

# MINISTRY OF FINANCE

## TRADE BRIEF

*Volume 2 Issue 6  
February 2008*

### THE SERVICES SCHEDULE

#### **What is the services schedule in the Economic Partnership Agreement?**

The services schedule represents the offer that The Bahamas is making to the EU and CARIFORUM with respect to trade in services. It describes the commitment in four ways:

1. Horizontal Commitments
2. Central Product Classification (CPC) Code Description of Services Offered
3. Market Access/ National Treatment
4. Modes of Delivery

#### **Horizontal Commitments**

These are measures of universal application that apply to *all* service sectors. Examples are exchange controls or the national immigration law.

#### **Central Product Classification Codes**

These are internationally-agreed codes that describe the major service activities. The Code is administered by the United Nations Statistical Office. The service activity is usually describes by a 3 digit code. Sometimes to provide a more accurate description of the service activity the code may be 5 digits or more.

Although it is not the latest version, the CPC Provisional Code ("CPC Prov") is used in the services schedule for the WTO services commitments and for the EPA.

#### **Market Access**

A commitment in market access means that the Government will not change the conditions of

entry or restrict market entry to a service supplier. Commitments can be improved unilaterally by a country but can only be removed or modified after countries that would be affected by the changes have been compensated.

There are six types of restrictions defined by the GATS Agreement and incorporated into the EPA. These are: (1) limitations on the number of service providers through quotas, monopolies or exclusive service suppliers or an "economic needs" test<sup>1</sup>, (2) limitations on the value of transactions or assets or an economic needs test (3) limitations on the total number of service operators or the total quantity of service output or an "economic needs" test, (4) limitations on the total number of persons that may be employed or an "economic needs" test, (5) measures which require specific types of legal entities or joint venture through which the service may be provided and (6) limitations on foreign capital , shares or investment.

#### **National Treatment**

The services schedule is also a commitment to treat service suppliers the same way as domestic service providers if they are granted access to the domestic services market for a particular sector. If foreign service suppliers will be given less favourable treatment than nationals, this must be indicated in the services schedule.

#### **Modes of Delivery**

Services are delivered through 4 modes of supply:

1. An economic needs test refers to a process conducted by the immigration or investment authority to determine whether there is a requirement for skills of investment that cannot be satisfied from local sources.

### Mode 1: **Cross-border supply.**

This is the supply of a service into the territory of a Member from a non-resident service supplier. The service supplier is not present in the territory of the Member. An example would be electronic banking transfers from the US to the Bahamas. Another example would be the provision of legal advice by a UK solicitor by telephone to a Bahamian client.

### Mode 2: **Consumption abroad**

This is the purchase of a service outside the territory of the Member. The service supplier is not present in the territory of the Member e.g tourist services, ship repair, medical services.

### Mode 3: **Commercial presence**

This is a commitment to allow foreign service suppliers to establish a branch, agency or subsidiary in the territory of the Member. Examples are the presence in The Bahamas of Scotiabank, CLICO, and Wendy's.

### Mode 4: **Presence of natural persons**

This allows foreign persons temporary entry to the territory of the Member to supply their services. An example is the entry into The Bahamas of American appliance repairmen.

### **What areas will be included in the services schedule?**

The services schedule will likely include commitments in computer and related services, research and development services, other business services, telecommunication services, environmental services, tourism and travel-related services, recreational, cultural and sporting services and transport services.

### **What does the term 'coverage' mean?**

The term refers to the number of sectors in which commitments are made as a proportion of the total number of sectors.

The services schedule of the CARIFORUM states includes 155 sectors. As a Most Developed Country (MDC) within the context of CARIFORUM, The Bahamas is expected to

make commitments in 75% or 116 of the sectors.

### **How are commitments made?**

There is a standard format and terminology to make commitments. Commitments are made with respect to the Sector as defined by the CPC Code, horizontal commitments as well as commitments reflecting the four modes of delivery in market access and national treatment columns as described above. Commitments can be qualified. An example would be "None after 2013."

The terminology for making commitments is as follows:

#### *None*

This means that there are no limitations or restrictions on provision of services by foreign service providers in the national territory.

