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November 8, 2002

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
600 17th Street, NW
Washington, D.C.20508
By Email: FR0033@ustr.gov

**Re: WTO Market Access: Services, Written Comments:
Legal Services Sector and the Doha Development Agenda:
Response to 67 Federal Register 59086 (September 19, 2002)**

Dear Ms. Blue:

I submit these comments in response to the Federal Register Notice of September 19, 2002, Request for Comments and Notice of Public Hearing Concerning Market Access in the Doha Development Agenda Negotiations in the World Trade Organization, 67 Fed. Reg. 59086 (September 19, 2002). These comments address the **legal services sector**.

I am on the faculty of Northwestern University School of Law. My research has focused on globalization and the United States legal profession, and I teach a course at Northwestern on globalization and comparative legal profession. In addition, in connection with the interests of members of the Transnational Legal Practice Committee of the American Bar Association Section of International Law and Practice, I have undertaken a comparative analysis of United States state regulation of foreign legal consultants. The views expressed in this letter are my own personal views, and do not necessarily reflect the views of any organization with which I am affiliated, including Northwestern University School of Law.

My comments are addressed to U.S. state regulation of foreign lawyers under the classification of foreign legal consultant.¹ This category permits lawyers licensed in a foreign country to become registered in a particular state jurisdiction in the U.S. upon satisfaction of certain requirements.

Registered foreign legal consultants are restricted in the scope of their practice in the U.S. according to the requirements of the particular state jurisdiction's foreign legal consultant rules. Not all U.S. states have adopted foreign legal consultant rules. These rules, when adopted, generally are among the rules regulating admission of attorneys adopted by the state supreme court.

The Schedule of Specific Commitments lays out the fundamental regulatory parameters for practice by foreign lawyers under the foreign legal consultant rules for the various U.S. state jurisdictions that have adopted such rules. The comments that follow identify discrepancies between the description in the Schedule of Specific Commitments and the rules adopted by a particular U.S. jurisdiction. Among the issues considered for each jurisdiction listed below are the following: (1) reciprocity considerations, (2) place of practical experience requirements (must practice have occurred in same jurisdiction in which applicant is admitted), (3) requirements regarding an office in the state, (4) authorization of use of National Conference of Bar Examiners form for character and fitness investigation, (5) ethics examination or course requirements, and (6) malpractice insurance requirements. In certain cases, the Schedule of Specific Commitments does not include any description of the foreign legal consultant rules for particular state jurisdictions; in that case, the comments describe the jurisdiction's foreign legal consultant rules in more detail. Citations to the foreign legal consultant rules for each jurisdiction are included for each comment for ease of reference.

These comments are submitted for the purpose of ensuring the accuracy of the U.S. Schedule of Specific Commitments. Thank you for the opportunity to submit these comments. I would be happy to provide any additional information that might be useful.

Very truly yours,

Carole Silver
Senior Lecturer

¹ "Foreign legal consultant" is used here as a general term of reference; U.S. jurisdictions use a variety of labels for this classification, including "legal consultant" and "special legal consultant."

Clarification of the United States Position on the Offering of Legal Services by Foreign Lawyers

References are to the United States Schedule of Specific Commitments

A. ALASKA

(1) *RE:* GATS/SC/90, page 17, Column 2, footnote 2 provides “Licensure is subject to an experience requirement (5 of the 7 years preceding registration must have been spent practicing law)[.]”

COMMENT: Alaska Bar Rules, Rule 44.1(b)(1)(B) requires that the practice have occurred in Alaska. The relevant language of the Rule is as follows: “(B) has engaged either (i) in the practice of law in that country or (ii) in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in that country” (emphasis added). The Rule is somewhat ambiguous for those who fall under clause (B)(ii), since “in that country” could refer to the requirement for admission to practice for a particular profession other than the practice of law.

(2) *RE:* GATS/SC/90, page 17, Column 4, item (a), provides “Practice of international law: permitted, provided foreign legal consultant (FLC) is competent.”

COMMENT: Alaska Rule 44.1(e)(5) does not specifically provide that foreign legal consultants may advise on international law. In fact, Alaska Rule 44.1(e)(5) prohibits foreign legal consultants from advising on the “law of the State of Alaska, any other state or territory of the United States of America, the District of Columbia, the United States or any foreign country other than the country where the consultant is admitted as an attorney or counselor at law or the equivalent, whether provided incident to the preparation of legal instruments or otherwise.” Nowhere does the Rule specifically permit foreign legal consultants to advise on international law, apart from that portion of international law that is incorporated into the law of their home country.

(3) *RE:* GATS/SC/90, page 17, Column 4, items (d) and (e), provide that Alaska rules permit foreign legal consultants to associate with local lawyers through partnership and employment arrangements.

COMMENT: Alaska Rule 44.1 does not specifically address these issues.

(4) *RE:* GATS/SC/90, page 17, Column 4, item (g) “Other.”

COMMENT: The Schedule of Specific Commitments omits reference to the grant of discretion to the Court regarding reciprocal rights afforded to Alaska attorneys in the Court’s determination of whether to grant an application for foreign legal consultant status, per

Alaska Rule 44.1(c)(4).

B. ARIZONA

The Schedule of Specific Commitments does not include information about Arizona's foreign legal consultant rule. The following information is intended to provide a framework for including Arizona's rule:

- (1) Arizona Supreme Court Rule 33(f) provides that certificates of registration for foreign legal consultants may be issued subject to meeting requirements of an experience requirement (for at least 5 of the 7 years preceding application the applicant must have been "engaged either: (i) in the practice of law in such country or political subdivision; or (ii) in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in such country or political subdivision."), good standing in home country bar, "good moral character necessary for a member of the state bar," an intention to practice and maintain an office in Arizona, compliance with U.S. immigration laws, and submission of information about character and fitness on a form that may be the form of the National Conference of Bar Examiners.
- (2) Applicants must be at least age 18, per Rule 33(f)(2)(E).
- (3) The same exclusions that appear in Column 1 on GATS/SC/90, page 17, (a)(2), also apply to Arizona, per Rule 33(f)(6)(A).
- (4) Additional commitments: Practice of international law is not prohibited for foreign legal consultants, per Rule 33(f)(6)(A)(vi)
- (5) Practice of host country law: permitted only on the "basis of advice from a person duly qualified and entitled (otherwise than by virtue of having been licensed under this rule) to render professional legal advice in this state;" per Rule 33(f)(6)(A)(vi)
- (6) Practice of 3rd-country law: not prohibited, per Rule 33(f)(6)(A)(vi)
- (7) Association with and employment of local lawyers: permitted, per Rule 33(f)(7)(A)
- (8) Use of firm name: permitted, per Rule 33(f)(6)(B)
- (9) Other: Rule 33(f)(9) requires foreign legal consultants to complete the State bar course on professionalism within one year of licensing
- (10) Other: Rule 33(f)(5) allows the committee to consider the reciprocal opportunities for Arizona attorneys, if a request from an Arizona attorney is pending with the committee.

