

**COMMUNICATION FROM AUSTRALIA**

Negotiating Proposal for Environmental 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.

**I. IMPORTANCE OF TRADE LIBERALISATION IN THE ENVIRONMENTAL SERVICES SECTOR**

1. The environmental services sector is a burgeoning industry with important implications for sustainable development. This proposal focuses on classification and market access issues that have been identified as impeding development of the sector.

**II. SECTORAL CLASSIFICATION**

2. Australia submitted a paper (Job 2159) to the Council for Trade in Services in April 1999 expanding upon the comment in the note by the Secretariat (Job 5353), that "the classification of environmental services in document MTN.GNS/W/120 may appear unduly limited because it does not include all the services which may benefit the environment". The Secretariat note referred to the OECD assessment that "the environment industry is evolving rapidly beyond its traditional focus on pollution control and remediation/clean-up activities to also incorporate a broader range of pollution management, cleaner technology and resource management activities". This comment is supported by the subsequent growth of the environment service sector into more areas and by the overlap of environmental practice and theory in sustainable management in other services sectors.

3. In that paper, Australia expressed the view that WTO Members should recognise the changes to the sector since the end of the Uruguay Round and build on those changes through liberalisation of market access and national treatment. Our proposal is to revisit the environmental sectoral classification with a view to including more environmental services.

4. We support, in principle, the proposed approach in the EC communication on classification of environmental services (S/CSC/W/25, 28 September 1999): i.e., to schedule commitments according to a revised classification which preserves the mutually exclusive nature of W/120 while addressing most of its recognised problems. The proposed classification comprises services which can undisputedly be classified as "purely" environmental and services classified according to the environmental media (e.g., air, water, solid and hazardous waste, noise, etc.). This would bring some flexibility to the process in that it would extend the range of services covered by environmental services while avoiding disrupting the current classification system.

5. Australian industry recognises that there is substantial overlap between some of the services which can be considered environmental and those which fall within other services sectors. However, we recognise that given the mutually exclusive nature of the GATS sectoral classification list and the need to maintain transparency, removing some services from other sectors based on end-use would not be feasible. We note that the “core” environmental services (6A-6G) presented in the EC Negotiating Proposal closely resemble the first category of the OECD-Eurostat classification: pollution management activities. A preliminary examination of Australia’s environmental services indicates that, with modest adjustment, a large portion of the industry would be captured by this category.

### **III. IMPEDIMENTS TO FURTHER LIBERALISATION**

6. Access to the Australian market for environmental services is open. However, Australian exporters have identified the following market access barriers in overseas markets that they would like to see addressed in the WTO services negotiations.

1. Limitations on the type of legal entity required (such as restrictions on number and location of subsidiaries and the requirement to incorporate locally), non-transparent licensing procedures and unnecessary delays in processing and informing applicants, restrictive business practices and lax competition laws;
2. Inconsistent or arbitrary enforcement of environmental laws and planning restrictions;
3. Discrimination against foreign companies (e.g., high registration fees for foreign companies and lack of transparency in tendering processes);
4. Tax discrimination in favour of domestic firms;
5. Limitations on foreign investment (eg, limiting equity to specific levels); and
6. Limitations on the ownership of specific assets (such as landfills and sewage systems).

### **IV. PROPOSAL**

7. Australia proposes that:

- Members agree to broaden the sectoral classification of environmental services to bring the WTO classification of environmental services into line with current practice in trade in services, and to use this new sectoral classification for negotiations in environmental services.
  - Members review any limitations on commercial presence with a view to eliminating barriers that cannot be justified.
  - Members ensure the implementation of GATS Article I:3(a), in particular, that government licensing and ownership regulations at all levels, central regional or local, are transparent and not unnecessarily restrictive.
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