
CCBE

**CONSEIL DES BARREAUX DE
L'UNION EUROPEENNE RAT DER
ANWALTSCHAFTEN DER
EUROPÄISCHEN UNION CONSEJO DE
LOS COLEGIOS DE ABOGADOS DE LA
UNION EUROPEA CONSIGLIO DEGLI
ORDINI FORENSI DELL'UNIONE
EUROPEA RAAD VAN DE BALIES
VAN DE EUROPESE UNIE CONSELHO
DAS ORDENS DE ADVOGADOS DA UNIÃO
EUROPEIA SYMBOYΛIO TΩN
ΔΙΚΗΓΟΡΙΚΩΝ ΣΥΛΛΟΓΩΝ ΤΗΣ
ΕΥΡΩΠΑΙΚΗΣ ΕΝΩΣΗΣ RADET FOR
ADVOKATERNE I DEN EUROPÆISKE
FAELLESKAB EUROOPAN UNIONIN
ASIANAJAJALIITTOJEN NEUVOSTO
RAD LÖGMANNAFELAGA I
EVROPUSAMBANDINU RÅDET FOR
ADVOKATFORENINGENE I DET
EUROPEISKE FELLESKAP RÅDET FOR
ADVOKATSAMFUNDEN I DEN
EUROPEISKA UNIONEN COUNCIL OF
THE BARS AND LAW SOCIETIES OF THE
EUROPEAN UNION**

POSITION OF THE CCBE IN RELATION TO GATS 2000

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Position of the CCBE in relation to GATS 2000 on the obligation for most favoured nation treatment

The CCBE is of the opinion that, in spite of GATS 1994, there continues to exist in many countries barriers to cross-border legal services. Such barriers consist of express restrictions and regulations, or the discriminatory application of generally applicable provisions. These barriers concern many aspects of the legal profession such as qualification requirements, title, permitted scope of practice, association with local lawyers, insurance, professional conduct rules, control by local bar etc. While some of these barriers can (and should) be removed under the regime of GATS 1994, others can be removed only in the framework of an additional treaty ("GATS 2000"). Such latter barriers, as the CCBE understands, are being described for a number of countries in submissions to the Commission by several national European bars and law societies, in particular in the submission by the Law Society of England and Wales.

In the opinion of the CCBE, a way suitable and acceptable to many if not all Member States for further liberalisation in the aforesaid areas when such liberalisation cannot be achieved by GATS 2000 itself, would be Mutual Recognition Agreements (MRA) as is already stated in Part B of Section A in the EU Schedule for Business Services. The importance and usefulness of such MRA has also been emphasized by the WTO Resolution of December 1998 on the Accountancy Profession.

Article VII of GATS 1994 already today opens the door to such MRA, and an MRA covered by Article VII is exempted from the obligation for most favoured nation treatment under Article II GATS 1994. However, the scope of applicability of Article VII is questionable, partly due to the fact that the borderline between the various aspects mentioned above is not always clear-cut. Consequently, the scope of exemption from Article II is equally doubtful. As a result of such uncertainty, MRA although specifically envisaged in Article VII of GATS 1994 have been a rather unattractive way for liberalisation. In the view of the CCBE it is therefore of utmost importance that unequivocal assurance is given to WTO Member States by express new treaty provision that the MRA as suggested above for further liberalisation do not fall under Article II of GATS 1994. Without such assurance Article II will continue to have an anti-liberalisation effect.