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COMMUNICATION FROM CANADA

Initial Negotiating Proposal on Temporary Movement of Natural Persons Supplying Services under the GATS (Mode 4)

The attached communication has been received from the delegation of Canada with the request that it be circulated to Members of the Council for Trade in Services.

1. Canada reserves the right to modify this proposal at any time. This proposal does not prejudice Canada's position on other service sectors, nor any future offer on this or other sectors. This proposal should be read in conjunction with the principles and objectives as outlined in Canada's initial negotiating proposal.

A. INTRODUCTION

2. Following extended mode 4 negotiations completed in June 1995, only a relatively small number of Member countries made specific commitments on the temporary movement of service suppliers with respect to Market Access (Article XVI), National Treatment (Article XII) or additional commitments (Article XVIII). Generally speaking, Members made horizontal commitments on intra-corporate transferees (not necessarily in all categories), a fewer number on business visitors, and only a small number on professionals, including those providing services on a contractual basis and unlinked to a commercial presence. Canada made commitments in all three areas.

3. The international mobility of service suppliers, whether as individuals or employees providing services, has become an increasingly important component of competitive markets for suppliers and consumers alike. It is also important for businesses developing new markets and business opportunities. Access to foreign markets is important not only to large firms that conduct business on a global basis, but also to small- and medium-sized enterprises (SMEs) and individuals providing services on a contractual basis. They make up the vast majority of service suppliers actively exporting in various sectors. Lack of transparency and predictability, including difficulties in obtaining procedural information, frequently affects the ability of all service suppliers to compete in foreign markets. Transparency problems can effectively rule out market access for service suppliers from both developed and developing countries. Therefore, Members should explore ways to strengthen the transparency obligations of the GATS to benefit in particular individual service suppliers, SMEs and the service suppliers from all countries.

B. PROPOSAL

4. Given the existence of various barriers to the temporary movement of natural persons, Canada believes that in these negotiations Members should improve their mode 4 commitments, both horizontal and sectoral. This would provide greater access to foreign markets for the services suppliers of developing and developed countries. Canada also thinks that more Members should make commitments on general business visitors and on professionals, including those entering on a contractual basis and not linked to commercial presence. In addition, Canada believes that Members should examine the need for rules to allow for the duty-free temporary admission of “portable tools of the trade” required to carry-out services in foreign markets linked to Mode 4 commitments.

5. As well, Canada believes that Members should reach agreement on improving the transparency and predictability of existing and new mode 4 commitments. Accordingly, Members may wish to focus *inter alia* on immigration laws and regulations, including procedural information, on temporary movement; available foreign worker programs and their entry criteria; applicable conditions for economic needs tests (ENTs); field instructions or operational guidelines for immigration officers; maximum duration of stay and market access limitations cited in commitments.

6. Mode 4 is a key issue in these negotiations. India, Japan, the European Union and the United States have recently provided initial views. Canada proposes that all Members now put more attention on the mode 4 issues in these negotiations. It is important that trade policy officials and representatives from relevant regulatory bodies (in Canada’s case, this includes immigration and labour market officials) focus on the issues involved. Members should explore options on how they might move forward with mode 4 discussions. Possible ideas include a temporary *ad hoc* group reporting to the Council for Trade in Services, Special Session; discussion in an existing GATS committee; or a seminar similar to the recent tourism services event.
