

RESTRICTED

MTN.GNS/W/112
13 November 1990

Special Distribution

Original: English

COMMUNICATION FROM UNITED STATES OF AMERICA

Conditional Offer of the United States of America
Concerning Initial Commitments

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

The United States is prepared to make initial commitments under the General Agreement on Trade in Services as indicated in the attached list. This offer is conditional. The United States reserves its right to modify, extend or reduce this offer at any time prior to closure of the services negotiations, depending on the degree to which other parties provide equivalent and mutually acceptable offers and depending on the final text of the services agreement and its annexes. The United States further reserves the right to make technical changes to its offer.

Certain existing requirements, such as those related to prudential or professional competency considerations, have not been listed as limitations, conditions, or qualifications to market access or national treatment.

Only selected, major traded service sectors were included in this offer, due primarily to time constraints. However, the United States remains willing to consider binding other service sectors which are requested by other countries.

Note on the United States Obligations Regarding
Movement of Personnel

The following explanatory notes clarify the application of the United States offer for movement of personnel under the "Multilateral Framework for Trade in Services" ("Framework") and explain the rights and duties of service providers concerning temporary entry of essential personnel when admitted into the United States under these provisions.

1. The following citizens of signatory countries to the Framework who are employees of firms that provide services within a service importing country through a branch, subsidiary, or affiliate established in that country, and who have been in the prior employ of their firm outside the service importing country for a period of not less than one year immediately preceding the date of their application for admission, are defined as essential personnel:

- (a) Managers - persons within an organization who primarily direct the organization, or a department or sub-division of the organization, supervise and control the work of other supervisory, professional or managerial employers, have the authority to hire and fire or recommend hiring, firing, or other personnel actions (such as promotion or leave authorization), and exercise discretionary authority over day to day operations. This term does not include first line supervisors, unless the employees supervised are professional, nor does it include employees who primarily perform tasks necessary for the production of the service.
- (b) Executives - persons within an organization who primarily direct the management of the organization, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. Executives would not directly perform tasks related to the actual provision of the service, or services of the organization.
- (c) Specialists - persons within an organization who possess knowledge at an advanced level of expertise and who possess proprietary knowledge of the organization's service, research equipment, techniques, or management. (Specialists may include, but are not limited to, members of accredited professions.)

2. Temporary entry means entry without intent to establish permanent residence under immigration laws and confers no rights with respect to citizenship. For essential personnel temporary entry is limited to a three-year period that may be extended for a term to exceed five years.

3. Services providers and personnel entering under the terms and conditions of the Framework shall observe all laws related to: immigration, labour, and conditions of work with respect to such persons. The legal entity employing such persons shall co-operate, upon request, with authorities charged with enforcement of these measures.

4. Commitments regarding movement of personnel do not apply in cases of labour/management dispute.

5. Parties may invoke the provisions of Article XXIII of the Framework on dispute settlement with respect to matters affecting the movement of personnel if the following conditions prevail:

- (a) procedures for granting temporary entry for essential personnel have unduly impaired or delayed the conduct of trade in services;
- (b) the matter involves a pattern of practice;
- (c) available administrative remedies have been exhausted with respect to the particular matter involving the request for temporary entry, provided that such remedies shall be deemed to be exhausted if a final decision in the matter has not been issued within one year of the initiation of the administrative proceedings and the failure to issue a decision is not attributable to delay caused by the services provider.

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	
		CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT	
Accounting and tax preparation services	Cross-Border	No limitations or conditions	No conditions or qualifications
Tax preparation and book-keeping	Commercial Presence	No limitations or conditions	No conditions or qualifications
Movement of Consumers	Movement of Personnel	No limitations or conditions	No conditions or qualifications
Public Accountancy	Cross-Border	Bound for managers, executives and specialists as defined in attached note.	Not applicable
		Accountants licensed by a foreign country and lawfully practising therein, may practise temporarily on professional business incident to his/her regular practice in another country, subject to obtaining temporary permits or licences where applicable, and only in the following states: California, Colorado, Connecticut, Guam, Indiana, Iowa, Maine, Massachusetts, Missouri, New Hampshire, New York, Oklahoma, Puerto Rico, Utah, Vermont, Washington, Wisconsin.	No conditions or qualifications
		Cross border Practice of public accountancy is permitted subject to obtaining a state licence as a Certified Public Accountant in the following states only: Alaska, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Maryland, Massachusetts, Montana, Nevada, New Jersey, New York, Oregon, Pennsylvania, S. Dakota, Utah, Virginia, Washington, Wisconsin.	Candidates for the CPA examination may be required to have completed courses of study at colleges or universities recognized by the state boards and/or have several years of public accounting experience. Some states have provisions for evaluation of foreign credentials to determine education or experience equivalency.

