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COMMUNICATION FROM CANADA

Initial Negotiating Proposal on Professional Services

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. The purpose of this proposal is to stimulate discussions toward seeking improved conditions for the treatment of professional services in the context of the current round of the GATS negotiations.

B. IMPORTANCE OF PROFESSIONAL SERVICES

3. Over the past decade, there has been a marked increase in trade in professional services, particularly on a cross-border basis. This increase is due in part to the recognition of the importance of this sector as contributing to inward investment and to overall economic growth in both developed and developing countries alike, either through the involvement of professions in direct delivery of services (legal or accounting advice to consumers and companies, etc.) or as necessary inputs to broader development activities (engineering, architectural, urban planning services to construction, mining and environmental projects, etc.).

4. Despite their growing importance, it is widely evident that trade in professional services by foreign businesses and, in particular, individual professional service providers continues to be hampered by a variety of regulatory measures. The protection of the consumer, as well as the need to ensure competency and quality of service, are paramount considerations that underlie many regulations. However, the extensive differentiation of regulations and their application often constitutes serious impediments to trade.

C. SECTORAL COVERAGE

5. The following sub-sectors are included for consideration:

- engineering services (including integrated engineering);

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- architectural services;
- urban planning and landscape architectural services;
- accounting, auditing and book-keeping services;
- taxation services (excluding legal services);
- foreign legal consultancy services (advisory services on foreign and international public law);
- real estate appraisal services;
- management consulting services; and
- land surveying services.

D. PROPOSAL

6. The following is an illustrative checklist of issues that Canada believes should form part of the GATS negotiations. Improving conditions for the treatment of professional services is an important area for renewed negotiating efforts. These efforts could be concentrated on a number of inter-related fronts that are essential for any further expansion and liberalization in trade in professional services.

- National treatment and market access restrictions: seek improvements in the quantity and quality of commitments across modes 1, 2 and 3. Seek the elimination of overt discriminatory requirements in the form of nationality and citizenship requirements and alternatives to permanent residency and residency to the extent that other less restrictive means are available (i.e., collaboration with locals, bonding requirements to ensure recourse and agreements on cross-border disciplinary actions). Canada has made a number of improvements in this area including the development of licensing regimes to facilitate access for a number of foreign service professionals (legal, engineering, architectural services).
 - Facilitating entry (mode 4) of professional service providers: seek improvements in the coverage for the temporary entry and stay of foreign professions. Canada has contributed a separate proposal on mode 4.
 - Mutual recognition of credentials: examine ways to encourage the development of mutual recognition agreements between professional regulators and to ensure participation of all WTO Members as a means to facilitate and improve access to foreign markets. The possibility of extending the “Guidelines for Mutual Agreements or Arrangements in the Accountancy Sector” to professional services in general could be a good starting point.
 - Domestic Regulation (GATS VI:4): transparency assumes considerable importance given the highly regulated nature of most licensed professions and the scope of administrative discretion in the operation of licensing regimes. Canada is committed to continuing to work within current and other bodies as appropriate to improve the openness of domestic regulatory regimes. Canada will also continue to work toward the development of general disciplines with the possibility of developing specific disciplines to accommodate specific characteristics of individual professions. In this regard, Canada has expressed interest in examining the following professional services: engineering, architecture, legal, urban planning, real estate appraisal and land surveying.
 - Tools of the trade: examine the need for rules to allow for the temporary admission of professional equipment necessary to carry out the service in a foreign market.
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