

GENERAL AGREEMENT

ON TRADE IN SERVICES

RESTRICTED

GATS OFFER

EUROPEAN COMMUNITIES AND THEIR MEMBER STATES

List of Article II (MFN) exemptions

(This is authentic in English only)

Procedure of consolidation of the list of MFN exemptions of Austria, Finland and Sweden into the list of EU-15

**The European Commission sent this restricted document to the
EU Member State governments on 10 March 2003.**

**It has been put in the public domain on 26 March 2003:
<http://www.gatswatch.org/docs/EU-draftoffer-MFN-2.pdf>**

Changes to the previous leaked version are marked yellow

EUROPEAN COMMUNITIES AND THEIR MEMBER STATES – LIST OF ARTICLE II (MFN) EXEMPTIONS

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Audiovisual services - Distribution of audiovisual works	Redressive duties which may be imposed in order to respond to unfair pricing practices, by certain third countries distributors of audiovisual works.	All Members	Indefinite	Unfair pricing practices may cause serious disruption to the distribution of European works
Audiovisual services	Measures taken to prevent, correct or counterbalance adverse, unfair or unreasonable conditions or actions affecting EC audiovisual services, products or service providers, in response to corresponding or comparable actions taken by other Members.	All Members	Indefinite The need for exemption will lapse together with corresponding exemption from other Members	Need to protect the European Communities and their Member States from adverse, unfair or unreasonable unilateral actions from other Members
Audiovisual Services - Production and distribution of audiovisual works through broadcasting or other forms of transmission to the public.	Measures which define works of European origin, in such a way as to extend national treatment to audiovisual works which meet certain linguistic and origin criteria regarding access to broadcasting or similar forms of transmission.	Parties to the Council of Europe Convention on Transfrontier Television or other European countries with whom an agreement may be concluded.	Indefinite. Exemption needed, for certain countries, only until an economic integration agreement is concluded or completed.	The measures aim, within the sector, to promote cultural values both within EC Member States and with other countries in Europe, as well as achieving linguistic policy objectives

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Audiovisual Services - Production and distribution of cinematographic works and television programmes	Measures based upon government-to-government framework agreements, and plurilateral agreements, on coproduction of audiovisual works, which confer National Treatment to audiovisual works covered by these agreements, in particular in relation to distribution and access to funding.	All countries with whom cultural cooperation may be desirable (agreements already exist, or are being negotiated, with the following countries: Algeria, Angola, Argentina, Australia, Brazil, Burkina Faso, Canada, Cape Verde, Chile, Côte d'Ivoire, Colombia, Cuba, Egypt, Guinea Bissau, India, Israel, Mali, Mexico, Morocco, Mozambique, New Zealand, São Tomé e Príncipe, Senegal, States in Central, Eastern and South- Eastern Europe, Switzerland, Tunisia, Turkey, Venezuela).	Indefinite	The aim of these agreements is to promote cultural links between the countries concerned
Audiovisual Services - Production and distribution of television programmes and cinematographic works	Measures granting the benefit of any support programmes (such as <u>Action Plan for Advanced Television Services</u> , <u>MEDIA</u> or <u>EURIMAGES</u>) to audiovisual works, and suppliers of such works, meeting certain European origin criteria.	European countries	Indefinite. Exemption needed, for certain countries, only until an economic integration agreement is concluded or	These programmes aim at preserving and promoting the regional identity of countries within Europe which have long- standing cultural links

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
			completed.	
Audiovisual - Distribution services	Waiver of the requirement in Spain to obtain licences for the distribution of dubbed films of non-Community origin, granted to films of European origin which are especially recommended for children's audiences.	Parties to the Council of Europe	Indefinite. Exemption needed for certain countries, until an economic integration agreement is concluded or completed.	The measure aims at promoting European cultural values and linguistic policy objectives toward the youth.
Audiovisual services: television and radio broadcasting services	Foreign participation in companies in Italy exceeding 49% of the capital and voting rights, subject to a condition of reciprocity.	All countries	Indefinite	Need to ensure effective market access and equivalent treatment for Italian service suppliers
Audiovisual services: production and distribution of cinematographic works and television programmes in Nordic countries	Measures taken in Denmark and Finland that are adopted for the implementation of benefits in conformity with such support programmes as the NORDIC FILM and TV FUND in order to enhance production and distribution of audiovisual works produced in Nordic countries.	Norway, Iceland	Indefinite	Preservation and promotion of the regional identity of the countries concerned