C. CALIFORNIA

(1) *RE:* GATS/SC/90, Page 19, Column 4, items (d) and (e) indicate that association with local lawyers through partnership and employment is permitted

COMMENT: California rules do not specifically authorize or address these issues.²

(2) *RE:* GATS/SC/90, Page 19, Column 4, item (g) “Other.”

COMMENT: California State Bar Registered Foreign Legal Consultant Rules and Regulations, Rule 14.1 requires foreign legal consultants to file annual reports, annual good standing certificates, and to submit renewal fees to maintain their license.

D. CONNECTICUT

(1) *COMMENT:* The provisions in Column 1, Sector or subsector, regarding the exclusion of particular practice areas such as representation in court and estates and trusts, is not duplicated in Connecticut rules on foreign legal consultants

(2) *RE:* GATS/SC/90, Page 19, footnote 4 provides “A supplier regularly providing services is required to be licenced as a foreign legal consultant in Connecticut.”

COMMENT: Connecticut Rules of the Supreme Court for foreign legal consultants do not specifically address this issue. The foreign legal consultant rule is framed to specify what must be accomplished by applicants in order to be licensed. No statement is contained in the rule to the effect that all foreign lawyers practicing their home country law in Connecticut must be registered as foreign legal consultants.

(3) *RE:* GATS/SC/90, Page 19, footnote 4 provides that an experience requirement of 5 of the last 7 years is required.

COMMENT: Conn. Sec. 2-17(1) requires that the practice experience have been gained in the home country of the foreign legal consultant

(4) *RE:* GATS/SC/90, Page 19, footnote 4

COMMENT: Conn. Sec. 2-18(c) authorizes the licensing authority to require foreign legal consultant applicants to submit the National Conference of Bar Examiners’ character and fitness report

(5) *RE:* GATS/SC/90, Page 19, Column 4, item (b) provides that practice of 3rd-country law is “permitted provided FLC first obtains advice from an attorney licenced in

² California rules on foreign legal consultants are found in California Rules of Court, Rule 988, and California State Bar Registered Foreign Legal Consultant Rules and Regulations.

that jurisdiction.”

COMMENT: Conn. Sec. 2-19 does not specify that advice on 3rd-country law is permitted with advice from an attorney licensed in the 3rd country. Instead, it restricts foreign legal consultants to advising only on the law of their home country. Specifically, Sec. 2-19 provides “A person licensed to practice as a foreign legal consultant under these rules is limited to advising Connecticut clients only on the law of the foreign country in which such person is admitted to practice law.” (emphasis added)

(6) *RE:* GATS/SC/90, Page 19, Column 4, items (d) and (e) provide that employment of and association with local lawyers is permitted

COMMENT: Connecticut foreign legal consultant regulations do not address this issue directly and no such permission is articulated in the regulations; see especially Section 2-21.

(7) *RE:* GATS/SC/90, Page 19, Column 4, item (f) provides that use of firm name is permitted.

COMMENT: Connecticut foreign legal consultant regulations do not address this issue directly and no such permission is articulated in the regulations; see especially Section 2-19(2).

E. DISTRICT OF COLUMBIA

(1) *RE:* GATS/SC/90, Page 19, footnote 5, provides “A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in the District of Columbia.”

COMMENT: Rules of the District of Columbia Courts of Appeals, Rule 46(c)(4) does not specify this, instead providing only that those foreign lawyers that satisfy the requirements of the Rule may be licensed as Special Legal Consultants.

(2) *RE:* GATS/SC/90, Page 19, Footnote 5, describes an experience requirement of “5 of the 8 years preceding registration.”

COMMENT: Rule 46(c)(4) does not impose any specific requirement regarding the number of years of experience for Special Legal Consultant applicants. Rule 46(c)(4)(A)(1) requires simply that the applicant have been admitted to practice and be in good standing in the home country.

(3) *RE:* GATS/SC/90, Page 19, footnote 5, requirements for licensure.

COMMENT: Applicants must have an intention to practice and maintain an office in the District of Columbia, per Rule 46(c)(4)(A)(3).

(4) *RE:* GATS/SC/90, Page 20, Column 4, items (d) and (e) provide that association with local lawyers through partnership and employment is permitted.

COMMENT: Rule 46(c)(4) does not specifically address the rights of affiliation and employment.

(5) *RE:* GATS/SC/90, Page 20, Column 4, item (g), “Other.”

COMMENT: The Court is granted discretion to consider the reciprocal treatment of District of Columbia lawyers in the home country of the applicant, per Rule 46(c)(4)(C).

(6) *RE:* GATS/SC/90, Page 20, Column 4, item (g), “Other.”

COMMENT: The Committee may require applicants to use the National Conference of Bar Examiners’ character and fitness form, per Rule 46(c)(4)(C).

F. FLORIDA

(1) *RE:* GATS/SC/90, Page 21, footnote 6

COMMENT: Florida Bar Reg. Rule 16-1.2(i) requires that foreign legal consultants maintain “an office in the state of Florida for the rendering of services as a foreign legal consultant”

(2) *RE:* GATS/SC/90, Page 21, Column 4, items (d) and (e) provide that association with local lawyers through partnership and employment is permitted.

COMMENT: Florida Bar Reg. Rules 16-1.1--16-1.6 do not specifically address the rights of affiliation and employment.

(3) *RE:* GATS/SC/90, Page 21, Column 4, item (g), “Other.”

COMMENT: Florida Bar Reg. Rule 16-1.3(a)(2)(F) requires all foreign legal consultants, in rendering “any legal services” to utilize “a written retainer agreement that shall specify in bold type that the foreign legal consultant is not admitted to practice law in the state of Florida nor licensed to advise on the laws of the United States or any other state, commonwealth, territory, or the District of Columbia, unless so licensed, and that the practice of the foreign legal consultant is limited to the laws of the foreign country where such person is admitted to practice as an attorney, counselor at law, or the equivalent.” (emphasis added)

(4) *RE:* GATS/SC/90, Page 21, Column 4, item (g), “Other.”

