

## **NEGOTIATING SERVICES FREE TRADE AGREEMENTS (FTAs) WITH THE EUROPEAN UNION: SOME ISSUES FOR DEVELOPING COUNTRIES TO CONSIDER**

### **SYNOPSIS**

This Analytical Note explores the options available to developing countries in negotiating agreements establishing Free Trade Areas (FTAs) involving a trade in services component with the European Union (EU). It examines the issues that are challenging for development in the EU proposals which include amongst other things the EU negotiating template, Mode 4 limitations, the domestic regulatory framework and the MFN clause. Secondly it identifies the options available to developing countries. These include cooperation arrangements with the EU, respect for regional initiatives, recognition of special treatment for LDCs and retaining the GATS architecture and flexibilities.

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**NEGOTIATING SERVICES FREE TRADE AGREEMENTS (FTAs) WITH THE EUROPEAN  
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**I. INTRODUCTION**

1. The share of services in worldwide economic activity has expanded markedly in recent years. Over the past two decades, international trade in services has grown faster than world merchandise trade. In 2005, world trade in services is estimated to have reached \$7.8 trillion. The service sector remains a backbone of the EU economy, with a share of over 77 per cent of its GDP.<sup>1</sup> Bosworth and Triplett calculate that the services sector was a major contributor to US economic growth in the period between 1995 and 2005, accounting for three-quarters of the gains in total factor productivity.<sup>2</sup> In many developing countries, services today constitute over 50 per cent of economic activity, significantly more than traditional sectors such as agriculture or manufacturing.<sup>3</sup>

2. In Africa, figures available show that in the Central African region, the sector experiences an annual growth rate of 6.5 per cent. The share in total regional exports amounts to 8 per cent with imports averaging at 45 per cent.<sup>4</sup> In Nigeria, services represent about 33.3 per cent of GDP with key sectors being finance, insurance and energy.<sup>5</sup> The statistics are similar in the Eastern and Southern African (ESA) region where services contribute about 50 per cent to GDP.<sup>6</sup> The ACP region share of world services exports in 2007 stood at approximately 2 per cent while imports were at 2.5 percent.<sup>7</sup> Services as a share of GDP in 1980 in the ACP region were 34 per cent. By 2006, it had risen to 49 per cent.<sup>8</sup>

3. The services sector is without doubt important to the economy of developing countries. Transportation, telecommunications and financial services are inputs into production of all sectors of the economy e.g. agriculture and manufacturing. Essential services such as health care, education, water and energy supply are public goods. The welfare of people directly depends on them. There is recognition of the importance of the public sector in the provision of services in order to meet universal

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<sup>1</sup> WTO *Trade Policy Review* (2007)

<sup>2</sup> B. Bosworth and J. Triplett, 'The Early 21<sup>st</sup> Century US Productivity Expansion is Still in Services', *International Productivity Monitor*, (2007) at 3-19

<sup>3</sup> The GATS and Developing Countries *SIDA Trade Brief* (February 2004) at 1

<sup>4</sup> 'The EU-CARIFORUM EPA on Services, Investments and E-Commerce - Implications for Other ACP Countries' *South Centre Analytical Note* (May 2008) at 2

<sup>5</sup> *Ibid*

<sup>6</sup> *Ibid*

<sup>7</sup> UNCTAD, TNCDB Paper for 2008 Trade Development Board

<sup>8</sup> *Ibid*

access goals in terms of accessibility and affordability (targeting of subsidies). Concerns have been voiced that liberalization may negatively affect universal access goals. An example is the case of water in Bolivia.

4. In 2002, an action was lodged before the International Centre for the Settlement of Investment Disputes against the Bolivian government by a private water service supplier concerning the liberalization of water services.<sup>9</sup> In Cochabamba, Bolivia, the city's water system was liberalized to the subsidiary of a foreign service provider, leading to price increases of more than 25 per cent. This resulted in mass demonstrations and strike action that led the government to reverse the decision to liberalize the sector and restore public ownership. The reversal of the decision to liberalize water services was consistent, under the circumstance, with the government's obligation to ensure access to an adequate supply of safe drinking water as a component of the right to health. Importantly, not only is access to drinking water a human rights in itself; the enjoyment of this right is fundamentally linked to the guarantee of other rights such as the right to health, the right to food and the right to adequate housing. States must guarantee the availability, accessibility and quality of essential services, including their supply, especially to the poor, vulnerable and marginalized.

5. It is therefore not surprising that the Uruguay Round commitments reflect a cautious approach towards the liberalization of trade in services. Less than a quarter of Members have made commitments on primary education, no Member made any commitments on water and relatively few on health.<sup>10</sup> This cautious approach is also reflected in offers made in the current Doha Round.

6. At the moment, certain countries are also aggressively pushing for services liberalization through other negotiating fora. For example, the European Union, having secured WTO compatible trade in goods chapters in the Interim Economic Partnership Agreements with certain African negotiating configurations and countries, has shifted its focus towards negotiations on services and other trade-related issues such as competition, investment and government procurement. Meanwhile in Latin America, the EU is negotiating Association Agreements with member states of the Andean Community, as well as in Central America. These so-called "new generation" FTAs are comprehensive in nature in that they extend market opening ambition to the international commerce in services, investment and government procurement.<sup>11</sup>

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<sup>9</sup> *Aguas del Tunari S.A. v Republic of Bolivia* (Case No. ARB/02/3). For more information see <http://www.worldbank.org/icsid/cases>

<sup>10</sup> M. Mashayekhi, *GATS and Implications for Developing Countries*, Seminar on Legal Aspects of Trade Policy, Regional and Multilateral Trade Negotiations. (Brussels 2008.)

<sup>11</sup> Of all the ACP regions to date only the Caribbean region has already concluded a comprehensive EPA with a substantial chapter on services included in the EC-CARIFORUM Agreement of 16 December 2007.

7. GATS Article V allows countries to enter into Economic Integration Agreements (i.e. RTAs and FTAs) liberalizing trade in services. The questions that arise then are the following: would developing countries fare better under these comprehensive FTAs? This Analytical Note raises some contentious issues to be considered by developing countries negotiators involved in trade talks with the EU.