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
Commercial Presence		<p>Market access through commercial presence for foreign accountants is provided in the following states/territories, subject to an investor's obtaining certification as a Certified Public Accountant:</p> <p>Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.</p> <p>(See also conditions relating to education and experience, listed in cross border.)</p>	No conditions or qualifications
Movement of Consumers		No limitations or conditions	No conditions or qualifications
Movement of Personnel		Bound for managers, executives and specialists as defined in attached note	Not applicable
Advertising ¹	Commercial Presence	No limitations or conditions	No conditions or qualifications
	Cross-Border	No limitations or conditions	No conditions or qualifications
	Movement of Consumers	No limitations or conditions	No conditions or qualifications
	Movement of Personnel	Bound for managers, executives and specialists as defined in the attached note.	Not applicable

¹ Includes trade and airing of television commercials, both live and animated.

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
Broadcasting	Commercial Presence	47 U.S.C. 310 provides that radio and television broadcasting licences may not be held 1) by a non-U.S. citizen or 2) by a foreign government; or 3) by a corporation chartered under the law of a foreign country or which has a non-U.S. citizen as an officer or director of more than 20 per cent of the capital stock which is owned or voted by non-U.S. citizens; or 4) by a corporation chartered under the laws of the United States that is directly or indirectly controlled by a corporation more than 25 per cent of whose capital stock is owned by a non-U.S. citizen or a foreign government or if more than 25 per cent of which corporation's officers or directors are non-U.S. citizens.	No conditions or qualifications.
Cross-Border		No limitations or conditions	No conditions or qualifications
Movement of Consumers		Not applicable	Not applicable
Movement of Personnel		Restrictions on the nationality of management may apply	Not applicable

SECTOR OR SUB-SECTOR MODE DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
Computer Services	Cross-Border	No limitations or conditions.
	Movement of Consumers	No limitations or conditions.
	Commercial Presence	No limitations or conditions.
Construction services	Movement of Personnel	Bound for managers, executives, specialists as defined in attached note.
	Cross-Border	No limitations or conditions.
	Movement of Consumers	No limitations or conditions.
Commercial Presence	Commercial Presence	No limitations or conditions.
	Movement of Personnel	Bound for managers, executives, specialists as defined in attached note.
		Not applicable.
1. Computer services are those services, whether or not conveyed over the public telecommunications transport network, that involve generating, acquiring, sorting, transforming, processing, retrieving, utilizing or making available information in a computerized form, including, but not limited to:		
Computer programming Prepackaged software Computer integrated systems design Computer processing and data preparation Information retrieval services Computer facilities management Computer leasing and rental Computer maintenance and repair Other computer-related services, including those integral to the provision of other services for which market access or national treatment commitments have been made in the national schedule.		

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
Engineering Services	Cross-Border	<p>No limitations or conditions for engineers working under the responsible charge of a professional engineer registered in the state where the service is provided.</p> <p>Engineers responsible for the engineering activities and entitled to sign engineering drawings, plans, and specifications may provide cross-border services, subject to state registration in the state where the service is provided and only in the following states: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Guam, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Puerto Rico, Rhode Island, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming.</p> <p>Candidates for the qualifying examination may be required to have completed courses of study at recognized colleges or universities. Except in the District of Columbia, Illinois, Nevada, New Hampshire, and Texas, there are provisions for evaluation of foreign credentials to determine education equivalency.</p> <p>At least one of the corporate officers must be registered in the state where the firm is established. (See education requirements, under cross-border.)</p> <p>Commercial presence</p>	<p>No limitations or qualifications</p> <p>No conditions or qualifications</p> <p>No conditions or qualifications</p>

