



**Ministerial Conference
Tenth Session
Nairobi, 15-18 December 2015**

Original: English

SERVICES TRANSPARENCY IN DOMESTIC REGULATION

SUBMISSION BY AUSTRALIA AND CANADA

Ministerial Decision of [] December 2015

The following proposal, dated 10 December 2015, is being circulated at the request of the Delegations of Australia and Canada.¹

The Ministerial Conference,

Recognizing the importance of transparency to facilitate trade in services;

Reaffirming the flexibilities for individual developing country Members contained in Article IV;

Recalling the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right;

Noting these disciplines should not be construed to prescribe or impose particular regulatory approaches or any particular regulatory provisions in domestic regulation and that nothing in these disciplines prevents Members from exercising the right to introduce or maintain regulations in order to ensure provision of universal service, in a manner consistent with their obligations and commitments under the General Agreement on Trade in Services;

Hereby *agree* the following general disciplines on domestic regulation pursuant to and in partial fulfilment of Article VI: 4 of the GATS:

1. These disciplines apply to measures by Members relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services where specific commitments are undertaken. They do not apply to measures to the extent that they constitute limitations subject to scheduling under Article XVI or XVII.

2. Each Member shall publish promptly, through printed or electronic means, at the latest by the time of their entry into force, all measures of general application relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards. This shall include the following information, where it exists, *inter alia*:

¹ An earlier version of this document was previously issued as JOB/SERV/221, dated 27 November 2015.

- (a) whether any authorization, including application and/or renewal where applicable, is required for the supply of services;
- (b) the official titles, addresses and contact information of relevant competent authorities;
- (c) applicable licensing requirements and criteria, terms and conditions of licences, and licensing procedures and fees;
- (d) applicable qualification requirements, criteria and procedures for verification and assessment of qualifications including fees;
- (e) applicable technical standards;
- (f) procedures relating to appeals or reviews of applications;
- (g) procedures for monitoring and enforcement of the terms and conditions of licenses and for the verification and assessment of qualifications;
- (h) where applicable, opportunity and associated procedures for public involvement such as through hearings and opportunity for comment;
- (i) applicable exceptions or changes to such measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards; and
- (j) the normal timeframe for processing of an application.

Where publication is not practicable, such information shall be made otherwise publicly available. Nothing in this paragraph shall be construed as requiring a Member to adopt or maintain any measure not otherwise required by these disciplines.

3. Each Member shall maintain or establish appropriate mechanisms for responding to enquiries from any service suppliers regarding any measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards. Such enquiries may be addressed through the enquiry and contact points established under Articles III and IV of the GATS or any other mechanisms as appropriate.

4. Each Member shall endeavour to ensure that any laws and regulations of general application it proposes to adopt in relation to matters falling within the scope of these disciplines are published in advance. Each Member should endeavour to provide reasonable opportunities for service suppliers to comment on such proposed laws and regulations. Each Member should also endeavour to take into account comments received with respect to the proposed laws and regulations.

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 that time period to implement these disciplines, based on that Member's level of development, and regulatory and institutional capacity.

6. 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. Nothing in these disciplines shall be construed as diminishing the rights and obligations of any Member under any WTO Agreement.