8. This Analytical Note is structured as follows: Section II examines the issues that are challenging for development in the EU proposals which include amongst other things the EU negotiating template by way of the CARIFORUM EPA text. The choice of the CARIFORUM EPA lies in the fact that apart from being the only EPA thus far signed which includes the 'new issues' of investment, competition, government procurement and intellectual property, it also serves as a proxy for the FTA model promoted by the EU in different regions of the world. This section in addition analyses the temporary presence of services providers, the regulatory framework, the MFN clause and sector-specific disciplines. Section III identifies the options available to developing countries in the services negotiations with the EU. These are cooperation arrangements with the EU, respect for regional initiatives, recognition of special treatment for LDCs and retaining the GATS architecture and flexibilities.

## II. ISSUES THAT ARE CHALLENGING FOR DEVELOPMENT IN THE EU PROPOSALS

### A. EU Negotiating Template

9. Title II of the CARIFORUM-EC EPA is on Investment, Trade in Services and E-Commerce. This template extends the coverage of the EPA to include the pre- and post-establishment phases of commercial presence by foreign investors and investments in relation to both goods and services.<sup>12</sup> In this template, trade in services is equivalent to GATS Modes 1 and 2, and partly Mode 4. In the CARIFORUM EPA, the term cross-border supply of services is defined as the supply of a service (i) from the territory of a Party into the territory of the other Party (GATS Mode 1) and (ii) in the territory of a Party to the service consumer of the other Party (GATS Mode 2).

10. "Investment" is equivalent to GATS Modes 3 plus investment in non-services sectors (agriculture, manufacturing, mining). This is a departure from the GATS format, wherein trade in services is through four distinct modes of supply: from the territory of one Member into the territory of any other Member (Mode 1); in the territory of one Member to the service consumer of any other Member (Mode 2); by a service supplier of one Member, through commercial presence in the territory of any other Member (Mode 3); by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member (Mode 4).

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<sup>12</sup> Jane Kelsey, *Comparison of the Legal Text on Investment and Services in Cariforum-EC/Pacific- EC EPAs*, available at [http://www.lawstaff.auckland.ac.nz/%7Eekel001/Jane/Pacific\\_Trade.html](http://www.lawstaff.auckland.ac.nz/%7Eekel001/Jane/Pacific_Trade.html).

11. Developing countries have gathered experience and expertise in how to work with the GATS definitions and its legal structure. Therefore it is easier for developing countries' negotiators to understand the consequences of a services trade chapter and horizontal as well as sectoral commitments that are formulated in definitions and a legal structure following the GATS system. It is partly for this reason that in scheduling services commitments, the CARIFORUM signatory states have according to the GATS structure one schedule for Modes 1-4. The list of commitments in services sectors is based on the UN Central Product Classification (CPC) list and the services sectoral classification list (MTN. GNS/W/120) used in GATS negotiations (see Annex I). The list also includes some services activities not covered by these classification schemes. However commitments on the non-services sector are in a separate schedule.

12. It is necessary for developing countries' negotiators to preserve the GATS architecture. The interests of developing countries are better protected within the GATS framework which has built-in flexibilities. The liberalization content of the GATS is detailed in country specific market –opening schedules. The lists are drawn up on a positive basis meaning only sectors that parties have expressly identified are subject to market opening undertakings and to the extent that no limitations have been inscribed. Countries are therefore free to maintain or impose trade-restrictive measures in non-scheduled sectors. This is opposed to the negative listing in which trade is unrestricted across all covered service activities, unless scheduled limitations indicate otherwise.

13. The CARIFORUM EPA draws partially from the GATS model. It however also departs from the GATS model in several important areas. For example GATS is a positive list allowing WTO members to choose sub-sectors, obligation and modes where they will take commitments. In the CARIFORUM EPA, while services commitments are scheduled on a positive list basis, commercial presence reservations are scheduled on a negative list basis for the non-services sectors. For example Annex IV E of the CARIFORUM EPA - which is the List of Commitments on Investment (Commercial Presence) in Economic Activities other than Services Sectors- includes the following sectors:

- A. Agriculture, hunting and forestry
- B. Fishing
- C. Mining and quarrying
- D. Manufacturing
- E. Production, transmission and distribution on own account of electricity, gas, steam and hot water.

14. This Schedule sets out the reservations taken by the signatory CARIFORUM States with respect to measures that do not conform with obligations set out in Title II of the EPA (market access and national treatment obligations on investment and services). Only sectors in which there are reservations or limitations are listed but the

Schedule covers all sub-sectors of the sectors listed above. Sub-sectors of A, B, C and D that are not listed are open in all signatory CARIFORUM States without limitations in market access or national treatment. CARIFORUM States that are not listed in sub-sectors included in this list are open without limitations on market access or national treatment in these sub-sectors.

15. Such commitment schedules do not provide for identical sectoral coverage. This template offers the least transparent treatment of investment in non-services sectors and may even open the door to inconsistencies between services and investment disciplines.

16. Another pro-liberalization feature of the EC template is that they apply to future service activities, because those activities would not be subject to limitations at the time FTAs are concluded. New service activities may emerge from technological progress or new ways of organizing business and an automatic commitment to free trade may pre-empt protectionist pressures.<sup>13</sup> This is not the case with the GATS model.

17. FTAs with a negative listing allow for the scheduling of two categories of limitations: existing non-conforming measures and future measures. Existing non-conforming measures include all current laws and regulations that a country seeks to maintain, but which would be inconsistent with one or more of the obligations enshrined by the agreement. By definition, limitations scheduled in this category reflect status quo policies.<sup>14</sup> Annex IV E of the CARIFORUM EPA reflects such intent to have CARIFORUM States bind status quo policies by stipulating that the schedule of commitments sets out reservations taken by the CARIFORUM States with respect to measures that do not conform with their market access and national treatment obligations. There is however a weak attempt to mitigate this effect by the CARIFORUM Party as they reserve the right to set out in its schedule, within two years of the date of entry into force of the EPA any non-conforming measures existing at the time of the signature of the EPA not listed in the schedule.<sup>15</sup> The fact nevertheless remains that CARIFORUM States in their schedules bind at the actual level of openness.

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<sup>13</sup> For example article 106 of the CARIFORUM EPA on new financial services provides that the EC Party and the Signatory CARIFORUM States shall permit a financial service supplier of the other Party to provide any new financial service of a type similar to those services that the EC Party and the Signatory CARIFORUM States permit their own financial service suppliers to provide under their domestic law in like circumstances. Article 103 (d) defines a 'new financial service' as a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of the EC Party or of the Signatory CARIFORUM States but which is supplied in the territory of the other Party. The effect of the EC template is that the FTA liberalises even future service activities as the example on new financial services demonstrates.