COMMENT: Florida Bar Reg. Rule 16-1.3(b) requires foreign legal consultants to “provide clients with a letter disclosing the extent of professional liability insurance coverage maintained by the foreign legal consultant, if any, as well as an affirmative statement advising the client that any client aggrieved by the foreign legal consultant will not have

access to the Client's Security Fund of The Florida Bar. The letter must further include the list of activities that the foreign legal consultant certified under this chapter is prohibited from engaging in, as set out in rule 16-1.3(a)(2)(A)-(F)." (emphasis added)

(5) *RE: GATS/SC/90, Page 21, Column 4, item (g), "Other."*

COMMENT: Florida Bar Reg. Rule 16-1.4(b) requires foreign legal consultants to submit an annual statement of good standing and the same annual renewal fee required of members of the Florida bar.

(6) *RE: GATS/SC/90, Page 21, Column 4, item (g), "Other."*

COMMENT: Florida Bar Reg. Rule 16-1.2(c) requires a foreign legal consultant's home country legal profession to have a disciplinary system generally consistent with that of Florida Bar.

G. GEORGIA

(1) *RE: GATS/SC/90, Page 22, Column 4, items (d) and (e) provide that association with local lawyers through partnership and employment is permitted.*

COMMENT: Georgia State Bar Rules, Part D, Licensure of Foreign Law Consultants, does not specifically address rights of partnership or employment.

(2) *RE: GATS/SC/90, Page 22, Column 4, item (g), "Other."*

COMMENT: Georgia State Bar Rules, Part D, Sec. 4 and 5 require annual renewal of registration and the Certificate of Fitness required for all foreign law consultants

H. HAWAII

(1) *RE: GATS/SC/90, Page 23, footnote 8, describes the experience requirement as "5 of the 7 years preceding registration[.]"*

COMMENT: Rules of the Supreme Court of the State of Hawaii, Rule 14.1(a)(2) provides that the foreign law consultant must, during those 5 of the last 7 years, "engaged either (A) in the practice of law in such country or (B) in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in such country" (emphasis added).

(2) *RE: GATS/SC/90, Page 23, Column 4, Item (a) provides "Practice of international law: permitted, provided FLC is competent."*

COMMENT: Hawaii Rule 14.4 regulates scope of practice permitted for foreign law consultants, but does not specifically provide that they may advise on international law. In fact,

Hawaii Rule 14.4(e) prohibits a foreign law consultant from advising on “the law of the State of Hawaii or the United States of America or any other state or territory of the United States of America or the District of Columbia or any foreign country other than the country of admission as an attorney or counselor at law or the equivalent . . . except on the basis of advice from a person admitted to the practice of law as an attorney in the State of Hawaii or such other state or territory or the District of Columbia or as an attorney or counselor at law or the equivalent in such other foreign country who has been consulted by the foreign law consultant in the particular matter at hand and who has been identified to the client by name” (emphasis added). This excludes advising on any law except the country where the foreign law consultant has been admitted; international law that is incorporated into home country law is an appropriate subject of advice.

(3) *RE: GATS/SC/90, Page 23, Column 4, items (d) and (e) provide that association with local lawyers through partnership and employment is permitted.*

COMMENT: Hawaii Rules 14-14.5 do not specifically address the rights of association through partnership or employment.

(4) *RE: GATS/SC/90, Page 23, item (g), “Other.”*

COMMENT: Hawaii Rule 14.2(d) allows the Supreme Court to consider the reciprocal opportunities for Hawaii attorneys to practice in the foreign law consultant’s home jurisdiction, if there is pending a request from a Hawaii attorney on the matter.

(5) *RE: GATS/SC/90, Page 23, item (g), “Other.”*

COMMENT: Rules of the Supreme Court of the State of Hawaii, Rule 14.5(b)(2) requires each licensed foreign law consultant to file “an undertaking or appropriate evidence of professional liability insurance, in such amount as the court may prescribe, to assure such foreign law consultant’s proper professional conduct and responsibility”

(6) *RE: GATS/SC/90, Page 23 item (g), “Other.”*

COMMENT: Hawaii Rule 14.5(a) provides that foreign law consultants “shall be subject to the exclusive disciplinary jurisdiction of this court and the Disciplinary Board.” This may conflict with the professional regulation in the foreign law consultant’s home jurisdiction.

I. ILLINOIS

(1) *RE: GATS/SC/90, Page 24, items (b) and (c), prohibit the practice of 3rd-country and/or host-country law.*

COMMENT: Illinois Rule 712(e) additionally specifically prohibits foreign legal consultants from advising on “a personal injury occurring within the United States” (per Rule 712(e)(6)), and from advising “with respect to United States immigration laws, United

States custom laws or United States trade laws” (per Rule 712(e)(7)).

(2) *RE:* GATS/SC/90, Page 24, Footnote 9, sets out requirements for obtaining a foreign legal consultant license.

COMMENT: Rule 712(a)(4) requires applicants for licensing as foreign legal consultants to intend to maintain an office in Illinois for the practice of law

(3) *RE:* GATS/SC/90, Page 24, Column 4, items (d) and (e) provide that association with local lawyers in partnership and employment is permitted.

COMMENT: Illinois Rule 712(e) does not specifically provide that association through partnership and employment is permitted, but it does address employment by prohibiting foreign legal consultants from “directly, or through a representative, propose, recommend or solicit employment of himself or herself, his or her partner, or his or her associate for pecuniary gain or other benefit with respect to any matter not within the scope of practice authorized by this rule[.]”

(4) *RE:* GATS/SC/90, Page 24, Column 4, item (g), “Other.”

COMMENT: Illinois Rule 712(b) grants discretion to the Supreme Court to consider the reciprocal opportunities for practice for Illinois attorneys in the home jurisdiction of the foreign legal consultant, if a request from an Illinois attorney is pending with the Court.

(5) *RE:* GATS/SC/90, Page 24, item (g), “Other.”

COMMENT: Illinois Supreme Court Rule 712(a)(3) requires possession of the documentation evidencing compliance with the immigration laws of the United States.

(6) *RE:* GATS/SC/90, Page 24, item (g) “Other.”

COMMENT: Illinois Supreme Court Rule 713(b)(5) requires submission of the National Conference of Bar Examiners character and fitness form

(7) *RE:* GATS/SC/90, Page 24, item (g) “Other.”

COMMENT: Illinois Rule 713(h) requires a surety before foreign legal consultant takes valuables on behalf of clients residing in the U.S.

J. INDIANA

The Schedule of Specific Commitments does not include information about Indiana’s foreign legal consultant rule, found in Indiana Rules for Admission to the Bar and the Discipline of Attorneys, Rule 5(1). The following information is intended to provide a framework for including Indiana’s rule.