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
	Movement of Consumers	No limitations or conditions	No conditions or qualifications
Equipment Leasing	Movement of Personnel	Bound for managers, executives, specialists as defined in attached note.	Not applicable
	Commercial Presence	Leasing firms which are subsidiaries of foreign banks must obtain approval from the Federal Reserve Board to establish operations in the United States.	No conditions or qualifications
	Cross-Border	No limitations or conditions, except that foreign leasing companies are not permitted to lease foreign-built ships for use in U.S. transportation.	No conditions or qualifications
	Movement of Consumers	No limitations or conditions	No conditions or qualifications
	Movement of Personnel	Bound for managers, executives and specialists as defined in the attached note.	Unbound
	Cross-Border	No limitations or conditions	No conditions or qualifications
	Movement of Consumers	No limitations or conditions	No conditions or qualifications
	Commercial Presence	No limitations or conditions	No conditions or qualifications
	Movement of Personnel	Bound for managers, executives, specialists as defined in attached note.	Not applicable
Hospitals and other health care facilities	Commercial Presence	Most states permit foreign-owned hospitals and other health care facilities to establish subject to needs tests.	No conditions or qualifications
	Cross-Border	Not applicable.	Not applicable.
	Movement of Consumers	No limitations or conditions	Government reimbursement of medical expenses limited to licensed, certified facilities in the United States.
	Movement of Personnel	Bound for managers, executives and specialists as defined in attached note.	Not applicable

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
Legal services Practice of U.S. law	Commercial Presence	A candidate sitting for the bar examination may be required to have attended a law school approved by the American Bar Association or the American Association of Law Schools. Law students planning to practise in a state may be required to register prior to beginning law school, during law school, or before sitting for the bar examination. Foreign attorneys may not become members of a state bar and practise law without sitting for the bar examination.	No conditions or qualifications
	Cross-Border	An applicant to state bar may be required to establish residency in a state for a period of time or state the intent to do so in the following states: Hawaii, Iowa, Kentucky, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Jersey, Oklahoma, Puerto Rico, Rhode Island, South Dakota, Virgin Islands, Virginia, Wyoming.	No conditions or qualifications
		On a one-time or specific case basis and subject to specific conditions, foreign attorneys may appear in state courts in Illinois, Massachusetts, Minnesota and Missouri.	No conditions or qualifications
	Movement of Consumers	No limitations or conditions	Not applicable
	Movement of Personnel	Bound for managers, executives and specialists as defined in the attached note.	Not applicable

SECTOR OR SUB-SECTOR	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
Legal Services: Foreign legal consultants	Commercial Presence	Foreigners may practise as foreign legal consultants in the following states: Alaska, California, District of Columbia, Hawaii, Michigan, New Jersey, New York, Ohio, Texas	No conditions or qualifications
		Foreign legal consultants are permitted to advise on foreign and international law. Other practice may be permitted subject to specific states limitations.	
		Approval as a foreign legal consultant may be conditioned on licensure and experience in practising the law of the applicants home country;	
Cross-Border		See entries under commercial presence.	No conditions or qualifications
Movement of Consumers		No limitations or conditions	No conditions or qualifications
Movement of Personnel		Bound for managers, executives and specialists as defined in the attached note.	Not applicable
Management consulting	Cross-Border	No limitations or conditions	No conditions or qualifications
	Commercial Presence	No limitations or conditions	No conditions or qualifications
	Movement of Consumers	No limitations or conditions	No conditions or qualifications
	Movement of Personnel	Bound for managers, executives, specialists as defined in attached note.	Not applicable

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS		CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
		No limitations or conditions	No conditions or qualifications	
Mining Services and Oilfield Services ¹	Commercial Presence	No limitations or conditions	No conditions or qualifications	
	Cross Border	No limitations or conditions	No conditions or qualifications	
	Movement of Consumers	Not applicable	Not applicable	
	Movement of Personnel	Bound for managers, executives and specialists as defined in attached note.	Not applicable	

¹ Does not include extraction of minerals, oil, gas or liquid hydrocarbons.