<sup>14</sup> See C. Fink and M. Molinuevo, 'East Asian Free Trade Agreements in Services: Key Architectural Elements' 11 (2) *Journal of International Economic Law* 2008 at page 273

<sup>15</sup> Annex IV E (5)

18. GATS-style positive list agreements typically do not require signatories to make bindings at the level of actual openness. In fact, existing GATS commitments are often characterized as being less liberal than status quo policies—not least because substantial unilateral liberalization has taken place in many countries since the conclusion of the Uruguay Round of Trade Negotiations in 1994. A gap between bound and actual policies—a so-called binding overhang—gives governments the space at any point to restrict foreign participation in their domestic service market, as long as they stay within their trade commitments.

19. The legal nature of a schedule as well as the need to evaluate commitments, require the greatest possible degree of clarity in the description of each sector or sub-sector scheduled. In the CARIFORUM EPA, the EU agreed to commitments in over 90 per cent of its services sectors. Yet the EU’s schedule in the format described above makes it difficult to assess what is being offered. The separate chapters on commercial presence and cross-border supply require cross-checking articles to see what applies to each set of commitments

20. EC reservations in force in the CARIFORUM EPA equally restrict access to the European services markets for Caribbean firms. See table below for examples of EC reservations.

Sector or sub-sector	Description of reservations
All sectors	<p><b>Investment</b></p> <p><b>BG:</b> Foreign investors cannot participate in privatisation</p> <p><b>FR:</b> Foreign participation in newly privatised companies may be limited to a variable amount, determined by the government of France on a case by case basis, of the equity offered to the public.</p> <p><b>IT:</b> Exclusive rights may be granted or maintained to newly-privatized companies. For a period of five years, the acquisition of large equity stakes of companies operating in the fields of defence, transport services, telecommunications and energy may be subject to the approval of the competent authorities</p>
B.Wholesale Trade Services	<b>FR, IT:</b> State monopoly on tobacco
C.Retailing services	<b>BE, BG, DK, FR, IT, MT, PT:</b> Authorisation for department stores is subject to an economic needs test. Main criteria: number of and impact on existing stores, population density, geographic spread, impact on traffic conditions and creation of new employment.



21. From the above table we see that one of Bulgaria's horizontal reservations in its schedule prevents foreign investors from participating in privatization. In France, foreign participation in newly privatized companies may be limited to a variable amount, determined by the government of France on a case by case basis, of the equity offered to the public. In Italy, exclusive rights may be granted or maintained to newly-privatised companies. For a period of five years, the acquisition of large equity stakes of companies operating in the fields of defence, transport services, telecommunications and energy may be subject to the approval of the competent authorities. As concerns wholesale trade and retailing services, there is a state monopoly on the distribution of tobacco in France, Italy, and Estonia. The authorization for department stores in Belgium, France, Bulgaria, Denmark, Italy, Malta and Portugal is subject to an economic needs test.<sup>16</sup> The main criteria are the number of and impact on existing stores, population density, geographic spread, impact on traffic conditions and the creation of new employment.<sup>17</sup> With such restrictions it is hard to conceive of an actual and effective 90 per cent access to the European services market.

B. Mode 4 (temporary presence of services workers)

22. GATS Article V allows states to enter into FTAs liberalizing trade in services. Footnote 1 to GATS V further provides that FTAs should not provide for the *a priori* exclusion of any mode of supply. However in the CARIFORUM EPA, the EU has narrowed the scope of temporary presence of services personnel to cover only the managerial elite, professionals, technical experts and a limited category of contract service suppliers. Commitments for low and semi-skilled categories of service providers are left unbound, both in the cross sectoral and the sector-specific schedules of commitments. The category of contractual services suppliers excludes contracts made through personnel agencies or for the person to deliver a service directly to the public.

23. For every sector that has been liberalized under Chapter 2 (commercial presence), Mode 4 market access is granted in terms of the entry and stay for intra-corporate transferees (up to three years), for graduate trainees (90 days in 12 months periods), for contractual services suppliers (obtained service contracts for a period not exceeding 12 months), for independent professionals (stay shall be for not more than 6 months in any 12 month period or duration of contract - whichever is less). Limitations on total number of persons employed by an investor cannot be maintained unless specified in the commitments. What this means is that mode 4 is effectively linked to commercial presence. The Europeans see foreign investment and the movement of key corporate and professional personnel as inseparable. This

<sup>16</sup> Generally, an economic needs test can be understood as a test which tries to establish whether there is an 'economic need' for a particular supply of a service. Typically, economic needs tests are applied as conditions of a license or prior approvals. A service supplier is allowed to supply the service if the competent authority or regulatory body decided that there is an economic need for such a supply.

<sup>17</sup> See CARIFORUM EPA Annex IV A, EC Party List of Commitments on Commercial Presence

reflects the requirements of transnational firms for their managers to work internationally.<sup>18</sup>

24. Mode 4 is of major interest to developing countries. Studies conclude that if advanced countries were to grant an annual quota for both skilled and unskilled temporary workers equivalent to just three per cent of their labour force, the resulting gains would be about \$150 billion annually.<sup>19</sup> Temporary movement of service providers can help soak up unemployment, provide income to struggling communities in the form of remittances and alleviate the balance of payments deficit. Many developing countries therefore prefer to export their lower skilled and unemployed, rather than their professionals. However, the CARIFORUM EPA on Mode 4 will not come anywhere near to delivering on these expectations. Developing countries' negotiators will have to address the issue of low and semi-skilled coverage if FTA services negotiations are to cater to their mode 4 interests.

#### 1. Regulatory framework concerning Mode 4

25. CARIFORUM EPA as explained above provides rights of temporary entry to a limited category of natural persons. But these categories of natural persons must possess the qualification and professional experience specified in the territory where the service is supplied and for the sector of the activity concerned. The parties shall after a process of an exchange of recommendations by relevant professional bodies in their respective territories negotiate an agreement on mutual recognition of requirements, qualifications, licenses and other regulations.<sup>20</sup> This process could take years and has the potential of constituting a barrier to trade in services and thus having a direct bearing on Mode 4. It should also be noted that this same clause does exist in the GATS and thus far countries have not made progress in this regard.

#### C. Domestic regulation

26. The CARIFORUM EPA establishes disciplines on domestic regulation. These disciplines are intended to cover measures that are non-discriminatory and qualitative in nature. Governments usually adopt these types of measures for legitimate regulatory purposes – such as protecting consumers, remedying market failures, and enhancing the quality of services. We focus here on three types of regulatory obligations: sectoral regulatory disciplines, the necessity test and transparency.