(1) Indiana Rule 5(1) provides that foreign legal consultant licenses may be granted to applicants who satisfy the experience requirement (“five of the seven years immediately preceding his or her application has been a member in good standing of such legal profession and has actually been engaged in the practice of law in the said foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the said foreign country”(Rule 5(1)(b)), good standing in the home country, “good moral character and general fitness requisite for a member of the bar of Indiana” (Rule 5(1)(c)), intention to maintain an office in Indiana (Rule 5(1)(d)), documentation of compliance with U.S. immigration laws (Rule 5(2)(f)), and submission of information about character and fitness on the National Conference of Bar Examiners’ form (Rule 5(2)(d).

(2) The same exclusions that appear in Column 1 on GATS/SC/90, page 17, (a)(2), also apply to Indiana, per Rule 5(4).

(3) Additional commitments: Indiana Rule 5(4) provides that “. . . a foreign legal consultant . . . shall be limited to rendering professional legal advice on the law of the foreign country where the foreign legal consultant is admitted to practice.”

a. Practice of international law: prohibited, per Rule 5(4).

b. Practice of 3rd-country law: prohibited, per Rule 5(4).

(4) Practice of host country law: permitted only “on the basis of advice from a person duly qualified and entitled (other than by virtue of having been licensed under this [foreign legal consultant] Rule) to render professional legal advice in this State[.]” (Rule 5(4)(e))

(5) Association with and employment of local lawyers: permitted, per Rule 5(5)(b).

(6) Use of firm name: permitted, per Rule 5(4)(g).

(7) Other: Rule 5(3) grants discretion to the Court to consider the reciprocal rights of Indiana attorneys to provide legal services in the home country of the applicant. Rule 5(2)(e) requires an applicant for foreign legal consultant license to submit a summary of the laws of his/her home country on reciprocity.

(8) Other: Rule 5(7) requires foreign legal consultants to pay an annual registration fee.

K. LOUISIANA

The Schedule of Specific Commitments does not include information about Louisiana’s legal consultant rule, Louisiana State Bar Article XIV, Section 11. The following information is

intended to provide a framework for including Louisiana’s rule.

- (1) Section 11 authorizes the Louisiana Supreme Court to license legal consultants that satisfy an experience requirement (five years preceding registration must have been practicing the law of the jurisdiction where admitted, per Sec. 11(1)(A)(2)(a)), are a minimum age of 25 years (Sec. 11(1)(A)(4)), are in good standing in the foreign jurisdiction (Sec. 11(1)(A)(1)) and possess the good moral character and general fitness required for members of the Louisiana bar (Sec. 11(1)(A)(3)), and provides “evidence of malpractice or professional liability insurance in an amount determined by the Supreme Court of this State . . .” (Sec. 11(5)(A)(3)). Professional privileges apply to all legal consultants, per Sec. 11(7)(A)(2)(b).
- (2) The exclusions that appear in Column 1 on GATS/SC/90, page 17, (a)(2), are not specifically provided for in Louisiana’s legal consultant rule. Rather, Louisiana Sec. 11(4)(A)(1) specifies that legal consultants may not appear in court or before a magistrate in Louisiana.
- (3) Additional commitments: Louisiana Sec. 11(4)(A) provides that a “legal consultant may render opinions in this State on the law of the foreign jurisdiction or jurisdictions authorized by the Supreme Court[.]”
 - a. Practice of host country law: not permitted, per Sec. 11(4)(A)(2).
 - b. Practice of 3rd-country law: only to the extent authorized by the Louisiana Supreme Court, per Sec. 11(4)(A)
 - c. Practice of international law: only to the extent authorized by the Louisiana Supreme Court, per Sec. 11(4)(A)
- (4) Association with and employment of local lawyers: permitted by Sec.11(7)(A)(2)(a).
- (5) Use of firm name: permitted by Sec.11(4)(A)(4)(b).
- (6) Other: Appendix to Art. XIV Section 11 requires legal consultants to “submit proof of malpractice insurance with a minimum coverage of \$500,000 per claim, or other guarantee of financial responsibility in like amount and in a form acceptable to the Clerk of this Court.”
- (7) Legal consultants must file annual reports and submit annual registration fees, per Sec. 11(6)(A) and (B).

L. MASSACHUSETTS

The Schedule of Specific Commitments does not include information about the Massachusetts

rule on foreign legal consultants, Rule 3:05 of the Supreme Judicial Court of Massachusetts. The following information is intended to provide a framework for including the Massachusetts rule.

- (1) Massachusetts Rule 3:05, Sec. 5.2 provides that a licensed FLC shall not be considered engaged in unauthorized practice of law, thus implying that a supplier regularly providing services in the jurisdiction is required to be licensed as a foreign legal consultant in Massachusetts. Licensure is subject to meeting requirements of registration, an experience requirement (“at least 5 years immediately preceding” the application must have been spent practicing the law of the applicant’s home country, per Rule 3:05, Sec. 1.2(b)), certification of good standing of a “recognized legal profession in a foreign country, the members of which are . . . subject to effective regulation and discipline by a duly constituted professional body or a public authority” (Rule 3:05, Sec. 1.2(a)), possession of the “good moral character and general fitness requisite for a member of the bar of” Massachusetts, per Rule 3:05, Sec. 1.2(c), and an intention to maintain an office in Massachusetts (Rule 3:05, Sec. 1.2(d)). Professional privileges apply to foreign legal consultants, per Rule 3:05, Sec. 6.3.
- (2) The same exclusions that appear in Column 1 on GATS/SC/90, page 17, (a)(2), also apply to Massachusetts, per Rule 3:05, Sec. 5.1.
- (3) Additional commitments: Massachusetts Rule 3:05, Sec. 5.1(e) prohibits a foreign legal consultant from rendering “professional legal advice on the law of this Commonwealth or of the United States of America . . .”
 - a. Practice of international law: permitted, per Rule 3:05, Sec. 5.1(e).
 - b. Practice of 3rd-country law: permitted, per Rule 3:05, Sec. 5.1(e).
- (4) Association with and employment of local lawyers: permitted, per Rule 3:05, Sec. 6.2.
- (5) Use of firm name: permitted, per Rule 3:05, Sec. 5.1(g)(ii).
- (6) Other: Rule 3:05, Sec. 3 authorizes the Board of Bar Examiners to consider whether members of the Massachusetts bar would have reciprocal rights of practice under the law of the foreign legal consultant’s home country.
- (7) Other: Rule 4:02(1A) requires foreign legal consultants to file an annual statement, and Rule 4:03 requires an annual contribution to the State Attorney Registration and Disciplinary fund.

