirements;
- requirements for special equipment or tools to complete projects in foreign countries;
- customs delays;
- currency restrictions, e.g. restrictions on capital transfers and profit repatriation;
- "buy national" provisions in government procurement;
- "local content" regulations;
- compulsory setting-up of subsidiaries abroad;
- mandatory cooperation with local firms; requirement to train local cadres at the expense of contractors, although not provide for in the terms of the contract, with a view to "promoting technology transfers";
- restrictive visa and work permit regulations.

(3) Restrictions related to barter or countertrade:

- requirement that the method of payment be in the form of various goods for whose marketing and disposal foreign firms are responsible.

3.5.2 Accounting (USA-235).

(1) Restrictions related to the use of a firm's name.
(2) Restrictions related to establishment and association.
(3) Restrictions related scope of practice.
(4) Restrictions related to repatriation of fees, royalties and profit.
(5) Restrictions related to tax discrimination.

3.5.3 Advertising (USA-245).

(1) Restrictions related to access to public sector markets.
(2) Restrictions related to the import of advertising material.
(3) Restrictions related to government regulatory procedures.
(4) Restrictions related to establishment.
(5) Restrictions related to remittance of fees, royalties and profits.

3.5.4 Other business services

3.5.4.1 Legal Services (USA-237).

(1) Restrictions related to establishment.
(2) Restrictions related to partnership with local attorneys.
(3) Restrictions related to the supply of legal advice services from abroad.

3.5.4.2 Temporary help services (USA-239).

(1) Restrictions related to establishment.
(2) Restrictions related to fees, royalties and profits.
(3) Restrictions related to competition by government agencies.

3.6 Tourism and related activities

125. Restrictions in the field of tourism and related activities may be grouped in the following categories:

3.6.1 Tourism (CAN-64, DNK-67, FIN-17, NOR-48, USA-261).

(1) Restrictions related to documentation:

- arbitrary disapproval of passports, exit or entry visas;
- charge of excessive fees for passports;
- burdensome questionnaires and time-consuming procedures.

(2) Restrictions related to exchange controls:

- restrictions limiting the amount of currency residents may purchase for travel abroad;
- imposition of travel allowances limiting expenditures on goods and services outside the home country;
- requirement for a currency count upon entry and for receipts at exit for expenditures;
- exit or travel taxes imposed on residents travelling abroad.

(3) Restrictions related to customs regulations:

- different levels of duty-free allowances for returning residents;
- onerous declaration forms, time-consuming customs inspections and duty collections.

3.6.2 Hotel, motel, other accommodation (USA-293).

(1) Restrictions related to establishment:

- requirement for a minimum level of local equity participation, resulting in an insufficient management control or share of profits;
- requirement for partial ownership by an international company as a condition for obtaining a hotel management contract;
- requirement for government approval concerning the duration of term, fee structures and amounts.

(2) Restrictions related to operating conditions:

- requirement for government approval concerning the percentage of earnings that may be repatriated for leases, management agreements, franchise agreements, licensing agreements and overseas services agreements;
- requirements for promoting local personnel into responsible positions;
- restrictions on granting of work permits to foreign nationals.
- restrictive tariffs and import requirements;
- discriminatory taxation;
- restrictions against foreign insurance carriers;
- discriminatory treatment of foreign airlines, with the effect of limiting overall airline capacity and foreign passengers, and, hence, room bookings.

(3) Restrictions related to copyright protection:

- lack of adequate legal protection for trademarks, trade names, service marks and copyrights.

3.6.3 Travel agencies (USA-265).

(1) Restrictions related to foreign remittances.
(2) Restrictions related to local equity requirements.
(3) Restrictions related to operating conditions.

3.7 Distribution services

126. Restrictions in the field of distribution services may be grouped in the following categories:

3.7.1 Wholesale, retail, brokers, merchanters (CAN-65, NLD-27).

(1) Restrictions related to establishment:

- prohibition from holding a majority stake in the share capital of subsidiaries.

(2) Restrictions related to operating conditions:

- local statutory requirements as to the nationality of managing directors or staff of subsidiaries;
- restrictive granting of visas or work permits to foreign nationals;
- prohibition or taxation of exports of profits and revenues.

(3) Restrictions on cross-border capital movements:

- mandatory payment for deals in convertible currencies;
- difficulties in obtaining payments from the central bank.

3.7.2 Franchising (CAN-65, USA-278).

(1) Restrictions related to establishment or investment:

- difficulty in obtaining information on the legal requirements for establishing operations in foreign markets;
- provisions in foreign investment laws that specify the terms of the franchise agreements, e.g. duration, maximum amounts of franchise fees, post-term convenant (trademark use after expiration of agreement) and percentage of earnings that may be repatriated;
- national regulations affecting the degree of permissible foreign ownership, the repatriation of capital, remittance of profits, royalty payments or license fees, foreign exchange controls and taxes.

(2) Restrictions related to operating conditions:

- limitation of the degree of control by franchisors over franchisees.

(3) Restrictions related to copyright protection:

- lack of adequate legal protection for trademarks, brand names and copyrights.

3.8 Health services (USA-239).

127. Restrictions in the field of health services may be grouped in the following categories:

(1) Restrictions related to subsidies:

- growing subsidization in the competitive bidding process in support of national or government-sponsored health care firms.

(2) Restrictions related to establishment:

- requirements for local ownership of more than 50 per cent of a health care facility.

(3) Restrictions related to repatriation of profits

(4) Restrictions related to customs regulations:

- discriminatory customs valuation and excessive duties relating to health care supplies and equipment, as well as medical information materials.

3.9 Education services (CAN-34).

128. The following restrictions have been identified in the field of education services:

- currency restrictions or exit requirements (generally minimal).

3.10 Other services not elsewhere specified

129. The following other restrictions have been identified:

3.10.1 Oilfield services (CAN-44).

- restrictions on coastal and fresh water shipping, towage, freight and passenger services;
- restrictions related to the dominant position occupied by multinational enterprises in foreign markets.