#### 1. Sector-specific disciplines

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<sup>18</sup> J. Kelsey, *Comparison of the Legal Text on Investments and Services in CARIFORUM-EC/PACIFIC-EC EPAs* (Working document) available at

[http://www.lawstaff.auckland.ac.nz/%7Eeekel001/Jane/Pacific\\_Trade.html](http://www.lawstaff.auckland.ac.nz/%7Eeekel001/Jane/Pacific_Trade.html).

<sup>19</sup> 26 *World Economy* 2003

<sup>20</sup> Article 85 on 'mutual recognition'.

27. The sector-specific chapters in the CARIFORUM EPA are the following: computer, courier, telecom, financial, maritime transport, and tourism services. The chapters provide the applicable regulatory framework for these services and deals with the prevention of anti-competitive practices, universal access obligations, having an independent regulator, confidentiality of information, access to technology, etc.

28. Article 103 of the CARIFORUM EPA on financial services covers life and non-life insurance, banking, and “other” financial services that range from asset management to financial data processing, credit ratings, financial analysis and advice, and corporate restructuring and strategies.

29. Regarding “new financial services”, the major concern that has been raised about this kind of provision is the possibility that a foreign firm could supply across the border or through commercial presence a risky or highly speculative financial product that is very hard to regulate. This becomes even more critical as the world navigates the worst financial crisis in a generation fuelled by the problems related to sub-prime mortgage lending and their fallout in the United States since the latter half of 2007.

30. Developing countries are particularly vulnerable to the impact of these financial crises due to the very high levels of foreign bank presence in their countries and their limited ability to respond in the face of market upheavals.

#### Foreign Bank Presence (1995-2002)

Region	Foreign Ownership
Caribbean	25%
East Asia and Pacific	23%
Latin America	20%
Sub-Saharan Africa	46%

Source: *South Bulletin: Reflections and Foresights* (Issue 25, 16 October 2008) using data compiled from IADB

31. While the EU continues to push for financial services de-regulation in the EPAs, the immediate lesson from the crisis is that more regulation is needed in ensuring stability of financial markets. The de-regulation model poses challenges for development oriented outcomes. Even the IMF has been reported to be asking Europe to intervene in the market to allay the problems associated with the financial crisis. This lesson comes at a very important time, reminding developing countries of the necessity of well thought through and adequate regulation.<sup>21</sup> Developing countries’ negotiators therefore have to completely rethink Europe’s proposals and

<sup>21</sup> Joy Kategekwa, ‘Financial Crisis: Lessons for the EPA Trade Negotiations’, *South Bulletin: Reflections and Foresights* (Issue 25, 16 October 2008) at page 4

opt for the elimination of financial services provisions in their FTAs with Europe until such a time when they would have developed their regulatory capacity.

32. Tourism has been identified as a sector of export interest of developing countries. However the global tourism industry is characterized by vertically integrated market structures and consolidated distribution channels controlled by a limited number of large international players. It is partly for this reason that some argue that the tourism regulatory framework in the CARIFORUM EPA is a win-win situation for Caribbean tourism firms. The tourism regulatory framework focuses attention on the prevention of anti-competitive practices,<sup>22</sup> promoting sustainable forms of tourism, compliance with the environment and quality standards as well as development co-operation and technical assistance. While attempts at disciplining market power seem commendable, the question remains as to the extent to which CARIFORUM countries can use this Article to challenge the large European tour operators for the abuse of their dominant position. Furthermore, this Article instead could prevent developing countries' tourism agencies from developing their own exclusive or preferential distribution networks. Such practices should in fact be allowed for developing countries in order to build their supply side capacity.

33. Article 117 on development cooperation and technical assistance of the tourism services chapter requires cooperation to advance the tourism sector in CARIFORUM countries. It lists a number of specific areas for development cooperation by 'facilitating support' in accounting systems, environmental management, Internet marketing strategies, effective participation in standard setting bodies, and tourism exchange programmes. This Article is subject to Article 7 in Part I on development cooperation that ties financing for cooperation to the rules and procedures of the Cotonou Agreement, in particular the EDF, and other relevant instruments financed by the EU General Budget. Cooperation is to be kept under ongoing review. However, the promises of cooperation and 'facilitation' of support are effectively unenforceable and will depend on the review process. Realistically, support for the tourism sector will have to compete for EC funds with other aspects of the EPA.<sup>23</sup>

34. The chapter on telecommunications draws from the GATS Reference Paper on Telecommunications. The Reference Paper sets rules on network interconnection, universal service, the independence of regulatory agencies, and the allocation of the radio spectrum. These are adopted on a voluntary basis in the WTO and inscribed through the 'additional commitment' column in a member's schedule. Section 2 of

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<sup>22</sup> Article 111 on 'Prevention of anticompetitive practices' states that 'In accordance with the provisions of Chapter 1 of Title IV, appropriate measures shall be maintained or introduced by the EC Party of the Signatory CARIFORUM States for the purpose of preventing suppliers, in particular in the context of tourism distribution networks, to affect materially the terms of participation in the relevant market for tourism services by engaging in or continuing anti-competitive practices, including inter alia, abuse of dominant position through imposition of unfair prices, exclusivity clauses, refusal to deal, tied sales, quantity restrictions or vertical integration'.

<sup>23</sup> J. Kelsey, *op. cit* at page 54

the Reference Paper requires interconnection with a major supplier to be provided in a timely fashion, at cost-oriented rates that are transparent, reasonable, and sufficiently unbundled.

35. Article 98 of the CARIFORUM EPA also gives the right to any authorized telecom supplier to negotiate interconnection with other providers of publicly available telecom networks and services. Interconnection with a major supplier must be ensured at any technically feasible point in the network. It must be on non-discriminatory terms, conditions and rates of quality no worse than for the supplier's own like services. It must be provided promptly on terms, conditions and rates that are transparent, reasonable, having regard to economic feasibility, and 'sufficiently unbundled that the supplier need not pay for network components or facilities that it does not require for the service to be provided' at points other than the network termination that is required to a majority of suppliers, on charges that reflect the cost of construction.