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS		CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
		Commercial Presence	No limitations or conditions	
Motion Pictures/ other forms of Video Programming ¹	Cross-Border	No limitations or conditions	No conditions or qualifications	No conditions or qualifications
	Movement of Consumers	No limitations or conditions	No conditions or qualifications	No conditions or qualifications
	Movement of Personnel	Bound for managers, executives and specialists as defined in attached note.	Not applicable	Not applicable

¹This sector includes the production, distribution and ancillary services (such as dubbing and print duplications) associated with audio-visual works (e.g., filmed entertainment, news programming, sports and cinema exhibition of filmed entertainment).

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS		CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
Publishing	Commercial Presence	No limitations or conditions		No conditions or qualifications
	Cross-Border	No limitations or conditions		No conditions or qualifications
	Movement of Consumers	No limitations or conditions		No conditions or qualifications
	Movement of Personnel	Bound for managers, executives and specialists as defined in attached note.		Not applicable
Sound Recording	Commercial Presence	No limitations or conditions		No conditions or qualifications
	Cross-Border	No limitations or conditions		No conditions or qualifications
	Movement of Consumers	No limitations or conditions		No conditions or qualifications
	Movement of Personnel	Bound for managers, executives and specialists as defined in attached note.		

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
Telecommunications Network-Based Enhanced Services	Cross-Border Movement of Consumers	No limitations or conditions Not applicable	No conditions or qualifications Not applicable
	Commercial Presence	No limitations or conditions	No conditions or qualifications
	Movement of Personnel	Bound for managers, executives, specialists as defined in attached note.	Not applicable

1. No commitment made hereunder with respect to market access or national treatment for the provision of enhanced services shall be construed to attend to the provision of basic telecommunications services.

2. As defined by the United States Federal Communications Commission. Section 64.702 of the Commission's Rules and Regulations defines "enhanced services" as:

services, offered over common carrier (i.e., public telecommunications transport) services, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information, or involve subscriber interaction with stored information.

The foregoing definition includes, but is not limited to the following:

electronic mail, voice mail, on-line information and data base retrieval, EDI (electronic data interchange), store and forward facsimile services, code and/or protocol conversion, on-line information and/or data processing, including transaction processing, alarm services.

These examples are provided solely for the purposes of illustration and do not limit the services (whether known today or developed in the future) that fall within the definition.

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
Tourism	Cross-Border Commercial Presence	No limitations or conditions Official tourism representations with diplomatic or official status are not permitted to operate on a commercial basis in the U.S. or to act as agents or principles in commercial transactions. They may be required to register as foreign agents with the United States Department of Justice.	No conditions or qualifications No conditions or qualifications
	Movement of Consumers	No limitations or conditions	No conditions or qualifications
	Movement of Personnel	Bound for managers, executives, specialists as defined in attached note.	Not applicable
Transportation: Trucking	Cross-Border Commercial Presence	Unbound Subject to Inter-state Commerce Commission licence and to state licences in the states: Alaska, Arizona, Delaware, Florida, Maine, New Jersey, Vermont, and Wisconsin. In states other than those listed above, state operating authority for intra-state trucking may be subject to public convenience, necessity tests, and/or regulation of rates.	Unbound No conditions or qualifications
	Movement of Consumers	No limitations or conditions.	No conditions or qualifications
	Movement of Personnel	Bound for managers, executives and specialists as defined in attached note.	Not applicable
Transportation: Busing	Cross-Border Commercial Presence	Unbound Subject to Inter-state Commerce Commission licences	Unbound No conditions or qualifications
	Movement of Consumers	No limitations or conditions	No conditions or qualifications

SECTOR OR SUB-SECTOR MODE	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS ON MARKET ACCESS	CONDITIONS, QUALIFICATIONS ON NATIONAL TREATMENT
	Movement of Personnel	Bound for managers, executives and specialists as defined in attached note.	Not applicable
Transportation: Rail Service	Cross-Border Commercial Presence	No limitations or conditions No limitations or conditions, except foreign railroads must incorporate in Vermont or in an adjacent state in order to own directly or indirectly the stock of a railroad company incorporated in Vermont.	No conditions or qualifications No conditions or qualifications
	Movement of Consumers	No limitations or conditions	No conditions or qualifications
	Movement of Personnel	Bound for managers, executives and specialists as defined in attached note.	Not applicable

