

**Working Party on Domestic Regulation****COMMUNICATION FROM THE UNITED STATES****Horizontal Transparency Disciplines in Domestic Regulation**

The following communication, dated 7 June 2006, from the delegation of the United States is being circulated to the Members of the Working Party on Domestic Regulation.

---

1. These disciplines are developed pursuant to GATS Article VI:4, and are in addition to Members' existing transparency commitments under the GATS and in their individual accession agreements. Furthermore, they do not preclude the development of sector specific disciplines that would build on the following provisions.

2. Taking into consideration the unique capacity constraints of least developed country (LDC) Members, such Members shall only be required to comply with these disciplines on a best endeavour basis.

**A. ESTABLISHMENT OF MECHANISMS TO RESPOND TO INQUIRIES FROM INTERESTED PERSONS**

1. Each Member shall maintain or establish appropriate mechanisms for responding to inquiries from interested persons respecting laws, regulations and other measures of general application governing licensing requirements and procedures, technical standards and qualification requirements and procedures. Responses to such inquiries may include the official titles, addresses, and contact information of competent authorities, i.e., governmental or non-government entities responsible for administering such requirements, procedures and standards.

**B. PUBLICATION**

1. Each Member shall ensure that its laws and regulations of general application governing licensing requirements and procedures, technical standards, and qualification requirements and procedures, are published or otherwise made publicly available in such a manner as to enable interested persons and Members to become acquainted with them. Such publicly available information shall include any requirement of the Member to obtain, maintain, or renew certificates, licenses and other qualifications to practice a profession, engage in an occupation or otherwise supply services, including:

- (a) any established deadlines for processing of applications under normal circumstances;
- (b) any rights to appeal, if applications are denied; and
- (c) any formal procedures for notification of violations of the terms of licensure, certification and other qualifications.

2. Where a Member has undertaken specific commitments, the Member shall, to the extent practicable:<sup>1</sup>

- (a) publish in advance any regulations of the type referred to in paragraph B.1<sup>2</sup> that it proposes to adopt; and
- (b) provide interested persons and other Members a reasonable opportunity to comment on such proposed regulations.

3. Where a Member has undertaken specific commitments, the Member should, to the extent practicable:

- (a) ensure that the text of new regulations of the type referred to in paragraph B.1 is written in plain language;
- (b) allow a reasonable period of time between publication of such final regulations and their effective date; and
- (c) at the time it adopts such final regulations, address in writing substantive issues raised in comments received from interested persons with respect to the proposed regulations.

#### C. TRANSPARENCY IN THE REGULATION OF SERVICES SUBJECT TO LICENSURE

1. Establishment of Procedures related to the Regulation of Services Subject to Licensure: To the extent practicable, each Member should establish, or should ensure that its competent authority establishes, clear, publicly available domestic procedures for a person, whether juridical or natural, to obtain or renew any license, qualification or equivalent form of permission the Member requires to supply a service for which it has made specific commitments under this Agreement. Such procedures should include:

- (a) providing information concerning the requirements, including any documentation required, for completing applications;
- (b) providing a decision within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations; and
- (c) upon request of the applicant:
  - (i) notifying it, without undue delay, of the status of its application; and
  - (ii) informing it of the reasons for a denial of its application, as appropriate.

---

<sup>1</sup> Paragraphs 2 and 3 shall not apply to regulations of general application relating to the military or foreign affairs functions of a Member.

<sup>2</sup> For purposes of paragraphs 2 and 3, "regulations of general application" do not include explanatory regulations or other documents, such as policy statements or general guidance, that clarify the requirements of laws or regulations of general application.

2. Qualifying Examinations<sup>3</sup>: Examinations required as part of the application process for a license, qualification or equivalent form of permission referred to in paragraph C.1 are to be offered on a non-discriminatory basis at reasonable intervals and not at a cost designed to limit the number of applications.

D. IMPLEMENTATION

1. For greater clarity, the preceding provisions shall be implemented in a manner consistent with GATS Articles III, *IIIbis*, XIV, *XIVbis* and the Annex on Movement of Natural Persons. In addition, this [instrument] shall not apply to the promulgation or application of regulations or other procedures concerning the issuance of travel documents or authorizations to natural persons travelling to a Member's territory.

---

---

<sup>3</sup> This paragraph shall not apply to qualifying examinations administered or offered by financial service regulators or self-regulatory bodies or organizations, such as clearing agencies, or securities or futures exchanges or markets, as part of the application process for licenses or applications relating to financial service suppliers.