



Représentant les avocats d'Europe
Representing Europe's lawyers

Mr Joao Aguiar Machado
Head of Unit
Trade in Services, DG Trade
European Commission
Rue de la Loi 200
B – 1049 Brussels

9 January 2003

Re: CCBE Response to the Consultation Paper from the European Commission concerning WTO Members' Requests to the EC and its Member States for improved Market Access for Services

Dear Mr Aguiar Machado,

The Council of Bars and Law Societies of the European Union (CCBE), which represents over 500,000 lawyers in the EU and the EEA through its member bars, is very pleased to have the opportunity to respond to the Consultation Paper from the European Commission concerning WTO Members' Requests to the EC and its Member States for improved Market Access for Services. We are pleased also at the continuing close contact between the Commission and ourselves during the current GATS round.

Having regard to the section in the consultation paper on professional services, and specifically the part relating to legal services, the CCBE would like to express the following observations:

- (a) Extension of the sectoral coverage of commitments for legal services (to all types of legal services and to all fields of law):

The CCBE does not support this. Of course, the CCBE can speak only for legal services provided by lawyers (and not, for instance, by notaries), but we have made clear in the past that our support for market opening goes as far as provision of services in home country law and public international law only.

- (b) Request for additional commitments to address some regulatory issues concerning legal services (provision of advice on third country law without being qualified in that law, full EC recognition of accreditation granted by a single Member State to a foreign lawyer, simplified licensing systems for foreign legal consultants, definition of the scope of legal services and facilitation of visas):

Conseil des Barreaux de l'Union européenne – Council of the Bars and Law Societies of the European Union

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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 - ΣΥΜΒΟΥΛΙΟ ΤΩΝ ΔΙΚΗΓΟΡΙΚΩΝ ΣΥΛΛΟΓΩΝ ΤΗΣ ΕΥΡΩΠΑΙΚΗΣ ΕΝΩΣΗΣ - RÅDET FOR ADVOKATSAMFUND I DEN EUROPAEISKE UNION - EUROOPAN UNIONIN ASIANAJAJALIITTOJEN NEUVOSTO - RÅD LÖGMANNAFELAGA I EVROPUSAMBANDINU - RÅDET FOR ADVOKATFORENINGENE I DET EUROPEISKE FELLESSKAP - RÅDET FOR ADVOKATSAMFUNDEN I DEN EUROPEISKA UNIONEN

The CCBE's position on this matter in general has been expressed to the Commission on several occasions. The CCBE outlines in its inbound position (which is attached) the means by which the CCBE member organisations are prepared to apply the FLP concept to lawyers from states outside the EU.

In relation to the specific items mentioned, the CCBE would comment as follows:

- (1) advice on third country law – the CCBE supports the Commission's view in this area, that lawyers should be able to give advice only in that law in which they are qualified;
 - (2) full EC recognition of accreditation – if this means in essence the extension of the Establishment Directive to foreign lawyers (i.e. that once established in one Member State they can establish in another, as if they were EU lawyers), then the CCBE is opposed to this because: (a) the Establishment Directive is based on an equivalence of processes and content of qualification, which cannot be guaranteed for all foreign countries, (b) the Establishment Directive is still not implemented in all Member States and is too new for us to know the problems which may arise out of it – therefore, extension outside the EU is in any case premature, and (c), given the fact that the thresholds for establishment by foreign lawyers differ very much from Member State to Member State, it would enable foreign lawyers to do "establishment country shopping";
 - (3) simplified licensing systems – until detail is provided of which complications in which Member States is being addressed, it is difficult to comment on this issue;
 - (4) definition of the scope of legal services – the CCBE has supported the Commission's efforts to find a new and improved classification system for legal services in the current round;
 - (5) facilitation of visas – the CCBE considers that this issue is beyond its jurisdiction, being a matter for government authorities; however, it would support the principle that, once the criteria for the provision of legal services in the EU have been met, the granting of a visa should not be a further hurdle.
- (c) Requests for the negotiation of mutual recognition agreements (MRAs) in professional services

The CCBE has already communicated to the Commission its view that bilateral MRAs can be important and useful, when such liberalisation cannot be achieved through the GATS negotiations themselves.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Helge Zahor". The signature is written in a cursive, flowing style.