INSURANCE AS DEFINED BY ARTICLE XXXIV (1) (A) OF THE FINANCIAL SERVICES ANNEX¹Federal Measures

SECTOR	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS UNDER ARTICLE XVI OF THE ANNEX	CONDITIONS, QUALIFICATIONS UNDER ARTICLE XVII OF THE ANNEX
Insurance including all sub-sectors	Commercial Presence	No limitations or conditions	Firms wishing to be the bonding company for United States government contracts must be incorporated in the United States, i.e. a subsidiary of an alien company may qualify but not a branch.
	Cross-Border	No limitations or conditions	No conditions or qualifications
	Movement/Consumers	No limitations or conditions	No conditions or qualifications
	Movement/Personnel	Bound for managers, executives and specialists as specified in the attached note.	Not applicable.

¹This offer is conditioned on negotiating partners providing equivalent and mutually acceptable offers in financial services, and is subject to technical changes. The schedule is based upon the draft General Agreement on Trade in Services of 10/9/90, as modified by the draft Financial Services Annex of 10/21/90. To the extent that obligations in the final framework agreement and especially the final annex on financial services are changed from these drafts, modifications may be needed in this schedule. This offer assumes that tax measures are not covered by a financial services agreement. The United States is still exploring the feasibility of covering sub-national governments in a financial services agreement. The presence of state measures affecting insurance in this offer does not prejudice the United States position regarding coverage of sub-national governments in a financial services agreement.

<u>State Measures</u>	<u>SECTOR</u>	<u>MODE OF DELIVERY</u>	<u>LIMITATIONS AND CONDITIONS UNDER ARTICLE XVI OF THE ANNEX</u>	<u>CONDITIONS, QUALIFICATIONS UNDER ARTICLE XVII OF THE ANNEX</u>
Direct Insurance	Commercial Presence	The following states may prohibit the licensing of a state-owned or state-controlled insurance company: Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Kansas, Maryland, Michigan, Montana, Nevada, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, West Virginia, Washington, Wyoming.	The following states are "port of entry" states: Alabama, Alaska, Colorado, Florida, Illinois, Michigan, Maryland, New Mexico, New York, Nevada, Montana.	No conditions or qualifications
	Cross-Border	Permitted for blue water ocean marine only for unauthorized insurers.	Other states may require that alien (non-U.S.) insurers first be licensed in a port of entry state before they may establish a branch or subsidiary in that state.	No conditions or qualifications
	Movement/Consumers	None, for the consumer, but an unlicensed provider may solicit, bill or deliver a policy in a state in which it is unlicensed.	Not applicable, see "Federal Measures"	No conditions or qualifications
Reinsurance	Commercial Presence	Not applicable, see "Federal Measures"	See "direct insurance"	No conditions or qualifications
	Cross-Border	No limitations or conditions	No limitations or conditions	No conditions or qualifications
	Movement/Consumer	No limitations or conditions	No applicable, see "Federal Measures"	No conditions or qualifications
	Movement/Personnel	No limitations or conditions	No applicable, see "Federal Measures"	No applicable
1 Limitations on market access resulting from monopoly rights may or may not be scheduled pending clarification of provisions pertaining to monopoly rights in the services framework and financial services annex.				

State Measures

SECTOR	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS UNDER ARTICLE XVI OF THE ANNEX	
		CONDITIONS, QUALIFICATIONS UNDER ARTICLE XVII OF THE ANNEX	
Insurance: Surplus Lines	Cross-Border	No limitations or conditions	No conditions or qualifications
	Movement/Consumers	No limitations or conditions	No conditions or qualifications
Insurance: Agents and Brokers	Movement/Personnel	Not applicable, see "Federal Measures"	Not applicable
	Commercial Presence	No limitations or conditions	No conditions or qualifications
Insurance: Auxiliary Services (excludes all under- writing and intermediary functions)	Cross-Border	No limitations or conditions	No conditions or qualifications
	Movement/Consumers	No limitations or conditions	No conditions or qualifications
Movement/Personnel		Not applicable, see "Federal Measures"	Not applicable
Insurance: Commercial Presence		Some auxiliary services, e.g. consultants, adjusters, appraisers, are subject to licensure in some states and residency may be a condition of licensure.	No conditions or qualifications
Commercial Presence		No limitations or conditions	No conditions or qualifications
		Not applicable, see "Federal Measures"	Not applicable