3.10.2 Cultural services, fisheries, personal services and other miscellaneous services

Restrictions listed with respect to "cultural services" (CAN-61) are similar to those found under "films, broadcasting". No restrictions were indicated with respect to "fisheries services" (CAN-65) and "personal services and other miscellaneous services".

IV. ISSUES RAISED IN CONNECTION WITH POSSIBLE MULTILATERAL ACTION ON SERVICES

1. COMMENTS ON THE NEED FOR ACTION

130. All national examinations recognize both the importance of services in themselves and their increasing contribution to other economic processes (CAN-5, DNK-1, DEU-1, EEC-2, FIN-26, ITA-23, JPN-1, NLD-1, NOR-1, SWE-1, 96, CHE-15, GBR-1, USA-5, 14). A number of them point to the growing rôle of services in developing countries (CHE-15, GBR-1, USA-5). Among the top twenty-five exporters of services are a number of developing and middle income countries (USA-15), and it is considered that the expansion of existing services as well as the development of new services are benefiting developed and developing countries alike (GBR-1), since the degree of interdependency of most of the economies in the world is increasing (DEU-1).

131. One examination questions why, up to now, no better use has been made of the comparative advantages which also exist in the services sector (NLD-iii). This examination underlines the importance attached to a collective pursuit of the current exercise on services. International division of labour on the basis of an optimal operation of comparative advantage should not be limited to the goods sector alone. Its potential can only be fully realized if every sector of the economy is involved. It is therefore essential that countries which at present are involved in international trade in services on only a limited scale also take part in the process of exchange of information on services. In this way they can extend their understanding and obtain an early recognition of their special position (NLD-iii).

132. Almost all examinations refer to the considerable problems of assessing the value of services, domestically and internationally. However, despite the statistical underestimation and double-counting, essential features of services are mentioned in several examinations to demonstrate that issues in trade in services should be given a more central position in the international trade policy process. Thus, some countries refer to the predominant share and rapid growth of services in their national income and employment as well as in the total value of trade in goods (JPN-1, SWE-1, USA-5). The point is also made that the rapid growth in demand for business services together with changing consumer tastes and rising incomes help to explain the strong growth of the domestic services economy and that, contrary to popular perception, evidence suggests that the productivity slowdowns that have been experienced in a number of industrial countries during the 1970's were not caused by the shifting of domestic employment from goods to service industries (USA-5).

133. Concerning the structural adjustment of national economies which accompanies changing patterns of international trade, one examination notes that a large increase in employment in the services sector and a decrease in employment in the manufacturing sector has taken place between 1973 and 1981 (EEC-3). Another study argues that successful structural adjustment of national economies is closely tied to the growth of services within individual economies and to their exchange internationally (USA-14). The relatively modest share of the service sectors in total exports, compared to their large share in value-added and employment, is highlighted in some studies (FIN-26, SWE-1); one examination points out that world trade in

services is carried out very largely in an environment in which governments are free to establish restrictions as and when they see fit (EEC-2). The question is asked whether efforts to stimulate services trade might not play a rôle in the relaunching of growth in the world economy in the years to come, similar to that which goods trade has played in fueling world economic growth during the post-war period (EEC-3).

134. In many cases governments have legitimate interests to protect services activities (SWE-97) and a number of the restrictions have a legitimate, i.e. non protectionist, basis (NLD-ii). In addition, the requirements of public order, e.g. protection of consumers, national security considerations, etc., as well as certain economic and commercial options are perceived very differently in various countries (CHE-16).

135. However, the growing rôle of services in national economies is said to offer a promising potential for trade and economic growth, a potential which will not be fully used if governments fail to pursue policies that would be conducive to liberalization of trade in services (SWE-96). Restrictions may hinder efficient allocation of resources and could have a negative effect on world prosperity (NLD-ii). Technological change will bring about increasingly rapid structural adjustments in the future. Trade in services, which is often intimately linked to high technology, will be highly affected by this development. There is a risk that governments will respond to such change by means of regulations affecting trade. In this respect, the growing number of regulations with trade restrictive effects would call for multilaterally agreed principles or rules defining the legitimate interests of governments to protect when doing so. It should also be taken into account that regulations restricting trade in services will also restrict trade in goods (SWE-96).

136. Another examination considers that both the providers and the users of services have their responsibilities and legitimate economic expectations. Governments, who themselves provide and buy services, commonly seek to achieve a balance between providers and users, and sometimes regulate services for wider policy reasons. But such regulation may also create undesirable obstacles to trade and competition, contrary to the interests of providers or users or both. As with trade in goods, there may be sound reasons for imposing restrictions but such controls should become the exception requiring special justification (GBR-1).

137. One examination notes that liberalization of services should not necessarily aim at eliminating government regulations of services designed to attain legitimate social objectives. Governments have sovereign rights and legitimate reasons for making rules which regulate the operation of their national service industries as well as competition within their borders. Such regulation of service activities, however, does not preclude gains from trade. The objective of trade policy in this area should be to seek out areas of possible adjustment in government measures which will preserve the attainment of national regulatory goals, while expanding the opportunities for trade. It is suggested as a first step that an identification be made of these government regulations which are designated to achieve legitimate domestic social objectives. The second step could be an examination of government regulations that serve dual objectives, i.e. both trade protection and domestic social objectives, in order to determine the extent to which

such regulations might be redesigned to clearly separate the two objectives and render the trade protective element transparent. The third step would then involve the negotiated reduction of protective restrictions on the basis of mutual advantage (USA-15).

