PROFESSIONAL SERVICES UNDER THE GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)

21 July 2005
Accountancy Week Celebration

Professional Services: Why liberalize?

- **Knowledge generation**
- **Diffusion to other productive activities and social endeavors**
- **Growth in human capital**
- **Helps create an efficient business and investment infrastructure**
- **Facilitates good corporate governance**

Some Global Trends

- Global market totaled over $1 trillion in 2002
- One of the fastest growth sectors achieving double-digit growth rates
- Exports reached $270 billion in 2002
- Developing countries accounted for 15% of total exports
- 30% of annual migration flows into the EU and US consists of professionals

THE GATS

Inter-governmental agreement to "establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries".

THE GATS

Objective: To increase trade in services through increased TRANSPARENCY and PREDICTABILITY

Basic Structure:

1. **A Framework of Principles**
2. **Schedules of Specific Commitments**

Framework of Principles

Part I	**Scope of Agreement and Definition of Trade in Services**
Part II	**General Obligations and Disciplines**
Part III	**Specific Commitments, Horizontal or by Service Sector and Mode of Supply, with regard to Market Access and National Treatment**
Part IV	**Institutional and Procedural Provisions**
Part V	**Final Provisions**
Annexes	**On Article II Exemptions**

Schedule of Specific Commitments

Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
I. HORIZONTAL COMMITMENTS			
ALL SECTORS INCLUDED IN THIS SCHEDULE	(3) Notification and examination in accordance with Arcadia's Law on Foreign Investment 1993. (4) Unbound, other that for (a) temporary presence, as intra corporate transferees, of essential senior executives and specialists and (b) presence for up to 90 days of representatives of a service provider to negotiate sale of services.	(3) Authorization is required for acquisition of land by foreigners.	
II. SECTOR-SPECIFIC COMMITMENTS			
4. DISTRIBUTION SERVICES C. Retailing services (CPC 631,632)	(1) Unbound (except for mail order: none) (2) None (3) Economic needs test for supermarkets over 1,500 sq.m (4) Unbound, except as indicated in horizontal section.	(1) Unbound (except for mail order: none) (2) None (3) Certain tax incentives are available only to companies controlled by Arcadian nationals (4) Unbound.	

Important Liberalization Principles: Transparency, MFN, Non-discrimination, Market Access, and National Treatment

Trade in Services

Defined through the model of supply:

1 – Cross-border
2 – Consumption abroad
3 – Commercial presence
4 – Movement of natural persons

Coverage of the GATS

Scope: All commercially traded services in any services sector except those supplied in the exercise of governmental authority

12 areas:

- **Business**
- **Communications**
- **Construction/Engineering**
- **Distribution**
- **Education**
- **Environment**
- **Finance**
- **Health**
- **Tourism**
- **Recreation**
- **Transportation**
- **Others**

Professional Services

In the GATS Services Sectoral Classification List, professional services are classified as a sub-category of business services encompassing:

Legal
Accounting, auditing, and bookkeeping
Taxation
Architectural
Engineering
Integrated Engineering
Urban Planning
Medical and dental
Veterinary
Services provided by midwives, nurses, etc.
Others

Negotiations on Professional Services

A number of countries have so far signaled their interest in making progress on professional services. 48 out of 148 WTO members have presented their services offers, with changes made to professional services in two-thirds of them:

- commitments in new sub-sectors
- full commitment by removing all restrictions
- removal of market access limitations
- eliminations of national treatment limitations

Developing country requests cover particularly Mode 4 liberalization commitments and have likewise expressed interest in the recognition of qualifications for their professionals.

Accountancy Services

- **Important element in the production of both physical goods and other services**
- **Practice at the level of firms or partnerships rather than individuals**
- **Practice of international accountancy activities potentially includes:**

- providing services domestically to domestic clients on foreign issues
- providing services abroad to domestic clients on foreign issues
- providing services abroad to foreign permanent establishments of domestic clients
- undertaking the foreign element of services provided domestically to domestic clients
- providing services abroad to foreign clients on domestic issues
- providing services domestically to domestic permanent establishments of foreign clients
- undertaking the domestic element of services provided abroad to foreign clients
- providing services abroad to foreign clients on foreign issues

GATS Description of Accountancy

Classified as a sub-sector of Business Services as "Accounting, Auditing, and Bookkeeping" (WTO/GATS).

The United Nations Provisional Central Product Classification (CPC) further sub-divides the category (CPC 862) to include:

- financial auditing services
- accounting review services
- compilation of financial statements services
- other accounting services
- bookkeeping services, except tax returns

Common Trade Negotiating Issues in Accountancy

- **Widespread nature of local qualification and licensing requirements, both in regard to individual practitioners and as conditions for the ownership and management of firms.**
- **Profession is often regulated in different ways between (and sometimes even within) nations.**

General Impediments to Trade in Accountancy

- Restrictions on international payments
- Restrictions on the mobility of personnel
- Impediments to technology and information transfer
- "Buy National" public procurement practices
- Differential taxation treatment/double taxation
- Monopolies
- Subsidies

Specific Impediments To Trade In Accountancy

- Nationality requirements
- Residence/establishment requirements
- Professional certification/entry requirements
- Compartmentalization/scope of practice limitations/incompatibilities
- Restrictions on advertising, solicitation, and fee-setting
- Quantitative restrictions on the provisions of services
- Differences in accounting, auditing, and other standards
- Restrictions on business structures
- Restrictions on international relationships/use of firm name

Negotiations on Disciplines on Domestic Regulation

Preamble of the GATS provides for the right of members to "regulate and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right".

Negotiations on Disciplines on Domestic Regulation in the Accountancy Sector

Focus on:

- **TRANSPARENCY**
- **MEASURES NOT MORE BURDENSOME THAN AS NECESSARY**
- **MUTUAL RECOGNITION**

WTO Guidelines for Mutual Recognition in the Accountancy Sector

Philippine Context

- **No substantial commitments in professional services during the Uruguay Round**
- **Under the current round of negotiations, however, we are expected to improve upon our current "requests" and "offers" on services trade**

Philippines – Schedule of Specific Commitments

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of Natural persons

Sector or sub-sector	Limitations on market access	Limitations on national treatment	Additional commitments
1. BUSINESS SERVICES a) Auditing Services - covers financial auditing* and accounting review* (CPC 86211) (CPC 86212)	(1) Unbound (2) Unbound (3) <u>For corporations:</u> - no corporate practice of accountancy is allowed. <u>For partnerships:</u> - must be registered with Board of Accountancy/Professional Regulation Commission (PRC); - all partners must be Certified Public Accountants (CPA) registered with the Board of Accountancy/PRC <u>For sole proprietorships:</u> - if with staff composed of CPAs, must be registered with Board of Accountancy/PRC (4) Unbound	(1) Unbound (2) Unbound (3) Unbound (4) Unbound	

Some Issues to Consider

- **Citizenship**
- **Reciprocity**
- **Working Permits**