

“2.” ANALYSIS OF REQUESTS TO ALL EC (COMMUNITY AND/OR MEMBER STATES): RESTRICTIONS IN CURRENT SCHEDULES

Horizontal restrictions

- Economic Needs Tests

Mauritius: ENTs should be phased out.

Brésil: eliminate all ENTs (cf. proposition de négociation du Mercosur)

Uruguay: eliminate ENTs

- Transparency in regulation of services

The United States: requests adoption of GATS disciplines addressing different questions.

- Mode 3 (MA)

- Public utilities, public monopolies, exclusive rights

USA: Please clarify the aspects of the current limitation that are inconsistent with Article XVI and remove them. Footnote: USA disagrees such a listing (sub-central level).

Japon: requests that detailed information be provided concerning which concrete services are considered as public utilities.

Brésil: eliminate restriction.

Nouvelle-Zélande: remove limitation.

- Mode 3 (NT)

- Treatment accorded to subsidiaries of third-country companies (items (a) and (b) in the EC schedule).

USA: please provide full commitments for NT [items (a) and (b)].

Uruguay: eliminar esta discriminación **NT**.

Japan: requests that detailed information be provided on these reservations.

Canada: clarify the EC discrimination against third country subsidiaries (unless it can show “an effective and continuous link with the economy of a Member State”) as well as branches or agencies of third country subsidiaries.

Brésil: eliminate these restrictions (a+b).

Singapore: requests that this limitation (b) be removed.

Nouvelle-Zélande: remove limitations on MA and NT.

- Subsidies.

Uruguay:

- mode 3 éliminer les restrictions au TN ; prendre des engagements pour ce qui est des subsides à l'investissement et au développement ; clarifier le régime « la prestation d'un service, ou de sa subvention, dans un service public n'est pas un obstacle à l'engagement » à la lumière des Art.I :3, VIII, IX AGCS ;

Japon: requests that this reservation be removed except for research and development subsidies.

Canada: clarify the limitation in respect of subsidies to branches of non-Community companies.

Brésil: eliminate restriction.

Nouvelle-Zélande: clarify scope of current regime.

- Mode 4 (NT)

- Subsidies

Uruguay: mode 4 supprimer les restrictions au TN

Japon: requests that these reservations be removed except for subsidies for research and development.

Brésil: eliminate restriction.

- Mode 4: mouvement de personnes physiques

Australie:

- Intra-corporate transferees : allow for the automatic granting of spousal work rights.
- Specialists: ensure that specialists can be granted entry, under sponsorship arrangements, to allow them to enter and stay for a period of at least two years with the opportunity to apply in-country for a further period of stay.
- Contractual service suppliers: allow them to enter and stay in the EC for a period of two years. The entry authority should provide for multiple entries within the period of stay.

Uruguay:

étendre la reconnaissance des diplômes obtenus par un non européen dans un Etat membre aux autres Etats membres (cfr Directive communautaire sur la reconnaissance mutuelle des diplômes).

- Intra-corporate transferees: obtenir un engagement qui permette le transfert de personnes physiques dans une société sans test de nécessité économique ou de marché du travail aux “personnes avec un diplôme universitaire ou une qualification technique équivalente, qui soient transférées dans l'objectif de développer la carrière ou acquérir une expérience dans les techniques ou méthodologies de travail ».
- Séjour temporaire de personnes physiques (scientifiques, professeurs...): obtenir des engagements pour les catégories de personnes physiques suivantes (cfr liste).

- Prestataires de services contractuels : clarifier la portée des engagements existants ; obtenir des engagements sans restrictions pour les personnes physiques travaillant dans les secteurs suivants (cfr liste)

Etats-Unis:

- Contractual service suppliers.
 1. The schedule of the EC (SC/31suppl.2) contains sector-specific mode 4 limitations in the following (sub)sectors :

Legal advice:	B= unbound
Accounting services:	B= unbound
Taxation advisory services:	B= accès au marché soumis à conditions
Architectural services:	B= unbound
Engineering services:	B= accès au marché soumis à conditions
Integrated engineering:	B= accès au marché soumis à conditions
Computer and related services:	B= accès au marché soumis à conditions
Research services:	B= unbound
Advertising:	B= accès au marché soumis à conditions
Management consulting services:	B= accès au marché soumis à conditions
Services related to management consulting:	B= accès au marché soumis à conditions
Technical testing and analysis services:	B= accès au marché soumis à conditions
Translation services:	B= unbound
Construction services:	B= unbound
Site investigation work:	B= accès au marché soumis à conditions
Higher education services:	B= unbound

Travel agencies and Tour operation services:	B= accès au marché soumis à conditions
Entertainment services:	B= unbound
Services related to the sale of equipment or to the assignment of a patent:	B= unbound

The United States requests that each of these limitations be removed.

2. Take commitment with a view toward providing for the entry and temporary stay of foreign professionals, for a period of three years or the duration of the contract, whichever is shorter, which may be extended and during which multiple entries will be permitted, whose presence is required in the Member in order to fulfill a service contract obtained by a foreign juridical person with no commercial presence in the Member.
 - Services salespersons

Request: initial period of at least 90 days with provisions that allow for extensions of stay.
 - Intra-corporate transferees
 1. Request: initial stay of at least three years and allow multiple entries and the possible extension of stay for at least another two years.
 2. Request: clarify the meaning of executives, managers, specialists by adopting US definitions.
 - Demandes générales

ENTs, requirements for residency, work permit mode 4, etc...
 - Personnel engaged in establishment

Remarque: l'UE a déjà pris les engagements requis.

