

## COMMUNICATION FROM NEW ZEALAND

### Article VI.4 : Possible Disciplines on Domestic Regulation

#### A. INTRODUCTION

1. Article VI.4 of the GATS mandates the Council for Trade in Services, through appropriate bodies it may establish, to develop any necessary disciplines to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services. It goes on to specify that such disciplines shall aim to ensure that such requirements are, inter alia:

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
- (b) not more burdensome than necessary to ensure the quality of the service;
- (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

2. In its report to the Singapore Ministerial Meeting in December 1996, the Council referred to the need to take the work on the Article VI.4 mandate as far as possible before the commencement of the next round of liberalisation negotiations mandated in Article XIX of the GATS. While work in some services sectors, e.g. basic telecommunications and accountancy services, has involved examination of questions arising under Article VI.4, the Council is yet to launch any broader discussions on Article VI.4 issues more generally.

3. Given the short time remaining before the next round of liberalisation negotiations in services, it is important that the Council now take up consideration of the broader Article VI.4 mandate and determine appropriate steps to pursue this work. This work is of particular importance in services given the broad potential for domestic regulation (in areas such as licensing, qualifications and technical standards) to impinge on trade opportunities, due to the different modes of services supply.

#### B. NEXT STEPS

4. As noted above, some of the issues concerning possible Article VI.4 disciplines are not unfamiliar to delegations from work in other services sectors, e.g. basic telecommunications and accountancy services. An examination of the reference paper on regulatory principles for basic telecommunications, the additional commitments concerning regulatory matters made by some members in the recent financial services negotiations and the draft multilateral disciplines on domestic regulation in the accountancy sector demonstrates a number of common threads. A few examples include:

- making publicly available information on licensing requirements and procedures (basic telecommunications reference paper; draft accountancy disciplines);
- timely processing of licensing applications (draft accountancy disciplines; EU and US additional commitments on financial services; basic telecommunications reference paper);
- provision of advice on reasons for denial of a licence (basic telecommunications reference paper; draft accountancy disciplines; EU additional commitments on financial services);
- making publicly available necessary technical information (basic telecommunications reference paper; draft accountancy disciplines).

5. As a first step, it would be useful if the Secretariat could prepare a short background paper drawing together the full range of these common threads and listing the different ways in which they have been handled in services work to date. It would also be helpful if this initial background paper could attempt to identify some of the other questions of more general application across services sectors arising from work done to date, eg the question of allocation and use of scarce resources which appears in the basic telecommunications reference paper but is also likely to arise in some other services sectors.

6. There is also experience in other areas of the WTO which it would be worthwhile to examine in more detail. In this respect, we note that the Secretariat background document on the disciplines in the Agreement on Technical Barriers to Trade and the Import Licensing Agreement (Doc S/WPPS/W/9) prepared for the Working Party on Professional Services, has a potential wider usefulness. It would therefore be valuable to examine this document further in the context of work on the wider Article VI.4 mandate.

7. Further, the Council's work in this area may be able to benefit from work under way in other fora on similar issues. Both the OECD and APEC have for some time been examining questions related to domestic regulation and the principles underpinning sound regulatory practice. Again, it would be useful to task the Secretariat to pull together information on the current state of work in other bodies (including those mentioned above and others, e.g. UNCTAD, which may have done work in this area) on issues relevant to the Article VI.4 mandate. This could then be drawn upon, as necessary, in the Council's further work in this area.

8. Finally, the question of technical standards in the services sector is a complex one, in particular as it relates to international standards. It would be useful, therefore, if the Secretariat were also able to draw together, for the benefit of the Council, information on recent work in this area by relevant international bodies, eg the International Standards Organisation. This would aim to provide factual background information, similar to that furnished in the accountancy sector in document S/WPPS/W/2 of 27 June 1995 and up-dated in Job No. 1270 of 4 March 1998, across a wider spectrum of services sectors.

9. Once the background information requested above is available, it is proposed that the Services Council devote an informal session to a full examination of this material and to determining a future work programme to enable it to address the broader questions arising from the Article VI.4 mandate.

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