¹ Surplus lines are those areas where admitted licensed insurers are unable or unwilling to meet insurance demand; they are "surplus" because no admitted insurer will offer coverage. As such, the commercial presence mode of delivery is not meaningful. Similarly, surplus lines provider are not licensed as direct insurers either because they choose not to apply for such licenses, or because they cannot meet the licensing requirement. In general terms, surplus lines insurers cover high risk or unpredictable lines of insurance.

Insurance: Reciprocity Measures¹

Reciprocity provisions exist in many states which may subject both out-of-state and non-U.S. insurers to any additional taxes, licenses, fees, mandatory deposits, penalties or other material obligations, prohibitions or restrictions that their home jurisdictions impose on the insurer from the jurisdiction imposing such provisions.

¹The United States understands that acceptance of an unconditional MPN obligation would, ceteris paribus, make it impermissible to invoke these or other reciprocity measures and seeks affirmation of this understanding from its partners.

Insurance: Reciprocity Measures¹

SECTOR	MODE OF DELIVERY	LIMITATIONS AND CONDITIONS UNDER ARTICLE XVI OF THE ANNEX	CONDITIONS, QUALIFICATIONS UNDER ARTICLE XVII OF THE ANNEX
Direct Insurance:	Commercial Presence	Deposit requirements are established from out-of-state and non-U.S. insurers licensed in many states that are higher than those established for domestic companies. Deposits and movable assets must be maintained within the licensing state or, at a minimum, in the territory of the United States and be in U.S. dollar instruments. For alien branches, an additional trusteed surplus fund is required by many states.	The underwriting capacity limits of non-U.S. insurers may be determined by the policy holders surplus of the U.S. branch alone. Non-U.S. insurers must maintain records of in-state activity within the state, or, at a minimum, within the U.S. port-of-entry state.
		Applicants may be required to demonstrate that they have operated successfully in another jurisdiction for a specified period of time prior to their admission to transact business in the state.	U.S. branches of non-U.S. insurers may be subject to periodic licence renewal requirements.
		Citizenship and/or residency requirements for incorporators, officers, and/or boards of directors are imposed in many states.	
Reinsurance	Cross-Border	A ceding company that wishes to receive credit for reinsurance from an unlicensed or unaccredited reinsurer must obtain financial security in the form of a letter of credit, cash or trust. Credit for reinsurance placed with an unlicensed or unaccredited reinsurer is limited to the amount of financial security held by the ceding company in the form of a letter of credit, cash or trust.	
Surplus Lines	Cross-Border	Surplus lines insurers may be required to meet minimum financial standards and, in some states, to make a deposit in order to conduct business.	In some states, a licensed surplus lines broker may be required as a sponsor or to maintain a trust as a condition for the surplus lines insurer to be permitted to do business in the state.

¹This is an illustrative list of measures that the United States considers covered by Article VII of the draft financial services annex, pertaining to prudential regulation. We welcome similar efforts at illustration by other partners. This list is no way prejudices the right of the U.S. to invoke the prudential provision for other measures.

Banking and other financial services as defined in Article XXXIV(1)(B) of the Financial Services Annex

Sector	Limitations and Conditions on Market Access Under Art. XVI of the Financial Services Annex	Conditions and Qualifications on National Treatment Under Art. XVI of the Financial Services Annex
FINANCIAL SERVICES SECTOR¹		
Cross-Border Trade	None.	
Commercial Presence ² ESTABLISHMENT AND EXPANSION	None.	

1 This offer is conditioned on negotiating partners providing equivalent and mutually acceptable offers in financial services, and is subject to technical changes. The schedule is based upon the draft General Agreement on Trade in Services of 10/9/90, as modified by the draft Financial Services Annex of 10/21/90. To the extent that obligations in the final framework agreement and especially the final annex on financial services are changed from these drafts, modifications may be needed in this schedule. This offer assumes that tax measures that tax measures are not covered by a financial services agreement. The United States is still exploring the feasibility of covering sub-national governments in a financial services agreement. Modifications will be necessary in this offer should such entities be covered by a financial services agreement.