M. MICHIGAN

- (1) *RE:* GATS/SC/90, Page 25, footnote 10, terminology

COMMENT: Rule 5(E) of the Michigan Rules for the Board of Law Examiners provides for the licensing of foreign lawyers as “Special Legal Consultants”

(2) *RE:* GATS/SC/90, Page 25, footnote 10, provides “A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Michigan.”

COMMENT: Michigan Rule 5(E) does not specifically provide that all foreign lawyers must obtain a special legal consultant license; rather, it provides that foreign lawyers who comply with the Rule’s requirements may be licensed.

(3) *RE:* GATS/SC/90, Page 25, footnote 10, provides that the experience requirement is for 3 of the last 5 years

COMMENT: Michigan Rule 5(E)(a)(1) requires applicants to “be admitted to practice in a foreign country and have actually practiced, and be in good standing, as an attorney or counselor at law or the equivalent in such foreign country for at least three of the five years immediately preceding the application” (emphasis added).

(4) *RE:* GATS/SC/90, Page 25, footnote 10, describes background requirements for licensing a special legal consultant

COMMENT: Michigan Rule 5(E) incorporates the requirements of Rule 1 and (2)(B) into the requirements for special legal consultants. Rule 1(C) requires applicants for admission to the Michigan bar to “have completed, before entering law school, at least 60 semester hours or 90 quarter hours toward an undergraduate degree from an accredited school or while attending an accredited junior or community college.” Rule 2(B) requires applicants for admission to the bar of Michigan to first have obtained an LLM, JD or LLB degree from a law school in the United States.

(5) *RE:* GATS/SC/90, Page 25, footnote 10, general requirements for licensing.

COMMENT: Michigan Rule 5(E)(a)(4) requires the special legal consultant applicant to maintain an office in Michigan.

(6) *RE:* GATS/SC/90, Page 25, footnote 10, general requirements for licensing.

COMMENT: Michigan Rule 5(E)(c)(3) requires applicants for special legal consultant to file a National Conference of Bar Examiners’ character and fitness report with their application.

COMMENT: The provisions in Column 1, Sector or subsector, regarding the exclusion of particular practice areas such as representation in court and estates and trusts, is not duplicated in Michigan Rule 5(E) on special legal consultants. The only provision of

Rule 5(E) relating to the scope of practice permitted a special legal consultant is in Rule 5(E)(d)(1), which provides in pertinent part: “A person licensed to practice as a special legal consultant Y is authorized to render professional legal advice: (1) on the law of the foreign country where the legal consultant is admitted to practice[.]”

(7) *RE:* GATS/SC/90, Page 25, Column 4, items (d) and (e) provide that association in partnership with local lawyers and employment of local lawyers are permitted

COMMENT: Michigan Rule 5(E) on special legal consultants does not specifically address the association and employment relationship between special legal consultants and local lawyers.

(8) *RE:* GATS/SC/90, Page 25, Column 4, item (g), “Other.”

COMMENT: Michigan Rule 5(E)(b) grants discretion to the Board to consider the reciprocal opportunities for Michigan attorneys to practice in the home jurisdiction of the special legal consultant, if a request from a Michigan attorney is pending with the Court.

(9) *RE:* GATS/SC/90, Page 25, Column 4, item (g) “Other.”

COMMENT: An annual filing is required because Rule 5(E)(d) requires active membership in State Bar of Michigan.

N. MINNESOTA

(1) *RE:* GATS/SC/90, Page 25, footnote 11 provides that “A supplier regularly providing services in the jurisdiction is required to be licensed as a foreign legal consultant in Minnesota.”

COMMENT: Minnesota Rules for Admission to the Bar, Rule 10(A) does not require all foreign lawyers to obtain licenses as foreign legal consultants. The relevant provision is as follows: “Eligibility. A person who is admitted to practice in a foreign country as an attorney or counselor at law may apply for, and at the discretion of the Board of Law Examiners, may obtain a license to render services as a foreign legal consultant in the State of Minnesota, without examination, subject to the limitations set forth in this Rule.”

(2) *RE:* GATS/SC/90, Page 25, footnote 11 provides that foreign legal consultants must have attained the age of 26

COMMENT: Minnesota Rules for Admission to the Bar, Rule 10(B)(5) establishes a minimum age of 24.

(3) *RE:* GATS/SC/90, Page 26, footnote 11, provides that Minnesota imposes an experience requirement of practice of 5 of the last 7 years.

COMMENT: Minnesota Rule 10(B)(2) provides that an applicant must “as principal occupation, have been engaged in the practice of law of that country in that country for at least five of the seven years immediately preceding the application” (emphasis added).

(4) *RE:* GATS/SC/90, Page 26, footnote 11, general requirements for licensing.

COMMENT: Minnesota Rule 10(B)(6) requires applicants for foreign legal consultant licenses to maintain an office in Minnesota.

(5) *RE:* GATS/SC/90, Page 26, Column 4, items (d) and (e) provides that association with local lawyers in partnership and employment is permitted

COMMENT: Minnesota Rule 10 does not specifically address the rights of association through partnership or employment.

(6) *RE:* GATS/SC/90, Page 26, item (g), “Other.”

COMMENT: Minnesota Rule 10(E)(8) provides that a foreign legal consultant shall not “render any legal services for a client without utilizing a written retainer agreement which shall specify in bold type that the foreign legal consultant is not admitted to practice law in the State of Minnesota, nor licensed to advise on the laws of the United States or the District of Columbia, and that the practice of the foreign legal consultant is limited to the laws of the foreign country where such person is admitted to practice as an attorney or counselor at law or the equivalent[.]”

(7) *RE:* GATS/SC/90, Page 26, item (g), “Other.”

COMMENT: Minn. Rule 10(E)(9) provides that foreign legal consultants shall not “hold any client funds or valuables without entering into a written retainer agreement which shall specify in bold type the name of a Minnesota licensed attorney in good standing who is also representing the particular client in the particular matter at hand.”

(8) *RE:* GATS/SC/90, Page 26, Column 4, Item (g), “Other.”

COMMENT: Minn. Rule 10(F)(3)(b) requires either proof of professional liability insurance or “an appropriate undertaking in the amount of \$ 50,000[.]”

(9) *RE:* GATS/SC/90, Page 26, item (g), “Other.”

COMMENT: Minn. Rule 10(C)(5) requires an applicant to file, with her/his application for foreign legal consultant status, “a summary of the law or rule, if any, of such foreign country which permits members of the bar of Minnesota to establish offices for the giving of legal advice to clients in such foreign country[.]”

(10) *RE:* GATS/SC/90, Page 26, item (g), “Other.”