36. The dedicated chapter on telecommunications in the CARIFORUM EPA however deepens the obligations of the GATS Reference Paper. Unlike in the GATS where commitments are voluntary, there is no right in the EPA to list limitations on this 'regulatory framework' in a schedule. They therefore automatically apply when a commitment is made.<sup>24</sup> More so the requirement to impose reasonable and unbundled rates is a very contentious issue. The same clause in the WTO's GATS Reference Paper on Basic Telecommunications gave rise to a WTO dispute between the United States and Mexico. In 2004, the Dispute Panel ruled against Mexico because Mexico's major supplier Telmax did not provide for cost-oriented or reasonable interconnection rates and also that the charges were not sufficiently unbundled.<sup>25</sup> The effect of unbundling telecoms services and rates is that it privileges telecom suppliers who only operate in the lucrative parts of the market and who seek to avoid making any contribution to the extension and upkeep of the network that they are using. As a result a supplier does not need to pay for components or facilities it does not use. This would allow European firms to cherry-pick the most lucrative parts of the telecom sector, without contributing their share of the basic costs. Those costs would fall instead on the supplier of last resort, which is usually the public telecom company or the taxpayer.<sup>26</sup> An overview of these provisions shows that the EU is attempting to codify, harmonise and universalize a particular kind of liberalization/deregulation. The point here is that while the CARIFORUM EPA generally does support governments in being free to regulate to meet domestic objectives, however when one comes to the crux of the details, how governments regulate is being circumscribed by these sector-specific disciplines.

37. Furthermore, the sections on courier and telecom services require "appropriate measures" to prevent anti-competitive practices. An anti-competitive

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<sup>24</sup> J. Kelsey, *op. cit* at page 36

<sup>25</sup> *Mexico – Measures Affecting Telecommunications Services* (DS204)

<sup>26</sup> J. Kelsey, *op. cit.* at page 44

practice is defined to include cross-subsidisation that has a “material effect”.<sup>27</sup> The purpose of defining anti-competitive practice to include cross-subsidisation is to prevent a local monopoly from using revenues from the monopoly to subsidise another commercial activity, such as using income from a local call monopoly to subsidise and lower the price for overseas calls. This ignores the social objectives that often underpin cross-subsidisation. Communities that depend on these services may be left without a service if private sector competitors decide they are peripheral or unprofitable.<sup>28</sup>

## 2. Necessity test

38. Access to telecommunication is a necessity for many economic activities. Because of the economic importance of telecommunications services, many governments aim to achieve universal access to these services by imposing universal services obligations on telecommunication operators. These mean that telecom services are provided to all consumers regardless of their geographical location at the same standard quality and the same price.<sup>29</sup> Article 100 of the CARIFORUM EPA provides that the state can define the kind of universal service obligations for telecoms that it wants to maintain. Those obligations will not be considered anticompetitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are *not more burdensome than necessary* for that kind of universal service.

39. This article introduces a ‘necessity’ test. The EC is one of the WTO members in the GATS negotiations on domestic regulation that has been pushing for a ‘necessity test’. This idea has met with strong resistance. In this case the test restricts the ‘policy space’ of governments to choose how the obligation should be administered by requiring that they take the approach that imposes the least possible requirements to deliver that kind of service. Approaches that are seen as appropriate from the local perspective may be challenged by the EC as anti-competitive if it believes there is a less burdensome way of administering that kind of universal service. Such complaints will be driven by the EC’s commercial interests, not the needs of local communities.<sup>30</sup>

40. According to Article 94 (c), ‘essential telecommunications facilities’ mean facilities of a public telecommunications transport network and service that are exclusively or predominantly provided by a single or limited number of suppliers and cannot feasibly be economically or technically substituted in order to provide a service. It is therefore recognized that the universal service obligation imposed on telecommunications operators requires some form of compensation for the responsibility to expand and maintain the network and supply services to

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<sup>27</sup> See article 97 of CARIFORUM EPA for example

<sup>28</sup> J. Kelsey, *op. cit* at page 43

<sup>29</sup> M. Krajewski, *National Regulation and Trade Liberalisation in Services* (2003) See pages 164-178

<sup>30</sup> J. Kelsey, *op. cit.* at page 39

unprofitable areas. However, before the provider of a universal telecom service can get compensation for costs incurred or require other telecom suppliers to share the cost it must convince both the EC and CARIFORUM states that this responsibility imposes an unfair burden that outweighs any market benefits. Article 100 therefore makes it difficult for governments to effectively ensure that foreign providers supply universal telecom services. As a first step, both the EC and all signatory CARIFORUM States would have to agree that it is necessary to assess whether the obligation imposes an unfair obligation on the designated provider in a country. Both parties then have to agree that some compensation is justified. If they do agree, the national authority then has to work out *whether* a compensation mechanism is required to compensate the provider or share the net cost among other suppliers, taking into account any market benefit that the provider gains from offering universal service. This onerous process and burden of proof seems designed to make it very difficult for governments to provide any special treatment to its public telecom provider, who is usually responsible for universal access, and to shield European firms from contributing their share of the cost of maintaining the network and the universal service.<sup>31</sup>

41. Universal service supply cannot be achieved through pure reliance on the market, because private telecommunications operators tend to shy away from high-risk, low-return investments, especially into rural and remote areas.<sup>32</sup>

### 3. Transparency

42. Article 86 of the CARIFORUM EPA provides that the Parties shall respond promptly to all requests made by the other Party for specific information on any of their measures of general application which pertain to the Agreement. The Parties are also expected to establish one or more enquiry points to provide, upon request, specific information to investors and services suppliers of the other Party on all such matters. These transparency disciplines contain information on measures pertaining to services and investment sectors, including prior notification and comment procedures. The effect of these provisions is the creation of more administrative burdens and costs for developing countries.

43. Article 87 (2) further stipulates that the Parties shall maintain or institute judicial, arbitral or administrative tribunals or procedures which provide at the request of an affected investor or service supplier, for a prompt review of, and where justified, appropriate remedies for administrative decisions affecting commercial presence, cross border supply of services or temporary presence of natural persons for business purpose. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Parties shall ensure that the procedures in fact provide for an objective and impartial review.

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<sup>31</sup> J. Kelsey *op. cit.* at page 45

<sup>32</sup> M. Krajewski, *supra*

44. Article 103 on financial services also has transparency rules that will require all parties to give all persons who are interested in proposed new measures of general application the opportunity to make comment on those measures before they are adopted. As already mentioned above, these would impose a huge burden on developing countries. They could face enormous pressures from powerful international lobbies to change their regulations to cater to the needs of the major players in the financial services industry who are largely from the OECD countries.<sup>33</sup>

45. Such transparency disciplines go beyond mere publishing. In addition foreign companies and governments are in a position to exert undue influence in developing countries' regulatory processes. Careful consideration of such broadened notions of transparency is required. Developing countries need to ensure that any possible future disciplines do not prejudice their flexibility to undertake regulatory and institutional reform and their ability to meet public policy objectives.