138. All examinations stress the need for more knowledge on services. The increased importance of service activities in the world economy justifies efforts to attain a broader and deeper understanding of the issues involved (NLD-i). The difficulties involved in this process of understanding are no longer sufficient justification for ignoring them (EEC-3). If trade policy makers are to continue to influence the reality of international economic affairs, a knowledge of the workings of international trade in services will from now on be an essential element in their expertise. It is hoped that current far-reaching studies on services will contribute to a reassessment by all countries of the rôle which services should play in trade policy discussion in the future (EEC-3). Studies could be devoted to such issues as the difficulties faced in the various services sectors, the different means of marketing services or the ways of securing market access for newcomers in international trade in services (FIN-28).

139. One examination notes that it is precisely at this stage of research that it is important for various parties to share a comparable process of thought. This can lead to a collective answer to the question of how international co-operation in this field can most effectively be realised in the future, in which all those involved can take part on the basis of national argument and an adequate understanding of the issues (NLD-ii). Another examination points out that there exists a double requirement for more in-depth national studies as well as for more objective overviews of the services activities. Such an aim would be reached only on the condition that the majority of GATT contracting parties carry out similar studies. Completion of this information phase is essential if the services activities are to be taken into consideration at a later stage, under a more operational viewpoint with an aim to reaching a regulation on an international level (ITA-23).

140. One country states that its examination should serve as a vehicle for exchanging points of views and information on services issues; its purpose is not to propose hard and fast conclusions but rather to stimulate a broad international discussion of important trade issues in the world service economy (USA-5). Another country points out that the increasing importance of trade in services both internationally and from the point of view of national economies, on the one hand, and the continuing growth of protectionist trends, on the other, demand an approach involving multilateral liberalization of this international trade (BEL-7). This country has repeatedly declared itself in favour of such discussion in principle. Another examination considers that it would seem premature to try to draw conclusions which could only result in hasty generalizations or simplifications not in keeping with what is a complex reality (CHE-15). Examinations are a basis for discussions of issues and problems, from which there may emerge a consensus on what problems should be considered further and how their solution could be negotiated (GBR-2).

2. APPROACHES SUGGESTED

141. A number of examinations consider that GATT is an appropriate forum or the appropriate forum for multilateral action on services.

142. One examination notes that GATT has an important rôle to play in analysing the problems relating to trade in services. In so far as GATT and its contractual framework are concerned, the preliminary findings of earlier studies indicate difficulties in directly extending the General Agreement to services. Nonetheless, this does not mean that there is no need for detailed examination of how the principles of the General Agreement and the Agreements and Arrangements concluded in the Multilateral Trade Negotiations could be developed in order to safeguard the interests of all concerned at a multilateral level. Special attention is required to secure small countries' access to the international service market. A global approach is best suited to promote the interests of the emerging service sectors and the users of internationally traded services. Bilateral agreements seem to be of limited value compared with the benefits of international, multilateral arrangements in which the most-favoured nation principle plays an essential part (FIN-29).

143. When considering international solutions to problems of trade in services, this examination also notes that a review of the existing international agreements directly applicable or potentially relevant for services might be fruitful. Such a survey could be carried out in close cooperation with the international organizations administering these agreements (FIN-28).

144. Another country qualifies its attitude as positive with respect to GATT's consideration of the question as to what extent it is desirable to have a multilateral system of rules (NOR-1). Reference is made to this country's attitude towards liberalization in eight services sectors: banking, insurance, shipping, telecommunications, tourism, inland transport, engineering, consulting and computer services (NOR-22, 26, 36, 44, 49, 53, 57, 60).

145. One examination notes that as services become more important as integral elements of trade in goods, it will prove increasingly difficult to apply separate rules and policies to trade in goods and trade in services. The extent to which GATT principles might be applied to services should be subject to careful studies and multilateral discussions. Any differences which may exist between trade in services and trade in goods would have to be taken into account in these discussions. The rôle which investments play for trade in services should also be studied in this context as well as the ramifications on trade of government regulations in services. The first steps in this multilateral process would have to be of an analytical nature. GATT should primarily focus on those aspects which relate to the rules and instruments of the trading system. To this end a special GATT work programme for trade in services should be drafted in the near future (SWE-3, 97).

146. One country expresses the hope that the outcome of the consideration of national examinations will go beyond an understanding of obstacles by pointing the way to an internationally agreed framework within which liberalization of trade in services can take place, similar to that which it has been the GATT's purpose to achieve in trade in goods. This country is

ready to participate fully in subsequent negotiations in the GATT. In this country's view it may well be possible to obtain a lead from the principal provisions that now govern trade in goods. Such an overall framework, while retaining however a flexibility of application to fit the particular circumstances of individual sectors, offers the best chance of progress towards genuine liberalization of trade in services. This country looks forward to clear decisions on future action from the GATT CONTRACTING PARTIES (GBR-2, 19).

147. Considering that knowledge of the workings of the international service economy is still insufficient, one examination points out that considerable further multilateral work will be necessary to elucidate the current and potential rôle of services in the world economy, to examine and to compare the existing regulation of certain service sectors and its justification in different countries, and to draw conclusions as to appropriate policy reaction (EEC-3).

148. This examination, however, questions whether the current state of affairs, in particular the fact that international trade theory and policy is dominated by trade in goods, still represents an adequate response to the present reality of the world economy. With reference to the changing patterns of international trade and to their implications, it notes that such considerations form a powerful argument for an increased emphasis on services trade in multilateral trade policy fora such as the GATT (EEC-2).

149. One country raises two questions of a general nature which, if the GATT CONTRACTING PARTIES decided to continue work on services, it thinks would merit thorough and priority examination. Although certain forms of obstacles to trans-frontier services regularly tend to be given prominence in international discussion, they are in reality only the tangible expression of underlying economic and political motivations. That is why, in order really to understand the substance of the problems and the way in which they should be approached, it would be necessary first to elucidate the various objectives pursued by governments in the matter of services and the methods used to achieve them. Following such an inventory, it would perhaps be possible to determine whether and to what extent there exists an adequate common basis for orienting, clearly and appropriately, any multilateral efforts to work out international rules of behaviour in the matter of services. To be fruitful, such efforts would have to be based on a common conception of the forms and, if necessary, the limits of the competition to be safeguarded by the international community. In addition, it would be necessary to determine how such rules could avoid stifling the dynamism of a sector which is in a state both of rapid change and rapid expansion. For it is only on that condition that those rules could be expected to be applied and really observed by all countries, developing and industrialized alike (CHE-16).