COMMENT: Minn. Rule 10(G) requires foreign legal consultants to file annual and biennial report and fee.

O. MISSOURI

The Schedule of Specific Commitments does not include information about Missouri’s foreign legal consultant rule, Supreme Court of Missouri Rule 9. The following information is intended to provide a framework for including Missouri’s rule.

(1) Missouri Rule 9 provides that foreign legal consultant licenses may be granted to applicants who satisfy the experience requirement (“not less than 5 of the 10 years” preceding the application the applicant must have “engaged in the full-time practice of law of that country” per Rule 9.05(a)), good standing in the home country (Rule 9.05(a)), possess “the good moral character and fitness requisite for a member of The Missouri Bar” (Rule 9.05(b)), is older than 26 years of age (Rule 9.05(c)), is “associated with a law office for such practice [as a foreign legal consultant]” in Missouri (Rule 9.05(e)), and submits evidence of a passing grade on the Multistate Professional Responsibility Examination (Rule 9.05(f)). The applicant may be required to submit a character and fitness report on the form provided by the National Conference of Bar Examiners, per Rule 9.06(a). A supplier regularly providing services in Missouri is required to be licensed as a foreign legal consultant, per Rule 9.05 (lead-in).

(2) Missouri does not include all of the exclusions that appear in Column 1 on GATS/SC/90, page 17, (a)(2) in its Rule 9. Missouri Rule 9.10(a) and (b) prohibit foreign legal consultants from appearing in court for any person other than her/himself, or before an administrative agency, or to sign papers associated with a proceeding. The other specific exclusions are not included in Missouri’s rule.

(3) Additional commitments: Missouri Rule 9.10 restricts foreign legal consultants to advising on only “the laws of the jurisdictions identified in the certificate.” Rule 9.10(c) further limits foreign legal consultants by prohibiting them from rendering “professional legal services or advice on the law of the state of Missouri or of the United States or of any other jurisdiction . . .” (emphasis added).

a. Practice of international law: permitted only to the extent it is incorporated in home-country law

b. Practice of 3rd-country law: prohibited, per Rule 9.10(c)

c. Practice of host country law: prohibited, per Rule 9.10(c)

(4) Association with and employment of local lawyers: Foreign legal consultants must be affiliated with a law office, per Rule 9.05(e).

- (5) Use of firm name: permitted, per Rule 9.10(e)
- (6) Annual enrollment fees are required, per Rule 9.09(b)
- (7) Other: Rule 9.06(c) requires a proof of professional liability insurance.

P. NEW JERSEY

- (1) *RE: GATS/SC/90*, page 26, Column 2, footnote 12, provides that the following experience is required: “5 of the 7 years preceding registration must have been spent practicing law.”

COMMENT: New Jersey Court Rule 1:21-9(b)(1) specifies that the practice of law must have occurred in the foreign country to which the applicant has been admitted.

- (2) *RE: GATS/SC/90*, page 26, Column 2, footnote 12 refers to “meeting the professional liability insurance requirement.”

COMMENT: New Jersey Court Rule 1:21-9 on foreign legal consultants does not impose any particular requirement for professional liability insurance.

- (3) *RE: GATS/SC/90*, page 27, Column 4, items (d) and (e), provide that partnership with and employment of local lawyers are permitted.

COMMENT: New Jersey Rule 1:21-9 does not specifically address these issues.

Q. NEW MEXICO

The Schedule of Specific Commitments does not include information about New Mexico’s foreign legal consultant rules, New Mexico Court Rules Governing Foreign Legal Consultants Rules 26-101—26-106. The following information is intended to provide a framework for including New Mexico’s rule:

- (1) New Mexico Rule 26-101 provides that licensure of foreign legal consultants is subject to meeting requirements of a minimum age requirement of 21 years (per Rule 26-101(C) and Rule 15-103(B)(1)), an experience requirement (applicants must have “been actively engaged in the actual practice of law in that country for at least five (5) of the last seven (7) years prior to the date of the filing of the application” (emphasis added)(New Mexico Rule 26-101(A)(1)), evidence of good standing in the foreign jurisdiction, per Rule 26-101(A)(2), possession of “good moral character and fitness required for a member of the bar of New Mexico” per Rule 26-101(B), evidence of compliance with U.S. immigration laws, per Rule 26-101(D), and to the reciprocal treatment of New Mexico lawyers for purposes of providing services in the applicant’s home country, per Rule 26-101(E). Applicants must submit a summary of the reciprocity

provisions of their home country, per Rule 26-102(A)(3), and must comply with U.S. immigration laws, per 26-101(D). Professional privileges apply to all foreign lawyers, per Rule 26-104(A)(1).

(2) New Mexico does not include all of the exclusions that appear in Column 1 on GATS/SC/90, page 17, (a)(2) in its foreign legal consultant rules. New Mexico Rule 26-103(A) and (B) prohibit foreign legal consultants from appearing in court for any person other than her/himself. However, New Mexico Rule 26-101(A) specifically provides that foreign legal consultants “may appear before any administrative agency of the State of New Mexico in compliance with agency rules[.]” The other specific exclusions of Column 1, GATS/SC/90, page 17, (a)(2) are not included in New Mexico’s rule.

(3) Additional commitments: New Mexico Rule 26-103 authorizes foreign legal consultants to advise on “the law of the foreign country where the legal consultant is admitted to practice ...” Rule 26-103(C) limits foreign legal consultants by prohibiting them from rendering “professional legal advice on the law of the state of New Mexico or of the United States ... except when such law is applicable also to the foreign country where the legal consultant is admitted to practice or on the basis of advice from a person duly qualified or entitled, other than by virtue of having been licensed under these rules, to render professional advice in the State of New Mexico[.]”

a. Practice of international law: permitted, per Rule 26-103

b. Practice of 3rd-country law: permitted, per Rule 26-103

c. Practice of host country law: prohibited, per Rule 26-103(C), except on the basis of advice of a qualified and admitted lawyer

(4) Association with and employment of local lawyers: no specific provision addressing such association.

(5) Use of firm name: permitted, per Rule 26-103(E)

R. NEW YORK

(1) *RE:* GATS/SC/90, page 29, Column 4, item (g) “Other.”

COMMENT: Rules of the Court of Appeals of New York for the Licensing of Legal Consultants, Section 521.1(b) authorizes the Appellate Division to take into account the reciprocal rights of a New York attorney to establish an office in the applicant’s country of admission.