#### D. Most Favoured Nation Clause

46. Article 70 of CARIFORUM EPA requires the signatories to give each other the most favourable treatment under any free trade agreement entered with developed or any "major trading economy" after the signature of the EPA. A 'major trading economy', is "any country or territory accounting for a share of world merchandise exports above 1 per cent... or any group of countries acting individually, collectively or through a free trade agreement accounting collectively for a share of world merchandise exports above 1.2 per cent...". These figures may include free trade agreements with high-income developing countries, as well as with certain Latin American, Asian or Gulf countries.

47. It is worth emphasizing that GATS Article V (3) (b) provides that in the case of an FTA involving only developing countries, more favourable treatment may be granted to juridical persons owned or controlled by natural persons of the parties to such an agreement. Therefore the MFN clause in the EU proposal raises certain difficulties for developing countries. In negotiations for trade liberalization agreements with other countries, including high-income developing countries, developing countries will have to always consider the impact on their economy of extending similar trade terms to the EU. The application of the MFN clause will hamper South - South trade, reduce the bargaining power of developing countries and lock developing countries into an exclusive trading relationship with the EU. In the absence of any preferential access, countries like Brazil and China for example might be less interested in the ACP market if they have to compete with the EU. They may therefore not be interested in forging closer links. This is even more critical at this juncture when it has been demonstrated that South-South trade in services is expanding in contrast to North - South trade. According to UNCTAD statistics, 45 per cent of developing countries' services exports are directed to other developing countries. And these amount to 11 per cent of world services trade.

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<sup>33</sup> J. Kelsey, *supra*



### III. OPTIONS FOR DEVELOPING COUNTRIES TO CONSIDER

#### A. Cooperation Arrangements

48. Many developing countries are relatively open to services trade but have reaped limited benefits from liberalisation because of weaknesses in regulatory frameworks and supply-side constraints. Zambia for example has eliminated all barriers to foreign investment in banking and has seen an increasing presence of foreign banks. Significant foreign investment in the banking sector has meant that foreign banks today account for over two thirds of total assets, loans and deposits. However, the state of access to credit and other banking services has not improved. Credit to the private sector is only 8 per cent of GDP, which is lower than the level registered in 1990. And access to financial services is extremely unequal. Only 5,000 people hold 90 per cent of loans. Firms outside of Lusaka, Ndola and Livingstone had to give 65 per cent more collateral relative to the size of the loan.<sup>34</sup> Therefore the liberalisation of financial services without creating an appropriate regulatory framework has had a negative and lasting effect on financial development in Zambia.

49. The above example and preceding sections demonstrate that there are several reasons why developing countries should be cautious in their approach towards liberalising trade in services, and as far as is possible, avoid including services in their free trade agreements.

50. While services are a crucial part of the wider development agenda, the supply-side constraints, the weak regulatory frameworks and the lack of experience and negotiating capacity of developing states mean that services trade liberalisation may not be able to reflect their development imperatives. The promotion of trade in services objectives could be done through national or regional frameworks instead of through binding bilateral agreements with the EU. Emphasis should be on the implementation of universal access-widening policies and the provision of essential services.

51. In addition, the enforcement of trade in services provisions in FTAs with Europe would mean the existence of adequate institutional, human and financial capacity to conduct investigations and monitor markets. Bearing in mind that developing countries have to a large extent not derived the expected gains from the liberalisation of trade in services, it is possible for these countries, to entirely refuse to negotiate trade in services rules within the FTAs with the EU if they so wish.

52. The alternative is cooperation agreements with the EU. Developing countries engaging the EU on cooperation arrangements can also include language they deem most appropriate to meet their development objectives. These will include the

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<sup>34</sup> A. Mattoo and L. Payton, *Services Trade and Development: The Experience of Zambia* (2007) at page 3

provision of financial and technical assistance and support schemes to widen universal access and develop infrastructure, supplementing investment in these areas by the government.

B. Respect for Regional Initiatives

53. GATS Article V (3) (d) provides flexibility in cases where the FTA involves only developing countries. Here, it is allowed to give more favourable treatment to juridical persons (companies) owned or controlled by natural persons of the parties to such an agreement. This means that developing countries can give more favours to their own companies in the context of their own regional trade integration agreements on services.

54. Secondly, some developing countries and regions such as SADC are in the nascent stages of developing common regional approaches to regulatory policies and framework agreements on trade in services. Greater regional integration could alleviate the constraints of limited endowments of capital and small market size. It is therefore crucial that any FTA with the EU is underpinned by the principle of sequencing, with regional integration processes and initiatives taking precedence.

C. Recognition of LDCs

55. It is established that LDCs are the weakest and most vulnerable members of the global trading system. They are defined as such because of their low GDP per capita, their low level of trained personnel, and their high degree of economic vulnerability. Article IV (3) of the GATS provides that special priority be given to LDCs. Article IV (3) is a cornerstone of LDC participation in the GATS, because it creates hope for preferential treatment and priority market access for them in the services sector.

56. The Modalities for the Special Treatment of LDCs, adopted in September 2003 set out the technical details with which WTO Members are to handle LDC issues in the services negotiations. According to paragraph 7 of the Modalities, Members are required to develop an appropriate mechanism with a view to achieving full implementation of Article IV (3) of the GATS, and facilitating effective access of LDCs' services suppliers to foreign markets. Here again, the negotiations have not delivered anything concrete to the LDCs. For instance, Mode 4 liberalisation particularly of low skilled workers has not materialized.

57. Nevertheless, whilst such provisions exist in the WTO, this is not the case in the EPAs. In June 2009, the EU and some SADC countries (Botswana, Lesotho, and Swaziland) signed an EPA. Further negotiations are on-going for a comprehensive EPA addressing the liberalization of trade in services among other issues. Lesotho is an LDC. It is critical to recognize that LDCs cannot be expected to assume the same standard of obligations as EU member states.

#### D. Retaining the GATS Architecture and Flexibilities

58. It is necessary for developing countries negotiating trade in services commitments with the EU to preserve the GATS architecture including the method of scheduling commitments across the four modes of supply. The interests of developing countries are better protected within the GATS framework which has built-in flexibilities. GATS Article V (3) (a) provides that where developing countries are parties to an FTA, flexibility shall be provided in accordance with the level of development of the countries concerned, both overall and in individual sectors and sub sectors.

