



**Ministerial Conference
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DISCUSSION DRAFT DECISION FOR MC10

SERVICES TRANSPARENCY IN MEASURES RELATING TO TEMPORARY ENTRY OF NATURAL PERSONS

The following communication, dated 10 December 2015, is being circulated at the request of the Delegation of India to the Ministerial Conference, (Nairobi, 15 – 18 December 2015).¹

Having regard to paragraph 1 of the Article IX of the Marrakesh Agreement Establishing the World Trade Organization and Articles III, IV, VI, XVI, XIX and Annex on the Movement of Natural Persons Supplying Services of the General Agreement on Trade in Services (GATS);

Reaffirming paragraph 15 of the Doha Ministerial Declaration, the Objectives and Approaches outlined in Annex C of the Hong Kong Ministerial Declaration to achieve a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing country Members;

Recognizing the importance of transparency in measures relating to temporary entry (i.e., laws, regulations and administrative guidelines and procedures governing temporary entry of natural persons) in order to facilitate trade in services and to ensure effective operationalisation of the existing specific commitments on temporary movement of natural persons, and noting that measures relating to temporary entry are of specific importance for realizing the full benefits of any commitments relating to delivery of services by temporary movement of natural persons;

Resolving that these disciplines constitute partial fulfilment of the mandate of the on-going Market Access negotiations under the Doha Development Agenda,

Decides that:

These Disciplines on Transparency in Measures relating to Temporary Entry (i.e., laws, regulations and administrative guidelines and procedures governing temporary entry of natural persons) are an important step towards full realization of the benefits relating to delivery of services through movement of natural persons. By adopting and implementing these disciplines, Members shall fulfil the following obligations.

1. Each Member shall publish promptly, through printed or electronic means, measures of general application relating to all relevant visa categories and other immigration formalities which pertain to or affect the operation of their Mode 4 commitments. The information provided shall be regularly updated and shall include, *inter alia*:

- a. Categories of work related visas and other entry requirements;
- b. Specific work related visa and other entry requirements for each category of Mode 4 specified in the Member's Schedule of Specific Commitments;

¹ This document was previously issued as JOB/SERV/222, dated 3 December 2015.

- c. Procedures for filing the application and detailed documentation required;
- d. Normal timeframe for processing the application;
- e. Application fees;
- f. Length and validity of stay;
- g. Possibility and conditions for extensions/renewal (including availability of multiple entry visas/permits);
- h. Applicable procedures relating to reviews and/or appeals of decisions concerning applications;
- i. Rules regarding accompanying dependents;
- j. Details of relevant contact points for further information (e.g. links to relevant government web-sites which provide more detailed information on Embassies, Consulates and other issuing bodies);
- k. Any other relevant immigration laws or other formalities of general application;
- l. Any exceptions to these rules, whether applicable to all Members, or only to some pursuant to any bilateral or plurilateral arrangements; and
- m. Social security contributions, if any, as well as procedures for refund.

2. Members shall also provide a full description of the manner in which the scheduled limitations to market access and national treatment and any other non-scheduled conditions for the temporary entry of natural persons in such categories are administered by their authorities, including complete description of the manner in which scheduled Mode 4 categories are granted entry including, for instance, application of salary thresholds, economic needs tests/labour market tests, requirements of prior employment, qualification requirements and criteria for determination of each category of natural persons specified under their commitments.

3. Members shall maintain or establish appropriate mechanisms for responding to enquiries regarding regulations affecting the temporary entry of natural persons. Such enquiries may be addressed through the enquiry and contact points established under Articles III and IV of the GATS or any other mechanism as appropriate.

4. Each Member shall endeavour to ensure that any measures of general application it proposes to adopt in relation to temporary entry are published in advance. Each Member should endeavour to provide reasonable opportunities for service suppliers to comment on such proposed measures. Each Member should also endeavour to address collectively in writing substantive issues raised in comments received from service suppliers with respect to the proposed measures.

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5. A developing country Member shall not be required to apply these disciplines for a period of [X] years from their date of entry into force. Before the end of this transitional time period, upon request by a developing country Member, the Council for Trade in Services may extend the time period to implement these disciplines.

6. Least-developed country Members (LDCs) shall not be required to apply these disciplines. LDCs are nonetheless encouraged to apply these disciplines, to the extent compatible with their special economic situation and their development, trade and financial needs.

7. Developed country Members, and to the extent possible other Members, shall provide technical assistance to developing country Members and in particular LDCs, upon their request and on mutually agreed terms and conditions, to implement these disciplines.