#### *Unbound*

This means that no commitment is being made. This is usually because the Member wishes to introduce or maintain practices that are not consistent with full market access or national treatment for foreign services or service providers.

### **How to interpret the services schedules?**

1. Understand the horizontal restrictions that apply to all sectors and their effect on the sector under consideration.
2. Understand the scope and coverage of CPC codes and which specific activity is being undertaken.
3. Look at the market access limitations.
4. Look at the national treatment limitations.

An example on how to interpret the schedule is given overleaf.

MEMBER STATE	LIMITATIONS ON MARKET ACCESS	LIMITATIONS ON NATIONAL TREATMENT
SECTOR OR SUB-SECTOR		
<b>A. PROFESSIONAL SERVICES</b>  <b>Legal Services (CPC 861)</b> <b>DMA, GUY, JAM</b>	<u>DMA,GUY, JAM</u> 1), 2) None  <u>DMA</u> 3) Unbound. None from 2018  <u>GUY</u> 3) None  <u>JAM</u> 3)None. Local certificate required; Attorneys from other jurisdictions cannot practice in Jam without acceptance by Jamaica General Legal Council  <u>DMA,GUY,JAM</u> 4) Unbound except as indicated in horizontal section	<u>GUY, JAM</u> 1), 2) None  <u>DMA</u> 3) Unbound  <u>GUY, JAM</u> 3) None  <u>DMA,GUY</u> 4) <u>Non-CARICOM Commonwealth (BR) National:</u> would be required to have their qualifications reviewed by the Council of Legal Education and also undergo a six (6) month period of training at one of the law schools. <u>Non-Commonwealth Nationals</u> would be required to have their qualifications reviewed by the Council for Legal Education, which would determine the amount or retraining they would be required to undergo  <u>JAM</u> 4) Unbound except as indicated in the horizontal section.

**What information does the table provide?**

This is a copy of the EPA service commitments with respect to CPC code 861. The code is further divided into several classes:

- 8611—Legal advisory and representation service in different fields of law
- 8612—Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards etc.,.
- 8613—Legal documentation and certification services
- 8619—Other legal advisory and information services

The schedule lists the countries that are making commitments using a three letter code. In this instance the countries are Dominica (DMA), Guyana (GUY) and Jamaica (JMA). Unless the country indicates which codes for which there will be exceptions, offers are understood as being made in all the categories for CPC 861.

**Horizontal Commitments**

These are the commitments that have been made with respect to all service sectors. In the case of Guyana, there are no horizontal restrictions with respect to limitations on market access in Modes 1, 2 and 3. In Mode 4, no commitments are being made except to allow entry to key personnel of temporary visitors providing services not available locally as defined in Chapter 4 of Title II of the EPA. Similarly, there are no restrictions listed relating to national treatment of temporary visitors for providing services. There are no commitments listed in Modes 1, 2 and 3. The commitment in Mode 4 is that there will be no restrictions on key personnel and no commitments are being made on other categories of personnel.

### **Market Access—Dominica**

Dominica has indicated that there will be no market access restrictions to EU or CARIFORUM services providers providing legal advisory services from outside Dominica in Modes 1 and 2. However, Dominica has indicated that no commitments are being made concerning the commercial presence of law firms to provide the service. This is being qualified by a commitment to eliminate restrictions after 2018. Dominica is also making no commitments with respect to the temporary entry of persons into Dominica to provide the service. The reference to the horizontal commitments means that there are some commitments listed there that cover all service sectors. The horizontal restriction refers to requirements for a work permit and work visa in order to allow service providers entry.

### **National Treatment—Jamaica**

The horizontal section indicates that foreign suppliers in all modes are not eligible for government funding or subsidies that are in the public interest. Ownership of large acreages of land should be for investment purposes only.

Jamaica has indicated that foreign service suppliers that provide legal advisory services from outside Jamaica will be granted the same treatment as nationals i.e. there will be no restrictions. In mode 3, commercial presence, Jamaica has indicated that foreign service providers from the EU or CARIFORUM who wish to establish a branch in Jamaica will have the same treatment as nationals but they will have to obtain a Local Certificate and be accepted by the Jamaica General Legal Council. Finally with respect to Mode 4, the temporary presence of service providers, Jamaica has indicated that no commitments are being made except those in the horizontal section.