S. NORTH CAROLINA

The Schedule of Specific Commitments does not include information about North Carolina’s

foreign legal consultant rules, North Carolina General Statutes, Chapter 84A, and North Carolina Bar Rules Subchapter 1F. The following information is intended to provide a framework for including North Carolina's rules:

(1) North Carolina Sec. 84A-1 provides that the North Carolina Supreme Court may issue a license subject to meeting requirements of a minimum age of 21 years old (Sec. 84A-1(a)(4)), an experience requirement ("has been actively and substantially engaged in the practice of law in the foreign country in which the applicant holds a license for at least five of the seven years immediately preceding the date of application" (emphasis added)(Sec. 84A-1(a)(5)), certain character, ethical and moral qualifications, including per Sec. 84A-1(a)(2), an intent to practice in the state and maintain an office for this purpose (Sec. 84A-1(a)(3)), and evidence of professional liability insurance, in an amount prescribed by the Supreme Court" (Sec. 84A-5(3). No license may be issued unless there is reciprocal treatment in the applicant's home country of North Carolina attorneys, per Sec. 84A-2(g).

(2) North Carolina includes all of the exclusions that appear in Column 1 on GATS/SC/90, page 17, (a)(2) in its foreign legal consultant rules, Sec. 84A-4.

(3) Additional commitments: North Carolina Sec. 84A-4(b)(7) prohibits foreign legal consultants from rendering "professional legal advice regarding State law, the laws of any other state, the laws of the District of Columbia, the laws of the United States or the laws of any foreign country other than the country in which the foreign legal consultant is admitted to practice as an attorney or the equivalent thereof."

a. North Carolina Sec. 84A-4(c) permits a foreign legal consultant to pass along to a client written advice obtained from an attorney licensed in a jurisdiction other than the foreign legal consultant's jurisdiction of admission ("If a particular matter requires legal advice from a person admitted to practice law as an attorney in a jurisdiction other than the one in which the foreign legal consultant is admitted to practice law, or its equivalent thereof, then the foreign legal consultant shall consult an attorney, or the equivalent thereof, in that other jurisdiction, obtain written legal advice on the particular matter, and transmit the written legal advice to the client.")

b. Practice of international law: prohibited except to the extent incorporated in the law of the foreign legal consultant's home country, per Sec. 84A-4(b)(7)

c. Practice of 3rd-country law: prohibited, per Sec. 84A-4(b)(7)

d. Practice of host country law: prohibited, per Sec. 84A-4(b)(7)

(4) Association with and employment of local lawyers: Sec. 84A-4(b)(10) prohibits foreign legal consultants from being "hired by a firm as a partner, member, or in any capacity other than as a foreign legal consultant whose services shall be overseen by an

attorney licensed to practice law in North Carolina.”

- (5) Use of firm name: permitted, per Sec. 94A-4(b)(9)
- (6) Other: Annotated Rules of North Carolina F.0103(g) has the additional requirements of good standing in every state in which the applicant is licensed to practice and in every foreign country in which the applicant has been admitted.
- (7) Other: Sec. 84A-5(6) requires submission of an annual administration fee
- (8) Other: According to F.0104, applicant has the burden of proving that he/she possesses the qualifications of character and general fitness.

T. OHIO

- (1) *RE:* GATS/SC/90, page 29, Column 2, footnote 14, states that the experience requirement is “4 of the 6 years preceding registration must have been spent practicing law” (emphasis added).

COMMENT: Ohio Supreme Court Rules for the Government of the Bar, Rule XI, Sec. 1(A), states the experience requirement in terms only of admission and good standing; no particular practice requirement is imposed.

- (2) *RE:* GATS/SC/90, page 29, Column 2, footnote 14, provides that “A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Ohio.”

COMMENT: Ohio Rule XI does not specifically address this issue; the rule speaks to those foreign lawyers who satisfy the conditions for licensing, but does not state that all foreign lawyers must obtain a license.

- (3) *RE:* GATS/SC/90, page 29, Column 4, item (a) states that the practice of international law is permitted.

COMMENT: There is no specific authority for the practice of international law to be found in the statute, but it is not expressly prohibited. Ohio Rule XI, Sec. 5(C) is the controlling provision on this point, which provides that the FLC shall not practice US, Ohio or any other state law except on the basis of advice from an attorney and identifies that person to the client. To the extent that international law is incorporated into the law of the foreign legal consultant’s home country, such advice is permitted.

- (4) *RE:* GATS/SC/90, page 29, Column 4, item (b) states that the practice of 3rd-country law is “permitted if FLC obtains advice from an attorney licenced in that jurisdiction and identifies that person to that client.”

COMMENT: Ohio Rule XI, Sec. 5(C) only prohibits advising on the law of the U.S., Ohio and states or territories of the U.S. Advising on the law of a 3rd-country is not prohibited by Ohio.

(5) RE: GATS/SC/90, page 29, Column 4, item (d) states that “partnership with local lawyers: not permitted.”

COMMENT: There is no specific provision forbidding or permitting partnership relationships between foreign legal consultants and local lawyers.

(6) RE: GATS/SC/90, page 30, Column 4, item (e) states that “employment of local lawyers is permitted.”

COMMENT: There is no specific provision addressing employment by foreign legal consultants of local lawyers in the Ohio statute.

(7) RE: GATS/SC/90, page 30, Column 4, item (g) “Other.”

COMMENT: The Supreme Court has discretion to consider reciprocity, per Ohio Rule XI, Sec.4

(8) RE: GATS/SC/90, page 30, Column 4, item g, “Other.”

COMMENT: Ohio Rule XI, Sec. 8 requires an annual renewal of registration of the foreign legal consultant certificate and annual fee.

U. OREGON

(1) RE: GATS/SC/90, page 30, Column 2, footnote 15, outlines the experience requirement, “5 of the 7 years preceding registration must have been spent practicing law.”

COMMENT: Supreme Court of the State of Oregon Rules, Rule 12:05(2)(a) provides for an application by a foreign lawyer who “(a) for a period of not less than 5 of the 7 years immediately preceding the date of application: (i) has been admitted to practice and has been in good standing as an attorney or counselor at law or the equivalent in a foreign jurisdiction; and (ii) has engaged either in the practice of law in such jurisdiction or in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in such jurisdiction” (emphasis added).

(2) RE: GATS/SC/90, page 31, Column 4, items (d) and (e) provide that association with local lawyers through partnership or employment is permitted.

COMMENT: There is no specific provision addressing such association in the Oregon rules.

(3) *RE: GATS/SC/90, page 31, Column 4, item (g) “Other.”*

COMMENT: The Supreme Court is granted discretion to consider reciprocity in Rule 12.05(3)(d), which provides that “the Supreme Court may consider whether a member would have a reasonable and practical opportunity to establish an office for the giving of Oregon legal advice to clients in the applicant’s jurisdiction of admission.”

