

**COMMUNICATION FROM CANADA**

Initial Negotiating Proposal on Regulatory Transparency and Predictability

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 vast majority of service industry firms in Canada are small- and medium-sized enterprises (SMEs). Many of these firms have only recently considered entering the international market and formal barriers to trade are "potential" (in the sense that they may not have encountered them directly yet). The availability of information required to enter a foreign market is often a significant problem. The need to improve the transparency and predictability of the regulatory conditions under which international business is conducted is perhaps the most consistent theme that emerges in the course of consultation with Canadian business. For these firms the most significant barrier to trade is often lack of information on the conditions related to:

- entering and operating in foreign markets;
- the procedures to be followed to comply with regulatory requirements in these markets;
- the process available to seek changes to the regulatory environment; and
- the options available for input to or redress from regulatory changes.

3. The Government of Canada encourages transparency and predictability in regulatory policy in recognition of the wide-ranging benefits that can result. While it is not the only objective, many elements of the Government of Canada's Regulatory Policy address directly, or otherwise encourage, transparency. The Government of Canada requires that its regulatory authorities ensure that:

- Canadians are consulted, and that they have an opportunity to participate in developing or modifying regulations and regulatory programs;

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- a problem or risk demonstrably exists and that federal government intervention is justified and that regulation is the best alternative;
- the benefits outweigh the costs to Canadians, their governments and businesses — in particular, regulatory authorities must ensure that the limited resources available to government are used where they do the most good;
- adverse impacts on the capacity of the economy to generate wealth and employment are minimized and no unnecessary regulatory burden is imposed — in particular, regulatory authorities must ensure that:
- information and administrative requirements are limited to what is absolutely necessary and that they impose the least possible cost; the special circumstances of small businesses are addressed; and parties proposing equivalent means to conform with regulatory requirements are given consideration.
- international and intergovernmental agreements are respected and full advantage is taken of opportunities for co-ordination with other governments and agencies; and
- systems are in place to manage regulatory resources effectively — in particular, regulatory authorities must ensure that:
- the Regulatory Process Management Standards are followed compliance and enforcement policies are articulated, as appropriate; and resources have been approved and are adequate to discharge enforcement responsibilities effectively and to ensure compliance where the regulation binds the government.

4. Through these requirements, Government of Canada regulatory policy ensures a high level of transparency and predictability. Transparency has also become a central principle in the multilateral trading system. The WTO agreements contain a wide range of provisions covering transparency. Indeed, the GATS alone contains a number of provisions in this regard including the preamble to the agreement, Articles III, IV, VI and several other elements of the agreement (Reference Paper on Basic Telecommunication and Disciplines for domestic regulation in the accountancy sector).

#### B. PROPOSAL

5. Regulatory policy has evolved since the conclusion of the Uruguay Round. A variety of approaches to transparency reflecting different governmental structures, traditions and capacity are in place in Member states. In the course of the GATS negotiations, Canada will wish to explore current best practices with Members with respect to regulatory transparency and determine whether, on the basis of developments in this area, existing GATS provisions in this area can be enhanced.

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