2 There are no limitations on the establishment of an initial U.S. banking presence through a national bank subsidiary (i.e., a federal charter) in any state of the U.S. Federal law defers to state law on questions of establishment of initial foreign bank branches or agencies in the U.S., and on expansion of commercial presence. Federal law does not govern licensing of representative offices of banks, which is a matter of state law. Where allowed by state law, foreign representative offices must be registered with the U.S. Secretary of the Treasury.

<p>Sector</p> <p>Limitations and Conditions on Market Access Under Art. XVI of the Financial Services Annex</p>	<p>Conditions and Qualifications on National Treatment Under Art. XVII of the Financial Services Annex</p>
	<p>Directors of a national bank must be citizens of the U.S. If a national bank is an affiliate or subsidiary of a foreign bank, only a majority of the board need be U.S. citizens.</p> <p>Edge Corporations (specialized international banking companies chartered under federal law) can be owned by domestically owned banks and domestic non-bank companies willing to restrict their business activities to banking. Foreign ownership of Edge Corporations is limited to foreign banks only; neither domestic banks owned by foreign persons (other than foreign banks) nor foreign non-bank companies may establish or acquire Edge Corporations.</p>

<p>Commercial Presence ESTABLISHMENT AND EXPANSION (cont'd)</p>	<p>NEW FINANCIAL SERVICES Federal law prohibits the offering of futures, options, or options on futures on onions.</p>
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<p>Sector</p> <p>Limitations and Conditions on Market Access Under Art. XVI of the Financial Services Annex</p>	<p>Conditions and Qualifications on National Treatment Under Art. XVII of the Financial Services Annex</p>
<p>RECIPROCITY MEASURE¹</p> <p>Financial Services Provided to Public Entities²</p>	<p>Federal law requires the Federal Reserve to deny foreign institutions permission to act as primary dealers in U.S. Treasury debt obligations if it finds U.S. firms are denied the same competitive opportunities in Government debt operations as are afforded to domestic firms in the foreign service provider's home country.</p>

¹ The United States understands that acceptance of an unconditional MFN obligation would, ceteris paribus, make it impermissible to invoke these or other reciprocity measures and seeks affirmation of this understanding from its partners.

² The United States questions whether this obligation in Part III of the financial services annex covers primary dealer activities as conducted in the U.S.

Prudential Measures in Banking and Other Financial Services as Defined in Article XXXIV(1)(B) of the Financial Services Annex¹.

Banks

Two thirds of a national bank subsidiary's board must be residents of the state where the bank is located, or reside within 100 miles of the bank.

Capital equivalency requirements for federal branches and agencies of foreign banks are comparable to those required of like-sized national bank subsidiaries.

The U.S. Department of the Treasury may refuse registration of bank representative offices if the registering entity is found not to be a depository institution.

Securities firms

All financial service providers other than federally regulated banking entities wishing to provide broker-dealer investment banking services, either through a U.S. commercial presence or cross-border, must register as broker-dealers under Federal law and meet other requirements.

Investment advisory services

All financial service providers other than federally regulated banking entities wishing to provide investment advisory services, either through a U.S. commercial presence or cross-border, must register as investment advisers under Federal law.

New financial services

Federal law requires that certain commodity instruments (e.g., futures) be offered on or subject to the rules of an exchange. Under these non-discriminatory prudential measures, U.S. financial regulators would not approve certain new financial services.

Payment system

Federal law prohibits non-resident banks' access to Fed-Wire, the Federal Reserve's payment clearing system. The Federal Reserve applies different, but broadly comparable, capital requirements on foreign branch or agency overdraft privileges on the Fed-Wire system compared to companies established in the U.S.

¹This is an illustrative list of licensing and other significant measures that the United States considers covered by Article VII of the draft financial services annex, pertaining to prudential regulation. We consider these provisions to be generic examples of measures maintained by a large number of countries, and welcome similar efforts at illustration by other partners. This list in no way prejudices the right of the U.S. to invoke the prudential provision for other measures.