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Audiovisual services: production and distribution of cinematographic works and television programmes in Nordic countries	Measures taken in Finland that are adopted for the implementation of benefits in conformity with such support programmes as the NORDIC FILM and TV FUND in order to enhance production and distribution of audiovisual works produced in Nordic countries.	Nordic countries	Indefinite	Preservation and promotion of the regional identity of the countries concerned
Audiovisual services: production and distribution of cinematographic works and television programmes in Nordic countries	Measures taken in Sweden that are adopted for the granting of broadcasting facilities for programmes from Nordic countries and for the financing of and implementation of benefits from such support programmes as the NORDIC FILM and TV FUND which are intended to enhance production and distribution of audiovisual works produced in Nordic countries.	Nordic countries	Indefinite	Preservation and promotion of the regional identity of the countries concerned
Road transport - passenger and freight	Provisions in existing or future agreements on international road haulage (including combined transport - road/rail) and passenger transport, concluded between the EC or their Member States and third countries, which: - reserve or limit the provision of a transport service between the	Switzerland, States in Central, Eastern and South-Eastern Europe and all Members of the Commonwealth of Independent States, Albania, Turkey, Lebanon, Israel, Syria, Jordan, Egypt, Tunisia, Algeria, Morocco,	Indefinite	The need for exemption is linked to the regional characteristics of the cross-border provision of road transport services

¹ With regard to Austria the part of the MFN exemption regarding traffic rights covers all countries with whom bilateral agreements on road transport or other arrangements relating to road transport exist or may be desirable.

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
	contracting parties or across the territory of the contracting parties to vehicles registered in each contracting party ¹ ; - provide for tax exemption for such vehicles.	Cyprus, Malta, Iran, Afghanistan, Iraq, Kuwait		
Road Transport (passengers and freight)	Provisions of existing and future reciprocal bilateral agreements on international road transport (including combined transport, road/rail) reserving cabotage transport in Finland.	All countries with whom bilateral agreements on road transport or other arrangements relating to road transport exist or may be desirable (at present approximately 40 countries)	Indefinite; the exemption applies to existing and new measures	Regional specificity of the road transport services
Road Transport (passengers and freight)	VAT-exemption in Austria is limited to international passenger transport carried out by foreign entrepreneurs by means of motor vehicles registered in countries indicated in column 3)	Successor States of former Yugoslavia, Poland, Switzerland, successor States of the former USSR (with the exception of the Baltic States, Azerbaijan, Georgia, Moldova and Uzbekistan), Czech Republic, Slovak Republic, Hungary	Indefinite	Reciprocity; facilitating of the development of international touring
Road Transport (passengers and freight)	Exemption from vehicles tax in Austria under certain conditions on the grounds of declarations of reciprocity limited to vehicles registered in the countries indicated in column 3)	Poland, Hungary	Indefinite	Reciprocity; facilitating of the development of international touring and/or international transport of goods

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Road Transport (passengers and freight)	Exemption from vehicles tax in Austria under certain conditions on the grounds of de-facto-reciprocity limited to vehicles registered in the countries indicated in column 3)	Bulgaria, Israel, Monaco, San Marino, Turkey, Hungary, Vatican City, United States	Indefinite	Reciprocity; facilitating of the development of international touring and/or international transport of goods
Road transport services - Freight (CPC 7123)	Authorization for the establishment of a commercial presence in Spain may be refused to service suppliers, whose country of origin does not accord effective market access to Spanish service suppliers	All countries	Indefinite	Need to ensure effective market access and equivalent treatment for Spanish service suppliers
CRS and sales and marketing of air transport services	Provision of Article 7 of Regulation (EC) No. 2299/89, as amended by Regulation (EC) No. 3089/93, whereby the obligations of CRS system vendors or of parent and participating air carriers shall not apply where equivalent treatment to that applied under the Regulation is not accorded in the country of origin of the parent carrier or of the system vendor.	All countries where a CRS system vendor or a parent air carrier is located.	Indefinite	The need for the exemption results from the insufficient development of multilaterally agreed rules for the operation of CRS.
Internal waterways transport	Measures based upon existing or future agreements on access to inland waterways (incl. agreements following the Rhine-Main-Danube link), which reserve traffic rights for operators based in the countries concerned and meeting nationality criteria regarding ownership.	Switzerland, States in Central, Eastern and South-Eastern Europe and all Members of the Commonwealth of Independent States.	Indefinite. Exemption needed, for certain countries, only until an economic integration agreement is	To regulate transport capacity on inland waterways taking into account geographic specificity.