150. One examination points out that trade in various services sectors generally faces similar kinds of restrictions. Frequently it is only the degree of restriction that differs from sector to sector. Therefore, the study concludes that in principle an integrated approach would be the most appropriate (NLD-ii). Similar remarks on the need for an integrated approach appear in two other studies (FIN-28, GBR-19).

151. One country notes that it would not be useful or appropriate to negotiate immigration problems in a trade forum such as GATT and that immigration rules should not be subordinated to trade rules. Efforts to deal with disputes over legitimacy of the rules governing the movement of labour should be dealt with under existing consular mechanisms (USA-78). Another country, while recognizing that immigration policies can be an impediment to trade in services, describes its policy in this area as permitting the entry of foreign workers for employment only where no qualified citizen or permanent resident is available (CAN-77).

152. Some countries, while attaching considerable importance to the discussion on services and indicating their positive participation in the examination of matters relating to trade in services, do not refer to any specific institutional approach (JPN-2, DEU-2, ITA-23, NLD-i). However, a few examinations cite the existing GATT agreements of non-tariff measures concluded among the CONTRACTING PARTIES in 1979, which contain some regulations on trade in services, primarily the Agreement on Government Procurement (CAN-68, 78, DNK-ii, 44, USA-101).

153. A number of examinations, which refer to the useful contributions that multilateral institutions could make, note that several important studies on trade in services have already been undertaken by the OECD and UNCTAD (DNK-i, CAN-5, FIN-ii, DEU-1, ITA-1, NLD-i, NOR-1, SWE-98, CHE-3, USA-87). One examination points out that UNCTAD has an important contribution to make to the consideration of the rôle of the service sector in the development process (SWE-98).

154. One examination suggests four possible approaches to regimes of trade disciplines in services, including a discussion of each prototype's advantages and disadvantages (USA-105). One approach would be to rely on multilateral institutions dealing with problems related to individual sectors. Such an approach, worked out among experts in each service sector, could be tailored more closely to the economic and regulatory requirements of an individual sector. However, this narrow technical focus could preclude the development of broader objectives which could lead to diverging and potentially trade restrictive practices being set up in different service sectors.

155. A second approach would be to rely on bilateral agreements for individual sectors. While perhaps the easiest to negotiate, these agreements may run a number of risks. If market shares are divided between trading partners or allocated to individual national firms, bilateral agreements may not provide the best or most cost effective service to the consumer, or allocate resources in the most efficient manner. Clearly, such a process comes closer to establishing a reciprocal level of benefits for each country, as the value of each benefit can be weighted more precisely. The question is whether the formula leading to the balance of benefits leads to a less competitive environment of unhealthy proportions.

156. A third approach would be to rely on bilateral agreements covering all or a large number of service sectors. These agreements would deviate from the m.f.n principle in favour of a preferential system based on reciprocal opportunities. Bilateral regimes would be limited, as a practical matter, to those countries with the same relative strengths in services, although proper

tailoring of the specific trade rights could provide equivalency. Any meaningful agreement of this kind would probably require a set of understandings on the part of both countries that would allow access to certain service sectors in a way that could provide special export opportunities. A bilateral agreement could stipulate, to a considerable extent, the rights and obligations that should be established in a similar multilateral agreement.

157. A fourth approach would be to rely on multilateral agreements covering all sectors. Within a multilateral understanding covering all sectors, services trade would operate under a common framework by which countries could resolve individual problems pertaining to different sectors. It would not preclude the notion of individual sectoral agreements that would be more tailored to the unique problems faced by those sectors, but it would serve as the umbrella of principles under which the sector-specific rules could be developed. Structurally, the GATT is strongly positioned to manage such a framework since it includes a large number of countries and contains principles that are contractually binding on its signatories.

158. The examination describes four principles and some procedures, as possible ingredients for such a multilateral agreement.

159. First, the principle of national treatment, according to which foreign services and their suppliers should be treated on the same basis as local firms supplying these services. This principle, if granted to foreign entities, would necessitate that they accept the same level of obligations under national law as local firms. Many national laws and regulations already apply national treatment as the binding principle for the treatment of foreign entities. While national treatment is perhaps the most frequently applied benchmark in the treatment of foreign service firm, considerable thought should be given toward dealing with its inevitable exceptions in order to make it meaningful.

160. Second, the application of the principle of least restrictive regulations would be a way to ensure that regulations are adopted in the least restrictive manner possible. All countries perceive special circumstances where a regulation of an overtly restrictive nature is called for, but a provision of this kind would encourage regulators to see that the actions are soundly based and thoroughly justified to all countries.

161. Third, the principle of non-discrimination means that countries may choose to extend to each other the opportunity to obtain or negotiate the same benefits granted to other participants involved in services trade. This provision could include special consideration for the developing countries depending on the nature of the service and the restrictions involved. Because of the non-tariff nature of service trade barriers, a modified form of most-favoured-nation treatment may be necessary in order to make it applicable to trade in services. The most-favoured-nation principle, suitably tailored to the unique characteristics of services trade, would permit the extension of any negotiated benefits to all countries that choose to adhere to a common set of principles.

162. Fourth, the principle of the right to sell means that countries should allow foreign firms the right to sell their services on a fair and competitive basis with local entities providing those services. Some

principles designed to ensure fair competition between government-owned firms and public monopolies, and private firms are necessary. These entities might agree to compete on an arm's length basis. Service monopolies might provide services to all potential purchasers on an equivalent basis. Further, ...es might agree to purchase services in a manner consistent with the ...les laid down in the GATT Agreement on Government Procurement.