(4) *RE: GATS/SC/90, page 31, Column 4, item (g) “Other.”*

COMMENT: Oregon Rule 12.05(2)(c) requires that applicants for licensing as a foreign legal consultant intend to practice as foreign legal consultants in Oregon.

V. TEXAS

(1) *RE: GATS/SC/90, page 32, Column 2, footnote 16, outlines the experience requirement, “5 of the 7 years preceding registration must have been spent practicing law.”*

COMMENT: Texas Bar Admission Rule XIV(a)(1) specifies that the applicant must have “engaged in the practice of law in that country for a period of not less than five of the seven years immediately preceding the date of Application ...” (emphasis added)

(2) *RE: GATS/SC/90, page 32, Column 2, footnote 16, provides that “A supplier regularly providing services in the jurisdiction is required to be licenced as a foreign legal consultant in Texas.”*

COMMENT: Texas Rule XIV does not speak to this issue; it does not articulate a requirement that all foreign lawyers register as foreign legal consultants, but simply addresses those foreign lawyers who satisfy the licensing requirements.

(3) *RE: GATS/SC/90, page 32, Column 4, items (d) and (e) provide that association with local lawyers through partnership and employment is permitted.*

COMMENT: There is no specific provision addressing such association in the Texas foreign legal consultant rules.

(4) *RE: GATS/SC/90, page 32, Column 4, item (g) “Other.”*

COMMENT: Texas Bar Admission Rule XIV(a)(3) requires that the applicant be an “actual resident” of the state.

(5) *RE: GATS/SC/90, Page 32, Column 4, item (g) “Other.”*

COMMENT: Rule XIV(d) requires annual renewal for foreign legal consultants, and Rule XVIII establishes an annual fee and provides for a supplemental investigation fee every other

year

W. UTAH

The Schedule of Specific Commitments does not include information about Utah's foreign legal consultant rule, Utah Supreme Court Rule 16. The following information is intended to provide a framework for including Utah's rule:

(1) Utah Rule 16-1 provides that licensure of foreign legal consultants is subject to meeting requirements of being "a member in good standing of a recognized legal profession in a foreign country, the members of which are ... subject to effective regulation and discipline by a duly constituted professional body or a public authority (Rule 16-1(a)), possesses the "same moral character and general fitness as required ... for a member of the Utah State Bar (Rule 16-1(b)), intending to practice and maintain an office in Utah (Rule 16-1(c)), passing the MPRE exam (Rule 16-1(d)), and has completed the "one-day Utah State Bar Ethics School" (Rule 16-1(e)). Applicants must submit evidence of professional liability insurance, per Rule 16-2(e). A supplier regularly providing services in the jurisdiction is required to be licensed as a foreign legal consultant in Utah, per Utah Rules for Integration and Management of the Bar, Rule I(C) and Rule III(T). Notably lacking is any practice experience requirement.

(2) Utah includes the substance of all of the exclusions that appear in Column 1 on GATS/SC/90, page 17, (a)(2) in Rule 16-3.

(3) Additional commitments: Utah Rule 16-3 provides that foreign legal consultants may advise on the "law of the foreign country in which such person is admitted to practice law subject, however, to the limitations that he or she shall not ... (b) render professional legal advice on the law of this State or on the United States of America[.]"

a. Practice of international law: permitted to the extent it is incorporated into the home country law of the foreign legal consultant; the Rule is ambiguous regarding authority to practice of international law apart from such incorporation.

b. Practice of 3rd-country law: The Rule is ambiguous; it neither specifically prohibits this nor does it specifically permit such practice.

c. Practice of host-country law: prohibited per Rule 16-3(b).

(4) Association with local lawyers: Partnership with local lawyers is permitted, per Ethics Advisory Opinion Committee, Opinion #96-14.

(5) Use of firm name: No provision.

(6) Annual licensing and payment of license fee is required, per Rule 16-2(f).

X. WASHINGTON

(1) *RE:* GATS/SC/90, page 33, Column 2, footnote 17, outlines the experience requirement, “5 of the 7 years preceding registration must have been spent practicing law.”

COMMENT: Washington Rules of Court, Admission to Practice Rules, Rule 14(b)(1)(i) provides that a foreign law consultant applicant must “Present satisfactory proof of both admission to the practice of law, together with current good standing, in a foreign jurisdiction, and active legal experience as a lawyer or counselor at law or the equivalent in a foreign jurisdiction for at least 5 of the 7 years immediately preceding the application” (emphasis added). The Rule does not specify that the practice must have been in the same jurisdiction as admission.

(2) *RE:* GATS/SC/90, page 33, Column 4, item (a) states that the practice of international law is “permitted to the extent incorporated in home-country law.”

COMMENT: There is no specific authority for the practice of international law to be found in the rules. Washington Rule 14(d) provides that “A Foreign Law Consultant shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule. A Foreign Law Consultant may not: ... (5) Render legal advice on the law of the State of Washington, of any other state or territory of the United States, of the District of Columbia or of the United States (whether rendered incident to preparation of legal instruments or otherwise) unless and to the extent that the Foreign Law Consultant is admitted to practice law before the highest court of such other jurisdiction[.]”

(3) *RE:* GATS/SC/90, page 33, Column 4, items (d) and (e) provide that association with local lawyers through partnerships and employment is permitted.

COMMENT: Washington Rule 14 does not specifically address whether foreign law consultants may enter into partnerships or employment relations with local lawyers.

(4) *RE:* GATS/SC/90, page 33, Column 4, item (g) “Other.”

COMMENT: Washington Rule 14(h) provides for reciprocity. It requires the applicant to demonstrate any requirements, limitations, restrictions or conditions upon foreign law consultants in that foreign country or jurisdiction and gives the Supreme Court discretion in denying admission or imposing similar requirements on admitting foreign law consultants from that foreign jurisdiction.

(5) *RE:* GATS/SC/90, page 33, Column 4, item (g) “Other.”

COMMENT: Washington Rule 14(g) allows Supreme Court to revoke the license of a foreign law consultant with or without cause.

(6) *RE:* GATS/SC/90, page 33, Column 4, item (g), “Other.”

COMMENT: Washington Rule 14(e) provides that the Washington Supreme Court continues to have jurisdiction over a licensed foreign law consultant even if s/he ceases to reside in Washington.

(7) *RE:* GATS/SC/90, page 33, Column 4, item (g), “Other.”

COMMENT: Washington Rule 14(f)(1) requires payment of annual fee.