Japon

- Intra-corporate transferees
 1. Limitations on the maximum duration of the stay, Japan requests that these limitations be abolished
 2. Japan requests that commitments be made on entry and temporary stay of intra-corporate transferees for the purpose of vocational education
 3. Japan also requests that requirements for this type of entry and temporary stay and its application procedures be made public
- Prestataires de services contractuels
 1. Japan requests commitments for legal or accounting services (natural persons qualified in the recipient EC Member) ;

2. Is temporary stay up to 90 days allowed or not? Clarify?

○ Généralités

1. clarifiez et simplifiez
 - a) les procédures d'immigration,
 - b) les critères pour acquérir un permis de séjour et de travail
2. problème de la longueur des délais pour obtenir un visa ou un permis de travail (B)

Suisse

○ Intra-corporate transferees

1. clarify in your schedule the maximum length of stay for executives, managers and specialists
2. take commitments for up to five years (extension included) without any further limitations

Tai wan

○ intra-corporate transferees

Request: make additional commitment as follows: "Intra-corporate transferees may enter and stay in EU for three-year initial period that may be renewed for one-year periods indefinitely".

○ Business visitors

Request: make a commitment to allow business visitors to enter and stay for an initial period of 90 days.

○ Contractual services suppliers

(pour mémoire: voir les engagements de l'UE).

○ Employees of EU enterprises (La requête de Tai wan sur ce point ne concerne pas le GATS).

○ Généralités

Request: pour les catégories ci-dessus, permettre de multiples entrées.

Mauritanie

The request relates to the removal of restrictions in respect of temporary movement of Mauritians.

Brésil

1. Eliminate ENTs

2. Consolidate commitment for natural persons hired to provide temporary services with limited stay according to the period of time determined in the contract, without any need to bind those services to contracts celebrated by a juridical person from their country

Remarque: La requête n° 2 ne concerne pas le GATS

3. Contractual service suppliers: take commitments in the service sectors listed below.

4. Additional commitments address the issue of work permits.

Nouvelle-Zélande

Accès au marché

- Intra-corporate transferees
 1. confirm that the existing commitment
 - a) covers the following categories: executive and senior managers, specialist and/or senior personnel, specialist personnel;
 - b) includes an initial stay of 3 years
 2. extend the existing commitment to include installers/servicers for periods of stay not exceeding 3 months in any 12 months period

- Business visitors/services sellers
Please schedule commitment for a period not exceeding an aggregate three months in any calendar year (it is indifferent whether or not the service supplier has a commercial presence in the EC).
Remarque: l'UE est déjà engagée mais le "business visitor" ou "services sellers" ne peut résider sur le territoire d'un Etat membre où le Traité s'applique.

- Individual service suppliers providing services on a fee or contractual basis without commercial presence.
Request: schedule commitments for an initial stay of 1 year or for the duration of the contract.
Remarque: il s'agit d'indépendants.

Traitement national

Request : in sectors where there is mutual recognition of qualifications and professional registration between Members States, remove the existing limitation on the extension of such recognition to New-Zealanders who have the right to practise regulated occupations in these sectors in a Member State.

Reconnaissance mutuelle

La Nouvelle-Zélande est intéressée par des ARM sur base de l'article VII du GATS.

Canada: is seeking commitments on the temporary entry and stay of the following categories of natural persons.

Business visitors, including

- a. those supplying after-sales and after-lease services (see definitions);
- b. no requirement for work permit, labour market tests or other procedures;
- c. a maximum period of stay of 90 days.

Intra-corporate transferees, including:

- a. no-requirement for labour market text or other procedures;

- b. requirement for work permits for ICTs and their sponsors and common-law partners.

Professionals

- cf. ICTs a et b
- the minimum education requirements and alternative credentials for each profession

Further transparency of the schedule (mode 4).

Mexique (mode 4)

- Pour les **activités** listées dans la requête (p.6 à 20)
 - supprimer ENTs du Mode 4 pour les personnes physiques de nationalité étrangère de langue maternelle espagnole;
 - supprimer les exigences de résidence et de permis de travail qui sont demandées séparément des demandes d'admission au mode 4 pour les activités listées dans la requête ;
- Adopter des disciplines pour assouplir la procédure de requête (pour permis de travail, permis de séjour, visa) et établir des tarifs à un niveau qui ne soient pas un obstacle ;
- Permettre les entrées multiples aux personnes physiques de nationalité étrangère de langue maternelle espagnole, qui sont admises à exercer les activités pour lesquelles existent des engagements ;
 - **Catégories** : Intra corporate transferees : prendre des engagements, sans test de nécessité économique.

Hong Kong

Mouvement de personnes physiques

Requests :

- Remove MFN exemptions mode 4 “exemptions for existing and future bilateral agreements providing for the waiver of work permit requirements”
- Extend the duration of stay for natural persons

Discipline on Domestic Regulation

Request: Develop horizontal disciplines giving effect to Article VI:4 of GATS, so that all domestic regulations shall not constitute unnecessary barriers to trade in services.

Egypte

Mode 4: Take full commitments under MA and NT.