...ncerning the rules of procedure, the examination first suggests that ...egulations which hamper or distort trade in services should be transparent, that governments should make known their regulations affecting trade in services and notify those with potential trade implications to the GATT. Further, governments might give assurances that measures which are not notified are not meant to serve primarily protectionist purposes, but are designed solely to safeguard national, social and political sovereignty. Governments might also wish to consider whether restrictions which are notified should be subject to negotiations.

164. Governments should also allow a reasonable period of time for others to comment on proposed laws or regulations that may have an effect on international trade in services.

165. With regard to dispute settlement, a contractual framework would include procedures similar to those contained in GATT Articles XXII and XXIII, that allow for countries to attempt to resolve dispute over certain practices found inconsistent with the provisions of the framework. Appropriate compensation action would be allowed once a determination is made that a practice does not comply with the understanding.

166. Finally, with respect to the relationship of the multilateral agreement to other agreements, the examination notes that individual sectoral agreements would not necessarily be supplanted by the multilateral agreement. This framework of principles would be designed to serve as the basic reference point from which various rules in other fora are established. It would also exist as a forum for resolving specific problems, particularly where other agreements are silent on the issue or fail to include provision for dispute settlement. In other instances it may act as an alternative forum to consider an issue under principles that generally are more trade liberalizing.

167. Reference is also made in this examination to particular approaches in specific services sectors, e.g. banking (USA-223), insurance (USA-87, 231), maritime transport (USA-86, 213), air transport (USA-84, 311), telecommunications (USA-82, 195), films (USA-259), consulting and other business services (USA-205, 241, 248), tourism (USA-274, 298) and distribution services (USA-288).

168. Concerning specific provisions of the General Agreement and of MTN Codes, the examination considers how many of the concepts and principles underlying the GATT might form the basis of a general framework for reducing barriers to trade in services (USA-93). The following GATT principles and articles are reviewed in some detail: most-favoured nation treatment, national treatment, special provisions relating to cinematographic films, freedom of transit, anti-dumping and subsidies, customs valuation, publication and administration of trade regulations, restrictions to

safeguard the balance of payments, state trading enterprises, governmental assistance to economic development, security exceptions, consultation and dispute settlement, territorial application, frontier traffic, customs unions and free-trade areas, and the relationship of the General Agreement to the Havana Charter. The national examination points out that, while it is clear that a mechanical extension of the GATT to services makes very little practical sense, it is also true that many of the principles embodied in the GATT could be relevant to services.

169. While recognizing that as presently formulated the MTN Codes do not relate to services traded independently of goods, the examination discusses in detail three Codes which relate potentially to services or now apply in very limited ways to services that are traded in conjunction with goods (USA-101). The Agreement on Government Procurement covers services incidental to the supply of goods purchased by entities covered by the Code, as long as the value of incidental services does not exceed that of the procured goods. Negotiations that begun in November 1983 to broaden and improve the Code are exploring the possibility of its extension to services, making it the first code to consider covering services. With respect to the Agreement on Technical Barriers to Trade (Standards Code), the national examination suggests that consideration be given to the extension of procedures for preparing, adopting and applying standards to trade in services, particularly in the telecommunications sector in which specific design, testing and performance standards sometimes make it impossible for foreign firms to compete with or even interconnect with local systems. The Agreement on Customs Valuation, which relates primarily to the treatment of goods, prescribes whether the value of certain services associated with the goods are to be considered part of dutiable value. The examination notes that, in general, the application of tariffs and related valuations on services could raise significant disagreements even when the services are associated with goods (USA-103).

V. WORK UNDERTAKEN IN OTHER RELEVANT INTERNATIONAL ORGANIZATIONS

170. On 20 December 1984 the Director-General of GATT sent a letter requesting information concerning services to fourteen international organizations:

- United Nations Conference on Trade and Development (UNCTAD),
- International Trade Centre UNCTAD/GATT (ITC UNCTAD/GATT),
- United Nations Centre on Transnational Corporations (UNCTC),
- International Civil Aviation Organization (ICAO),
- World Intellectual Property Organization (WIPO),
- International Monetary Fund (IMF),
- World Bank,
- United Nations Economic Commission for Europe (ECE),
- United Nations Economic Commission for Latin America and the Carribean (ECLAC),
- United Nations Economic Commission for Africa (ECA),
- Organization for Economic Co-operation and Development (OECD),
- Secretariat of the Latin American Economic System (SELA),
- United Nations Economic and Social Commission for Asia and the Pacific (ESCAP),
- International Telecommunication Union (ITU).

171. The letter read as follows:

> "At their fortieth Session the GATT CONTRACTING PARTIES adopted Agreed Conclusions on Services pursuant to which the Chairman of the CONTRACTING PARTIES will organize the exchange of information provided for in the 1982 Ministerial decision on Services. The GATT secretariat will provide the support necessary for this process, inter alia, by preparing an analytical summary of national examinations of issues in the services sector circulated through GATT, together with information made available by relevant international organizations. The texts of the Agreed Conclusions and of the 1982 Ministerial decision are attached.
>
> In order that the exchange of information among GATT contracting parties may take into account any work on services undertaken by your organization and any information submitted by member governments in that context, I would like to request your assistance in making available to me, for communication to interested contracting parties, any documentation which you may deem relevant for this purpose. I thank you in advance for your kind cooperation."

172. A similar letter was sent by the Director-General to the World Tourism Organization (WTO) on 23 May and to the International Labour Organization (ITO) on 11 July 1985. On 10 and 11 July 1985, the Director-General also requested the relevant international organizations to make available any new documentation issued since his first letter. Excerpts from the answers which have been received from these international organizations (so far all except the International Labour Organization (ILO), the United Nations Economic Commission for Asia and the Pacific (ESCAP) and the World Tourism Organization (WTO) have replied) are presented hereafter. The documents which are referred to in the letters are available for consultation in the GATT secretariat (Room 1062).

1. UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD)

173. "Pursuant to the Conference resolution 159(VI), UNCTAD is studying in depth the rôle of services in the development process. At the twenty-ninth session of the Trade and Development Board, held in September 1984, the secretariat presented the following studies:

(1) Services and the Development Process (TD/B/1008).

(2) Replies from International Organizations concerning their Activities Pertinent to the Consideration of the Rôle of Services in the Development Process (TD/B/1009).

(3) Technology in the Context of Services and the Development Process (TD/B/1012).

(4) Shipping in the Context of Services and the Development Process (TD/B/1013).

(5) Insurance in the Context of Services and the Development Process (TD/B/1014).

(6) International Trade and Foreign Direct Investment in Data Services: Transborder Data Flows in the Context of Services and the Development Process (TD/B/1016).

These documents, with their related corrigendum and addenda, are being sent to you in the official languages of GATT. Studies in this area are continuing and we shall be very pleased to provide you with copies of additional relevant documentation as it is prepared.

As you are aware, apart from this recently initiated exercise, UNCTAD has traditionally been active in certain service sectors, such as shipping, insurance and banking. Negotiations in the shipping sector have produced three multilateral instruments, the United Nations Conventions on a Code of Conduct for Liner Conferences, on the Carriage of Goods by Sea, and on International Multimodal Transport of Goods. In insurance, UNCTAD's work is essentially guided by Conference recommendation A.IV.23 and Conference resolution 42 (III). In addition, the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices covers transactions both in goods and services. Extensive documentation has been prepared by the UNCTAD secretariat on these subjects.

The document on "Services and the Development Process" would appear to be most directly relevant to the work you have described in your letter. In this study, the UNCTAD secretariat stressed the importance of developing countries achieving a better understanding of the contribution of services to their overall development process. Certain developing countries have requested technical assistance from UNCTAD in the conduct of such national studies, and we are currently giving attention to these requests.

It would be extremely useful for UNCTAD, in carrying out its work on services, if we could be kept up-to-date on the exchange of information with respect to the national studies submitted to GATT, and your own Secretariat's work in connection with such studies. We would also appreciate the opportunity for UNCTAD to submit, at the appropriate time, comments envisaged in the Agreed Conclusions, and to present and explain the UNCTAD documentation in this area when it is discussed."

On 18 July 1985, the following additional document was made available by UNCTAD: Services and the development process: Implementation of Conference resolution 159(VI) and Board decision 309 (XXX); Report by the UNCTAD secretariat (TD/B/1066).

2. INTERNATIONAL TRADE CENTRE UNCTAD/GATT (ITC UNCTAD/GATT)

174. "ITC has, for the past year, been actively concerned with the identification of the potential for development of foreign trade in technical consultancy services from developing countries, through projects number INT/32/06/07 and 10 financed by trust fund contributions to ITC from the Government of India. The first phase of these projects culminated in the preparation of a pilot study covering the global supply and demand of consultancy services and constraints in developing countries, a copy of which is attached. (Study of the Development of Foreign Trade in Technological Consulting Services from Developing Services, ITC/DPMD/84/6). The report on the second phase, which involved detailed supply studies in a selection of developing countries in Asia, the Middle East, Latin America and Africa will be finalized by the end of this month, and I shall be happy to send you a copy as soon as it is printed.

ITC's involvement will continue during 1985 with the preparation of a handbook for developing countries on the export of technical consultancy services and with the provisions of technical assistance and support at both the country and enterprise levels, designed to promote selected services from individual developing countries."

On 12 August 1985, ITC made available the second and third phases of the above-mentioned Study, circulated in document ITC/DPMD/85/15 under the same title.

3. UNITED NATIONS CENTRE ON TRANSNATIONAL CORPORATIONS (UNCTC)

175. "As you can see from the attached note, UNCTC has done a range of activities pertaining to services. Naturally, any of the studies mentioned in it can be made available to you. In addition to the items mentioned there, UNCTC has prepared a background paper for UNCTAD on trade in data services: International Trade and Foreign Direct Investment in Data Services: Transborder Data Flows in the Context of Services and the Development Process (TD/B/1016). This paper was prepared for UNCTAD's Trade and Development Board meeting in September 1984.

UNCTC is in the process of undertaking a major study on trade and foreign direct investment in data services. The study is expected to be ready during the summer of 1985. Should you so desire, we could consider making that study available to you as well."

176. Hereunder are excerpts from the attached note to which the letter refers:

"The Centre has completed a number of technical papers and studies for the Commission relating to services. Some of the technical papers that the Centre has published are:

(1) Transnational Corporations in Advertising (United Nations publication, Sales No.E.79.II.A.2)

(2) Transnational Reinsurance Operations (United Nations publication, Sales No.E.80.II.A.10)

(3) Transnational Banks: Operations, Strategies and their Effects on Developing Countries (United Nations publication, Sales No. E.81.II.A.7)

(4) Transnational Corporations and Transborder Data Flows (United Nations publication, Sales No.E.82.II.A.4)

(5) Transborder Data Flows: Access to the International On-line Data-base Market (United Nations publication, Sales No.E.83.II.A.1)

(6) Transborder Data Flows and Brazil (United Nations publication, sales No.E.83.II.A.3).

Reports prepared specifically for the Commission include papers on banking and transborder data flows and also the following:

(1) Transnational Corporations in International Tourism (E/C.10/68)

(2) Transnational Corporations in the Shipping Industry (E/C.10/1982/14)

Apart from these past activities, a number of the Centre's ongoing and future work projects deal directly with services. They are:

A. Banking

The Centre has already produced two reports to the Commission and one technical paper on transnational banking. A second technical paper is in an advanced stage of preparation. Whereas the initial technical paper examined the overall nature and extent of transnational banks, the second study focuses on the local operation of transnational banks in host developing countries. In addition, the Centre is currently focussing attention on the trade-finance-investment link in the context of the changing nature of the international banking industry.

