

COMMUNICATION FROM MERCOSUR

Computer and Related Services

The following communication has been received from the delegations of Argentina, Brazil, Paraguay and Uruguay with the request that it be circulated to the Members of the Council for Trade in Services.

1. The States parties to MERCOSUR (Argentina, Brazil, Paraguay and Uruguay) submit this proposal¹ for consideration by Members. Its purpose is to promote the liberalisation of this important sector and to contribute to increasing the participation of developing countries in trade in services. Article IV of the General Agreement on Trade in Services (“Increasing Participation of Developing Countries”), states in paragraph 1:

“The increasing participation of developing country Members in world trade shall be facilitated through negotiated specific commitments, by different Members pursuant to Parts III and IV of this Agreement, relating to:

c) the liberalisation of market access in sectors and modes of supply of export interest to them.”

2. Also, the Guidelines and Procedures for the Negotiations on Trade in Services (S/L/93) adopted on 28 March 2001, state, among other elements, that:

- the negotiations “... shall be conducted ... as a means of promoting ... the development of developing countries” (paragraph 1),
- the negotiations “... shall aim to increase the participation of developing countries in trade in services” (paragraph 2),
- “... Due consideration should be given to the needs of small and medium-sized services suppliers, particularly those of developing countries (paragraph 3) and

¹ This proposal is not a legal text. It is submitted solely for the purpose of negotiation and does not prejudge the position of MERCOSUR or its States parties regarding the issues raised in it. MERCOSUR and its States parties reserve their rights to modify the contents of this proposal at a later stage.

- “...Special attention shall be given to sectors and modes of supply of export interest to developing countries” (paragraph 5).

I. INTRODUCTION

3. At the core of the information technology industry is the computer industry, comprised of computer hardware, software, and computer services. Software and computer related services refer to both “packaged” (or standardised) and customised products and to computer consultancy services.
4. Strong demand for computer services stems from evolving business needs for an improved and more efficient customer service and higher productivity.

II. DEFINITION OF THE SECTOR

5. The GATS Services Sectoral Classification List (MTN.GNS/W/120) includes computer and related services as a sub-sector of business and professional services. This sub-sector, designated 1B in the List, includes 5 sub-categories: (a) consultancy services related to the installation of computer hardware; (b) software implementation services; (c) data processing services; (d) data base services; and (e) other. These are more amply defined in the corresponding items of the Provisional UN Central Product Classification (UNCPC), which is reproduced below:

Computer and Related Services: UNCPC Descriptions of the GATS Sectoral Classification List Entries

| W/120 | UNCPC | UNCPC description |
|-------|-------|---|
| Ba | 841 | <u>Consultancy services related to the installation of computer hardware</u> : assistance services to the clients in the installation of computer hardware and computer networks. |
| Bb | 842 | <u>Software implementation services</u> : all services involving consultancy on, development and implementation of software, and defines "software" as the sets of instructions required to make computers work and communicate, which may include a number of different programmes developed for specific applications (application software) and situations in which the customer may have a choice of ready-made off-the-shelf programmes (packaged software), specifically developed programmes for its requirements (customised software) or a combination of the two. The sub-categories are: |
| | 8421 | 84210 <u>Systems and software consulting services</u> : services of a general nature prior to the development of data processing systems and applications. It might be management services, project planning services, etc; |
| | 8422 | 84220 <u>Systems analysis services</u> : include analysing the clients' needs, defining functional specification, and setting up the team, as well as project management, technical coordination and integration and definition of the systems architecture; |
| | 8423 | 84230 <u>Systems design services</u> : include technical solutions, with respect to methodology, quality-assurance, choice of equipment software packages or new technologies, etc; |
| | 8424 | 84240 <u>Programming services</u> : the implementation phase, i.e. writing and debugging programmes, conducting tests, and editing documentation; |