59. Furthermore, the positive list approach of scheduling commitments in the GATS allows for another level of flexibility for developing countries. WTO Members assume market access and/or national treatment obligations only in sectors they have listed in their national schedules of specific commitments (“bottom-up” scheduling) and only to the extent that no limitations or specific exclusions have been inscribed under one or more of the four modes of supply.<sup>35</sup>

60. In addition, the GATS provides for a list of exceptions allowing the maintenance of certain discriminatory measures. Discriminatory measures authorized are those imposed under Articles XI (Payments and Transfers), XII (Restriction to safeguard the Balance of Payments), XIV (General Exceptions) and XIV *bis* (Security Exceptions). It has been argued that this list of exceptions is not exhaustive. Expansion of the list of exceptions has been considered permissible on the basis of the Preamble to the GATS, which refers to “the rights of Members to regulate and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives”. All these provide developing countries with some flexibility in liberalizing services trade. It follows that it is imperative for developing countries negotiating trade in services FTAs with Europe to make full use of these flexibilities.

#### E. Credit for Autonomous Liberalisation

61. In the mid-1980s, the International Monetary Fund and World Bank-led deregulation process brought about widespread privatization of many previously State-provided services. This resulted in an unprecedented wave of unilateral services liberalization. Developing countries within the WTO in particular have argued that a long-term solution should be found for crediting autonomous liberalization measures. In fact, it was reported that the Heads of the IMF, the World Bank and the WTO had also expressed interest in the possibility of developing countries obtaining negotiating credit for trade policy reforms introduced under IMF and World Bank programmes. GATS Article XIX (3) states that for each round...negotiating guidelines shall establish modalities for the treatment of

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<sup>35</sup> For details on the scheduling of GATS commitments, see WTO Doc. S/CSC/W/19

liberalization undertaken autonomously by Members since previous negotiations. So there exists a prior commitment to take into account unilateral liberalization. The same principle can apply to developing countries engaged in services trade negotiations with the EU.

#### IV. CONCLUSION

62. In this conclusion, we wish to emphasize some findings emerging from our study that we feel are of particular relevance for policymakers. The arguments for liberalizing trade in services are based on the improvement of resources allocation in line with marginal costs and benefits (the traditional static gains from trade); improved access to better technologies, inputs, and intermediate services; greater domestic competition; transfer of know-how and technology through investment. It is argued that markets in protected economies are narrow, and lack of competition from the rest of the world fosters oligopoly and inefficiency. Protectionism, according to proponents of services liberalization, creates market power for domestic firms, whereas trade openness exposes those same firms to greater competition, thereby reducing monopoly rents, driving down margins, and reducing prices for consumers.<sup>36</sup>

63. Yet evidence from the Bolivian and Zambian examples described above prove that the so-called benefits of services liberalization are not automatic. As a matter of fact the proponents of trade liberalization tend to exaggerate the benefits because their analysis do not account for likely losses from the complex mix of rules and agreements associated with fragmented negotiation processes.

64. One major lesson learned over the last 20 years is that regulatory institutions must be carefully tailored to the needs and capacities of the countries in which they operate. Hence, it makes little or no sense to expect a United States or United Kingdom regulatory model to be readily transferable to a small, low-income African country.<sup>37</sup> Time is therefore needed for the design and development of regulatory, institutional and policy framework. It is imperative to have the appropriate regulations already in place before liberalisation. That way, countries know what regulations can be traded away or replaced, and which ones must be retained to suit particular development objectives.

65. Each developing country needs to identify 'best fit' solutions in accordance with its particular needs. Decisions depend on complex trade offs; and frequently, regulatory tools are modified over time to achieve optimal results and to suit the changing needs of its population. Commitments taken in the EPA before having the appropriate regulation in place could very likely lead to developing countries taking

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<sup>36</sup> J. Marchetti, 'Developing Countries in the WTO Services Negotiations: Doing Enough?' in G. Bermann and P. Mavroidis (ed) *WTO Law and Developing Countries* (2007) at page 83

<sup>37</sup> J. Stern, *The Regulatory and Institutional Dimension of Infrastructure Services*, UNCTAD Doc. (February 2009)TD/B/C.1/MEM:3/CRP.1 at page 3

on board regulations more appropriate for developed countries, and which are unlikely to support the growth of domestic services provision in developing countries.

ANNEX I

SERVICES SECTORAL CLASSIFICATION LIST

<u>SECTORS AND SUB-SECTORS</u>	<u>CORRESPONDING CPC</u>
1. <u>BUSINESS SERVICES</u>	<u>Section B</u>
A. <u>Professional Services</u>	
a. Legal Services	
b. Accounting, auditing and bookkeeping services	
c. Taxation Services	863
d. Architectural services	8671
e. Engineering services	8672
f. Integrated engineering services	8673
g. Urban planning and landscape architectural services	8674
h. Medical and dental services	9312
i. Veterinary services	932
j. Services provided by midwives, nurses, physiotherapists and para-medical personnel	
k. Other	
B. <u>Computer and Related Services</u>	
a. Consultancy services related to the installation of computer hardware	841
b. Software implementation services	842
c. Data processing services	843
d. Data base services	844
e. Other	
C. <u>Research and Development Services</u>	
a. R&D services on natural sciences	851
b. R&D services on social sciences and humanities	
c. Interdisciplinary R&D services	853
D. <u>Real Estate Services</u>	
a. Involving own or leased property	821
b. On a fee or contract basis	822
E. <u>Rental/Leasing Services without Operators</u>	
a. Relating to ships	83103
b. Relating to aircraft	83104
c. Relating to other transport equipment	83101+83102+
d. Relating to other machinery and equipment	
e. Other	

F.	<u>Other Business Services</u>	
a.	Advertising services	871
b.	Market research and public opinion polling services	864
c.	Management consulting service	865
d.	Services related to man. consulting	866
e.	Technical testing and analysis serv.	8676
f.	Services incidental to agriculture, hunting and forestry	
g.	Services incidental to fishing	882
h.	Services incidental to mining	883+5115
i.	Services incidental to manufacturing	884+885
j.	Services incidental to energy distribution	887
k.	Placement and supply services of Personnel	
l.	Investigation and security	873
m.	Related scientific and technical consulting services	8675
n.	Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)	8861-8866
o.	Building-cleaning services	874
p.	Photographic services	875
q.	Packaging services	876
r.	Printing, publishing	88442
s.	Convention services	87909*
t.	Other	
2.	<u>COMMUNICATION SERVICES</u>	
A.	<u>Postal services</u>	7511
B.	<u>Courier services</u>	7512
C.	<u>Telecommunication services</u>	
a.	Voice telephone services	7521
b.	Packet-switched data transmission services	7523**
c.	Circuit-switched data transmission services	
d.	Telex services	7523**

\*The (\*) indicates that the service specified is a component of a more aggregated CPC item specified elsewhere in this classification list.