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
			concluded or completed.	
Internal waterways transport	Regulations ² implementing the Mannheim Convention on Rhine Shipping.	Switzerland	Indefinite	To regulate transport capacity on inland waterways taking into account geographic specificity.
Inland Waterways Transport (passengers and freight)	In Austria: a) Certain traffic rights are reserved for vessels of the countries indicated in column 3) (nationality requirements regarding ownership) b) Recognition of certificates and licences of the countries indicated in column 3)	Bulgaria, Hungary, successor States of former Yugoslavia, Romania, Czech Republic, Slovak Republic, successor States of former USSR, Netherlands, Federal Republic of Germany	Indefinite; the exemption applies to existing and new measures	Historical development; specific regional aspects
Maritime transport; cabotage	Reciprocal existing and future measures taken in Finland exempting vessels registered under the foreign flag of a specified other country from the general prohibition to operate cabotage transport in Finland	All countries	Indefinite	Regional specificity of the maritime cabotage transport

² The following Member States are covered by this MFN exemption: Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and United Kingdom

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Maritime transportation	Reciprocal measures taken in Sweden based upon existing or future agreements exempting vessels registered under the foreign flag of a specified other country from the general prohibition to operate cabotage traffic	All countries with which bilateral or plurilateral agreements are in force	Indefinite	To regulate cabotage traffic based on reciprocal agreements
Rental/leasing services without operators, relating to ships (CPC 83103). Rental of vessels with crew (CPC 7213, 7223).	Chartering in of foreign ships by consumers resident in Germany may be subject to condition of reciprocity.	All countries	Indefinite	Need to ensure effective market access and equivalent treatment for German service suppliers.
Publishing (Part of CPC 88442)	Foreign participation in companies in Italy exceeding 49% of the capital and voting rights, subject to a condition of reciprocity.	All countries	Indefinite	Need to ensure effective market access and equivalent treatment for Italian service suppliers.
Newsagency Services (Part of CPC 962)	Foreign participation in companies in France publishing publications in the French language exceeding 20% of the capital or of voting rights in the company, subject to a condition of reciprocity.	All countries	Indefinite	Need to ensure effective market access and equivalent treatment for French service suppliers.
Press Agency Services (Part of CPC 962)	Market access in France. Subject to a condition of reciprocity.	All countries	Indefinite	Need to ensure effective market access and equivalent treatment for French service suppliers.

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Direct non-life insurance	Measures based on a bilateral agreement between the European Communities ³ and Switzerland on direct insurance other than life insurance. This agreement provides on a reciprocal basis for freedom of establishment and the right to take up or pursue non-life insurance business for agencies and branches of undertakings whose head office is situated in the territory of the other contracting party.	Switzerland	Indefinite	Need to remove obstacles to the taking up and pursuit of non-life insurance business in the framework of an agreement between the European Communities and Switzerland on non-life insurance consistent with the provisions of paragraph 3 of the Annex of Financial Services
Financial services	Measure granting favourable tax treatment (off-shore regime) in Italy to service suppliers trading with the countries to which the measure applies.	States in Central, Eastern and South-Eastern Europe, and all Members of the Commonwealth of Independent States	10 years	The need to aid the countries concerned in their transition to a market economy.
Licensing of branches or subsidiaries of foreign financial service suppliers	The requirement of an economic interest test bound in Austria* ⁴ is waived for countries indicated in column 3)	List of countries is subject to further consideration	Indefinite	Reciprocity; countries not indicated in column 3) are presumed not to offer competitive opportunities and effective market access to Austrian service suppliers equivalent to those offered by Austria
All sectors	Measures taken in Denmark, Finland and Sweden aimed at promoting Nordic cooperation, such as: - Financial support to R&D projects (the Nordic Industrial Fund); - Funding of feasibility studies for	Iceland and Norway	Indefinite	To maintain and develop Nordic cooperation.

³ This MFN does not apply with regard to the following Member States: Austria, Finland and Sweden.

⁴ This measure will not be applied during the first six months after the entry into force of the WTO.