| W/120 | UNCPC | UNCPC description |
|-------|--------------|--|
| | 8425 | 84250 <u>Systems maintenance services</u> : consulting and technical assistance services of software products in use, rewriting or changing existing programmes or systems, and maintaining up-to-date software documentation and manuals and specialist work, such as conversions. |
| Bc | 843/ 8431 | 84310 <u>Data processing services</u> : or "input preparation services" include data recording services such as key punching, optical scanning or other methods for data entry. |
| | 8432 | 84320 <u>Data-processing and tabulation services</u> consisting of services such as data processing and tabulation services, computer calculating services, and rental of computer time. |
| | 8433 | 84330 <u>Time-sharing services</u> : UNCPC states that there is no clear distinction between 84320 and 84330, noting that computer time only is bought; if it is bought from the customer's premises, telecommunications services are also bought. Data processing or tabulation services may also be bought from a service bureau. |
| | 8439 | 84390 <u>Other data processing services</u> : consisting of services which manage the full operations of a customer's facilities under contract: computer-room environmental quality control services; management services of in-place computer equipment combinations; and management services of computer work flows and distributions. |
| Bd | 844 | <u>Data base services</u> : all services provided from primarily structured databases through a communication network. The UNCPC specifically excludes "data and message transmission services" which it classifies under telecommunications services (as 7523) and excludes documentation retrieval services classified as library services (as 96311). |
| Be | 849 | <u>Other computer services</u> : services for which UNCPC lists two sub-categories. |
| | 8491 | 84910 <u>Data preparation services</u> : services for clients not involving data processing services. |
| | 8499 | 84990 <u>Other computer services n.e.c.</u> : training staff of clients and other professional services. |

III. ECONOMIC IMPORTANCE OF THE SECTOR

World Market Values for Software and Computing Services (in million US dollars at constant 1994 exchange rates)

| | Total 1995 | % Share software | % Share services | Total 1997 | % Share software | % Share services | Annual growth 1995-1997 |
|-------------------|------------|------------------|------------------|------------|------------------|------------------|-------------------------|
| Western Europe | 94,336 | 37 | 63 | 107,259 | 39 | 61 | 6.6 |
| Eastern Europe | 1,766 | 37 | 63 | 2,191 | 38 | 62 | 11.4 |
| United States | 129,539 | 34 | 66 | 160,377 | 36 | 64 | 11.3 |
| Japan | 45,140 | 20 | 80 | 48,044 | 20 | 80 | 3.2 |
| Rest of the world | 40,865 | 16 | 84 | 57,163 | 23 | 77 | 18.3 |
| World | 311,645 | 30 | 70 | 375,031 | 33 | 67 | 9.7 |

Source: European Commission, *Panorama of EU Industry '97*

6. The most significant recent development in networked computing as demonstrated by its dramatic growth, is the Internet. Besides the increasing use of software as an input for different kind of services supplied electronically, Internet also allows the use of different software "on-line" insofar as these software are located in a "host" that can be accessed directly by the consumer.

7. At the same time, the rapid market growth of the information technology sector has led it to be a substantial generator of new employment, in particular of skilled and well-paying jobs, not only in industrialised markets but in emerging markets as well. Given these labour-demand characteristics, supply of computer and related services through the GATS mode of movement of natural persons takes on a great deal of economic significance. The imposition of measures related to qualification requirements and procedures, licensing requirements and technical standards can give rise to discretionary measures and can constitute a significant barrier to foreign suppliers of these services, particularly in commercial presence (mode 3) and movement of natural persons (mode 4).

IV. ANALYSIS OF NATIONAL SCHEDULES

8. According to the WTO Secretariat's document S/C/W/45 (dated July 24, 1998), an overall total of 62 GATS schedules (counting the EU schedule as one) contain commitments on computer and related services. Of these, 52 commit on sub-sector (a) consultancy services related to the installation of hardware, 57 commit on (b) software implementation services, 55 commit on (c) data processing services, 49 commit on (d) data base services and 30 on (d) "other" computer services.

9. Looking at the level of commitments for sub-services (a)-(d) as a whole, the proportion of unrestricted, or full, market access commitments on cross border supply ranges between sub-sectors from 60-63%, the proportion of full commitments on consumption abroad from 70-76% and the corresponding range for commercial presence is 68-77% (but which falls to 29-33% when horizontal limitations on mode 3 are taken into account).

10. The proportion of full commitments on market access for presence of natural persons is lowest at 4-7% (falling to 2% when horizontal limitations are factored in).

11. In commercial presence (mode 3), there are important barriers such as the following as the most significant ones: a) restrictions to the level of participation of foreign equity; and (b) limitations to the type of legal entity or joint venture.

V. PROPOSAL

12. The States parties to MERCOSUR (Argentina, Brazil, Paraguay and Uruguay) propose:

- (i) that WTO Members make specific commitments in computer and related services, in the following subsectors:

| W/120 | UN CPC | UNCPC description |
|-------|--------|---|
| Ba | 841 | Consultancy services related to the installation of computer hardware |
| Bb | 842 | Software implementation services |
| Bc | 843 | Data processing services |
| Bd | 844 | Data base services |
| Be | 849 | Other computer services |

and

- (ii) that WTO Members eliminate the restrictions to market access and national treatment in computer and related services, making commitments “without limitations” (by entering “none” in the market access and national treatment columns) in the above-mentioned subsectors .
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