B. Transborder Data Flows (trade in data services)

Since 1981, the Commission on Transnational Corporations and the Centre have paid considerable attention to transborder data flows (TDF) and the subject is a separate sub-item on the Commission's agenda.

Besides the studies identified in the previous section, a country case study on the rôle of transborder data flows in Poland has been completed and will be followed by studies covering the Federal Republic of Germany, Mexico and the United States. The Centre has also prepared a study on the use of remote-sensing data by transnational corporations and a study for the Seventh conference of Latin American Authorities in Informatics to assist that

organization in its consideration of actions related to TDF. It has also recently completed, for SELA, a sectoral study on "Services and Development in Latin America: International Transactions in Data Services" and it is assisting in the implementation of the Technology Information Pilot Study, i.e. the establishment of a telecommunication network among developing countries for the exchange of technology data.

At the present time, the Centre's principal project in this area deals with the rôle of TNCs in trade services. As in the past, the Centre expects to implement its work in close cooperation with other organizations active in this area.

C. Industry studies

For some years, the Centre has been undertaking a series of industry studies designed to contribute to a better understanding of the participation and strategies of TNCs in specific industries (including service industries). Current studies relevant to the rôle of the service sector in development are:

(1) TNCs in the international construction and engineering industry.

(2) The rôle of TNCs in the international computer-service industries.

(3) TNCs in the international telecommunications industry.

Concerning activities relating to the regulatory environment for the service sector, it is recalled that one of the primary objectives of both the Commission and the Centre is to finalize a Code of Conduct on transnational corporations. This Code would be universal in nature, covering the activities of transnational corporations in all sectors. However, some parts of the Code are particularly relevant to some questions regarding the service sector that are under discussion in other international fora. Similarly, the work of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting covers all transnational corporations, including those in the service sector.

In addition, the Centre has provided advisory and training assistance on a large number of issues related to TNC investment and technology supply in the service sector, within the context of its technical cooperation programme.

Advisory assistance

Responding to requests, the UNCTC has advised developing country governments in a wide range of service industries including: advertising airlines, banking, communications and telecommunications, computers, hotels, insurance, power generation and shipping.

Training assistance

As with advisory projects, UNCTC's training workshops often deal with the provision of various types of services by transnational corporations. As a result of work done in preparation for workshops in the area of transnational banking, the Centre published in 1983 a report on Issues in Negotiating International Loan Agreements with Transnational Banks."

4. INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO)

177. "As you know the entire range of activities of this Organization is aimed at the safe and orderly development of all aspects of air transport services. This involves a great number of publications of different types and it would therefore be helpful to know in some detail the type of information in which your organization is particularly interested.

For general information, I am pleased to forward herewith the following documents which you might find of interest:

(1) Annual Report of the Council, 1983 (Doc. 9421).

(2) A Review of the Economic Situation of Air Transport 1972-1982, (Circular 177-AT/67) (a triennial review, the next version of which will be published in 1986 to cover the period 1975-1985).

(3) Memorandum on ICAO, 1984.

If you require information of a more specific nature, please let us know and we will do our best to provide it."

Subsequently, ICAO made available the following documents:

(1) Annual Report of the Council, 1984 (Doc. 9451).

(2) International Air Passenger and Freight Transport - Africa, 1984 (Circular 189-AT/73).

(3) Policy and Guidance Material on International Air Transport Regulation and Tariffs, First Edition - 1984 (Doc. 9440).

(4) Manual on the Establishment of International Air Carrier Tariffs, 1983 (Doc. 9364).

(5) Regional Differences in Fares, Rates and Costs for International Air Transport, 1982 (Circular 188-AT/72).

5. WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

178. "The services rendered by individuals or enterprises are frequently advertised and furnished by using trademarks, called, in this context "service marks". One of the main activities of WIPO consists in the promotion and securing of international cooperation in the protection of marks, originating in one country, in other countries.

If the notion of "services" includes broadcasting and/or publishing, and where what is broadcast or published are literary or artistic works (including music and motion pictures) or phonograms, all the activities of WIPO concerning copyright and the so-called neighboring rights (that is, rights neighboring on copyright, including the rights of performing artists, manufacturers of phonograms and broadcasting organizations) become relevant for the purpose of your study.

Protection against unfair competition is a further aspect of intellectual property covered by the Paris Convention for the Protection of Industrial Property, a treaty administered by WIPO.

There are also other fields in the activities of WIPO which, perhaps less directly but nevertheless, concern the protection of the rights of persons and enterprises who or which deal in services. Our patent information activities are among them.

The relevant documentation of WIPO in this field is enormously voluminous and encompasses more than a century. It comprises, in any case, the texts of the intellectual property treaties administered by WIPO, the reports on past and ongoing WIPO activities and the plans - in the form of proposals in our program and budget documents - for future WIPO activities.

I am enclosing three copies of a brochure entitled "WIPO, General Information, 1984" which also contains the list of the treaties administered by WIPO. Naturally, we are ready, in consultation with your staff, to select other documents - for example, excerpts from our (draft) programs and our reports on our activities - if you would deem them appropriate for the communication to interested contracting parties of GATT.

With reference to the last sentence of the second paragraph of your letter of 12 February 1985, I should like to observe that whereas WIPO's activities do concern "the harmonization of national legislations on the establishment of internationally agreed principles on the protection of intellectual property," we have no "specific information concerning volume and direction of financial flows related to licence fees and royalties." We do have, however, information on the provisions of patent, trademark and other laws governing the approval of contracts for such payments."