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
	international projects (the Nordic Fund for Project Exports); - Financial assistance to companies ⁵ utilizing environmental technology (the Nordic Environment Finance Corporation).			
All sectors	Measures taken in Finland aimed at promoting Nordic cooperation, such as: - guarantees and loans to investment projects and exports (The Nordic Investment Bank) - financial support to R&D projects (the Nordic Industrial Fund); - funding of feasibility studies for international projects (the Nordic Fund for Project Exports); - financial assistance to companies ⁶ utilizing environmental technology (the Nordic Environment Finance Corporation).	Denmark, Sweden, Iceland and Norway	Indefinite	To maintain and develop Nordic cooperation.
All sectors	Measures taken in Sweden aimed at promoting Nordic cooperation, such as: - guarantees and loans to investment projects and exports (The Nordic Investment Bank)	Denmark, Finland, Iceland and Norway	Indefinite	To maintain and develop Nordic cooperation.

⁵ Applies to East European companies, which are cooperating with one or more Nordic companies.

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Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
	<ul style="list-style-type: none"> - financial support to R&D projects (the Nordic Industrial Fund); - funding of feasibility studies for international projects (the Nordic Fund for Project Exports); - financial assistance to companies⁷ utilizing environmental technology (the Nordic Environment Finance Corporation). 			
All Sectors	Extension of full national treatment to investors from another country in relation to every kind of investment asset	Côte d'Ivoire Madagascar Senegal	Minimum 11 years	The measure reflects special investment conditions contained in bilateral treaties
All sectors	Authorization for purchase of real estate in Italy by foreign natural persons and juridical persons granted on the basis of reciprocity.	All countries	Indefinite	The reciprocity requirement is put in place to ensure equivalent treatment for Italians in other countries.
All sectors	Waiver of nationality requirements for the exercise, in Portugal, of certain activities and professions by natural persons supplying services from the designated countries	Countries of Portuguese official language (Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique and São Tomé & Príncipe)	Indefinite	This measure reflects historical links between Portugal and these countries.
All sectors	Facilitation of access procedures in France for the exercise of certain services activities and professions by natural and legal persons of certain third countries	Francophone African countries, Algeria, Switzerland and Romania	10 years	This measure reflects historical links between France and these countries.

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
All sectors	For citizens of Commonwealth countries with a grandparent born in the UK, the UK waives the requirement for a work permit in all services sectors	Countries members of the British Commonwealth of Nations	Indefinite	This measure reflects historical links between these countries and the UK.
All sectors	Measures based on bilateral agreements between the European Communities and/or their Member States and Switzerland with the objective of providing for the movement of all categories of natural persons supplying services	Switzerland	Indefinite	The agreements reflect a process of progressive trade liberalisation between the EC and its regional trading partner.
All sectors	Measures based on existing or future bilateral agreements between the European Communities and certain Member States ⁸ and the countries and principalities concerned, providing for: a) the right of establishment for juridical and natural persons and; b) waiving the requirements of work permits for natural persons supplying services.	San Marino, Monaco, Andorra, Vatican City State.	Indefinite	The geographical situation and historical, economic and cultural links between the Member States of the European Communities and the countries and principalities concerned.
All sectors	Measures based upon bilateral agreements between Italy and third countries guaranteeing work permits for seasonal workers.	States in Central Eastern and South-Eastern Europe and in the Mediterranean Basin.	Indefinite	Seasonal shortages of workers and to ensure the orderly movement of seasonal workers.

⁸ The following Member States are covered: Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and United Kingdom

Sector or subsector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
All sectors - principally construction and hotel and catering	Measures based upon bilateral agreements between Community Member States ⁹ and European and Mediterranean countries guaranteeing work permits, for the purposes of temporary contract work, on the basis of contracts between an employer of the third country concerned and a company in the Member State concerned, and which permit limited numbers of workers from the countries concerned to be employed in certain service sectors; the numbers are subject to variation according to criteria established in the agreement.	States in Central, Eastern and South-Eastern Europe, including Russia, Ukraine, Belarus and Georgia, and in the Mediterranean Basin.	Indefinite. Exemption needed, for certain countries, only until an economic integration agreement is concluded or completed.	The agreements form part of a broader initiative to assist the countries concerned in their process of economic transition and development.

⁹ The following Member States are covered: Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and United Kingdom