\*\* The (\*\*) indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance (e.g. voice mail is only a component of CPC item 7523).

e.	Telegraph services	7522
f.	Facsimile services	7521**+7529**
g.	Private leased circuit services	7522**+7523**
h.	Electronic mail	7523**
i.	Voice mail	7523**
j.	On-line information and data base retrieval	
k.	electronic data interchange (EDI)	7523**
l.	enhanced/ value-added facsimile services, incl. store and forward, store and retrieve	
m.	code and protocol conversion	n.a.
n.	on-line information and/or data processing (incl.transaction processing)	843**
o.	other	
D.	<u>Audiovisual services</u>	
a.	Motion picture and video tape production and distribution services	
b.	Motion picture projection service	9612
c.	Radio and television services	9613
d.	Radio and television transmission services	7524
e.	Sound recording	n.a.
f.	Other	
E.	<u>Other</u>	
3.	<u>CONSTRUCTION AND RELATED ENGINEERING SERVICES</u>	
A.	<u>General construction work for buildings</u>	512
B.	<u>General construction work for civil engineering</u>	
C.	<u>Installation and assembly work</u>	514+516
D.	<u>Building completion and finishing work</u>	517
E.	<u>Other</u>	
4.	<u>DISTRIBUTION SERVICES</u>	
A.	<u>Commission agents' services</u>	621
B.	<u>Wholesale trade services</u>	
C.	<u>Retailing services</u>	631+632



D.	<u>Franchising</u>	8929
E.	<u>Other</u>	
5.	<u>EDUCATIONAL SERVICES</u>	
A.	<u>Primary education services</u>	921
B.	<u>Secondary education services</u>	922
C.	<u>Higher education services</u>	923
D.	<u>Adult education</u>	924
E.	<u>Other education services</u>	929
6.	<u>ENVIRONMENTAL SERVICES</u>	
A.	<u>Sewage services</u>	9401
B.	<u>Refuse disposal services</u>	9402
C.	<u>Sanitation and similar services</u>	9403
D.	<u>Other</u>	
7.	<u>FINANCIAL SERVICES</u>	
A.	<u>All insurance and insurance-related services</u>	
a.	Life, accident and health insurance services	8121
b.	Non-life insurance services	8129
c.	Reinsurance and retrocession	81299*
d.	Services auxiliary to insurance (including broking and agency services)	8140
B.	<u>Banking and other financial services (excl. insurance)</u>	
a.	Acceptance of deposits and other repayable funds from the public	
b.	Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction	

c.	Financial leasing	8112
d.	All payment and money transmission services	
e.	Guarantees and commitments	81199**
f.	Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:	
	- money market instruments (cheques, bills, certificate of deposits, etc.)	
	- foreign exchange	81333
	- derivative products incl., but not limited to, futures and options	
	- exchange rate and interest rate instruments, inclu. products such as swaps, forward rate agreements, etc.	
	- transferable securities	81321*
	- other negotiable instruments and financial assets, incl. bullion	
g.	Participation in issues of all kinds of securities, incl. under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues	8132
h.	Money broking	81339**
i.	Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services	81323*
j.	Settlement and clearing services for financial assets, incl. securities, derivative products, or and other negotiable instruments	81319**
k.	Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/50, incl. credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy	8131 or 8133
l.	Provision and transfer of financial information, and financial data processing and related software by providers of other financial services	
C.	<u>Other</u>	
8.	<u>HEALTH RELATED AND SOCIAL SERVICES</u> (other than those listed under 1.A.h-j.)	
A.	<u>Hospital services</u>	9311

B.	<u>Other Human Health Services</u>	9319 (other than 93191)
C.	<u>Social Services</u>	933
D.	<u>Other</u>	
9.	<u>TOURISM AND TRAVEL RELATED SERVICES</u>	
A.	<u>Hotels and restaurants (incl. catering)</u>	641-643
B.	<u>Travel agencies and tour operators services</u>	7471
C.	<u>Tourist guides services</u>	7472
D.	<u>Other</u>	
10.	<u>RECREATIONAL, CULTURAL AND SPORTING SERVICES</u> (other than audiovisual services)	
A.	<u>Entertainment services (including theatre, live bands and circus services)</u>	9619
B.	<u>News agency services</u>	962
C.	<u>Libraries, archives, museums and other cultural services</u>	963
D.	<u>Sporting and other recreational services</u>	964
E.	<u>Other</u>	
11.	<u>TRANSPORT SERVICES</u>	
A.	<u>Maritime Transport Services</u>	
a.	Passenger transportation	7211
b.	Freight transportation	7212
c.	Rental of vessels with crew	7213
d.	Maintenance and repair of vessels	8868**
e.	Pushing and towing services	7214
f.	Supporting services for maritime transport	745**
B.	<u>Internal Waterways Transport</u>	
a.	Passenger transportation	7221

b.	Freight transportation	7222
c.	Rental of vessels with crew	7223
d.	Maintenance and repair of vessels	8868**
e.	Pushing and towing services	7224
f.	Supporting services for internal waterway transport	745**
C.	<u>Air Transport Services</u>	
a.	Passenger transportation	731
b.	Freight transportation	732
c.	Rental of aircraft with crew	734
d.	Maintenance and repair of aircraft	8868**
e.	Supporting services for air transport	746
D.	<u>Space Transport</u>	733
E.	<u>Rail Transport Services</u>	
a.	Passenger transportation	7111
b.	Freight transportation	7112
c.	Pushing and towing services	7113
d.	Maintenance and repair of rail transport equipment	
e.	Supporting services for rail transport services	
F.	<u>Road Transport Services</u>	
a.	Passenger transportation	7121+7122
b.	Freight transportation	7123
c.	Rental of commercial vehicles with operator	
d.	Maintenance and repair of road transport equipment	6112+8867
e.	Supporting services for road transport services	
G.	<u>Pipeline Transport</u>	
a.	Transportation of fuels	7131
b.	Transportation of other goods	7139
H.	<u>Services auxiliary to all modes of transport</u>	
a.	Cargo-handling services	741
b.	Storage and warehouse services	742
c.	Freight transport agency services	748
d.	Other	
I.	<u>Other Transport Services</u>	
12.	<u>OTHER SERVICES NOT INCLUDED ELSEWHERE</u>	

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READERSHIP SURVEY QUESTIONNAIRE  
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