6. INTERNATIONAL MONETARY FUND (IMF)

179. "As you know, comprehensive balance-of-payments data are compiled by the Fund for publication in the Balance-of-Payments Statistics. If the GATT's work involves compiling a data base on the services sector, I will be happy to ask our Bureau of Statistics staff to assist your secretariat in this task. In this respect, you might also find it useful to refer to our Article IV consultation reports, which I understand you regularly receive for joint Fund-GATT member countries. I believe our Annual Report on Exchange Arrangements and Exchange Restrictions would also prove relevant for your work, and copies will be made available to you from the Fund office in Geneva.

Finally, I would like to draw your attention to my decision in December 1984 to appoint a Working Party, chaired by Mr. Pierre Esteva of France, to investigate the statistical discrepancy in world current account balances. This issue has been referred to by our Executive Directors in the context of the World Economic Outlook discussions, and Board members have suggested that investment income flows and the financial services of offshore centers should receive priority attention. The Working Party held its first meeting in mid-January, and is scheduled to present an interim report to the Executive Board before the end of 1986. I will arrange for copies of the Working Party's reports to be made available to you."

7. WORLD BANK

180. "As you know, the Bank sometimes includes in its individual country economic reports, analysis of the services sector, including where appropriate, elements of trade in services. These country economic reports are already made available to GATT routinely as they are issued. Otherwise, the Bank has not carried out any studies of the services sector, per se, nor of trade in services."

8. UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE (ECE)

181. "In reply to your request of 20 December 1984 (reference TS/147) for information on any work undertaken by the Economic Commission for Europe, and any information submitted by member Governments in that context, I am pleased to enclose copies of three ECE documents: International Trade in Services (TRADE/R.461), East-West Reinsurance (TRADE/R.441), and A Preliminary Survey of Intra-Regional Trade in Services (TRADE/R.423).

These documents provide a general survey of ECE work on services and of relevant work under way in some other international and regional organizations. Copies of previous ECE documents referred to therein can be made available on request."

By letter dated 26 July 1985, the ECE made available the Economic Survey of Europe in 1984-1985, chapter 4.6 of which contains new information on services issued by the ECE since December 1984.

9. UNITED NATIONS ECONOMIC COMMISSION FOR LATIN AMERICAN AND THE CARRIBEAN (ECLAC)

182. "I would like to express that in the current situation, the services sector is very important issue and I appreciate very much the efforts the GATT secretariat is making in order to give the necessary support for the examination of different issues related to the services sector.

I am enclosing to this letter three documents available only in Spanish which reflect some of the main efforts made by ECLAC secretariat in the examination of the services sector. These documents are:

(1) El Comercio Internacional de Servicios: El Caso de América Latina y el Caribe (E/CEPAL/SEM.15/R.3).

(2) Las Iniciativas para Liberalizar las Corrientes Internacionales de Servicios e Inversion y los Intereses de América Latina (E/CEPAL/SEM.15/R.4).

(3) Proyecto de Conclusiones sobre el Seminario de Comercio Internacional de Servicios (E/CEPAL/SEM.15/R.6)."

10. UNITED NATIONS ECONOMIC COMMISSION FOR AFRICA (ECA)

183. "As you are no doubt aware, the African group within the Group of 77 has always stressed the increasing importance of international trade in services and had therefore supported the call for studies in this field to be undertaken by the UNCTAD secretariat.

I enclose the following documents relevant to the issue of services which might be of interest to you (a) Review and Assessment of the Sixth Session of the United Nations Conference on Trade and Development (E/ECA/OAU/TRADE/11); and (b) Special Memorandum by the ECA Conference of Ministers on Africa's Economic and Social Crisis (E/ECA/CM.10/37/Rev.2). We believe that services have serious implications on programmes on trade facilitation as well as on structural adjustment, rehabilitation of economies, external debts, and outflow of financial resources from Africa. It is for this reason that we welcome any new initiative in this area."

11. ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD)

184. "The OECD has been engaged in extensive work both of a sectoral and general character in the area of services over recent years. There are a number of OECD sectoral studies which have recently been published, or are about to be, and I am enclosing a copy of these for you. These includes studies on banking, insurance, tourism, professional services and maritime transport: International Trade in Services: Banking (21 84 03 1) (ISBN 92-64-12586-8), International Trade in Services: Insurance (21 84 01 1) (ISBN 92-64-12552-3), Report of the Tourism Committee on Obstacles to International Tourism in the OECD Area (18781), Competition Policy and the Professions, Report by the Committee of Experts on Restrictive Business Practices (no reference number), Maritime Transport 1983, (76 84 01 1) (ISBN 92-64-12609-0). Additional work on these sectors as well as other sectoral studies are currently underway and I will draw these to your attention when they have been completed." The OECD has since made available a document of the Working Party of the Trade Committee entitled: Statistics on Trade in Services: Availability and Work in Progress (TC/WP/(84)54 (1st Revision)).

12. SECRETARIAT OF THE LATIN AMERICAN ECONOMIC SYSTEM (SELA)

185. "In compliance with your kind request, I am sending you herewith the document "Services and the Development of Latin America" (SP/RCLA/SERV/DT No.2/Rev.1), prepared by this Secretariat for the High-Level Latin American Co-ordination Meeting on Services, that took place in Caracas from 22 to 24 August 1984, as well as the Final Report (SP/RCLA/SERV/DF No.1) of such meeting.

You will also find enclosed the texts of Decisions No. 192 "Services and the Development of Latin America" and No. 221 "Modalities of Co-operation in the field of Information and Electronics" adopted by the Tenth Meeting of the Latin American Council, held in Caracas from 24 to 26 of October 1984."

LIST OF COUNTRY ABBREVIATIONS

BEL	BELGIUM
CAN	CANADA
DNK	DENMARK
EEC	EUROPEAN COMMUNITY
FIN	FINLAND
DEU	FEDERAL REPUBLIC OF GERMANY
ITA	ITALY
JPN	JAPAN
NLD	NETHERLANDS
NOR	NORWAY
SWE	SWEDEN
CHE	SWITZERLAND
GBR	UNITED KINGDOM
USA	UNITED STATES