

COMMUNICATION FROM AUSTRALIA

Negotiating Proposal for Engineering Services

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

1. This paper sets out a negotiating proposal from Australia for the engineering services sector. Australia reserves the right to submit further and more detailed proposals on this sector at a later date.

I. IMPORTANCE OF TRADE LIBERALISATION IN THE SECTOR

2. Engineering services are a vital element of the economic infrastructure of all WTO Members. As noted by the WTO (S/C/W/44), measurement of the economic importance of engineering (and architectural) services output is not straightforward to the extent that, in official statistics, it is most often absorbed in the broader categories of services output such as business services, or construction activity. However, there is no doubt that engineering services is one of the larger professional services sectors in most WTO member countries, and in many countries exports of architectural and engineering services earn greater export income than the construction and related engineering services sector. Engineering service suppliers may be characterised by the dominance of small and medium businesses, whose main costs are the salaries of their highly qualified personnel.

3. Engineering services are traded internationally mainly through the establishment of commercial presence by the foreign supplier in the host country or temporary movements of skilled personnel. To a growing extent the Internet is also making possible the supply of certain types of engineering services via mode one – cross-border supply.

4. Further progressive trade liberalisation of engineering services through the GATS negotiations offers Members the prospect of a greater range and depth of engineering services in their local markets, higher operating standards, technology and skill transfer, and downward pressure on costs.

5. Programs of capacity building in developing countries should also support trade liberalisation in this sector, in order that adequate skills transfer and commercial development can occur.

II. IMPEDIMENTS TO FURTHER LIBERALISATION

6. Australia has identified a number of impediments to further liberalisation of the engineering services sector. These include:

- limitations on the type of commercial presence which can be established and foreign equity limitations

- restrictions on currency exchange and transfer of funds between projects
- inconsistency in the application of taxation laws on foreign engineers and commercial entities
- limited or no recognition of qualifications of foreign engineers
- different sub-federal regulations for recognition of qualifications
- restrictions on registration (eg citizenship or residency requirements), which prevent foreign engineers from signing off on drawings and managing projects
- unduly onerous licensing requirements
- unduly onerous visa procedures.

III. PROPOSALS

7. Australia proposes that:

- Members review any limitations on commercial presence with a view to eliminating barriers that cannot be justified on a commercial basis.
 - Licensing requirements and administrative processes relating to the registration of foreign engineers for practice in the host country be subject to a necessity test, as formulated in Australia's paper of 15 September 2000 (S/WPDR/W/8). This would require that any domestic regulation adopted to meet a legitimate policy objective be the least trade restrictive possible.
 - Members take stock of measures to fully implement GATS Article VII, paragraphs 3 and 5, and undertake best endeavours to participate in and extend the membership of agreements which enable mutual recognition of engineering and engineering-related qualifications.
 - Members ensure the implementation of GATS Article I:3(a): "each Member shall take such reasonable measures as may be available to it to ensure" the observance of its GATS commitments "by regional and local governments and authorities and nongovernmental bodies within its territory". In particular, Members should ensure that recognition of qualifications agreed at the central government level be implemented at the regional and local level.
 - Members examine rules relating to the movement of natural persons to ensure that processes to facilitate the entry of foreign engineers that have approval to operate in another Member country be carried out efficiently and expeditiously. In particular, temporary stay visas should be issued expeditiously to allow engineers to undertake their projects in a timely manner.
 - Disciplines be developed for the engineering services sector, building on those developed for the accountancy profession (see WTO document S/L/64), strengthening and tailoring them to meet the needs of engineering services exporters.
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